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INTRODUCTION TO NORMATIVE PROPERTY THEORY

Introduction

This paper is a non-technical preliminary report on a normative theory of property. It provides an alternative approach to normative economic theory that does not require or utilize any social welfare function. Normative property theory consists of a principle which specifies how rightful ownership is initiated (theory of appropriation) and a principle which specifies how rightful ownership may be transferred (theory of permission). Thus the theory provides normative constraints which govern the rightful appropriation and transfer of property.

In presenting normative property theory here, we will follow the same "methodology" used elsewhere in normative economics. That is, we will assume some simple and almost universally acceptable principles as normative axioms, and then we will investigate their consequences and make a number of applications. In contemporary normative economics, the ranking of an individual's welfare in different social states is identified with the person's preference ranking over these states. If each person in a group of people ranks a pair of options in the same fashion, then the group ranks the alternatives in that fashion (this yields the Pareto preordering). The principle of permission is given in the same form. A transfer of property is permitted if and only if the owner or all the owners consent to the transfer. Voluntary exchange is thus a permitted form of property transfer and theft is not. Henceforth we will concentrate on the principle of appropriation and its applications.

The Principle of Appropriation

When a person (i.e., a moral agent = a sane adult human being) or group of persons intentionally initiate a sequence of events in order to bring about certain results, then we will say that they are intentionally responsible (or simply, responsible) for the results. This is a descriptive notion. The principle of appropriation defines rightful appropriation by identifying the normative notion of moral responsibility with intentional responsibility. Thus we have the principle of appropriation: people have the moral responsibility for that for which they are intentionally responsible, i.e., for the results of their deliberate actions.*

*Thus, after the addition of normative property theory, normative economics (without any social welfare function) would be based on three simple normative axioms. There is an implicit methodology at work here other than that of adopting "self-evident" principles. Each axiom defines a normative notion such as individual welfare, permission, or moral

This is a general normative principle which extends beyond the range of property theory when the latter is narrowly interpreted as dealing only with material goods. In that special case, general normative concepts such as moral responsibility specialize to normative property-theoretic concepts such as rightful ownership. That is, when a group of people are morally responsible for creating (resp.,using up) a material good, then, in property-theoretic terms, this means they have the rightful ownership of that asset (resp., liability). Alternative terminology is that the agents have the moral right or natural right to the ownership of the assets or liabilities thus created. The principle applies with perfect symmetry irregardless of whether the results of the actions are of positive or negative value (i.e., regardless of whether they create assets or liabilities or both). If another person has simple ownership of a good used up in a transformation and has no moral responsibility for the transformation itself, then the person's ownership only determines to whom the agents are liable for using up that good. Of course, in practice, liabilities would usually be anticipated and satisfied by contract prior to the transformation but this might not always be the case (e.g., damage to persons and property caused by environmental externalities).

Let us now apply the principle to an economic enterprise. The material results of the production in an enterprise during a given time period can be represented by a vector $X = (x_1,\ldots,x_n)$, where the positive components represent the commodities produced and the negative components represent

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responsibility by identifying it with the corresponding mental notion of individual preference, consent, or intentional responsibility. Also each individualistic notion extends to the group case by the appropriate unanimity condition. This is clear in the case of group welfare rankings (Pareto preorderings) and group permission (unanimous consent). Deliberate cooperative action - action in unison - is the appropriation-theoretic version of unanimity which yields the notion of group responsibility. This methodology does not provide any normative basis for a notion of "social" welfare that would override individual welfares in the absence of unanimity (unless one assumes the existence of a "group mind," "General Will," or some other "transcendental moral authority" - or imputes such authority to the "State"). Such a notion of "social" welfare would conflict with the consent or voluntary exchange constraint. This is essentially why the formalism of a "social welfare function," which would strictly extend the Pareto preorder and have moral authority, remains to this day an empty box. Social welfare economics misconstrues the problem of obtaining a more complete social ordering as a theoretical problem. It is a practical problem - the problem of overcoming selfish antagonisms and building community and social equality so that the Pareto preordering would itself extend to form a more complete ordering of major social alternatives. Similarly the problem posed by Arrow's Impossibility Theorem is not theoretical but practical. It is the problem of building community so that the unanimity rule is applicable.

the commodities used up by the enterprise during the time period. We will call the vector X the whole product (of the enterprise during the time period), where the positive components are called assets produced and the negative components are called the liabilities incurred. This whole product is the material result of the deliberate cooperative actions of all those who work in the enterprise. Therefore, by the principle of appropriation; (1) they have the moral responsibility for their productive activities in the enterprise, and (2) they have the natural right to the ownership of the material results of these activities - the whole product (assets produced and liabilities incurred in production). Thus if a legal property system is to satisfy the norms provided by normative property theory, it must recognize and guarantee in law: (1) that the workforce in an enterprise has the collective legal responsibility for its productive activities, i.e., that the workers have the right to self-manage their work, and (2) that the workforce in an enterprise has the right to the ownership of its whole product. We will call this form of production, laborist production (also called labor-management or workers' self-management). If any of the material goods to be used up in production were initially owned by absentee owners (e.g., by the workers who produced the intermediate goods or by the community in the case of land and natural resources which are not the products of labor), then the workforce in the enterprise would have to satisfy its (prospective) liabilities by obtaining the owners' consent. This would usually require the payment of something called rent, interest, use tax, or simply purchase price. From the property-theoretic viewpoint, the owners' consent is required by the consent constraint (principle of permission) and does not require any other "economic" justification (e.g., in terms of "insuring efficient allocation"). In existing property systems, it is not the payments themselves that require justification but rather the ownership claims upon which the payments are based.*

