

# THEORIES OF PRIVATE PROPERTY: OWNERSHIP AND SOCIAL JUSTICE

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## Abstract

*In the following study I will take a closer look at the concept of ownership, which is the real cause for concerns by Libertarians with regard to the concept of social justice. In general, we can talk about three basic methods of argumentation in favour of private ownership - immanent, desert-based and consequentialist. The first of them speaks of ownership as a fundamental human right, e.g. Nozick's theory. The basic problem of Nozick's argumentation is his assumption of equal rights of all people to ownership. One's right to ownership, however, may distort the right to ownership of the others. The second reasoning, the desert-based theories, usually consider the entrepreneurial initiatives, investments or the energy expended the legitimation for the private property. However, the advocates of private property fail to prove that the deserts of the owner are in comparison with the workers in proportion to their often immeasurably higher rewards and power. The third way of argumentation is offered by the consequentialist theories of ownership. The mainstream argument is based on the Aristotelian-Thomistic argument that the private ownership motivates the owner to care about his own with greater tendency and interest. However, the managerial revolution within corporate capitalism shows that ownership is not directly linked to efficiency, and therefore the private ownership can be replaced by other forms of ownership, especially the cooperative ownership which I defend as the social just alternative to the classical private property models*

**KEY WORDS:** Private Property, Social Justice, Cooperative Ownership, Robert Nozick, Karl Marx, Deserts, Rights

## INTRODUCTION

The fundamental objections raised against the egalitarian concepts of social justice (e.g. John Rawls, Ronald Dworkin or Rodney Peffer) are largely based on the libertarian assumption that social justice contradicts the freedom of the individuals and the institution of property rights. In this analysis I will try to show that these allegations are neither based on truth, nor they constitute grounds for questioning the concept of social justice.

If libertarian theorists are opposed to the concept of social justice because of its interference with freedom, they have a much curtailed concept of freedom in mind, the so-called negative freedom. Not even in this case, however, there is the legitimate conflict of social justice and freedom. Although formal legal liberties

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do not necessarily require social justice, but in principle, they do not oppose it. If we understand the formal freedom as the freedom of thought, the freedom of participation, the freedom of choice etc., such concept does not contradict the “principle of property justice”, which in various egalitarian theories of justice requires income redistribution, but it rather complements it. Negative freedom in this spirit was advocated not only by all the egalitarian liberals (Rawls, Dworkin, etc.), but also by Marx and his followers (see Peffer, 1990, p. 127). These expressions of individual freedom are fully respected even by the most communitarian societies, such as the communist Israeli kibbutzes (see Spiro, 1963, p. 28 - 29).

The fundamental problem with the formal definition of freedom is rather that, whether to include individual and economic freedom of unlimited accumulation of capital in it. In other words, the crux of the problem is shifting to the question of freedom of unlimited ownership. No wonder that Libertarians mean by freedom especially the freedom to own (compare Narveson, 1997, p. 226). This way gets into dispute not so much freedom and social justice, but as Benjamin Barber writes:

*„...capitalism’s liberties (to acquire, to keep, to pass on, to profit from, to exploit, to hold) and democracy’s liberties (to participate, to count equally, to receive one’s due, to be treated fairly, to have equal opportunity)...“* (Barber, 1984, p. xvi).

In this regard, it is noteworthy that the advocacy of freedom is largely attributed to Libertarians, although they used the narrowest understanding of freedom (which very often leads to non-freedom). As Amartya Sen states, it was Marx who understood freedom in its broadest sense, and this term should be actually attributed to him. However, as we know, just the opposite is happening in this case as well. (see Sen, 1995, p. 41)

Thus, in the following study I will take a closer look at the concept of ownership, which is the real cause for concerns by Libertarians with regard to the concept of social justice. I will argue that the libertarian argumentation is not unproblematic.

## **1 CONSERVATIVISM, LIBERALISM AND SOCIALISM ON OWNERSHIP**

The fundamental difference between private ownership of consumer goods and private ownership of the means of production should be pointed out right at the beginning of the analyses (see Fromm, 1994, p. 91). This distinction

in political philosophy is commonly used mainly in the Marxist theories, but it is implicitly adopted by more liberal theorists, for example Robert Dahl. Within the history of political thinking we can trace even the distinction between mere possession, or the ownership of consumer goods and private property respectively (where there is no consumption, but accumulation). Such a distinction dates back to Roman law, and was used for example by Proudhon. In modern legal practice and theory such a distinction is not common, although this does not analytically preclude the use of such a division in philosophy. If we accept such an analytical distinction within our considerations, then we can clearly conclude that none central political doctrine doubts the eligibility of ownership of goods for personal consumption for individuals.<sup>2</sup> Conversely, private ownership of the means of production is theme for various political and philosophical polemics.

There are basically three doctrinal concepts of ownership, conservative, liberal and socialist. The conservative ideology understands private property as a social function, and connects it with the idea of individual responsibility for their surroundings. In principle, however, it supports it (see Heywood, 2004, p. 68). The liberal ideology in his classic or libertarian form respectively understands ownership of someone as an absolute and inalienable right, and elevated the private ownership of means of production to one of its decisive values (see Mises, 1998, p. 28). On the contrary, the socialist ideology considers the private ownership of the means of production as one of the main obstacles to social justice and true freedom of individuals and for various reasons advocates collective forms of ownership ranging from cooperative across the state to social ownership (see Krejčí, 1998).

Unity on the issue of ownership is lacking in particular in case of the representatives of the liberal mainstream.<sup>3</sup> The classical liberalism and libertarianism represent an extreme view. Authors like Robert Nozick, Friedrich von Hayek and Ludwig von Mises focus in their argumentation on the defence of property rights, while liberal egalitarians views on this subject are rather neutral. The most significant egalitarian liberals such as Rawls, Dworkin and Bruce

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<sup>2</sup> Even in the ideology of kibbutzism, which is some mixture of Zionism and Socialism, and which excluded even the personal property, later admitted the possibility of personal property. According to M. Spiro the reason for this practice was the will of women living in the kibbutzim. However, in the Israeli kibbutzim the private ownership of the means of production does not exist and therefore there are not any problems with the prestige and power as in the Western culture. (See closer Spiro, 1963, p. 87, 207, 221 et al.)

