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Public Lecture

The Evolution of Property Rights

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Theatre 6, Meng Wah Complex, The University of Hong Kong

Legal scholars have never settled on a satisfactory account of the evolution of property rights. The touchstone for virtually all discussion, Harold Demsetz's *Toward a Theory of Property Rights*, has a number of well-known (and not so well-known) shortcomings, perhaps because it was never intended to be taken as an evolutionary explanation in the first place. There is, in principle at least, a pretty straightforward fix for the sort of evolutionary approach pursued by followers of Demsetz, but even then that approach – call it the conventional approach – fails to account for very early property rights, right at the genesis. The early developments are better explained by a very different approach based on evolutionary game theory. The game theoretic approach can account for a basic system of property rights rooted in possession; it cannot, however, account for complex property systems. To explain the latter requires the conventional approach. Hence, the two approaches combined suggest a satisfactory account of the origins and development of property rights systems.

James E. Krier is the Earl Warren DeLano Professor of Law. His teaching and research interests are primarily in the fields of property, contracts, and law and economics, and he teaches or has taught courses on contracts, property, trusts and estates, behavioral law and economics, and pollution policy. Professor Krier is the author or co-author of several books, including *Environmental Law and Policy*, *Pollution and Policy*, and *Property* (6th edition). His recent articles have been published in the *Harvard Law Review*, the *Supreme Court Economic Review*, and the *UCLA Law Review*. He earned his B.S. with honors and his J.D. with highest honors from the University of Wisconsin, where he was articles editor of the *Wisconsin Law Review*. After his graduation from law school in 1966 he served for one year as law clerk to the Hon. Roger J. Traynor, Chief Justice of the Supreme Court of California, and then practiced law for two years with Arnold & Porter in Washington, D.C. He was a professor of law at UCLA and Stanford before joining the Michigan Law faculty in 1983, and has been a visiting professor at both Harvard University Law School and Cardozo School of Law.

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