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Georges Gurvitch
Proudhonian Synthesis
1966

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In his main doctoral thesis (*L'idée du droit social* [The Idea of Social Right]), published by Éditions Sirey in Paris in 1931 and now out of print), Georges Gurvitch sought an exact definition of the concept of social right after extensive historical work that led him from Grotius and Leibniz to Maurice Hauriou. The below pages are extracts from the chapter on the "Proudhonian Synthesis" (ch. II, § 2: "Economic Right", "Social Constitution", "Industrial Democracy and Federalism", pp. 377–392) where Gurvitch's theories of self-management emerge from a critical examination of "Proudhon's theory of "Economic Right".

Translated by Shaun Murdock.

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Proudhonian Synthesis

Georges Gurvitch

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Proudhon thus sees "economic right" as a "social right" (he sometimes uses this pure and independent term¹), interpreted as a true right of integration and applied to the economic sphere. Legal individualism, he tells us, is blind to the reality of "economic right". For its supporters, "the idea of an economic right, a corollary of political and civil right, does not exist, it is a nonsense [...] a nothing"². And, since political and civil right cannot be "infused" into the structures of economic life and guide it, this blindness of traditional legal doctrine results in "a mercantile anarchy; that is, the denial of all economic right, of all guarantee, in a word of all mutuality"³. But "what virtue, what good faith can persist in a society whose fundamental maxim is [...] that the idea of economic right is a utopia [...] that therefore the economic order, existing by

¹ *Qu'est-ce que la propriété ?* (1st v.), p. 223; cf. p. 45; *Contrad, econ.*, 1st v. (pp. 323, 253; "Droit au travail et droit de propriété" [Right to Work and Right to Property], p. 220 (7th v.); *Confessions d'un révolutionnaire* (9th. v.), p. 179; *Manuel d'un spéculateur à la bourse* (11th v.), p. 7 Cf. *De la Justice*, 1st t., 2nd Study, p. 214 (where the term "social right" is used in a broader sense).

² *De la capacité politique*, p. 226.

³ *Ibid.*, pp. 346, 384.

itself, it is claimed, is not based on any legal fact”⁴. According to Proudhon, this “legal fact” of independent economic order differs markedly in structure from other kinds of right.

It is the principle of mutuality that unleashes “this supreme and fundamental category of right: economic right”⁵. “Political right” is only the external expression of society⁶, just as “civil right” is only the demarcation of externalised relations between individuals, whereas “economic right” governs the inner life of totalities that assert themselves as “real and living collective beings” in accordance with this principle. This is why “economic right” “sets society in motion” and “restores it ownership of its collective forces”⁷. And this is true of every particular group as well as of society as a whole; the right that “is all the more inherent to every group [than to every individual] [...], to every corporation, every commune”, delivers them to themselves, lets them live according to their own inner life and serves as the foundation for “corporate liberties”. It is therefore only through “economic right” that the totality can receive adequate expression; only this right is a “social right”, whereas Proudhon viewed “political right”, “civil right” and the “right of the people” as varieties of “individual right” concerning only the relations among external conflicting wills of individuals at all scales.

This conception finds a particularly strong expression in *War and Peace*, where Proudhon constructs a whole “range of rights”, beginning with the “right of war” and “public right”, through “civil right” and ending with “economic right”⁸. The

⁴ *Ibid.*, p. 228.

⁵ *Ibid.*, p. 220.

⁶ Cf. *La Guerre et la Paix*, 1st v., pp. 307, 289 and *Mélanges*, 3rd v. (19th v.): “The State is the external constitution of social power”, pp. 11, 23.

⁷ *La Guerre et la Paix*, 2nd v., p. 385; *De la Justice*, II, 2nd Study, pp. 115–117, 124.

⁸ *La Guerre et la Paix*, 1st v., pp. 110, 136, 154, 202, 288–299, 302, 2nd v., pp. 147, 367, 380–381.

racy and “industrial democracy”⁸². It is thus clear that Proudhon’s “economic right” is a true right of integration.

a Translator’s note: In French, *droit* refers to both “law” in the general sense and “right”, while *loi* refers to laws enacted by a political authority. Here, *droit* and *loi* have been consistently translated as “right” and “law”, respectively.