<sup>3</sup> This ambivalence in the liberal tradition emerged already in the early days of its creation. While Locke still talked about the natural right to private property, in his Declaration of Independence Jefferson already did not talk about ownership in this regard, but the pursuit of happiness. (See Krejčí, 1998)

Ackerman argue identically that the right to private ownership of the means of production is philosophically indefensible.

Rawls, for example, does not consider the right to private ownership of the means of production to be a fundamental freedom. Therefore, his theory does not even exclude market socialism. Rawls leaves open the question of the optimal form of ownership as well as Ackerman. Dworkin and Rawls agree that no right to private property exists, although they admit the possibility of existence of this institution. Rawls adds that if we accept the institution of private ownership of the means of production, such ownership should be widely dispersed. Although this author operates with the category of freedom of the individual to own, according to him, it does not apply to the means of production. According to him, the issue of private ownership of the means of production depends on the specific historical contexts and traditions. He concludes that it is impossible to find a philosophical match among supporters and opponents of private property, and the question can be solved only politically (see Rawls, 2001, p. 114; see Dworkin, 2001, p. 342 - 343). In this context Ackerman speaks of the „uncertain status of individualistic property in liberal theory“ (Ackerman, 1980, p. 66). According to him, egalitarianism allows different forms of ownership, whether private, collective, communal, and cooperative or mixed forms of it (ibid. p. 170 - 171).

The advocates of participatory democracy relate even more radically to the institution of private ownership. One of the most important writers of this tradition Dahl points out that private ownership causes political inequality and cripples the democratic process. At the same time, it puts employees in private enterprises in an inferior power position, which is not consistent with the values of democracy. Hence, Dahl advocates economic democracy (see Dahl, 1985, p. 54 - 55 ).

If the libertarian theorists represent one extreme view, then the other extreme view on ownership is represented by Marxists. While egalitarian liberals and democrats rather moderately pointed out the possible negative effects of private ownership on the democratic process, Marxists quite openly state that private ownership inevitably leads to political dominance, and it must be therefore replaced by a collective form of ownership (see Nielsen, 1985, p. 303). Most Marxists offer a completely different view on the philosophical reflection of property. Instead of creating hypothetical models that they call “robinsonades”, they prefer a relativistic view on property in accordance with Marx’s historical materialism, which according to them varies from historical socio-economic formations. They base on the fact that the historically first property was the tribal community ownership, and it developed later into the form of private ownership.

This is one of the reasons why hypothetical models in which actors figure in a kind of social contract in a sort of original conditions in which all claim private ownership are not considered plausible (see Avineri, 1976, p. 82 – 83, 112 et al.).

It can be unambiguously concluded that the abolition of private ownership of the means of production was the fundamental objective of the Marxist movement. The right to expropriate is also defended by the neo-Marxist stream of alterglobalistic left. Michael Hardt and Toni Negri in this context refer to the people's right to self-government and autonomy in the production process. Behind their belief we can also feel the argumentation of economic democracy about which we have already said this and that. (see Hardt, Negri, 2001, p. 406 - 407) However, to continue the argument, let us add that the classical authors of the Marxist tradition discussed except from the imbalance of power mainly the three particular reasons for which private property is unacceptable.

Under the first reason the system of private ownership is inefficient, and the collective ownership can bring greater economic productivity. This reason has emerged as the most problematic, and following the experience with the collective forms of ownership the socialist model must struggle with objections ideologically that it does not bring sufficient effectiveness in the economy. This was one of the reasons why the current Neo-Marxism increasingly evidently returns to the issues of morality and values (Peffer, 1990, p. 214; Cohen, 2006, p. 66 - 69). However, private property continues to be challenged by Marxists in terms of efficiency. Marxists speak mainly about the threat in terms of the development of technologies. In the past, ownership was essentially always associated with physical objects in principle, the ownership of which could be overseen much easier than the ownership of information. Although if we now live in an information society, and if we cannot enforce the private ownership of information, it does not bring any profit and their production is unprofitable. At the same time, according to the Marxists, we are witnessing the birth of communist forms of anti-property generated by the same technological revolution - the open-source movement and waiving of the authors' rights.

A significant part of the Internet is currently operated on softwares with open source codes, such as the operating system Linux and the web server Apache. This software, created not for profit but for the simple satisfaction from creating a useful product, can be according to some theorists the precursor of a future in which social work becomes a goal in itself. Private property can thus become an obstacle in the development of technology (see Cockshott, Cottrell, 2006, p. 17; Hardt, Negri, 2001, p. 300 - 303, 410 - 411).

The second reason for Marxists to reject the private property lies in the unequal distribution based on private property. The ownership of goods allows

capitalists to exploit their employees, stint on their wages and enrich themselves. However, the very act of possession cannot be understood as a desert. Namely, the capitalist does not take part in the production. Although Marxists concede the productive nature of capital, they deny that the capital had to be privately owned. The capitalist is therefore a superfluous article in the production process and his higher rewards are in terms of “labor theory of justice” unacceptable.

The third reason is the so-called commodity fetishism. According to the Marxists, the system of private ownership transforms human relationships into commodity relations and destroys basic interpersonal values. This “cultural” aspect of the property has been the subject of criticism, particularly by those representing the neo-Marxist Frankfurt School, for example Erich Fromm and Herbert Marcuse.

Under the influence of Rawls’s work the American neo-Marxists also thematized other reasons for rejection of private property. One of these reasons, which Roemer says is closely related to the idea of social justice as the elimination of natural lottery in talents and endowments. Some people are more suited to a system in which there is private property, therefore they are more successful and richer in such a system. However, these privileges of them cannot be considered as justified. According to Roemer, the distribution of talent and skills of individuals is a matter of moral luck. In a system built on private property and market relations, natural lottery leads to serious socio-economic inequalities that have no moral justification. Collective ownership, according to Roemer, would be able to eliminate or minimize the consequences of the natural lottery, thus ensuring a socially fairer society. (see Roemer, 1993, p. 160 - 178)

Egalitarian liberals and Marxists agree that private ownership may seriously jeopardize the equal value of freedom for all individuals. Paradoxically, libertarian theorists also defend private property in the name of freedom. As we have seen in the previous section, their concept of freedom is closely linked to the idea of absolute property rights of individuals. Dahl points out that the Libertarians use a logical loop in this context: they justify property by freedom, which they understand as the freedom to own.