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*The normative property theory we have presented here is essentially a modern treatment and generalization of the classical labor theory of property (or natural rights theory of property). See for instance: Richard Schlatter, Private Property: The History of an Idea (Rutgers University Press, 1951), chapters VII-X; or see Anton Manger, The Right to the Whole Produce of Labour: The Origin and Development of the Theory of Labour's Claim to the Whole Product of Industry (London: Macmillan and Co., 1899; also reprinted by Augustus Kelly, N.Y.). The labor theory of property was the foundation of the classical libertarian socialist critique of capitalism, e.g., by Proudhon and the Labors'right-to-the-whole-product school (also called "Ricardian socialists"). While these pioneers did not clarify the foundations of the labor theory, they did understand its implications rather well. For instance, William Thompson enunciated three natural laws of normative property theory. In the words of Menger, these are: "(1) All labour ought to be free and voluntary, as to its direction and continuance; (2) all the products of labour ought to be secured to the producers of them; (3) all exchanges of these products ought to be free and voluntary" (p. 53). His (1) and (2) are essentially the (1) and (2) we gave above and (3) is the consent constraint. This laborist tradition lived on in the cooperativist, guild socialist, and anarcho-syndicalist movements.

The natural rights of the workforce in an enterprise to the self-management of its work and to its whole product are not even recognized, much less guaranteed, in the capitalist property system. The legal rights to the management of production and to the whole product are the essential components in the bundle of legal rights called the "firm." In the capitalist system, these rights are typically attached to capital. In a corporation, the owners of the "firm" are the owners of the capital assets of the enterprise - the stockholders. However, in an individual proprietorship or partnership, the proprietor or the partners are the owners of the "firm" even though they might be using only borrowed capital. In any case, the capitalist property system considers the legal rights to the management of production and to the whole product as alienable property rights, unconnected with the workforce in an enterprise, and belonging to whoever has satisfied certain legal prerequisites.

These natural rights of the workforce in an enterprise are also not recognized in a state capitalist or state socialist system where the government legally appropriates the whole product and manages production. Under state socialism, the workers, far from being self-managing producers, are state employees drafted into the industrial army. Many socialists make the argument that, due to the interrelated nature of modern industrial society, an enterprise directly or indirectly uses many social resources in production, and thus "society" (i.e., the government) should appropriate the whole product and manage production. While the empirical assumptions have much truth, the argument is fallacious for the same reason as is the argument that, because an enterprise uses capital assets owned by others, the capital owners should appropriate the whole product and manage production. External ownership of resources used in production only determines to whom the workforce is liable for the use of the resources. If social resources are used, then the workforce has social liabilities.

An important feature of the application of appropriation theory to productive enterprises is that it does not just show that the capitalists and the government lack any natural right to the whole product and to the management of production. It shows that it is the workforce that has those natural rights. Thus it decides against other forms of non-laborist production such as managerialism; where the prerogatives of capital would be transferred to a new "fourth factor of production" - entrepreneural, technical, and managerial expertise. In short, a system of production satisfies the natural rights of the workforce in each enterprise if and only if it is laborist production.*

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*We are concerned primarily with the standard case where the cooperative actions of the work-community in an enterprise result in the use and production of material goods, and hence the notion of the whole product. When this notion is irrelevant, then, for the same reason as before, the work-community in an enterprise or institution still has the natural right to self-management. Thus, for instance, a university should be self-managed by all those who work in it, i.e., by the faculty, students, and

Before making further applications, we need to explicate a normative distinction that is of great importance. The problem is to give, in terms of normative property theory, an explication of the classical distinction between inalienable and alienable rights, and to explain why the former rights are indeed inalienable. The theory of permission provides a normative constraint on the transfer of ownership rights. One can acquire ownership rights by transfer from someone else but this does not determine how someone may acquire ownership rights in the first place. It is the theory of appropriation which provides the norms governing the rightful creation or initiation of ownership rights (as opposed to their rightful transfer). We will call these ("second-order") rights to have certain ownership rights, appropriation rights to distinguish them from the ownership rights that one might acquire. One might transfer an appropriated ownership right, but it was one's right of appropriation which determined that one had the ownership right in the first place. We propose the notion of appropriation rights as an explication of the rather vague classical notion of inalienable rights and thus alienable rights would be the ownership rights one might acquire by appropriation or transfer.

Appropriation rights are inalienable in a clear and strong sense. To say that a person or group of people acquire, by their right of appropriation, the ownership rights to certain positive or negative goods is to express in property-theoretic terms that they have the moral responsibility for creating or using up the goods in question. And whether or not they have the moral responsibility is a question of fact which is unchanged by consent or contract. One cannot "transfer" or "alienate" moral responsibility. One can consent to transfer the ownership rights thus acquired - but it was one's right of appropriation, i.e., one's moral responsibility, which determined that one initially had the ownership right. One can decide not to perform an action in the first place and hence not to have the moral responsibility for a certain occurence. Or one could temporarily or permanently lose one's capacity to be morally responsible, i.e., one's moral agency, by virtue of injury, drugs, insanity, or death. These are all possibilities but none of them constitute transferring or alienating one's appropriation rights, i.e., one's moral responsibility, by consent or contract. The point is not that one cannot "truly" or "freely" consent to alienating such rights. The point is that it is not a matter of consent at all. It is a question of moral (i.e., intentional) responsibility. This inalienability of appropriation rights is particularly striking in the case of actions which are wholly destructive (e.g., criminal actions). A person who intentionally destroys the property of another would no doubt with full, free, and willing consent "give up" those particular rights of