⁸² Proudhon’s idea of “industrial democracy” may serve as a basis to clarify his attitude towards the principle of association. It is known that on the one hand, Proudhon led a very energetic struggle against belief in the miraculous force of the associationist principle (*Idée gén. de la rév.*, pp. 158 et seqq., 174 et seqq.; *Manuel d’un spéculateur*, 11th v., pp. 174 et seqq.; *Contr. écon.*, 2nd v., pp. 272, 256 et seqq., 291); on the other hand, he himself made association the basis of his system and went so far as to say that “of all forces the greatest, in the spiritual and moral order as well as in the material order, is the association, which can be defined as the embodiment of justice” (*G. et P.*, 1st v., p. 204; cf. *Corr.* 7th, pp. 20, 18, Letter to Villaurmé, 24th January 1852; cf. *Des réformes à opérer dans l’exploitation des chemins de fer* [Reforms To Be Adopted in the Operation of Railways], 12th v., pp. 252–253). This can be well explained if we consider that for Proudhon, everything depends on the way in which the association is organised. For him, the association is not a dogma, a solution, as it is for Fourier, Leroux and Louis Blanc (*Idée gén. de la Rév.*, p. 159), but a problem that raises a whole series of difficulties that can be solved only by “economic right” and its realisation in “industrial democracy”. Like all collective forces and in particular economic forces, “association by itself and without a thought for right” (*Cap. pot.*, p. 187; *Manuel*, 11th v., p. 175) can become an oppressive force and degenerate into an organisation of domination and subordination. But “once entered into right” (*Cap. pol.*, p. 186; *Manuel*, 11th v., pp. 175–176), this same association embodies the highest positive values. And it is organising the association according to the principles of “industrial democracy” that actualises all its most valuable possibilities.

ical antinomies, by an industrial democracy⁷⁷.” Its hallmarks are the “workers’ associations”, homes to a new economic right and cells of the future “social constitution”.

According to Proudhon, industrial democracy has several aspects. Not only does it subject all the “social power” of economic organisations to right, but it also penetrates the very heart of property relations, establishing a “mutual and federal” property⁷⁸ that turns all workers into “co-owners”⁷⁹; it thus emerges as a “labour-for-labour partnership, or universal mutuality”⁸⁰. We will come back to this meaning of “industrial democracy” in the next paragraph, which concerns the application of the Proudhonian theory of “economic right” to the problem of property. For now, we have only to repeat Proudhon’s conclusion: “However we look at things [...] it is increasingly apparent that we are marching through a semblance of feudal restoration towards an industrial democracy”⁸¹. According to Proudhon, the balance between the State and organised economic society, which a counterweight, the “buttress of economic right” which political right requires, also describes a balancing act and a reciprocal limitation between political democ-

“economic right” is the most sociable and peaceful; it embodies the order of peace and common collaboration, while the other kinds of right are more or less individualistic and warlike. Moreover, since in *War and Peace* Proudhon had the idea (which is debatable and whose origin we will have the chance to explain again) to compare the manifestations of the order of “individual right”, in particular “international right” and “political right”, to the “right of force”, the conflict between “economic right” and other kinds of right becomes not only the conflict between formal structures, but also a gradation of values.

The “economic right”, being characterised as the farthest from the “right of the strongest”, is thus considered the right closest to justice, the right with the greatest value – the highest degree of the scale of the legal system. The “economic right” “is the fleur-de-lis that renounces the bulb from which it came”⁹. The “progress of right” consists in the blossoming of the “economic right”, whose predominance institutes social and international peace¹⁰. This is how the assertion of the economic right, of “this supreme [...] category of right”, “creates the unity of legal science”¹¹. Thus Proudhon is forced to grant political right a lower value than “economic right”.

We might regret, for the clarity of Proudhon’s thought, that he would mix up the problem of distinguishing the structures of the various kinds of right with that of their value, and we might express reservations about the total exclusion of political right, and, above all, international right, from the domain of social right. In any case, it follows from our explanation that economic right has all the features of social right. If the Grotius–Leibniz school recognised in national life only a particularistic extra-State right, and physiocrats only a common but unorgan-

⁷⁷ *Ibid.*, p. 399.