Thus, they draw conclusions from premises, which later serve as conclusions (see Dahl, 1985, p. 80). As Dahl adds, a stronger argument in this regard would be the assumption that ownership is a necessity for the use of political freedoms. This argument, however, would justify the necessity of ownership for every citizen with democratic rights and not just for the class of owners. Thus, such an argument rather disqualifies than supports the libertarian vision of the uneven capitalist ownership (*ibid.*, p. 81 - 83).

The nature of the problem has nevertheless moved to the arguments in favour of private property, which - if we want to avoid the argumentative vicious circle – has to have a different dimension than simply invoking the freedom of ownership. The basic question therefore is how to legitimize the institution of private ownership of the means of production? If we take seriously the Marxist and egalitarian critique of the consequences of private property at least a little bit, Libertarians should show why private ownership is such an important institution that we have to accept the negative consequences that its existence brings. Jon Elster argues that capitalism exists only because people believe that the owners are entitled to the private ownership of the means of production (see Elster, 1991, p. 107). Do people have the reason to believe? How do the advocates of private property try to convince them? How do Libertarians, conservatives and classical liberals argue?

## 2 THEORIES OF PRIVATE PROPERTY

In general, we can talk about three basic methods of argumentation in favour of private ownership - immanent, desert-based and consequentialist.<sup>4</sup>

### 1.1 Immanent theory

The first of them speaks of ownership as a fundamental human right. According to this view, possession is an immanent part of human existence or it is an inherent part of the entity respectively. All human life revolves around property. We do not only own objects surrounding us, but we also own our body. These theories derive the ownership of surrounding things that are not part of the body from the so-called thesis on “self-ownership”. (Heywood, 2004, p. 68) Although it is a courageous argumentative leap, it is relatively often used by the libertarian tradition.

Even before we delve into controversy with this type of argument, for the sake of completeness, let us add that the immanent theory of property rights may also include the views of Hegel, according to which a person explores himself in his thing. „*A person has the right*“, Hegel says „*to place his will to anything. The*

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<sup>4</sup> Dahl talks about two basic ways of the justification of private property - the instrumental and the moral-legal. In my classification the instrumental method represents consequentialism and the moral- legal way represents immanentism. I also add arguments through desert, which has it closer to the moral-legal excuse. Dahl does not consider any of the mentioned ways to be a sufficient argument to deny a higher value, which according to him is democracy. Therefore, in the name of democratic participation he rejects the superiority of the capitalist property rights over the project of economic democracy. (See closer Dahl, 1985, p. 62 – 64)

*thing thereby becomes mine and acquires my will as its substantial end, since it has no such end within itself, its determination and its soul - the absolute right of appropriation, which human beings have over all things.*“ (Hegel, 1992, p. 81)

According to him, by appropriating the person manifests its will to the thing, and thus it is objectified. However, we must add that in this praise Hegel advocates only personal property, and he does not use the arbitrary argumentative leap to private property. Marx sharply criticized Hegel's defense of “self-ownership”, though - as argued Ladislav Hohoš - in a sense he accepted it:

*„If Marx argues that surplus labour belongs to the direct producers, he accepts the principle of ownership in itself, with the reservation of the division of people according to their relation to the means of production to owners and salaried workers, which he deems as an unfair /exploitation of man by man/.“* (Hohoš, 2006, p. 230; see Elster, 191, p. 82; Fromm, 1992)

Even if we believed Nozick the argumentative leap from ownership of the body (self-ownership) to the ownership of things (personal property), it does not mean that the private ownership of the means of production is legitimized in this way. The leap from personal ownership to private ownership is in fact also a very courageous project in terms of argumentation. As Dahl says eloquently, from the authorization of personal ownership of our own T-shirt we cannot just infer the capitalist ownership of shares in IBM. (Dahl, 1985, p. 74 - 75)

This argumentative leap is well illustrated by Proudhon's polemic with the famous metaphor of Cicero's abandoned theater. According to Cicero's metaphor, the abandoned theater is originally the property of all, because everyone has an equal right to it. According to Cicero, however, everyone has a place to sit down, and he infers from it that it is fair to give everyone what belongs to him. As Proudhon argues, however, if everyone has only the place to sit, it means that the place, which he does not sit at cannot belong to him. Therefore, according to Cicero's metaphor, not only we cannot own more than we need, but we cannot assume the existence of capitalist property, which supposes the possession of other seats and the monetization of this property. Cicero's metaphor thus handles only personal property or possession respectively, not the private ownership of the means of production (see Proudhon, 1970, p. 54 - 55).

In any case what is perhaps the most interesting; Nozick does not offer any reasons on any of his argumentative leaps. However, to talk about the absolute moral right to full capitalist ownership is in this case incorrect. Such a presumption expressly calls for a massive argumentation. If Libertarians refuse to

offer even the reason for their so strong presumption, they do not offer sufficient argumentative basis for their beliefs philosophically.

The right to private ownership of the means of production is for Nozick a self-evident fact. To an unbiased observer, however, Nozick's approach is implausible. There is no reason to assume full capitalist ownership in Nozick's original condition. As G. A. Cohen writes, we can still assume a fully collectivist ownership in original condition and come to quite different conclusions compared to Nozick.<sup>5</sup> There is no reason to assume that the freedom of an individual includes full capitalist ownership. Then we would have to declare all non-owners for unfree. Actually, there is no reason to assume that there is such a thing as absolute right of ownership.<sup>6</sup> Ownership is in fact rather the relationship among human beings and not relationship to things. As Kant already noted, in this context therefore we cannot speak of natural law, but merely of civil law (see Nielsen, 1985, p. 225 – 226, 252, 256, 258; Krejčí, 1998).

The basic problem of Nozick's argumentation is his assumption of equal rights of all people to ownership. One's right to ownership, however, may distort the right to ownership of the others. It is exactly the existence of capitalist ownership that disregards this equal right. If we want to look at the problem in terms of the category of freedom, a major paradox arises. If we want to leave someone an absolute right to his property, then we cannot just arbitrarily deny it in case of others - those who do not have property.