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staff. The legal rights to govern a university hence should not be vested in the absentee trustees of the capital assets of the university. If we consider general living-communities, then the right is the natural right of the community to the democratic self-government of its affairs.

appropriation, i.e., his moral responsibility, for the results of those actions. However, if he wishes to avoid the responsibility then the relevant decision would be the decision not to perform the action in the first place. If he performs the action and thus rightfully acquires the ownership of a certain liability, and the legal system evaluates the liability in terms of a financial penalty (a fine), then he may be able to transfer that financial liability to some other person in return for some consideration (i.e., have someone else pay his fine). But this subsequent transfer does not alter the fact of his moral responsibility which accounted for his rightful initial acquisition of the liability.

The inalienability of appropriation rights is the unalterability of the facts of moral (intentional) responsibility by consent or contract. Of course, there is nothing to prevent the empirical possibility of there being a legal property system that does not guarantee these rights as inalienable or that does not even recognize them as alienable rights. The capitalist property system is a case in point. The above-mentioned natural rights of the workforce in an enterprise are inalienable rights, i.e., appropriation rights. The workforce's moral rights to self-manage its work and to have the ownership rights to the whole product are the property-theoretic expression of the fact that the workforce is morally responsible for its activities and the material results of these activities. The capitalist property system does not legally recognize these rights even as alienable rights (i.e., the stockholders do not have the legal rights to management and to the whole product "transferred" to them in the wage contract - they are directly attached to capital in the first place) -- much less guarantee these rights as inalienable rights.

Capitalism and Chattel Slavery

When one is presenting or evaluating an abstract normative theory, it is helpful to understand it intuitively. However, since our intuitions are notoriously influenced by the society in which we live, it is desirable to be able to translate statements and questions into an analogous situation where our moral intuitions are reliable. One such translation scheme is to formulate questions about moral responsibility in terms of the special case of actions which are destructive (e.g., criminal actions). History shows us a wide variety of legal institutions that have been all too eager to "relieve" working people of the responsibility for the valuable results of their actions, but the same institutions, as a rule, have carefully insured that the responsibility for individual crimes accrued to the rightful owner. Hence our intuitions about responsibility in the context of productive labor are likely to be highly "conditioned" whereas our intuitions about responsibility for destructive actions are comparatively clear and more likely to be correct. We have already used this device above (to illustrate the inalienability of appropriation rights), and we shall be using it again.

Another useful translation scheme is to translate propositions about capitalism back into propositions about chattel slavery about which our intuitions are presumably reliable. In order to show that such a translation is possible and as an application for its own sake, we will present a property-theoretic analysis of chattel slavery and a parallel analysis of capitalism. When an individual is capable of being intentionally responsible for his actions, then, by the principle of appropriation, the person is morally responsible for them. Thus the person has the moral right to govern his actions. This might be called the person's natural right to individual self-management, self-government, or self-determination. Although property-theoretic terms are not customary in this more fundamental context, the natural right expressed in those terms is the person's inalienable appropriation right to the ownership and control of his actions.

A legal system can violate the restrictions provided by normative appropriation theory in two ways, i.e., by not recognizing certain rights of appropriation at all and by recognizing them only as alienable rights. Chattel slavery involves both violations. Certain individuals' rights of self-determination were not recognized at all and therefore they were considered chattel. The legal rights to own and govern this chattel were alienable property rights which were not even initially owned by the slave and which could be acquired by other persons who had satisfied certain legal prerequisites. This was the historical case of (involuntary) chattel slavery.

A more illuminating case, from the theoretical point of view, would be a system of voluntary slavery. In such an institution, certain individuals' right to self-determination would be recognized but only as a transferable or alienable right. By making a certain voluntary legal performance, e.g., by voluntarily signing a certain chattelhood contract, one could for a specified period of time (or permanently) extinguish one's legal personality and become, in the eyes of the law, a chattel under the government of another person. One should, of course, distinguish this sort of a "contract" from an ordinary contract where one does not give up one's legal agency but chooses to exercise it in a particular fashion. This "abolition" of involuntary chattel slavery in favor of voluntary chattel slavery is, however, of no avail. As noted before, such "contracts" which would purport to "transfer" inalienable rights of appropriation would be moral nonsense. The signing of contracts, the solemn pronouncements of judges, and the erection of an entire legal superstructure to enforce the extinction of the slave's legal personality would not change the reality of the slave's moral agency, i.e., his capacity for moral responsibility. A person's moral agency is not changed when he fully, freely, and willingly enters into such concocted "chattelhood contracts." It is not a matter of his "consent." Of course, there can be social systems in which a certain segment of the population is maintained in such a state that they will voluntarily enter into such "contracts" but these "contracts" would provide no more of a sufficient moral reason for a legal system to extinguish their legal personality than does the color of their skin. Chattel slavery, voluntary or involuntary, constitutes a legally sanctioned institutionalization of kidnapping and murder - not the murder of biological individuals ut the annihilation and transformation of legal persons into legal chattel.