⁷⁸ *Cap. polit.*, pp. 196, 70.

⁷⁹ *Manuel* (11th v.), pp. 424, 410 et seqq.

⁸⁰ *Ibid.*, p. 408.

⁸¹ *Ibid.*, p. 426.

⁹ *La Guerre et la Paix*, 1st v., p. 300.

¹⁰ *Ibid.*, 2nd v., p. 380 et seqq.

¹¹ *De la capacité politique*, p. 220.

ised social right, Proudhon's "economic right" manifests itself in both kinds and finds its supreme expression in common, organised economic right established by the "social constitution", which integrates all particular groupings into the general economic organisation, represented by the "agro-industrial federation".

Before organising itself through a "social constitution", economic society already represents a legal order for Proudhon¹²; it is governed by a common, unorganised economic right underlying all particular groupings and all the agreements that unite them. "Man, whether he likes it or not, is an integral part of [...] [this] society which, prior to any agreement, exists by reason of the division of labour and the unity of collective action"¹³. "It cannot be a matter of touching [this] society itself, which we must consider to be a superior being endowed with its own life and which in consequence rules out on our part any notion of arbitrary reconstitution"¹⁴. With regard to this unorganised economic society which embodies the common interest, every human and every particular group "at every moment of [their] life is [...] a debtor who of necessity dies insolvent"¹⁵. Thus, the unorganised common right, which governs this deep layer of economic society and is expressed in particular in customary right, takes precedence over all other varieties of economic right, for which it serves as the foundation; the validity of all agreements is founded on this right.

Moreover, independently of any "social constitution", the economic right asserts itself within any particular group performing any activity; it is the particularistic economic right. "[W]ithin universal society there exist for each of us as many

¹² *Correspondance*, 3rd v., pp. 386–387 (Letter of 4th March 1843); *Idee générale de la Révolution*, p. 300.

¹³ *De la création de l'ordre* (3rd v.), pp. 376–377.

¹⁴ *L'idée générale de la Révolution au XIX siècle*, p. 156.

¹⁵ *Qu'est-ce que la propriété ?* (1st vol.), p. 120; cf. *De la capacité politique*, p. 148.

torical stage of its evolution: "industrial anarchy", "industrial feudalism", "industrial empire", and "democracy or industrial republic"⁶⁸.

A) "Industrial anarchy" is the ideal of economic individualism. It is the "nothingness of economic right"⁶⁹, property and competition made fully independent of right⁷⁰. b) This leads to "industrial feudalism", the concentration of "social power" in the hands of a few tycoons – capitalist organisations and banks – who profit from the ownership of the means of production to create vast associations of domination, subjecting workers to their arbitrary power, c) The tribulations and "excesses" of "industrial feudalism" cause the menacing shadow of the "industrial empire" to loom – the height of the crisis⁷¹. The industrial empire is "the culmination of capitalist and speculative absorption"⁷², the centralisation of the direction of economic life in the hands of the State, exerting dictatorship over industry – an ideal that attracts communists and Caesarists in equal measure. But "the industrial empire is nothing else [...] but a contradiction [...] The imperial formula cannot be applied to the economic order"⁷³. "[W]e are not to kill [...] liberty, but to socialise it"⁷⁴. "Social right cannot be the product of these three formulas [of anarchy, feudalism and industrial empire] any more than unity can arise by adding zeros"⁷⁵.

D) The sole threat of the "industrial empire", which is slavery and death, intensifies and fosters "industrial democracy" – the only possible solution of the crisis, its "end"⁷⁶. "Industrial feudalism must be succeeded, according to the law of histor-

⁶⁸ *Manuel d'un spéculateur* (11th v.), pp. 7–8, 5, 393, 399 et seqq., 426.

⁶⁹ *De la capacité politique*, p. 225.

⁷⁰ *Théorie de la propriété*, p. 243.

⁷¹ *Manuel d'un spéculateur*, p. 399 et seqq.

⁷² *Ibidem*.

⁷³ *Ibid.*, pp. 6–7.

⁷⁴ *Contr. écon.*, 1st v., p. 97.