To use the libertarian argument, let us say that property taxation is contrary to the freedom of the individual to dispose of his property, is misleading. Certainly, for example from a narrow egotistical perspective of a rich capitalist whose part of income is taken away by the state in form of taxes, it is a distortion of his freedom in the sense that he cannot use the taxed income. However, it is a misconception to assume that this income can be described as part of his freedom. This would mean that if, for example, in the 18th and 19 century there were aristocrats, feudal lords and kings deprived of their power privileges, they were also deprived of their freedom. In the trivial sense it is surely true. Suddenly they did not have such freedom (read arbitrariness) to use their position and status. By removing their privileges, however, their "freedom" had been infringed, but simultaneously everyone else gained freedom. It applies to the case of ownership

<sup>5</sup> Using Nozick's arguments Cohen came to the conclusion that on the contrary, collective ownership is defensible. See Cohen, 1980, p. 117 – 124.

<sup>6</sup> As E. Barány pointed it out to me, in legal practice there is no absolute property right, ownership is mostly understood as a social function, and therefore it is also largely permissible to limit it within well-defined legal reasons. Libertarian theorists (e.g. Nozick), however, rely on the assumption of absolute property rights in their philosophical reflections, and therefore my argument must work with their assumption. In addition, the value argument of the neoliberal political streams is largely based on libertarian assumptions.

of wealthy individuals analogously. The fact that the state takes away part of their income in form of taxes weakens their privileged position – their actual “freedom”. But at the same time, it gives more freedom to those who are indigent. To understand the taxation of the rich’s assets and redistributing it to the poor as an act of infringement of freedom is therefore just as wrong as to consider the abolition of slavery as an act of infringement of the slavers’ freedom.

If we want to talk about freedom, we must deal with the freedom of all individuals and not just with those who were lucky enough to have a vast fortune. Neither Locke, once upon a time, contemplated the freedom of the individual in relation to the “freedom” of the feudal lords, which was de facto endangered by liberalism, because it worsened their position. The point is to give freedom to the greatest number of individuals. If a person has no income, his freedom is curtailed dramatically. And if we want him to be free, he should have such options as let us say the owners of large estates have now. Thus, if the state distributes property and assets of the privileged to the disadvantaged, it makes freedom available for a greater number of individuals. The project of social justice is thus the project of freedom.<sup>7</sup> And if we want freedom to be associated with ownership, ownership must be ensured for everyone who should be free according to us; within the modern discourse this means one thing: we must ensure that for all. It is therefore possible to agree with Dahl the only clean solution to this problem is the project of economic democracy, which guarantees everyone the fulfillment of his assumed right to private property (see Dahl, 1985, p. 112 - 113).

In order to return to Nozick, we can conclude if this author offers no arguments for his assumptions, he does not move his argumentation any further. It is much more likely that the capitalist ownership is not a natural right, but - speaking with Kenneth Arrow – the product of society. (Arrow, 1973, p. 122 - 123) As Václav Bělohradský aptly adds:

*„Private property is a convention, one of the artificial rights, the result of long political struggles as well as the equality of citizens of every race, language and religion in the public space. Each private power must take into consideration “to some extent” the public framework - the line where not only the law, but also shared ethical principles limit it, because it affects other people“* (Bělohradský, 2007, p. 184).

Access to property as to a moral right, which needs no further justification, we might call *the immanent theory of ownership*, because it is based on the fact that ownership is immanent to man. This kind of reasoning, however, has rather the

<sup>7</sup> In a similar vein, R. Titmuss offers a very interesting reflection. (See closer Titmuss, 1971, p. 242 et al.)

character of catechism. It is a system of beliefs, which are assumed as dogmas and the argumentation begins only after their adoption. If we want to state that social justice infringes the freedom of an individual, because he has absolute property rights, but we do not say why we think that he is the actual owner and not the indigent person who has absolute property rights, we do not offer any argument against social justice. So the immanent theory of property does not move us forward with regard to argumentation.<sup>8</sup>

## 1.2 Desert-based theory

The second way of argumentation in favour of private ownership is the argumentation on deserts. We can talk about the *desert-based theory of ownership*. It was Locke who was the first to conceptually use it when stating that one of the conditions of legitimacy in case of individual property is the work expended. The advocates of private ownership of the means of production, however, would get to the project of economic democracy at best due to the narrow understanding of Locke's condition, because according to this logic the means of production should belong to the direct manufacturers and thus to employees.

Anyway, to avoid the inconvenience of such a conclusion, libertarian authors refer to desert or to a completely different type of work respectively. They talk about entrepreneurial initiatives, their own investments and the energy expended. According to them, these factors legitimize their ownership of the means of production by private owners. However, it is not clear why the work of business nature bases financial and power privileges for the owner of the means of production, but no such privileges are established by the work of productive character by employees. Is there a reason to believe that the work of the capitalists is so much more deserving than the work of the producers? Do they work more; make more effort, more of anything?

Libertarian theorists do not offer reasons for the mentioned conclusion. They try to rather prove that the capitalist does some kind of work. Of course, it is not necessary to question it (although some Marxists do so). However, if we admit that the work of both classes is in principle equally useful in the production process, there is no reason to assume unequal distribution of resources. From this point of view the idea of economic democracy or the principles of social justice respectively are more defensible as they ensure redistribution.

The desert theory operates with the notion of risk-taking by capitalists as well. However, as we have mentioned in previous chapters, not only private

<sup>8</sup> See for instance Ackerman, 1997, p. 306 - 309. Similar objections can be directed to the axioms of the Austrian School of Political Economy, or anarchocapitalists Rothbard and Hoppe. (See Štefunko, 2005, p. 107.)

owners risk, but also employees (job loss) or public officials with regard to public investments (loss of voter support).<sup>9</sup> Why should be the private initiative privileged? The risk of the owners has to be the basis of the full capitalist control over the company and the risk of employees, and the state must to be ignored? The argument that the owners take risks in their own operations may justify a reward for the owner, but not for the full capitalist law. Again, we come rather back to the idea of social justice and not to the free market of capitalist owners.

