

Property is Theft/Property is Liberty

By W. J. Whitman

“*Property is Theft!*” was the battle cry of one prominent French anarchist in the 19th century. ‘*Au contraire, mon frère,*’ retorted another. ‘*Property is Liberty!*’ ‘*You’re both wrong,*’ said a third. ‘*Property is Impossible!*’ How such people got along with each other is amazing. More so, since it was the same man, Pierre Proudhon, who said all three.

“All anarchists support property rights, including those who oppose property rights. And all anarchists oppose property rights, including those who support property rights. Context is everything. So are definitions.”—Less Antman¹

Pierre-Joseph Proudhon was quite an interesting fellow. He was the founder of modern anarchism, yet his ideas went on to influence both Marxism and libertarianism. The ideas of Karl Marx that were actually intelligible were, more often than not, plagiarized from Proudhon. The primitive accumulation of capital, the surplus theory of value, scientific socialism, the organization of labor, the distinction between possession and property—all of that was in the writings of Proudhon before Marx “discovered” these truths and ideas. The polar opposite of Marxism is the modern libertarian movement, especially the variety of libertarianism espoused by Murray Rothbard. Curiously, the ideas of Murray Rothbard derive largely from Benjamin Tucker, who was an early anarchist and translator of Proudhon. Proudhon’s teachings were so dialectical and paradoxical that they can lead people to opposite extremes if they are not fully understood.

Non-anarchists have latched on to certain aspects of Proudhon’s anarchist theory of property and, having misunderstood it, have used it as the basis for varied and contradictory ideologies. Marxists have latched on to Proudhon’s dictum “property is robbery” and have advocated the abolition of property as a result. Libertarians have latched on to Proudhon’s dictum “property is liberty” and have built up a sticky capitalistic proprietarian ideology as a result. Proudhon’s view, however, was much more nuanced than either of those positions. In his *Theory of Property*, he speaks of destroying property in order to make all men proprietors. In a way, Proudhon was more of a distributist than anything else, but not quite. It’s hard to find exactly where Proudhon fits because he just doesn’t quite fit anywhere.

¹ Less Antman, *Is Property Theft?* (anarchywithoutbombs.com)

Proudhon acknowledges a wide variety of different sorts of “property” arrangements that have existed at various times under various circumstances. *Property* is a term that cannot be easily defined. It is largely a human convention. Furthermore, *property* is inherently contradictory or paradoxical—it can only be approached dialectically. Proudhon himself never arrived at any concrete theory of property. To be honest, I cannot advocate Proudhon’s theory of property because there is no such thing. What I can do is advocate the sort of theory of property that I think Proudhon’s analysis points to. To a certain extent, that is absolutely no theory of property at all. We must, then, look at it anthropologically—property as a human convention. There are various different types of property: allodial, fee simple, feudal, communistic, usufructuary, etc. Each has its pros and cons. Additionally, each is more or less suited to particular “circumstances of time and place.”

Proudhon sees *property* (as distinct from *possession*) as the privilege of “unearned increase.” He draws a parallel to the *droit d'aubaine* (*albinatus jus*) in old French law. Under aubaine, the French monarch inherited all of the possessions of a foreigner if the foreigner died while in France. Proudhon sees property as monarchical. The proprietor is a little sovereign. Any surplus value contributed to a piece of land by the labor of the occupant is unjustly transferred to the landlord upon the end of the lease. If vacant land is mortgaged or rented, and the renter builds a house on the land before becoming insolvent (or before the lease is terminated), then ownership of the house is automatically transferred to the landlord as “unearned increase” or *aubaine*. Thus, Proudhon concludes, “Property is theft!” In light of this analysis, it is no surprise that many admirers of Proudhon are advocates of Georgism.

Property, then, is the privilege of usury or unearned increase. *Usury*, according to Benjamin Tucker, can be seen as a diabolical trinity of profit, rent, and interest. These things, according to Tucker, are the result of monopoly privilege. By granting a monopoly privilege to the proprietor, it allows them to unjustly tax the non-proprietors. We live in an imperfect world, so injustices will be unavoidable. The key is to establish some variant of property rights that minimizes these injustices. We will get to that task in a moment.

Murray Rothbard and the anarcho-capitalists have called themselves “anarchists” and advocate property, but Rothbard’s theory of property is precisely the sort of theft that Proudhon was criticizing. This is part of the reason that anarchists tend to exclude anarcho-capitalists. Being

anti-capitalist is part of the definition of anarchism. The critique of hierarchy is a necessary part of anarchist theory. By upholding conventional capitalistic property titles, anarcho-capitalists end up defending hierarchical relations that result from property. This is what excludes them from the classical anarchist camp.

