

Property Ownership in Civil Society

The common perception of an inequitable, anti-social link between property and privilege, while undoubtedly justified in some instances, nonetheless detracts from the wider significance of ownership in civil society. Private ownership is not a privilege of the rich and powerful nor is it an 'optional extra', easily done without. Property ownership is the driving force of a democracy, its life blood. Without generalised private ownership, democracies cannot endure.

'Ownership' in the broad sense begins with a citizen's personal security – the right of all to protection by the State of one's physical safety and privacy, the first principle and essential foundation of 'ownership'.

However, traditional common law goes much further, insisting on every citizen's right to *own, use and enjoy* property. Ownership must be unequivocal. For example, individuals must have the right to enforce laws of trespass. They must be able to use their property responsibly without unfair interference by others, including the State. Individuals must be free to invest lawfully in new ideas and products and to expect that the State will protect that investment. None of the aforementioned is sustainable, however, if enjoyment of ownership is unreasonably denied. For example, others can make quiet enjoyment of property impossible with excessive noise, odour or other unpleasantries, while the State can make ownership so regulated, so expensive, that its enjoyment and benefits are spoiled.

To the average citizen, property is about simple things – houses, cars, furniture, valuables and so on. Such property is owned, rented or leased by the majority of individuals, with the blessing and protection of the democratic state. Ownership on this scale is what motivates individuals, who in their millions constitute the driving force of free societies and economies. Grave danger of social unrest occurs when costs outstrip the average citizen's ability to participate, especially in the ownership of basic items such as housing, food and clothing. Similarly, recourse to law is of critical importance in defending property rights but costs of legal representation prevent many from seeking it.

Despite these generally recognised principles, private ownership is still regarded by some as the illegitimate spawn of an earlier, more feral capitalism, to be outwardly tolerated but not encouraged. A more radical perception of ownership as 'the source of all evil' now stands discredited. Where such views prevailed, economies collapsed with tragic and (hopefully) memorable consequences. It is now widely accepted that the source of greater evil is an inability or failure by the State to facilitate general and meaningful participation in private ownership. Poverty, civil disorder, social disadvantage and educational inadequacy are frequently nominated as causes of such exclusion. Such issues must be constantly addressed by the whole community to ensure wider and more equitable participation in property ownership.

It is also an accepted requirement of modern democracy that governments have the right to take property from citizens. However, in accord with the principles of natural justice as reflected in every formal declaration of human rights – and the Australian Constitution itself – such taking must be demonstrably for a proper purpose and on just terms. These qualifications are critical in safeguarding citizens against corrupt, discriminatory or capricious resumption of private property. On the same ethical basis, it is unconscionable that government agencies deliberately blight private property without commitment to ‘replacement value’ compensation. For governments to systematically blight private property in order to force its acquisition at a discounted price constitutes unethical and, at times, criminal behaviour.

European fascism, characterised by State ownership of broadly defined strategic assets, nevertheless permitted individuals and select firms to own property. Private ownership was highly regulated and taxed. Since World War II, several similar systems of government emerged, more liberal in respect of private ownership but nonetheless still markedly state-controlled as in Sweden, Singapore and to an increasing extent, modern China.

A new mutant, *Ecofascism*, has begun to materialise, driven globally by Green political agendas, allied with opportunistic elites in government bureaucracies as well as within the United Nations. These transnational alliances tap rich veins of public support based on a resurgence of pantheism in the West, ensuring unprecedented levels of funding and political influence. The resemblance to fascism in its limited tolerance of private ownership is probably ephemeral. As inherent contradictions and malignancy in policy outcomes become apparent and as the attractiveness to private investment diminishes, the risk of more radical ‘solutions’ will appeal to many, especially where general affordability is seriously diminished. The potential of Ecofascism to further mutate into a more destructive political force should not be underestimated, especially when driven once again by intensified social inequalities and an impossible utopian vision.

Private ownership in this regime is increasingly viewed as subservient to State interests, requiring strict regulatory controls and consequently a form of State monopoly to ensure that social, environmental, planning and heritage objectives are achieved. These ideals, when radicalised, become a significant disincentive to individual initiative and private investment. Initially, select corporations and individuals flourish in favoured positions with State monopolies but corruption of public officials is an inevitable risk as ‘facilitation’ becomes the only way through an impossible regulatory maze.

Ultimately, productivity and commercial viability falter on the wider front. Private ownership is then at risk of becoming an emasculated sinecure in what were the key ‘engine’ economies of western democracies. The risk of profound and detrimental change to the nature of these societies is real; the consequences to the global economy and third world countries potentially disastrous.

A characteristic of many utopian paradigms is an acceptance and reliance on the principle beloved of tyrants and zealots alike; namely, that 'the end justifies the means'. Governments and their agencies, once infected, condone the most appalling treatment of individuals and property rights on the pretext that such action serves 'the greater good'.

Common law rights – freedom of speech, fair trial, presumption of innocence and the right to ownership, use and enjoyment of property – may then be perceived as threats to brave new world 'policy' initiatives. The 'greater good' argument, though valid in particular circumstances, must be carefully and impartially assessed before the fundamental rights of individuals are extinguished.

Power to enact statutes should never compromise principles of natural justice. Neither should the cost of legal redress put those principles beyond reach of ordinary citizens. Democracy is otherwise at risk of becoming a deceitful charade serving only the interests of ruling elites and their courtesans. Individual initiative, energy and creativity in the wider population are snuffed out. Obeisance, mediocrity and apathy become the norm and general impoverishment invariably follows.

Increasingly, elected representatives entrust bureaucratic elites with the formulation of public policy. In turn, such initiatives usually claim to rely on scientific research and argument. However, such research is dependent on funding, much of it from public resources. Clearly, in these circumstances there is grave risk that 'science will follow funding'. Contrary evidence and logic are likely to be ignored if such funding (and professional advancement) are jeopardised by politically incorrect conclusions. This has a double jeopardy effect when unreliable science is used to define 'the common good' or promote 'ends which justify means'. Democracy and honest science are thereby both subverted.

The 'common good' argument supported by dubious or selective scientific research has been used periodically to justify the despoiling of human life and personal liberty. It would be arrant folly to imagine that such well intentioned bastardry could not prevail again – even in this great and lucky country.

Leo Killigrew (2005)

|