

SOCIAL PROPERTY

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Production implies appropriation. The end result of production — the product — always belongs to somebody. Thus, from the point of view of an economic system *property relations* are *production relations* and vice-versa.

In the world of commodity production, property relations are legally regulated. This process generates *rights of property*. The legal theory of property rights was already fully developed in Roman Law. The basic ideas were only insignificantly changed later on. The Romans conceived the rights of property as the unlimited, absolute and exclusive power of a person over a thing. Bourgeois law replaced the concept of power by a concept of subjective rights authorizing a person to treat a thing in a certain way. At the time of the French Code Civil of 1804 — which is a landmark in the development of bourgeois law — property rights were defined as *ius utendi, fruendi et abutendi* (the right of usage, appropriation of benefits and disposal of a thing). In both the Roman and bourgeois interpretations, property means excluding others from control over a thing.

Elaborating on the Roman-bourgeois legal theory, the socialist tradition distinguished three types of property: private, cooperative and state. In this respect, the landmark was provided by the Soviet civil code of 1922. Its Paragraph 52 enumerates the three types of property mentioned. The first type is characteristic of a capitalist system and, in a postrevolutionary society, is said to represent vestiges of the past. As such, it ought to be destroyed as fast as possible. The second, higher form of property is unstable under both capitalism and socialism and represents a transitional category. State property is considered to be the highest form of property and, as such, provides the foundations for socialist production relations.

On the basis of our previous analysis, it is not difficult to realize that the theory of the state-socialist property is yet another instance of misplaced bourgeois reasoning. There is no basic contradiction between private and state property. True, the first can be considered a subjective right, while the latter may be juxtaposed as an objective right. Yet, this only implies that individual owners are replaced by functionaries. Consequently, private property generates capitalism, state property generates etatism, both of which are class systems. In this sense, the two systems are similar and both of them are at the same time fundamentally different from the third one —

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socialism. If socialism is to be defined in terms of property relations — which, bearing in mind our introductory remark, is perfectly legitimate — it ought to imply a new and different category of property. Let us call it *social property*. What is the content of this concept?

Socialism conceived as a self-governing society implies that there is no particular class of owners of the means of production, either individual or collective. Everybody is equally an owner, which means that no one in particular is an owner. The specific feature of the Roman-bourgeois concept of property — the exclusion of others — is not applicable. If no one is excluded, everyone has equal access to the means of production owned by the society. As a consequence, property gives no special privileges.

It is clear that social property as just defined cannot be fitted into the traditional legal framework. Any attempt to do so encounters considerable difficulties. Thus, it may be argued that social property is property because it implies usufruct and sale. It may equally plausibly be argued that it is *not* property because there is not disposal right and also no traditional exclusion of others. It may be argued that it belongs to the sphere of *public* law since this property is clearly not private. But it may also be argued that it belongs to the sphere of *private* law since it is clearly not state property. The Roman Law-based legal theory was obviously not designed for a classless system. It will have to be changed with other elements of the superstructure.¹⁾ Yet, this is not our concern here. All we have to do is to give a precise meaning to the concept of social property. I propose to achieve that by considering legal, social and economic aspects of social property.

From the *formal legal* point of view, property is a bundle of rights and obligations concerning a thing that has economic value. In the case of social property, we can recognize two fundamental rights and one obligation. The rights are:

(1) to use, change or sell commodities, including means of production;

(2) to reap benefits from the use of productive assets (usufruct).

The fundamental obligation is:

(3) the value of productive assets must not be diminished whatever the source of original finance. The three legal principles enumerated are necessary for legal regulation of economic relations among *autonomous producers' collectives*.

In terms of *social relations*, productive property implied command over the labour of other (propertyless) members of a class-structured society. Thus, Marx very appropriately defined capital as productive property generating exploitative production relations based on command over the labour of others. In this sense, both capitalism and etatism are exploitative and capital can be both private and state. In a classless socialist society, property implies the absence of control and exploitation of the labour of others.