Yes, Rothbard was a great critic of the State, but he failed to comprehend what Proudhon meant by “property is theft.” Thus, Rothbard saw the privilege of private property as an absolute and inviolable right. Property is monarchical. The proprietor is a legitimate sovereign over land and productive property. The factory belongs to the proprietor and the workers can have no claim over the means of production since it belongs to the proprietor. This idea is the basis of hierarchy. The authority of the sovereign leads to hierarchical relations. Anarcho-capitalist property is still just legal privilege, with absolutely nothing anarchistic about it. Under anarcho-capitalism, property becomes legal privilege held up by private courts and private police.

In that sense, Rothbardian property is theft. It is theft because it implies the use of legal privilege to grant “rights” that are unnatural and don’t naturally follow from possession and use in itself. Anarcho-capitalism would ultimately rely on violence in order to defend a privilege that would not naturally exist.

The recognition that property is theft leads to the critique of capitalism. Capitalism stems from property. Capitalism is predicated on feudal property arrangements. Capitalism was built upon feudalism. Capitalism is not a free-market. The truth of this assertion is demonstrated by the claims of right-libertarians to the affect that “capitalism” is the source of all the goods in the world today.

“Capitalism,” it is claimed, gave us commercial airlines. True, but only insofar as you are using the term “capitalism” to mean something other than a “free market.” The research and development (R&D) that went into creating the commercial airliners was funded almost entirely by the State, as part of the military-industrial complex. The government funding for R&D of military aircraft served as a massive subsidy for the aviation industry. The automobile industry was propelled forward by government intervention and GM lobbying.² A great deal of the things that were supposedly produced by “free-market capitalism,” were really produced largely by

² Cf. the documentary “Taken For A Ride”

government intervention. Even the internet stems from research commissioned by the American government in the 1960s. The demand for these things on the part of the masses simply didn't exist until these things were produced with the help of government subsidies. After these things were produced, demand was manufactured in accordance with the "demand-push economy" principle.

A great deal of the "capitalist" economy owes its existence to corporate subsidies of some sort. This is why Rothbard advocated a quasi-syndicalist perspective in *Confiscation and the Homestead Principle* and, again, in *How and How Not to Desocialize*. The leaders in the anarcho-capitalist movement, like Rothbard and Karl Hess, realized that *actually existing capitalism* is not synonymous with a free market. Unfortunately, vulgar libertarians today often fail to recognize this.

For the sake of making our case stronger, let's ignore the reality of corporate subsidies and assume that existing "capitalism" has provided us with the automobile, commercial airlines, and internet all without government intervention. Let's assume, contrary to evidence, that these "benefits of capitalism" came about on the free market. Now, how do you suppose that the industries that produced these things were funded? Even if you ignore all the government subsidies, you must assume that they were funded by a "primitive accumulation of capital." Some stock of money (savings) was built up by the capitalist class in the past. This stock of capital is what was used by the capitalist class in order to fund the Industrial Revolution. But where did this stock of capital come from? Did it come from free competition and fair trade? Well, no. Historically, that "primitive accumulation of capital" came about because of government intervention. It was feudalism that created the land-monopoly that resulted in the accumulation of capital into the hands of the few, resulting in the creation of the capitalist class.

The existence of a capitalist class is necessary for capitalism to exist. It is this capitalist class that funded the Industrial Revolution and the rise of modern capitalism through big industry and mass production. The counterpart to this is the creation of the proletariat. In addition to the creation of a capitalist class (a small group of individuals who own a lot of capital and productive property), there must also be a proletarian class (a large group of people who do not own much capital or the means of production). This disparity allows those who own capital (capitalists) to employ those who don't (proletarians) in factories that are owned by capitalists. The Industrial Revolution required masses of people to be enslaved to wage labor in order for it to succeed. How

did this disparity between capitalists and proletarians come about? Was it the result of a free market? No! That's where Adam Smith was wrong. As Karl Marx observed, this disparity came about because of feudalism and feudalist arrangements that were backed by government.

Under feudalism, serfs who had acquired land and homes through labor, were unjustly required to pay rent (a tax) to absentee landlords who had absolutely no legitimate claim to the lands and homes of the serfs. The landlord's only claim, under feudalism, was a "title" conferred to him by the government—a title that is completely illegitimate upon libertarian principles. The landlord's property "right" was merely a legal privilege bestowed upon him by the State.