The capitalist property system is entirely parallel. It does to "labor" (i.e., to the workforce of each enterprise during their time of productive work) what involuntary chattel slavery did to certain persons. It violates the norms provided by normative appropriation theory in both the ways mentioned above. The capitalist property system does not recognize the workforce's natural rights to the self-management of their work and to the ownership of the whole product even as alienable rights and much less does it guarantee them as inalienable rights. The corresponding legal rights are alienable property rights which are not initially attached to the workforce in an enterprise and which may be acquired by anybody who has satisfied certain legal prerequisites (e.g., the acquisition of the ownership of the capital assets of a corporation). Since these legal rights are not attached, even initially, to labor, labor enters a productive enterprise on par with the productive services provided by machines and animals, i.e., as a productive service sold to the owners of the whole product by the "factor owners." Thus labor is treated legally as a commodity - a marketable productive service - just as the slave was treated legally as a chattel. The wage contract sets the terms of the traffic in the human actions called "labor" just as the contracts on the slave market set the terms of the traffic in person.

We are not saying that capitalism and chattel slavery are identical. One important difference derives from the fact that the whole person of the slave was considered a chattel so the slave had no surviving legal personality who was eligible to own that chattel. Thus slaves were owned by other persons. However, in the case of the workers in the capitalist system, it is only their productive work which is treated as a commodity so they can retain their legal personality and own as a "factor owner" their labor-commodity. Thus, under capitalism, the two roles of "factor" and "factor owner" are played by the same person. This difference has important economic and apologetic (or obfuscatory) consequences. From the viewpoint of economic rationality, capitalism is superior to slavery because it allows the propertied class to continue appropriating the product of others' labor but without any unnecessary investments in "human capital." This also has important apologetic consequences because it is a mainstay of liberal thought that the moral flaws of chattel slavery do not survive in capitalism since the workers, unlike the slaves, are free people making free contracts. Working people are free to make voluntary contracts, but they contract from an initial position in which they are denied the inalienable natural rights that they should enjoy in their working lives and this reduces their labor to the status of a commodity voluntarily sold to the owners of the whole product in an enterprise. The problem with chattel slavery was not that the slave wasn't a "self-owning chattel" which could sell itself, but that the law denied (didn't recognize) the slave's inalienable natural right to self-determination and thus reduced the slave to the status of a chattel. Similarly, the problem with the capitalist property system is its denial of the inalienable natural rights of the workforce in an enterprise which reduces the labor of these working people to the status of a commodity which they are allowed to sell by means of a voluntary contract.

As before, we can also consider a hypothetical voluntary form of the institution. In "voluntary capitalism," the natural rights of the workforce in each enterprise to the self-management of their work and to their whole product would be legally recognized, but only as alienable rights. Thus these rights would not be attached to capital at the outset, and capital would have to depend on its bargaining position to transfer these rights in its direction. This legal transfer would be accomplished by means of a new "commodityhood contract" (analogous to the previously considered "chattelhood contract"). When the status of labor as a commodity was established by means of such a "contract," then a wage contract would be necessary to set the terms at which the commodity would be purchased. The wage contract is the analogue, not of the "chattelhood contract," but of the contracts made on the slave market (with the primary difference being that the worker combines in one person the two roles of "factor" and "factor owner"). The wage contract presupposes the alienation of labor's inalienable rights, i.e., the status of labor as a commodity. In our hypothetical system of "voluntary capitalism," if the "commodityhood contract" was not made, then the relevant contract between capital and labor would not be a wage contract but a capital rental contract.

Naturally all that has been said above about the inalienability of appropriation rights (i.e., moral responsibility) applies to these "commodityhood contracts." Some economists have inexplicably tried to attach the meaning of such "contracts" to the wage contract. It is said rather vaguely that the workers "give up" their right to the ownership of the product in exchange for a wage. Although it is difficult to see how they could "give up" in the wage contract legal rights which they don't have in the first place, it does not matter. The moral rights in question are inalienable. Such "commodityhood contracts," whether real or "implied," do not change the moral agency of labor, i.e., the moral responsibility of all who work in an enterprise for their work and its material results.

As the capitalist property system does not recognize or guarantee the inalienable rights of the workforce to the ownership of their whole product and to the self-management of their work, the system constitutes a legally sanctioned institutionalization of theft and tyranny (in the workplace). In short, as Proudhon pointed out in his famous passage, slavery is murder and the property system underlying capitalism is theft, "the second proposition being no other than a transformation of the first." Chattel slavery was abolished by recognizing and guaranteeing the inalienable natural rights of each individual so that all people became free self-governing agents. Similarly, capitalist production would be abolished by recognizing and guaranteeing the inalienable natural rights of the workforce in each enterprise so that all enterprises would become free associations of self-managing producers.

Characterization of Capitalist Production

We wish to consider the arguments of capitalist economic theory in favor of capitalist production, but, surprisingly, we must consider the features that need defending. When certain specific features of a system are morally controversial, then it is rather pointless to defend or criticize the system in terms of other features common to a variety of alternative institutions. For instance, much has been written about the (Pareto) optimality properties of market capitalism but market laborism has the same optimality properties (and, for that matter, so does market slavery). Also, much has been written about capitalism (by both friend and foe) in terms of "the" private property system. However, the criticism of capitalism provided by normative property theory is in the name of private property refounded on its natural basis of labor. There are a number of general types of private property systems (e.g., private enterprise capitalism, chattel slavery, and laborism) and thus any serious argument for or against a specific type should attend to its specific features. From the viewpoint of normative property theory, the characteristic feature of (private enterprise) capitalist production is not the "private ownership of the means of production" nor the market determination of prices, but it is the fact that the legal rights to the whole product and to the management of production are not guaranteed to the workforce in an enterprise but are treated as separate property rights usually attached directly to capital. In a state enterprise system, these rights are still attached to the owners of the means of production.