As Dahl adds pursuant to the desert argumentation, the argument applies that the owners sacrifice themselves, as instead of consuming they accumulate capital. Therefore, their control over the business is justified, and their profits are fair. It is a traditional argument, which has been criticized by Marx in the first volume of *Capital* at the example of “abstinence theory” by Nassau Senior. As Marx derisively states, the abnegation of the capitalist is similar to the dilemma of the American slaver:

*„whether the surplus products whipped up of black slaves entirely feast on champagne, or at least partially converted it into other blacks and further land.“* (Marx, 1953, p. 630)

According to Marx, the argument that capital comes from savings is a shibboleth, because the capitalist does not save his own fortune, but rather calls for the others to save for him – his employees. As in the spirit of Marx’s theory Husami argues with the conviction about the victims and abnegation of private owners, the capitalist does not sacrifice his consumption and delights in the process of reinvestment of the capital, but the part of the surplus value, which should be devolved to the workers based on desert. His possibility to “sacrifice” part of the profit on further investments results from the surplus labor of workers, which he appropriates (see Husami, 1980, p. 63 - 64; see Marx, 1953, p. 461).

Dahl also considers the argumentation relying on the sacrifice of capitalists to be unfair. In the period of corporate capitalism the vision of a small entrepreneur who self-sacrificingly saves up share capital in order to invest it is idealistic; in principle, it is just an ideological toy. Most conglomerates and corporations have an ownership structure, which does not correspond with such an idealistic image. But even if we admit that corporations are owned by such “self-sacrifices”, according to Dahl, they cannot claim full capitalist ownership, but only an adequate amount for their sacrifice. After all even the direct producers sacrifice themselves in their work. The sacrifice of the capitalist and the worker

<sup>9</sup>As Otfried Höffe claims, the risk (of unemployment) affects the strongest workers who bring their workforce only in the production process. (See Höffe, 1997, p. 124). See also Husami, 1980, p. 65 – 66.

are comparable. There is no reason for inspection of companies by capitalists and for the uneven distribution of resources either.<sup>10</sup>

Wright Mills argues similarly. As he writes:

*„According to the classic image of an entrepreneur, he had to undergo some risk, while risking not only his money but also his entire career, but at the moment the founder of the company has a “big leap” behind him, and begins to enjoy the benefits leading to the acquisition of a large property, usually he does not have to take a big risk.“* (Mills, 1966, p. 148)

Mills speaks in this context of the so-called accumulation of benefits that comes with large property. The „Big Leap” about which he says that it was carried out by the predecessors of the current big businessmen. Current entrepreneurs only take over big corporations. To this fact Mills provides evidence through a social analysis of American financiers. As he eloquently adds:

*„The more (the entrepreneur) has ... the smaller is the risk he must undergo in order to accumulate more capital. In accumulation of benefits occurs a moment when the risk ceases to be a risk, and is just the same as income that the government gets in taxes. (...) Once you have a million, the benefits begin to accumulate - even for a man in comatose sleep“*(ibid., p. 145).

It can thus be concluded that the desert theory of ownership, similarly to the immanent one, does not offer sufficient arguments against the concept of social justice. The only thing it can prove is that the capitalist bears some desert in the production process. However, the advocates of private property fail to prove that the deserts of the owner are in comparison with the workers in proportion to their often immeasurably higher rewards and power.

### **1.3 Consequentialist theory**

The third way of argumentation is offered by the *consequentialist theories of ownership*. In the spotlight there is not the justification of private ownership based on some fundamental property rights or deserts of individuals, but rather the instrumental considerations of productivity and efficiency of the system of private property. It is noteworthy that ultimately the immanent theory of ownership and the desert theory of ownership often end up in a consequentialist

<sup>10</sup> See Dahl, 1985, p. 80. The final reason relied on by the desert theory of private property are the management skills of the owners. This line of reasoning will be discussed in the context of the consequentialist theory of private property.

argumentation. Nozick, for example, argued in favour of private ownership by the fundamental right of every individual. However, if everyone should have this right equally, Nozick had to justify what kind of authority one person has to usurp some resources if he infringes the right of another person to the same source by it.

Nozick's final answer was that the system of private ownership is so productive and economically efficient that even non-owners are compensated for the loss of their property rights. This way Nozick denies the immanent theory of ownership, and ends at the consequentialist argumentation. The desert theory of ownership ends similarly. Although capitalists do not have greater desert in the production process, but thanks to their existence the system based on private ownership can increase the overall productivity of the economy. The reason is once again consequentialist. The question is why the statement is accepted by many theorists that private ownership of the means of production is a more efficient form of ownership than other types of ownership? Libertarian theorists offer multiple answers.

The first one of them is purely practical. To make the economy to function, it is essential to accumulate capital. This may be true, but it does not explain the existence of the capitalist. The capital need not be in private hands though.

The second one says that the public sector brings greater corruption than the private sector. However, this is a very simplified assumption. Even the largest public corruption scandals that appear here and there are nothing compared to the wasteful and moral misconduct in the form of commissions in trade between private parties in finding loans, subcontracts, sales, protection, etc. As Oskar Krejčí claimed, the only difference is in the semantics (in the public sector bribes are talked about with dramatic pathos, in the private sector we talk about commissions with humorous innocence) and in the concentration of immorality (state as one centre versus scattered centres in case of private enterprises). In terms of the amount of bribery there is no relevant empirical research, but it can be assumed that the state does not end as a loser in this "contest", and that it is more controllable with all imaginary immorality and its representatives are easier punishable than free business corruption. (Krejčí, 1998)

The third answer to our question might be empirical research that would confirm that the capitalist system is economically more efficient. (see Mises, 1998, p. 36) However, as Krejčí points out, there are no such studies demonstrating greater efficiency of private ownership over municipal or state ownership. Although from the comparison of the development of the U.S. and the USSR in the last phase of the Cold War, this intention can be inferred, on the other hand, the comparison of current development in India and China show the opposite conclusion. (Krejčí,

1998) The actual empirical argument that capitalism is inherently more efficient is not possible to substantiate with a decisive argument. We should rather ask the reasons why Libertarians argue that capitalism achieves greater efficiency. What are the causes of their assumed greater efficiency of private property?

The mainstream argument is based on the Aristotelian - Thomistic line. Aristotle and Thomas Aquinas argued that private ownership motivates the owner to care about his own with greater tendency and interest. According to this argumentation, the following assumptions apply:

*„1. everyone is more careful in the custody of something that belongs to him... 2. There is more order in human things if the individual takes care of something... 3. The peaceful state of people is more preserved if everyone is satisfied. Therefore, we see that among those who hold something jointly and severally disputes arise more often“*(cited by Heretik, 1988, p. 80).