⁷⁵ *Manuel d'un spéculateur*, p. 7.

⁷⁶ *Ibid.*, pp. 408 et seqq., 426 et seqq.

government, participation in management, and the guarantee of each member's equality and liberty.

Thus, economic society becomes a new application of democratic principles, both within each of its particular cells, and as a whole, represented by the agro-industrial federation. "The infusion of right" into economic forces⁶⁴ through the "social constitution" has the result of extending the democratic idea's sphere of application to a new field where it receives an especially strong expression. This is what Proudhon means when he says that the "social constitution" organising "economic right" is achieved in "industrial democracy", which complements and counterbalances political democracy⁶⁵.

It is generally not known⁶⁶ that the author of this term, which has become so popular nowadays, was Proudhon: the same Proudhon who so criticised democracy in its exclusively political and thereby "regal" form. And yet for Proudhon, the idea of "industrial democracy" is only the logical outcome of his theory of "economic right" (organising the inner life of non-hierarchical totalities), his vision of legal pluralism, his great effort to synthesise the idea of social right and the principles of the 1789 Revolution. He cries: "And let us complete, against all odds, the revolution begun in 1789, by founding economic and social balance, that is to say right, freedom, equality [...] – I am not talking about government, I am not doing politics here – on the industrial republic⁶⁷."

To better highlight the notion of "industrial democracy" realising "economic right", Proudhon compares four forms of industrial organisation, which in his view each represent a his-

⁶⁴ *De la Justice*, 1st t., 3rd Study, p. 328; *De la capacité politique*, p. 186.

⁶⁵ *Manuel d'un spéculateur à la Bourse* (11th v.), pp. 399, 405 et seqq., 426; *De la capacité politique*, pp. 69, 143; *La Guerre et la Paix*, 1st v., 302 (Dentu ed.).

⁶⁶ See, however, the mention in C. Bouglé's remarkable book, *La sociologie de Proudhon* [The Sociology of Proudhon], p. 177.

⁶⁷ *Manuel d'un spéculateur* (11th v.), p. 7.

special societies" as there are special interests, "and we are bound, by the principle of sociability itself, to fulfil the obligations which these impose upon us [...] The theory of these special societies [...] gives the key to all the problems which arise from the opposition and conflict of the different varieties of social duty"¹⁶. In particular, contemporary society is differentiated into "industrial categories" and "[t]he constitutive unit of society is the workshop"¹⁷. But each workshop necessarily implies an "interest as a body" and asserts itself as the site of an autonomous economic right that furnishes its inner life. Here it simply reproduces the tendency of all particular groups to "self-govern, self-judge, self-administer, according to their own laws", to obey only "their own statute", to attend to their "own police" by "act[ing] directly and by [themselves] in administering the interests which [they] include"¹⁸.

Every group, every social cell, is both a centre of collective forces and the home of a collective reason, in particular a legal consciousness. "A workshop made up of labourers, whose work converges towards the same goal [...] a ship's crew, a limited partnership, an academy, an orchestra, an army, etc., these collectivities, more or less skilfully organised, contain power, a power which is synthetic and consequently specific to the group", "a social power"¹⁹. But this social power would be a brute and oppressive force were it not imbued with the social right that emerges from the collective reason of every group, which is the centre of a particular legal order²⁰. "The organ of the collective reason is the same as that of the collective force: it is the group assembled for labour, for study; the

¹⁶ *Qu'est-ce que la propriété ?* (1st vol.), pp. 184–185.

¹⁷ *Contre économ.*, 1st v., p. 238; cf. *De la création de l'ordre* (3rd v.), p. 270.

¹⁸ *Du principe fédératif*, *op. cit.*, pp. 315, 284, 163; *Idée générale de la révolution*, *op. cit.*, 325, 202, 267.

¹⁹ *De la Justice*, 2nd t., 4th Study, pp. 99–100, 104–105.

²⁰ *Ibid.*, p. 105 et seqq.

company, whether industrial, scholarly, or artistic; academies, schools [...] the club, the jury; any meeting of men, in a word, formed for the discussion of ideas and inquiry into questions of right”.²¹ Thus arises the particularistic economic right, the right which serves the group’s “corporate interest”.