Jaroslav Vanek has recently written an important book devoted to market laborism: <u>The General Theory of Labor-Managed Market Economies</u> (Cornell, 1970). He applies the concepts of conventional economic theory to market laborism and he shows that it is as good as, or superior to, market capitalism in terms of orthodox criteria, e.g., productive efficiency, long-run Pareto optimality, and growth rates. Professor Vanek also correctly isolates the characteristic feature of capitalist production which differentiates both private enterprise capitalism and state enterprise systems from laborism.

> It is interesting to note that the almost universally accepted principle is that the right to manage - or more broadly, to control - an economic enterprise derives from the ownership of the capital assets used by the enterprise. The principle is equally applicable in western capitalism where the owners are private individuals; in Soviet-type socialist countries where the owner is society, or more operationally the state; and even in many traditional producer cooperatives where control has been linked to shares of joint ownership of the participants. The principle of labor management is entirely different, not having anything to do with ownership of productive assets. Rather, it postulates that in a productive activity where a group of men cooperate in a joint effort, the right to control and manage that effort rests with all the

> members of the group.
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> It is important to note that the principle of labor management is in conflict with the principle of control and management by capital, i.e., by the owners of capital - but not with the principles of private or social ownership of productive assets. Capital assets still can be owned by individuals or anybody else outside the enterprise, but the owners cannot decide on the complex of human activities which constitute the production. The owners can only expect an adequate compensation for the use of the assets, established through market forces or in any other manner. (pp. 4-5)

Professor Vanek considers laborism from the viewpoint of conventional economic analysis which shows that laborism has certain utilitarian advantages over alternative systems. He does not attempt to build up a normative property theory which would be needed to determine the rights and wrongs of the different systems. We have sketched a normative theory of property which implies, among other things, that laborist production fulfills the natural rights of working people and that alternative systems violate these rights. Professor Vanek does, however, make a suggestive observation in this direction.

> Conceived of as a fundamental principle of organization of human production, labor management thus appears as a principle founded on <u>integral, active human involvement</u>. As such it is in sharp contrast with management and control by the owners of capital who need not be and most often are not humanly and actively involved.

The absentee owners of the natural agents used in production are themselves moral agents, but they do not incur any responsibility for "the complex of human activities which constitute the production" because they are not involved in production as moral agents, i.e., they are not "humanly and actively involved." Their ownership of the natural agents only determines to whom the moral agents involved in production (i.e., those with "<u>integral, active human involvement</u>") are liable for the use of the productive factors and "market forces" or other means will determine the economic value of the liabilities.

<u>Capitalist Economic Theory - The Great Evasion</u>

The general apologetic strategy of capitalist economic theory is to simply evade the question of the right to the whole product and to the management of production (by assuming without argument that it belongs to capital) and to then concentrate on the "pricing of productive factors." Capitalist theory begs the question of the ownership of the whole product vector $X = (x_1,\ldots,x_n)$ and concentrates on the determination of the product and factor price vector $P = (p_1,\ldots,p_n)$. P determines the net economic value of the whole product (i.e., the inner product $P \cdot X$) but P does not determine to whom that value will accrue, i.e., who owns the whole product and is thus the residual claimant. The ownership problem ("Who should own X?") and the pricing problem ("How should P be determined?") are quite separate. The question of "Who should appropriate the whole product and thus do the distributing?" is prior to the question "How much should be distributed to the various factor owners?". In fact, it is the answer to the prior question which determines whether labor should be treated as a factor at all - to be bought by capital - or whether labor should always take the form of self-managing producers renting or owning the capital they use.

Some of the classical capitalistic economists did attempt to deal with the property-theoretic problems underlying capitalism. The classical liberal tradition tried to preserve a rather vague form of the labor theory of property and it is instructive to consider the attempts to reconcile it with capitalism. John Stuart Mill's attempt is rather typical. He begins with a brief statement of the labor theory of property, i.e., the foundation of property is "the right of producers to what they themselves have produced," but he immediately sees that there may be a difficulty involved in capitalism.

> It may be objected, therefore, to the institution as it now exists, that it recognizes rights of property in individuals over things which they have not produced. For example (it may be said) the operatives in a manufactory create, by their labour and skill, the whole produce; yet, instead of its belonging to them, the law gives them only their stipulated hire, and transfers the produce to some one who has merely supplied the funds, without perhaps contributing anything to the work itself, even in the form of superintendence.[1]

After such a clear statement of the distinguishing characteristic of capitalist production, one would expect Mill to give a justification of these specific features since he is trying to defend capitalism by refuting this objection. Instead he only manages to argue for the triviality that something must be paid for the capital funds and capital goods used in production, i.e., for the "fruits of previous labour."