On the side-lines it is worth to add that the Aquinas defense of property is based more on Aristotle than on the Christian Holy Scripture. The New Testament does not advocate ownership by far; on the contrary, it militates against proprietary modus of life. It is therefore necessary to distinguish between the biblical concept of ownership and the ecclesiastical concept of ownership. The first one is rather close to communist ideas (in a utopian sense, not in the Marxist one), while the second one represents a conservative defense of capitalism today. (Krejčí, 1998)

The problem of Aristotelian-Thomistic motivation theory of ownership is, however, the obvious fact that the modern capitalist ownership does not work in a form that would facilitate this reasoning. Naturally, if we imagine as private ownership a small shop with jewellery somewhere on the outskirts of a provincial town, we conclude that Aristotle and Aquinas were not wrong. The saleswoman and the owner in one person surely offers us the best service in such a small store in order to sell her goods. Her existence depends on it. But the current capitalism is not about small shops in provincial towns, but especially about the giant department stores, chains and brand stores in which services are not offered by the passionate owner, but by bored saleswoman or part time worker who has no proprietary relation to the goods she is selling. Her salary is at best a derivative of the quantity of goods she has sold. Some dramatic ownership motivation in such cases cannot be expected, as well as we cannot expect a more caring relationship to the offered goods. The same is true for the production sector and businesses that operate in it.

As Krejčí aptly writes:

*„Over the region floats a romantic notion of the owner as a prudent gentleman who is rational, responsible and creative - and sometimes an activist of charities. In fact, today the creative capital is the result of pooling of financial, labor and intellectual resources, ownership is separated from management - and state, municipal and private (individual and group) companies knew both good and bad managers”*(see *ibid.*).

Let us add that if the Aristotelian argument of motivation applies, then the direct producers should not be separated from ownership, because it can demotivate them. In that case, economic democracy would be the best suited alternative (see Djilas, 1963, p. 108). However, what is the most important in this context, it is the fact that capitalism of small owners has been replaced by corporate capitalism and managerial revolution. Arguments applying in the 19th century are therefore improper today. Why? The answer is simple: the concentration of capital and the formation of joint stock companies are wounding the classic private ownership of the private capitalist, and therefore it also repeals the thesis that the private owner can best take care of his own property. Managers can manage businesses more efficiently than owners, and they do not need to have any ownership ties to businesses. As Marx aptly wrote in the 19th century,

*„it is no longer necessary to do the job of the ultimate management by the capitalist. There is absolutely no need for the conductor to be the owner of the instruments of the orchestra; it does not even belong to his function as a conductor to do with the “salary” of other musicians.”* (Marx, 1953, p. 407)

Ownership is separated from management in capitalist corporations and joint stock companies now. The capitalist as the owner is demoted to a dysfunctional rentier, as a shareholder. Personal property of the rentier becomes a legal fiction separated from any effective control of the means of production. As pointed out by Peter Schumpeter, given that the capitalist owner no longer fulfils its function in the production process, its existence becomes redundant, and the capitalist as the owner may disappear. With the onset of the so-called managerial revolution comes, according to Schumpeter, the end of capitalism. The sense of ownership, which was discussed even by Aristotle and Aquinas, is disappearing. With the onset of the corporation the entrepreneur is disappearing, and the manager as a bureaucrat accedes. According to him, the bourgeoisie loses its function in the corporative capitalism due to this.<sup>11</sup>

<sup>11</sup> See closer Schumpeter, 2004, p. 8, 15, 153, 161, 175 – 176 et al. See also Cockshott, Cottrell, 2006, p. 15. See also Hauser, 2007, p. 76. There are theorists, who object to the Aristotelian

Even more significant is this phenomenon in the context of economic globalization, which, *inter alia*, is characterized by an unprecedented concentration of capital. Economist Peter Staněk speaks in this context even about the “fusionmania” (see Staněk, 1999; Klein, 2005, p. 145 - 166). Naturally, even in corporative capitalism there are a number of small owners who also perform management tasks, and therefore deserve a reward. However, as Husami points out, their remuneration is not resulting from their managerial work within capitalist relations, but it is the result of their proprietary relation to the means of production. It is therefore not equivalent to their managerial work. It would not reach such a disproportion to wages for work on the part of producers (see Husami, 1980, p. 63 - 64)

This is also one of the possible arguments against the “deification” of the function of the entrepreneur, which was typical of representatives of the Austrian School of Political Economy, such as Menger, Böhm-Bawerk and Mises. Their reasoning is highly idealized, especially in contrast to corporative capitalism. In addition, their argumentation lacks closer normative analysis of deserts. The term justice is in the works of economic marginalists used almost meaninglessly from the moral point of view - as a kind of attractive verbalism. This is also one of the reasons why I do not pay more attention to the arguments of political economists of the Austrian School, because from a moral point of view their arguments are more or less worthless. (compare Štefunko, 2005)

To return to the argument of separation of management from ownership, let us add that Schumpeter’s theory was subject to criticism. Cockshott and Cottrell, for example, disagree with Schumpeter that the managerial revolution means the end of capitalism. Marx predicted the transition to a managerial revolution already in the third volume of *Capital*, but he did not deduce from this the collapse of the capitalist production system automatically. (see Avineri, 1976, p. 178 - 179)

As it can be added, a managerial revolution was announced at his time by the Trotskyist theorist James Burnham before World War II. He stated that the managerial revolution has already taken place, and ended with the victory of managers. Similarly, the economist Samuel Clough also spoke about the managerial revolution. Later, this thesis became an obvious fact, which is not questioned anymore. (see Bauman, 2006, p. 34) As Alec Nove writes, industrial complexes such as Shell, Exxon and DuPont are hierarchically structured

motivating argument for other reasons. Walzer, for example, claims that ownership is not the only goal of the political, social, economic or religious life. If someone claims that an individual loses the incentive to business activities if he cannot possess a specific company, it's the same thing as to say that no one will found new hospitals or schools, which his children should not attend. (See closer Walzer, 1983, p. 303.)

organizations of vast extent controlled by managerial bureaucracy. The separation of ownership from managerial power is a clear fact of the current corporate capitalism. The management status is now very mobile and flexible. It is not based on any long-term ties between the manager and the corporation. (see Nove, 1980, p. 101)