Before “economic society” organises itself rationally on the basis of a “social constitution”, only these two kinds of “economic right” appear: either the organised, but particularistic, economic right of groups pursuing their own interest, or the common economic right, which remains exclusively unorganised and has no body for self-expression. It is precisely the purpose of the “social constitution” to establish this body and thus to unleash both the common and the organised economic right. Proudhon expects the working class to implement the “social constitution”. “The development of the working-class idea” embodied in “the creation of the economic right”²² consists of the federative union of corporate groups, integrating their particularistic economic right within a common economic right which governs the agro-industrial federation. “Workers’ corporations [...] This word *corporations* is one of those most frequently used to accuse these workers; we are not afraid of it”. Once these corporations have integrated into the general industrial federation by the mutualist social constitution, “they will have lost their egoistic, subversive character while preserving the particular advantages that they derive from their economic power. They would be just so many individual churches in the bosom of the universal Church, capable of recreating it anew, if it were possible that it ever died out.”²³

In his “Bank of the People” projects, Proudhon mentions two general syndicates: the syndicate of production and the syndicate of consumption²⁴; their integration within a single

²¹ *De la Justice*, 3rd t., 7th Study, p. 119.

²² *De la capacité politique*, p. 85 et seqq.

²³ *Ibid.*, pp. 123, 196.

²⁴ 6th v., pp. 273, 284, 297 et seqq., 299–300.

certain restrictions on the right of free exit (prior notice, the release of all obligations); he gives the right to break the federative pact “ad libitum”⁶¹; and he does not specify whether he admits the majority principle in the federal union, whereas he nevertheless does so for simple associations and groups⁶².

Proudhon’s exclusive confederalism, to which he was perhaps led by his contractualist terminology, does not, however, call into question his theory of social right; the confederative association asserts itself as an organised type of this right. Moreover, Proudhon recognises other manifestations of social right: the unorganised social right of the necessary economic society, which underlies all organisations, and the social right of simple particular groups, where the totality asserts itself as equivalent to the plurality of the members.

According to Proudhon, all the types of social right that he recognises and identifies with the “economic right” have an egalitarian character⁶³. Since equality asserts itself as the function of the social totality, and society and order are “impossible” without equality, how can we be surprised that the type of right in which the totality receives the greatest expression has an especially democratic character? Economic right precludes any subordination, any hierarchy, and can only receive an organised expression in egalitarian associations of collaboration and cooperation, never in associations of domination. Whether it is a simple economic group (workshops, workers’ company, trade association, stock exchange, mutual credit union) or a particular or global confederation, the principle of organisation according to economic right is always the same: the “jurisdiction of all those who make up” the association or federation, the “sovereignty of the masses” who form it, corporate self-

⁶¹ *De la capacité politique*, p. 207.

⁶² Cf. for example, *Mélanges*, 1st v. (18th v.), p. 71.

⁶³ *De la capacité politique*, p. 267.

constraints, which one can escape and which are available only to pure social right, and unconditional constraints which sanction State or national right.

His entire concern was to clarify the character of pure and independent social right in its organised expression, whereas the term *contract*, having not sufficiently been explained, directed the reader's thinking towards analogies with the order of individual right. Perhaps Proudhon himself could not entirely rid himself of the consequences of this clumsy terminology. This is demonstrated in the absence of a distinction between the confederative bond and the federative bond.

We have already had the chance to emphasise that these two kinds of complex subjects of social right can be distinguished in organisations in which one is free to leave (and which do not have unconditional constraints) and in States. The difference between federations and confederations is that in federations, the balance between unity and plurality is achieved by a complete equivalence of these elements, whereas in confederations this balance is achieved by a precedence of members over the central power. In order for the equivalence presupposed by federations to be achieved, it is sufficient for the right of free exit to be subject to certain restrictive conditions and for the majority principle to be recognised. It is precisely the federative, not the confederative, type that modern economic and international organisations are heading towards.