The only way to deny the fact that capitalism is not libertarian is to employ the term "capitalism" in the most naïve and over-simplified fashion, as meaning simply a "free-market system." But that is to use the term in a way that doesn't make much sense. Would you say that a "free trade" system between certain Native American tribes in 1300AD was "capitalism," even if the trade system was based upon barter? No right-thinking economist would. Capitalism requires capital! The accumulation of capital is the basis of capitalism.

Right-libertarians refuse to recognize the validity of any economic analysis that might have originated with Karl Marx. One of the key points in left-libertarian analysis is its acceptance of Marx's analysis of the "primitive accumulation of capital." This is one point where Marx was certainly correct. The "primitive accumulation of capital" that resulted in the massive disparity of wealth between the rich and poor did **not** result from a free market, as Adam Smith falsely claimed. Marx was among the first people to observe that capitalism was predicated on theft.

Capitalism is built upon feudalism. Feudalism came about with the "enclosures" in England and the rise of serfdom, when the government altered the system of property rights from a natural system based upon "occupancy and use" into an artificial system based on "deeds" and "titles." The agricultural land was stolen from the farmers and handed over to a new class of "landlords." The residential property was taken away from the occupants and given to landlords. The landlords had no legitimate claim to the land, but their government-granted "title" allowed them to collect "rent" (a tax) from the serfs who were working and living on the land. This new feudal arrangement allowed the landlords to expropriate massive amounts of money from the serfs, leading to the "primitive accumulation of capital," upon which the Industrial Revolution and capitalism were predicated.

Capitalism is rooted in property as theft. It is rooted in property as legal privilege that allows absentee landlords to collect a tax (rent) from the occupants of land. Without this artificial legal privilege, the primitive accumulation of capital and the divide between the capitalist class and the proletariat could never have come about.

There is a dialectical fact related to property that while the thing is theft and tyranny it is also liberty. The legal privilege associated with property gives the proprietor more liberty than non-proprietary. While this is a negative thing, it can also be a positive thing. Private property arrangements can allow for the use of property as collateral for loans. This is truly beneficial. Additionally, the monarchical privilege of private proprietors could serve as a counter-balance to the monarchical privileges of the State. Even a non-state arrangement can take on a certain system of property that leads to social hierarchy that is coercive and undesirable. Thus, certain communistic arrangements could be stateless yet hierarchical and coercive. Likewise, a system like anarcho-capitalism could be stateless without being anarchist. If the form of property is collectivistic, it is not difficult to imagine scenarios where the collective would crush the liberty of individuals. If it is individualistic, the same rule applies.

The task, then, is to reform property in such a way as to preserve its benefits and minimize its costs. This must be done while paying special attention to the relevant “circumstances of time and place.” A Greek city in medieval times would require quite different property arrangements than a rural farm community in Russia in modern times. One time and place might require fee-simple property in order to maximize liberty and minimize tyranny, while another time and place might require communistic arrangements to achieve the same goal. The Old Russian communes were communistic precisely because it was necessitated by the circumstances of time and place. The alternatives would have been feudalism or starvation. The land could not easily be farmed by individuals without the help of the community, so the land could be collectively owned and farmed or else it could be used as a way for certain individual proprietors to exploit the community. Under those circumstances, a sort of communism is much more libertarian than private property.

Under the current circumstances in American society, excepting only agricultural property in rural areas, I believe the best system of property in order to maximize liberty and minimize tyranny would be a system implementing a combination of Ricardian socialist, individualist anarchist, and distributist notions of property. Firstly, property rights ought to be reformed along

usufructuary lines—i.e. property ought to be based upon “occupancy and use.” This would require a person to occupy and/or use the land in order to maintain legal possession of it. Absentee landlords would no longer be able to collect rent, as the legal ownership would shift to the occupant. The occupant, whom the “owner” would charge rent, would become the new owner of the property; thus, the former owner could no longer extract rent from him. Abandoned and unused land could be homesteaded, and the homesteader could thereby acquire legal ownership. At the same time, this would lead to ownership becoming more evenly distributed throughout society. Factories would no longer be owned by individual proprietors, for no single individual is occupying and using the factory on his own. It is the workers who occupy and use the factory for production, so it is the workers to whom a usufructuary system of property rights would grant ownership. It is the workers in the factory, rather than the capitalists or the corporate entities, that do the occupying and using of the factory, so it is to the workers that ownership would be awarded.

This whole essay has been nothing more than a rough outline, but I hope that it will demonstrate how left-libertarians (anarchists) ought to think about property. As usual, there is no one-size-fits-all solution. If you wanted to implement anarchism in South America or in the Middle East, you would need to analyze the particular “circumstances of time and place” to determine what sort of property arrangements are best suited to them. Outside of Europe and America, you are much more likely to find that communistic arrangements are preferable.