¹⁾ The change has, of course, already been started under the old system. As Miroslav Pečujlić observed, private property passed through a process of depersonalization. Roman and classical bourgeois laws hardly knew of legal persons as legal subjects. They were developed for physical persons. Besides, formerly undivided right disintegrated into two components: one generating benefits (*nudum ius*) and the other providing an authorization for management (*Klase i savremeno društvo*, Savremena administracija, Beograd, 1967, p. 39).

It is clear that ownership of consumer goods (including consumer durables) is compatible with this requirement; and so is family production as well as the legal definition of productive property given above. The absence of exploitative relationships implies the following three fundamental rights:

- (1) every member of society has the right to work;
- (2) every member of society has the right to compete for any job, according to his personal capability (consistent with the specifications of the job);
- (3) every member of society has the right to participate in management on equal terms.

If any of the three rights is violated, social property is not fully social and, consequently, socialist production relations are not fully — or, perhaps, not at all — developed.

Economically, social property implies the negation of the very essence of property in presocialist societies, that of income from property. Capital income cannot be appropriated either privately or collectively. If, as before, we define this aspect of social property positively, we can add the following fundamental right/obligation:

every member of society derives economic benefits exclusively from his work and none from property.

This right (on the product of his work) and obligation (nothing but the product of work) serve as a basis for the application of the principle of distribution according to work.

The economic aspect of social property has been, and continues to be, equally often misunderstood as the social one. Both socialists and non-socialists keep on confusing formal legal and economic ownership. (Legally) private property is juxtaposed to social property and (legally) non-private property is juxtaposed to private property. This sort of reasoning leads to the conclusion that every nationalization represents a step towards socialism and that the existence of private artisans and farmers is incompatible with socialism. That complete state ownership has nothing to do with socialism — ought to be almost self-evident by now. It remains to be shown that peasants and artisans are (potentially) equally »socialist elements« as those working in (legally) non-private sectors. To see that, one must make a clear distinction between legal title and economic substance.

One of the first to make this distinction clear and precise was Alexander Bajt.²⁾ Bajt drew attention to the fact that legal title and economic ownership are not only not identical but often diverge substantially. For instance, the legal owner of a house is a person who holds the legal title. If rents are controlled and tenants cannot be ousted, a partial (or even full) economic owner of the house is the person who lives in the house and so reaps the benefits from the property. Similarly, an individual peasant may own land legally. If, however, he cannot employ outside labour and the rent of land is absorbed by a suitably-designed tax, the economic benefits of

²⁾ »Social Ownership — Collective and Individual«, in B. Horvat, M. Marković, R. Suppek, eds., *Self-Governing Socialism, A Reader*, Int. Arts and Sciences Press, New York, 1975, Vol. II, pp. 151—63. Originally published in *Gledišta*, 1968, 531—44.

land belong to society.³⁾ On the other hand, social property may be legally established in a country, but at the same time workers in some industries earn substantially higher incomes than in other industries (as happens, e.g., in Yugoslavia). This difference in incomes or the relative size of non-labour income in privileged industries reflects the degree of privatization of social property.

The above analysis has important policy implications. Contrary to the traditional view, legal expropriation is neither a necessary nor a sufficient condition for socialism. It is not sufficient because total legal expropriation may and has produced nonsocialist systems. It is not necessary because what matters is not the expropriation of legal titles but the expropriation of economic benefits arising from the control of property. Since family production was found to be fully consistent with the social aspect of social property, and now we see that this is true of the economic aspect as well, it may be concluded that small-scale family businesses are compatible with socialism in general. As for the legal aspect, the obligation (no. 3) may be relaxed as inappropriate. Thus, under socialism we may — following Bajt's suggestions — distinguish two types of social property: collective and individual. All rights and obligations enumerated apply to the former. The latter is more restrictive, concerns only family businesses and lacks some of the characteristics because they are inappropriate (legal obligation (3)) or inapplicable (social rights (1) and (2)).⁴⁾

We may summarize our discussion by concluding that social property represents a special type of property with distinct legal, social and economic characteristics which make exploitation impossible. In this context, exploitation is defined as (a) command over the labour of others and (b) the appropriation of non-labour income. Alternatively, it may be said that social property is still property in the legal sense (a bundle of appropriately-defined rights and obligations) but no more in the social or economic sense (no privileges accruing to persons on the basis of property). The latter implies that legal property cannot be transformed into capital.