However, Proudhon wants to recognise no type other than the confederation, where the rights of members take precedence over the rights of the central power. "What makes the nature and the essence of the federative contract [...] is that in this system, the contracting parties [...] individually reserve for themselves [...] more rights, liberty, authority, property, than they give up⁶⁰." Proudhon does not consider the possibility of

⁶⁰ *Du principe fédératif*, pp. 68, 74, 316.

organisation is alone able to represent the general economic interest and thus to express the common economic right. In order to create the body capable of recognising this right, it is therefore not sufficient to integrate all the producer groups into a single federal union; it must yet be counter-balanced within the economic organisation itself by the union of consumer associations. In his other works, Proudhon is less explicit²⁵ with regard to the role of consumers in the general economic organisation, but alongside producer groups he always mentions associations for trade, mutual credit, insurance, business, cheap housing, etc. Moreover, his exchangism makes clear his effort to restore the common, organised economic right by integrating not only the workers' corporations into the agro-industrial federation, but all the unions of particular groups that perform a necessary function in economic life.

"[I]n an economic context, confederation may be intended to provide reciprocal security in commerce and industry [...], to organise credit, insurance, and so on. The purpose of such specific federal arrangements is to protect [themselves] from capitalist and financial exploitation [...]; in their aggregate they form, as opposed to the financial feudalism in the ascendant today, what I will call an agro-industrial federation²⁶." "The agro-industrial federation [...] will tend to foster increasing equality [...] through mutualism in credit and insurance [...], guaranteeing the right to work [...], and an organisation of work which allows each labourer to become a skilled worker and an artist, each wage-earner to become his own master²⁷." It is by the combination of these particular federations within the general economic federation "that any subjugation of man by man must disappear, and that the classes that we have called upper and lower, born of economic anarchy and speculative individ-

²⁵ However, see *Manuel d'un spéculateur à la bourse* (11th v.), p. 417 et seqq.

²⁶ *Du principe fédératif*, p. 111.

²⁷ *Ibid.*, pp. 111–112.

ualism, must return to homogeneity”²⁸. This presupposes the agro-industrial federation becoming a “universal federation”²⁹ of all economic functions. “Considered in itself, the idea of an industrial federation which serves to complement and support political federation is most strikingly justified by the principles of economics. It is the application on the largest possible scale of the principles of mutualism”³⁰.

This is the fulfilment of the theories that we have already cited: “Political right must have the buttress of economic right”³¹; “the idea of a limitation of the State by the groups”³². Economic society, organised in an agro-industrial federation which includes all particular economic groupings, counterbalances the State by expressing the common and organised economic right which competes with State right.

In particular, “industries are sisters; they are parts of the same body; one cannot suffer without the others sharing in its suffering. They should therefore federate, not in order to be absorbed and confused together, but in order to mutually guarantee the conditions of common prosperity, upon which no one has an exclusive claim”³³. “The spontaneous, popular formation of [production] groups, workshops, companies, associations of workers”³⁴, which involve “all partners in the management of the company and its profits, within the limits and proportions determined by the company’s constitution” and which are based on new principles of right unknown to the Code³⁵, is the first step toward federation of the producers.

²⁸ *Manuel du spéculateur* (11th v.); pp. 430–431.

²⁹ *Du principe fédératif*, p. 113, n. 1.

³⁰ *Ibid.*, p. 113.

³¹ *Ibid.*, p. 107.

³² *De la capacité politique*, p. 286.

³³ *Du principe fédératif*, p. 113.

³⁴ *Mélanges*, 3rd t. (19th v.), p. 39; 1st t. (17th v.), pp. 70–71.

³⁵ *Manuel d’un spéculateur* (11th v.), pp. 411, 416, 426, 183, 177.

gan of society”⁵⁵; this characteristic must also apply to groups that sign the “federative pact”, since Proudhon recognises that “society must be regarded as a giant with a thousand arms, who performs all industries”⁵⁶; the groups that create the agro-industrial federation must therefore be regarded as acting as pre-existing society’s “arms” and in its name. It is therefore for good reason that Proudhon promises that the contract conceived as order and organisation, “far more than that of authority, would bring about the union of producers, centralise their forces, [...] assure the unity and solidarity of their interests [and] constitute [...] the Republic”⁵⁷.