As noted by many Marxists, the depersonalization of the capitalist ownership, however, does not undermine the capitalist character of production. It does not initiate any new age of management or technocracy, but it only confirms the impersonal nature of the laws controlling the capitalist mode of production. The modern capitalism re-confirms Marx's thesis that the personalities that appear on the economic stage are personalities only as managers of objective functions determined by the production method. (see Cockshott, Cottrell, 2006, p. 15 - 16) By words of Alasdair MacIntyre, the capitalist system is neither about the owners nor managers. This system is governed by its own soundness and structural relations. (MacIntyre, 2004, p. 96) As in relation to owners and managers, the French sociologist Pierre Bourdieu adds, they cannot act differently, they are ultimately just tools of the compulsive tendencies of the capital, this completely impersonal and anonymous force that controls human lives after its maximum self-assessment, after the further increase its growth. (as cited by Keller, 2005, p. 147)

From the thesis of the managerial revolution two key conclusions follow. First, if private owners are not essential to the effective management of the company, collectively owned enterprises can also be as effective as private companies if they acquire managers of high quality. The basic consequentialist argument thus expires. Secondly, it turned out that the real power lies not so much in the act of possession, but rather in the act of control. That undermined the static idea of ownership, and it has led many authors to rethink the definition of ownership. We will pay short attention to both these conclusions.

Regarding the problem of the definition of property, several authors have come to the fact that property cannot be defined simply by tenure or by legal claim respectively, but by effective (not legal) control over property and appropriation of profit.<sup>12</sup> The appropriation of profits is, according to several modern authors, still a less significant manifestation of the negative effects of private-ownership structures. Attention has recently shifted to the aspect of control. As Bauman writes:

*„The essence of modern power lies not in the legal claims to ownership, and the modern power struggles does not consist of accumulation of*

<sup>12</sup> See for instance Kymlicka, 1991, p. 128. See also Djilas, 1963, p. 35. See also Bauer, 2006, p. 203 – 204. The resolution of effective and legal control of ownership originates from G. A. Cohen. (See Elster, 1991, p. 403.)

*assets. The modern power hides primarily in the mandate to manage people, to command, to lay down rules of conduct, and enforce obedience to the rules. The original personal link of ownership and management was a matter of historical coincidence, and it was confirmed by the later development.*“ (Bauman, 2006, p. 34)

The managerial revolution, however, did not mean liberation of people from the power relations within enterprises. Managers gained the same powers over the staff as the owners had previously. Its character, however, shifted from direct threat and sanctions to what Pierre Bourdieu called permanent status of *précarité*, i.e., uncertainty of social status, unpredictability of future livelihood and the profound sense of “uncontrolled presence”. The basis of masterdom is thus in the uncertainty of the controlled as to what action, if any, rulers choose next. (see Bauman, 2006, p. 35 - 36) It is therefore not surprising that almost all of the most important actions of the labor movement in recent decades have focused not on the issue of wages, but on the forced transfers to casual work, and thus on the problem of precarization of work. (Klein, 2005, p. 27 - 28)

The process of precarization of work in the modern economy spread further mainly after the adoption of neoliberal trends in Western Europe. Instead of full-standard employment contracts, partial and short-term contracts for a limited period are preferred, whilst there is a strong tendency to move on from the classic employment relationship to a much looser relationship between the company and formally independent suppliers and subcontractors of individual operations, products and services. The effect is particularly disastrous for the employees, because an increasing proportion of market uncertainty is shifting from companies to employees. Although the flexibilization of work in the country optically lowers the unemployment rate, it does so only at the cost of increasing the proportion of low-paid work, and it increases the risk that the earnings of the economically active man will move to the poverty line or just above it. (see Keller, 2005, p. 27)

Without trying to develop further the mentioned findings, I formulate briefly the conclusions arising from this analysis in relation to our subject. Neither of traditional arguments in favour of private ownership (immanent, desert-based and consequentialist) offered sufficient evidence that private ownership is such an important social institution that it is necessary to give up the ambition to fulfil the principles of social justice, which could undermine capitalist property rights and relationships. Moreover, the thesis of the managerial revolution has freed up space for reflections on the effective forms of social ownership. At this point for the sake of clarity, I enclose the Table summarizing the basic theses of this paper.

**Table 1:** Basic methods of argumentation in favour of private

<b>Immanent theory</b>	<b>Desert theory</b>	<b>Consequentialist theory</b>
All people have the absolute right of ownership and just as they possess their body, they similarly possess the things that do not belong to their body as well (the thesis of self-ownership).	The owners deserve their capitalist ownership, because they develop entrepreneurial initiative, and risk, invest, spend and sacrifice their energy, consumption in order to accumulate capital.	The system of private property is economically more efficient and provides greater productivity in the economy, because a person is more motivated, if he takes care of what is his own.



<b>Counterarguments</b>		
There is no reason to assume an absolute right to capitalist property, and even if there was such, it would be the economic democracy, which would secure equal ownership rights to all the best.	Working deserts of direct producers and employees are at least comparably as large as the desert of capitalists, and this also applies to the risk and sacrifice of workers, there is therefore no reason for power and material inequality.	The thesis of managerial revolution within corporate capitalism shows that ownership is not directly linked to efficiency, and therefore the private ownership can be replaced by other forms of ownership.

### 3 COOPERATIVE OWNERSHIP AS THE ALTERNATIVE

Let us move on to the next question, which we posed: if the private companies are led by managers and not by owners, could the public property be effective as well? Many liberal writers have no doubt that this possibility exists. According to Rawls, it is clear that the liberal socialist system can fulfill both principles of justice at least technically. We need to imagine that the means of production are in private ownership, and that the enterprises are controlled by the workers

councils or by the managers elected by them. (Rawls, 1994, o, 172; Schumpeter, 2004, p. 116) Therefore, if the state or another form of community of people transforms the private property of a tycoon to common property, and furthermore, it maintains the leadership of the professionals in charge (who could be motivated firstly by the means of market methods and not by a bureaucratic reward system, for instance), there is no reason to think that this step would lead to a decline in the management of the given property. On the other hand, a very important effect would be created – the profit from the management of these assets would not run into the pocket of an individual, but it would be split within the whole company.