DRUSTVENO VLASNIŠTVO

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Sažetak

Pojam vlasništva ima tri dimenzije. S formalnopravnog stajališta vlasništvo je skup prava i obaveza koje se tiču stvari što ima ekonomsku vrijednost. U slučaju društvenog vlasništva mogu se uočiti dva osnovna prava i jedna obaveza.

³⁾ For an analysis in a particular empirical setting, see B. Horvat, «The Postwar Evolution of Yugoslav Agricultural Organization: Interaction of Ideology, Practice and Results», *Eastern European Economics*, No. 2, 1973—74, Vol. XII, pp. 1—106.

⁴⁾ If the individual producer employs no outside workers, the analysis in the text applies strictly. If he employs several — the number being small, usually up to five, and legally strictly limited — outside workers, a transitional category comes into being with additional complications. Next, an uninterrupted development of a one-man business into a small-scale family business into a workers'-managed firm poses further problems. For a detailed analysis, see B. Horvat, *An Essay on Yugoslav Society*, Int. Arts and Sciences Press, New York, 1969, Ch. IV.

a) da se upotrebljavaju, mijenjaju ili prodaju robe, uključiv i sredstva za proizvodnju, i

b) da se izvlači korist iz upotrebe proizvodnih fondova.

Osnovna obaveza zahtijeva

c) da se vrijednost proizvodnih fondova ne smije umanjivati i to nezavisno od izvora financiranja.

Ta tri pravna principa omogućuju tržišnu anatomiju radnih kolektiva.

Sa stajališta društvenih odnosa, proizvodno vlasništvo implicira vlast nad radom drugih (lišenih vlasništva) članova klasnog društva. U besklasnom društvu vlasništvo mora onemogućiti eksploataciju tuđeg rada. To se osigurava sa slijedeća tri osnovna prava:

- (1) Svaki član društva ima pravo na rad,
- (2) Svaki član društva ima pravo da se natječe za ma koje radno mjesto koje odgovara njegovim sposobnostima i kvalifikacijama i
- (3) svaki član društva ima jednako pravo učestvovanja u upravljanju proizvodnjom.

Ekonomski društveno vlasništvo implicira odsustvo dohotka od imovine. Može se stoga formulisati slijedeće osnovno pravo koje je ujedno i obaveza:

Svaki član društva stiče ekonomske koristi isključivo na osnovu svog rada i nikakve koristi od imovine.

Pravo (na proizvod svog rada) i obaveza (ništa povrh proizvoda rada) služe kao osnova za raspodjelu prema radu.

Proizilazi da je društveno vlasništvo još uvijek vlasništvo u pravnom smislu, ali ne više u društvenom i ekonomskom smislu jer nema više nikakvih privilegija po osnovi vlasništva.

AKUMULACIJA U MODELU PONAŠANJA JUGOSLOVENSKIH SAMOUPRAVNIH PRIVREDNIH SUBJEKATA

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Nedavno je isti autor, na stranicama *Ekonomске analize* pokušao da ospori neke stavove iz ekonomske teorije razvijene oko Ward-ove »ilirске firme« — kad se stavovi te teorije primenjuju na jugoslovenske samoupravne privredne subjekte.¹⁾ To razmatranje rezultiralo je u definisanju modela ponašanja samoupravnog preduzeća koji, za razliku od modela ponašanja ilirske firme, po mišljenju autora, verno opisuje stvarno ponašanje jugoslovenskih samoupravnih privrednih subjekata.

Suvišno je i pominjati da samo oni teorijski modeli koji su dobra aproksimacija stvarnosti mogu poslužiti kao analitički instrumentarijum za

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¹⁾ N. Zelić, »Jugoslovensko preduzeće i teorija o ponašanju samoupravne tržišne prirede«, *Ekonomska analiza*, 1—2, 1976, 61—77.