In introducing the phrase “the contract [...] is order [...] it is organisation”, Proudhon is well aware that this does not concern the contract enshrined in the legal code which, considering only “relations with others”, falls within the framework of individualistic right. “The formula of the social contract is not sought [...] We are reaching the point of learning about association. The social contract has nothing in its past similar to what it produces today [...] It is a revolution that it brings. The provisions of the Code are dead letter”⁵⁸.

But in that case, one may ask, is it prudent to refer to these new procedures by the old term *contract*, with which they bear little relation⁵⁹? Proudhon’s terminology was indeed unfortunate. Ultimately, Proudhon emphasised his contractualism with the sole aim of better highlighting groups’ and individuals’ ability to leave the economic organisation freely. This was, for Proudhon, the essential difference between conditional

⁵⁵ *De la capacité politique*, p. 148.

⁵⁶ *Ibidem*.

⁵⁷ *Idée générale de la Révolution*, p. 268.

⁵⁸ *Manuel d’un spéculateur* (15th v.), pp. 183, 176, 411–412.

⁵⁹ Have we not spoken of the “decline of the law and the contract”, precisely in relation to collective labour agreements? See G. Morin, *La révolte des faits contre le Code* [The Revolt of the Facts Against the Code], 1920, and *Loi et contrat : La décadence de la souveraineté* [Law and Contract: The Decline of Sovereignty], 1927.

power of development that tends with an irresistible force to assimilate and incorporate all that surrounds it [...] [A]s their [mutualist] society was founded above all on an idea [...] it will hold in perpetuity [...] Once formed, its nature is to generalise itself and to have no end [...] The contract of mutuality is irrevocable by its nature, as much in the small association as in the largest.”⁵⁰.

“Once formed, the federation can no longer dissolve itself”⁵¹: not, of course, in the sense that the participating parties cannot withdraw from the economic federation – they are always free to leave – but in the sense that once established, the federation begins to lead a legal life of its own, distinct from the relations between its members and governed by its own autonomous right, the social right of the totality that it constitutes. This is why it has its own statutes, just as each participating group has its own⁵². Ultimately, according to Proudhon, the “contracts” through which the “social constitution” is realised, and on which the “agro-industrial federation” is founded, are of the same nature as the “collective labour agreements” and the agreements establishing international organisations in modern right.

These are not true contracts but “basic acts”, technical processes for the expression of the pre-existing institution (body) as Maurice Hauriou called them⁵³, since the contracting parties act not as isolated subjects, but as representatives of this underlying institution⁵⁴. Proudhon himself says that the individuals who sign a contract of association act as a kind of “or-

⁵⁰ *De la capacité politique*, pp. 193–196.

⁵¹ *Ibid.*, p. 222.

⁵² *Du principe fédératif*, pp. 163, 75, note.

⁵³ Cf. above, 6th part, ch. III.

⁵⁴ Cf. our explanation of the modern doctrine of collective labour agreements in *Le temps présent et l'idée du droit social* [The Present Time and the Idea of Social Right], 1st section, ch. I and II.

“Workers’ associations are the centres of production, a new principle, a new model, which must replace the present joint stock companies”³⁶. “We want [these] democratically organised workers’ associations [...] to be models for agriculture, industry and trade, the pioneering core of that vast federation of companies and societies, joined together in the common bond of the [...] social Republic”³⁷. “Extend the principle of mutuality that unites the workers of each group to all the workers’ associations as a unit, and you will have created a form of civilisation that, from all points of view [...] differs completely from previous civilisations, [...] which with all possible guarantees of freedom, [...] [and] an impenetrable system of insurance [...] will provide us instead, everywhere and always, with our right” in economic life³⁸. “[We see] the importance accorded in the new democracy to workers’ associations which are deemed to constitute economic agencies and mutual institutions”³⁹. “[It is through them that] a reorganisation of industry [will be achieved], under the jurisdiction of those who compose it”⁴⁰.

The “social constitution” is the charter, the common statute of the global economic federation, organising society opposite to the State, in which all the particular groupings and federations are integrated. Proudhon is well aware that the global agro-industrial federation, in which “all [his] economic ideas as developed over twenty-five years can be summed up”⁴¹, itself represents a totality, a “real collective being” distinct from its members and drawing on its own right. This federation is not a purely contractual relationship, but a “higher order” with its own “constitution” and most likely its own central bodies.