However, among the modern leftists there are authors who criticize the very principle of profitability and unlimited capital accumulation ignoring the question of economic democracy. The American Neo-Marxist Immanuel Wallerstein e.g. suggests his vision of an alternative system of decentralized non-profit units as a basic way of production without detailed description of the form of participation by employees on the decision-making process. He just mentioned that it is necessary to ensure the participation of employees on the highest decision-making process somehow. (Wallerstein, 2006, p. 77- 78) This fact indicates a certain turnover from the questions of distribution to other topics (like environmental sustainability, externality of economic globalization etc.). Many other neo-Marxists, however, focus on the question of the economic democracy even nowadays.

There are, however, other problems coming up. What form of ownership would solve the problem of exploitation? If we eliminate the owners, but the managers with the absolute competences remain, we would be further threatened by not only the distributional or desert, but mainly by the power aspect of exploitation. This was proven particularly by the example of Tito's Yugoslavia, but it also raises problems in the Basque Mondragon. At the same time, it is questionable, whether the state ownership in a capitalist environment can be considered as an indication of social ownership? According to several Marxists, the opposite is true. According to Eric Olin Wright, the state capitalist ownership is also capitalist ownership (even in non-market environment), as it operates on capitalist relations. (Wright, 1998, p. 345) Nicos Poulantzas also notes that if the enterprise is not controlled by its employees, we cannot talk about social ownership. (see Poulantzas, 2000, p. 175)

Many neo-Marxists side with Poulantzas that the only way to fulfill the idea of social ownership is precisely through economic democracy. However, as Dahl adds, there are different forms of ownership, even if we accept economic democracy. We can speak of individual ownership (in the manner of a joint stock company in which shareholders will be only individual employees), we can talk

about state ownership (that would encompass employee municipalities), we can talk about social ownership (in the manner of the Yugoslavian socialism, which gives symbolic claims to own to the whole society), and we can talk about cooperative ownership (cooperatives working in the manner of individual ownership, but not on the basis of shareholders whose ownership interest can be highly uneven, but on the basis of membership, i.e., ordinary employment relationship with the company).

The last mentioned possibility, i.e., cooperatives caught the most attention among Marxist and radical democratic theorists.<sup>13</sup> Besides the Yugoslav self-government socialism and the Israeli kibbutz, cooperatives were one of the few historically carried out projects, which are invoked by neo-Marxists. Although Marx himself did not consider cooperatives as a solution (even though he spoke about them with relative praise) and refused market socialism, however, many modern Marxists did not follow him in this respect. (see Marx, 1953, p. 462; Avineri, 1976, p. 179 – 180; Elster, 1991, p. 447 - 449) Given that the kibbutz requires too strong ideological motivation, and the Yugoslav project originated in a troubled region and weak economy, the greatest attention was paid to the cooperatives.

Their vision of a just society was the so-called market socialism, which would be made up of independent cooperatives regulated by market environment and the welfare state with significant redistributive activities. (see Elster, Moene, 1993, p. 1 - 35; Sartori, 1993, p. 421 - 425; Cohen, 2006, p. 60 - 62) We can agree with Hardt and Negri that from the abstract theory cannot emerge an efficient concrete proposal for an alternative social order. Such a proposal may come only from practice. As these authors add, even Marx needed a foothold in his thinking in the form of the Paris Commune at some stage in order to prove his theoretical project to wrap into more realistic contours. (see Hardt, Negri, 2001, p. 206) Therefore, market socialism also needs practical examples on which it could rely in part. The more encouraging is that the project of the cooperative has its more or less successful historical forms. Some of them we mentioned above, now let us focus on the examples that are most commonly found in the literature, and thus the Basque corporation Mondragon, the Swedish so-called Meidner's plan and the German model of codetermination.

To briefly summarize what is at stake in the projects of economic democracy, we can use the words of the British economist Ronald Dore. As he writes, while in a normal capitalist firm capital (owners), through their managers, hires labour (employees), in the case of cooperative companies (coops) it is work (employees),

<sup>13</sup> See closer Dahl, 1985, p. 140 - 152. To the Yugoslav business autonomy see also Sartori, 1993, p. 425; Djilas, 1963; To the detailed problems of the structure of ownership in cooperatives see Elster, Moene, 1993, p. 23.

which leases capital through selected executives. (Dore, 2000, p. 182) While in case of the capitalist enterprise is therefore capital itself the *purpose* and its aim is the constant self-assessment, in case of a cooperative venture capital is only a *means* aimed at improving the quality of life. The prerequisite of the economic democracy project is, however, always the elimination of private ownership of the means of production ultimately. At the moment the economic reforms leading to economic democracy came to the border in any country where the institution of private property was already threatened, the project of economic democracy has become politically unviable as the example of social democratic Sweden and its Meidner's plan in the 1970s illustrates. This shows that Marx was right at least in that the Gordian knot of capitalism is precisely the private ownership of the means of production and thus this issue legitimately represents one of the most important topics of the political philosophy.

## CONCLUSION

In my paper I argued that none of the classical theories of ownership explains the moral legitimacy of private ownership of the means of production adequately.

The immanent theory sees the individual property rights as the basic right of the person. However, this kind of reasoning leads us to the legitimation for the cooperative ownership, not the private-property system of capitalism. If every person should enjoy the ownership as the basic right, the cooperative ownership gives this entitlement to every person, not only the few and thus the cooperatives are more adequate form of ownership than typical capitalist company.

The merit theory fails to answer the question why we should consider the desert of specific owners for bigger than the desert of the employees of the company. There is no single reason to accept the highly unequal private ownership of the means of production. In this respect the optimal model would be again the cooperative ownership where the distribution based on labour deserts can be adequately applied.

The consequentialist theory can be falsified by the empirical thesis about the managerial revolution. The most frequently used Aristotelian-Thomistic argument of the advocates of private property about the greater motivation of owners to cultivate their own property is now within corporate capitalism rather irrelevant. Today managers manage huge stock companies effectively without necessarily having a private ownership relation to the company. A shining proof of it, for example, is the success of the cooperative Mondragon. Private property is therefore not a necessary prerequisite of greater efficiency and productivity. Thus, the consequentialist theory of private ownership is not in place either.

In sum, I tried to show, that the classical theories of ownership do not offer the sufficient reasons for the private property of the means of production, but rather they offer the arguments for the defense of the cooperative ownership.

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