> If the labourers were possessed of them, they would not need to divide the produce with any one; but while they have them not, an equivalent must be given to those who have, both for the antecedent labour, and for the abstinence by which the produce of that labour, instead of being expended on indulgences, has been reserved for this use.[1]

Although Mill considers this a sufficient "answer" to the objection, he is clearly wrong because capitalism is not a system in which the laborers appropriate "what they themselves have produced" and in which they "need to divide the produce" in order to satisfy the liabilities they have incurred. Instead, capitalism is the system in which "<u>the law</u> gives them only their stipulated hire, and transfers the produce to someone who has merely supplied the funds" (italics added). Mill does not attempt to justify these additional prerogatives of capital given to it by "the law" in the capitalist property system. Evidently the strategy behind Mill's illogic is the rather common one of implying that capitalism has been adequately defended against the radical implications of the labor theory of property once one has refuted the openly inconsistent interpretation of the theory which holds that, as labor was responsible for the assets produced, the total value of the assets produced should accrue to labor as net income. But, of course, the theory implies with perfect symmetry that, for exactly the same reason, labor is also responsible for the costs incurred - the intermediate goods used up - in production (and the theory does not imply that the workers who produced these intermediate goods are supposed to give away their product - the "fruits of previous labour" - for free).* Thus Mill's apologetics fail and the plain logic of the libertarian principle that natural property rights are created only by labor (and transferred only by voluntary exchange) drives one to the conception of production wherein the workers appropriate "what they themselves have produced" and wherein they "need to divide the produce" in order to cover the liabilities that they themselves have incurred, i.e., the logic drives one to the conception of laborist production. The consistently libertarian economists of Mill's time, such as William Thompson, Thomas Hodgskin, and the others in the labors'-right-to-the-whole-product school, i.e., in the laborist school, drew essentially that logical conclusion.

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*The attempt to refute the laborist argument by absurdly misrepresenting it still enjoys some popularity. In Professor Samuelson's standard text (in the part entitled "Distribution of Income: Pricing of Productive Factors") we read:

> Labor leaders used to say, "Without labor there is zero product. So attribute to labor all the product." Spokesmen for capital used the same bad logic to produce the opposite result: "Take away all capital goods, and labor scratches a bare pittance from the earth; so practically all the product should go to capital." (Paul A. Samuelson, Economics, sixth ed., New York: McGraw-Hill, 1964, p. 515).

(1) The laborist argument attributes to labor not just "all the product" but also all the liabilities incurred in production. (2) The laborist argument is not a theory about the "pricing of productive factors" or the pricing of outputs. It is not concerned with the magnitude of the economic value of the whole product but with the ownership of that whole product and thus with who should be the claimant of that net economic value. (3) The laborist argument does not distinguish workers from capitalists as owners of "productive factors." The argument utilizes the fact that workers are moral agents and capital goods are not. Professor Samuelson can give the two symmetrical arguments because he only considers the effect on production when the two factor owners withdraw their respective factors. When the

Locke's Gambit

Capitalist economic theory has no serious arguments in favor of capital's legal rights to the whole product and to the management of production. The strategy is one of evasion of the ownership problem. The theory tries to avoid (rather than resolve) the difficulty by systematically "neglecting" the moral agency of labor, just as many proslavery arguments tried to circumvent the moral arguments against slavery by denying the slave's humanity (or his majority). Labor is treated as a commodity - as a marketable productive service - like the services provided by a machine or animal (i.e., any natural agent) in that they may be bought from their owners and used by others without the original owners incurring any moral responsibility for the results of the services (a view that should be especially well received by hired criminals).

The intellectual roots of the treatment of labor as a commodity go back to John Locke. Locke is often considered the originator of the labor theory of property, but this opinion does not stand up under analysis. The labor theory is a theory of appropriation and Locke did not even have a theory about the creation of property rights. Instead, he assumed an "original position" of existing property rights, with human labor treated as one form of property among others (owned by the agent in the original position), which could then be transferred by voluntary exchange. One could exchange one's labor with Nature for the "fruits of one's labor," or one could exchange one's labor for a wage so that the new owner could then enjoy the fruits of "his" labor. Note that this involves the play on words between "one's labor" in the morally relevant sense of "one's moral agency" and, "one's labor" in the sense of a commodity that was bought.

> Thus the Grass my Horse has bit; the Turfs my Servant has cut; and the Ore I have digg'd in any place where I have a right to them in common with others, become my Property, without the assignation or consent of any body. The labour that was mine, removing them out of that common state they were in, hath fixed my Property in them.[2]

If Locke rents a horse (i.e., buys its services from its owner) and uses these services to produce something, then he has the sole moral responsibility for these results as the horse is not a moral agent at all and the agency of the original human owner is not involved. Locke also thinks that he may rent a man (i.e., buy his services from their owner) and that the fruits of these services will be the fruits of the "labour that was mine," i.e., Locke's. However, a man is a moral agent, and these fruits are not the result of only Locke's moral agency (unlike the case of the

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laborist argument is correctly stated in terms of the moral agency of labor, then the capitalist counterargument collapses. Strawmen always use "bad logic."

horse). Locke's gambit is to treat human labor as another form of property that can be bought on the market like the productive services provided by animals and machines and used by others without the original owners incurring any moral responsibility for the results of the services. Locke's gambit is the commoditization of labor.