³⁶ *Ibid.*, p. 415.

³⁷ *Mélanges*, (1st v.) (17th v.), p. 189.

³⁸ *Manuel d'un spéculateur* (11th v.), p. 416.

³⁹ *De la capacité politique*, p. 214.

⁴⁰ *Ibid.*, p. 123.

⁴¹ *Du principe fédératif*, p. 116.

It is the “solidarity of the groups”, their mutualist bond, their prior, common rooting in unorganised economic society, pre-existing and underlying all organisations, that finds expression in the agro-industrial federation⁴². How does this pre-existing solidarity, “how could [this] economic mutuality be anything other than a federation”⁴³? Several economic groups “placed in relations of exchange engender [...] [a] social power. In order for this social power to act in its fullness, for it to give all the fruit that its nature promises, the forces and functions of which it consists must be in balance.”⁴⁴ This balance is achieved through the statutes of the agro-industrial federation, through the “social constitution” which governs it and which formulates the common, organised economic right. “The mutualist organisation [...] invariably pushes producers [...] towards a centralisation similar to that of the State”⁴⁵ but essentially different from it because every group and individual member can freely withdraw from the organisation⁴⁶.

Thus, the problem of the buttresses between the centralising and decentralising tendencies, between the centripetal and centrifugal forces, arises for organised economic society just as acutely as for every other totality; it always represents a concrete system of balances. Endowed with its own “social power”, equipped with its own “social constitution”, founded on its own statutory right which gives rise to centralising as well as decentralising tendencies, the agro-industrial federation is not conceived by Proudhon as a purely contractual relationship, but as a real *sui generis* totality not identical to the sum of its members. And it could not be otherwise, since for Proudhon, as we

⁴² *De la cap. polit.*, pp. 396, 194, 127, 148.

⁴³ *Du principe fédératif*, p. 264.

⁴⁴ *De la justice*, 2nd t., 4th Study, pp. 123-25 (22nd v.).

⁴⁵ *Mélanges*, 1st v. (17th v.), pp. 70-71; 6th v., p. 76.

⁴⁶ *Idée générale de la Révolution*, p. 282; *Du principe fédératif*, pp. 74, 16; cf. *De la cap. polit.*, p. 207.

have already noted several times, “collectivities are not [...] abstract ideas [...], fictions; they are realities as real as the [...] monads or molecules of which they are composed and just like the latter [...]; higher-order units, positive existences, formed by the relations between lesser units and having special properties, qualities and faculties”⁴⁷.

At its core, federalism is only a legal expression (embodied in a rational organisation) of the principle that dominates all Proudhonian thought: the synthesis between universalism and individualism, unity and diversity. And this is confirmed by the famous Proudhonian phrase: “Whoever says socialism says federation or says [...] nothing”⁴⁸.

But if this is the case, if the agro-industrial federation is a real totality with its own legal order, distinct from the wishes of its members, then what is the meaning of Proudhonian “contractualism”, his repeated declarations that the “social constitution” is realised through the “reign of contracts”, the contractual principle being presented as the basis of every federative bond⁴⁹? We already know that according to Proudhon, contracts do not create a right from nothing, but observe and express a pre-existing right, already latent in unorganised society which itself represents a necessary society, “not conventional, but real”. This explains the fact that for Proudhon, the contractual origin of the federation does not imply that it lets itself become dissolved in the relations between its members, and does not constitute an irreducible order, a completely specific legal organism.

Proudhon clearly stresses that, though arising from the contract, the economic federation is more than a contract, a stable institution. “There exists in the mutualist association [...] a

⁴⁷ *Pornocratie*, *op. cit.*, pp. 116-119.

⁴⁸ *Du principe fédératif*, p. 137.

⁴⁹ *L’idée de la Révolution*, *op. cit.*, pp. 187, 199, 258, 267-268, 301-302, 343; *Confessions d’un révolutionnaire* (9th v.), p. 177; *Du principe fédératif*, pp. 64, 74, 264, 284; *De la capacité politique*, pp. 141, 191, 192.