Productivity and Responsibility

The presence or absence of human actions makes a difference in a causal chain of events as does the presence or absence of the services of a natural agent. One can "abstract" away from the deeper difference between moral and natural agents, classify them both as "productive agents," and record their causal effects on production in a production function. If the production function for an enterprise is $y = f(x_1,\ldots,x_n)$ where the x_i, for $i = 1,\ldots,n$, are productive agents, then the marginal productivity of the ith productive agent is the partial derivative f_i. The stage is then set for an attempt to construct a property theory by mimicking the language of the labor theory of property. For "moral agent" substitute "productive agent," for "labor" substitute "productive service," and for "responsibility" substitute "productivity." The idea is to then interprete the factor payments made to the ith productive agent as "his" appropriation of "his" individual contribution. Mathematically, this means that the production function at the level $y^o = f(x_1^o,\ldots,x_n^o)$ is replaced by its linearization, i.e., the tangent hyperplane $y = f_1x_1 + \cdots + f_nx_n + (y^o - (f_1x_1^o + \cdots + f_nx_n^o))$, and then this linearization is decomposed into production functions $z_i = f_ix_i$, one for each productive agent. The factor payment $f_ix_i^o$ to the ith productive agent is then interpreted as "his" appropriation of "his" individual contribution, i.e., as the appropriation of the whole product $(f_ix_i^o, -x_i^o)$ of the subenterprise $z_i = f_ix_i$ at that level of production. Of course, from the legal viewpoint, there is no appropriation here by the productive agents. The productive services are bought as commodities by the owner of the whole product. However, the point of this attempted interpretation of marginal productivity (MP) theory is to justify the payments made to the factors (i.e., $f_ix_i^o$ in terms of output), by a profit maximizing capitalist firm facing competitive markets, by showing that they are equal to what the productive agents would receive if they were appropriating their product (i.e., $(f_ix_i^o, -x_i)$). The productive agents are being paid according to the rule: "to each what he [sic] creates" (J.B. Clark). This normative interpretation of MP theory might be called the "marginal productivity theory of appropriation." It was explicitly espoused (in a non-mathematical form) by John Bates Clark, the American developer of MP theory, and it has now become a solid part of the "conventional wisdom" or "folklore" engendered by capitalist economic theory.* A factor owner

*Professor Samuelson has many times explicitly rejected this normative interpretation of MP theory. However, as he well knows, it takes a theory to kill a theory, and his treatment of normative economics does not contain a normative property theory and thus it evades the ownership problem.

"deserves" to be paid according to the productivity of the productive services he sells. It is the "natural law of distribution."

There are at least three difficulties in the MP theory of appropriation. The first is that not all productive agents are moral agents, and it is absurd to attempt to derive normative consequences from the causal efficacy of natural agents. For example, it would be absurd to delete the notion of responsibility from criminal law and to impute the blame for a crime to both the criminal and the "tools of his trade," to each according to "his" productivity.

The second difficulty is that responsibility is not determined marginally or even individualistically (in the context of cooperative actions). For example, a group of criminals could not avoid all responsibility simply by employing redundant labor (so that the marginal productivity of their labor would be zero). Responsibility is a non-marginal group notion in the context of cooperative actions. Mathematically this means that if one wants to decompose the whole product of an enterprise into separate individual contributions - one for each moral agent - then it is the production function itself that must be decomposed and not its linearization. Usually this cannot be done, so the net value of the whole product must be distributed among the workers in a laborist enterprise by group decision. When it can be done then the production function decomposes into functions for individual subenterprises, where the latter compose to yield the original function and the subenterprise whole products add up to yield the original whole product. For example, suppose three individuals cooperate in an enterprise with the production function $y = f(g_1,g_2,z_1,z_2;l_1,l_2,l_3)$, where g_1 and g_2 represent factor goods bought on the market and where z_1 and z_2 represent the quantity of two intermediate goods bought on the market (these intermediate goods are also produced internally). If production is at the level $y^o = f(g_1^o,g_2^o,0,0;l_1^o,l_2^o,l_3^o)$, then the whole product is $X^o = (y^o,-g_1^o,-g_2^o,0,0;-l_1^o,-l_2^o,-l_3^o)$. Now suppose that the enterprise is decomposed into three individual subenterprises (where in the first two subenterprises the first two workers l_1^o and l_2^o use only g_1^o and g_2^o respectively to produce z_1^o and z_2^o respectively, and the third worker l_3^o assembles z_1^o and z_2^o to produce y^o). Thus we have production functions ${}_1f$, ${}_2f$, and ${}_3f$ where $z_1^o = {}_1f(g_1^o;l_1^o)$, $z_2^o = {}_2f(g_2^o;l_2^o)$, and $y^o = {}_3f(z_1^o,z_2^o;l_3^o)$ and where $y = f(g_1,g_2,z_1,z_2;l_1,l_2,l_3) = 3^f({}_1f(g_1;l_1) + z_1,{}_2f(g_2;l_2) + z_2;\ l_3)$. Then the individual whole products would be respectively; $x_1^o = (0,-g_1^o,0,z_1^o,0;-l_1^o,0,0)$, $X_2^o = (0,0,-g_2^o,0,z_2^o;0,-l_2^o,0)$, and $X_3^o = (y^o,0,0,-z_1^o,-z_2^o;0,0,-l_3^o)$. Furthermore, $X^o = X_1^o + X_2^o + X_3^o$.

The third difficulty with the MP theory of appropriation is that it would not solve the ownership problem even if it could be given a plausible property-theoretic interpretation. That is, it does not determine the ownership of the whole product of the enterprise and thus it does not determine the ownership of the residual constant term in the tangent hyperplane equation. The theory assumes that the whole product is owned by the owners of capital or an entrepreneur. It only tries to paste an appropriation-theoretic interpretation onto the payments made by the owners for the factors they purchase. MP theory is actually an attempt to solve the pricing problem - a theory about the "pricing of productive factors." The notion of a marginal product (or a marginal revenue product to be more exact) is a special case of the notion of a "shadow price" which occurs in the mathematics of optimalization (where partial derivatives and tangent hyperplanes are properly relevant).

Although J.B. Clark thus begged the ownership question, he was aware of the problem. "A plan of living that would force men to leave in their employers' hands anything that by right of creation is theirs would be an institutional robbery - a legally established violation of the principle on which property is supposed to rest."[3] Indeed - but one should note that even this manner of posing the possibility of institutional robbery remains firmly within the context of the capitalist assumption, i.e., it is a matter of how much the workers "leave in their employers' hands." He evades any questioning of the prior assumption that the whole product is in the hands of the capitalists in the first place.

We have been concerned in this section with contrasting productivity with responsibility - the causal efficacy of the services provided by natural agents with the intentional responsibility of the actions performed by moral agents. The capitalist property system, by denying the implications of the moral agency of labor, legally erases the difference between human labor-services and the services provided by animals and machines. Capitalist economic theory analytically vouchsafes this commoditization of labor by adopting a "neutral analytical framework" in production theory which abstracts away from the difference between natural and moral agents and classifies them both as "productive agents" which yield "productive services" marketable by their owner. Thus the theory attempts to evade the ownership problem by conveniently choosing a conceptual scheme which neglects the specific features of labor that morally contradict the property rights underlying capitalist production.

It is instructive to consider an example of production where this neglect would have more of a factual basis. This would involve some system wherein (say) electrodes would be inserted into a person's brain so that a computer could drive his limbs (independently of his volition) and cause them to perform certain tasks. <u>These</u> services could be <u>used</u> by others without the original owners incurring any moral responsibility for the results of the services. Since the causal efficacy of these services need not change, the notion of productivity would apply as before. Since MP theory neglects this difference, the imputed valuation (marginal revenue productivity) of the worker's services would be determined in the same way for both the worker as human tool and the worker as moral agent. By disregarding the difference between moral and natural agents, capitalist economics in theory and capitalist production in practice treat the workers in their role as laborers (as opposed to their role as labor-sellers) <u>as if</u> they were such part-time human tools - just as the institution of chattel slavery treated the slaves as if they were full-time human tools.

The Labor Theory of Value

Interpretations of the labor theory of value fall into two broad categories (both of which were sometimes used by the same writer). The two categories correspond to attempts to use the labor theory to solve the pricing problem and the ownership problem. Theories in the first category are theories of price which take labor as the measure of value (e.g., relative prices are proportional to direct and indirect labor inputs). Aside from being false, these theories are irrelevant to our present purposes. We are not concerned with the price of labor as a commodity but with whether or not labor should be a commodity at all. Theories in the second category take labor as the sole source or creator of value. Such a version of the labor theory is best viewed as a normative theory of appropriation, since the implicit or explicit conclusion is always that the value created (i.e., the net value P·X of the whole product) should accrue to labor. As Proudhon put it: "the labor of the workers has created a value; now this value is their property."[4] Capitalistic economists have usually managed to interprete this notion of "creating value" only in terms of the causal efficacy of "productive agents," and thus they have been rather puzzled at the "bad logic" of labor theorists who seem not to recognize the efficacy of capital goods. While the writings of labor theorists have sometimes been models of imprecision and even incoherence, the theory has usually been based on the differentiation between human agents and natural agents. As the guild socialist G.D.H. Cole put it:

> Materials and instruments of production and even animals and plants are, from the economic standpoint, passive things, which can create no values. ...Mere things can never create values: that is the prerogative of human beings. ...Ownership is not a creative act, but a claim to share in the results of the creative acts of others. ...The fact that ownership confers a recognized claim to appropriate things of value does not constitute the owner a creator of value, though of course he may be such a creator if he works as well as owns.[5]

This version of the labor theory of value is essentially the same as the labor theory of property. It is not a theory of prices or "value," but a theory about the rightful appropriation of things of value (positive or negative, i.e., assets or liabilities). The normative property theory presented here is a proposed explication and generalization of the labor theory of property and thus, of one version of the labor theory of value. Under this explication, the slogan "labor is the sole source and creator of value" would mean: of all the "productive agents," only labor has moral agency, so labor is the sole source of moral responsibility for productive activities and the material results of such activities (the whole product X), and thus labor is the rightful claimant of the value created (P·X).

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Notes

[1]John Stuart Mill, Principles of Political Economy (Penguin Books, 970), p. 368 (Book II, chapter II, section I).

[2]John Locke, Two Treatises of Government, ed. Peter Laslett (Cambridge, 960), section 28 of the second treatise (quoted in: C.B. Macpherson, The olitical Theory of Possessive Individualism: Hobbes to Locke, [Oxford, 964], p. 215).

[3]John Bates Clark, The Distribution of Wealth (New York: MacMillan o., 1899), p. 9.

[4]P.J. Proudhon, What is Property?, trans. Benjamin Tucker (New York: over Publications, Inc., 1970), p. 112.

[5]G.D.H. Cole, The Meaning of Marxism (Ann Arbor: University of ichigan Press, 1964), pp. 220-1.