

“Tragedy of the Commons”

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All Landlords Are Terrible Landlords

As an object lesson in support of his thesis that “government is a terrible landlord,” Steven Greenhut (*Reason*, Dec. 1) recounts his experience trying to get action from his county government over complaints of a poorly maintained, overgrown vacant lot owned by the fire department.

I started making calls to the appropriate agencies and got the usual bureaucratic runaround. I still remember my call to the weed abatement department, which assured me it would handle the situation. “Aren’t you going to take the address?” I retorted as the person was about to hang up. The county finally mowed the property after the right staffer in an elected official’s office intervened.

As further evidence that “often the biggest slumlords are government agencies,” he mentions two fires on government property — one in a former USMC blimp hangar, and one allegedly started in an underclass homeless encampment.

(He went on to complain, incidentally, of the problem of “tent cities” on government-owned vacant lots. The primary evil of the “homeless crisis,” apparently, is that large numbers of homeless people are allowed to exist on government property without being forcibly cleared off — and not that they’re homeless because landlords had the power to evict them in the first place.)

Greenhut concludes with the “clear” lesson: “When everyone owns something, no one does.” In support of that lesson, he links to a 35-year-old article at FEE titled “Communal vs. Private Property Rights.”

The article is, predictably, a dumpster fire of lazy right-libertarian cliches. And, predictably, it explicitly cites Garrett Hardin’s “Tragedy of the Commons.”

A great deal of scholarship has been devoted to shredding Hardin’s historically illiterate article since then — among them Elinor Ostrom’s *Governing the Commons* and J. M. Neeson’s *Commoners*. And I suppose it’s a good sign that Greenhut merely links to an article whose central talking point comes from Hardin, perhaps hoping to endorse Hardin indirectly while maintaining a degree of plausible deniability. But one does not, presumably, go all the back to the 1980s for an article to link in sole support of a comment, if their agreement is only tangential.

At any rate, the article Greenhut appeals to as an authority is utterly vacuous, starting with its thesis statement:

When the property rights to a resource are communally held, the resource is often abused. In contrast, when the rights to a resource are held by an individual or family, conservation and wise utilization [sic] generally result.

The Hardin reference is in the context of “Cattle Grazing on the English Commons.”

In a famous 1968 essay, “The Tragedy of the Commons,” Garrett Hardin used the England commons to illustrate the problems of communal ownership. In the sixteenth century, many English villages had commons, or commonly held pastures, which were available to any villagers who wanted to graze their animals. Since the benefits of grazing an additional animal accrued fully to the individual, whereas the cost of overgrazing was an external one, the pastures were grazed extensively. Since the pastures were communal property, there was little incentive for an *individual*

to conserve grass in the present so that it would be more abundant in the future. When everyone used the pasture extensively, there was not enough grass at the end of the grazing season to provide a good base for next year's growth. Without private ownership, what was good for the individual was bad for the village as a whole.

In order to preserve the grass, pastures were fenced in the enclosure movement. After the enclosure movement established private property rights, overgrazing no longer occurred. Each owner had a strong incentive to protect the land.

The authors also mention the case of the Indigenous Montagnais people in the Labrador Peninsula.

When French fur traders came to the area in the early 1600s, the value of beaver pelts rose. The Indians hunted them more intensively and the beaver became increasingly scarce. Recognizing the depletion of the beaver population and the animal's possible extinction, the Montagnais began to institute private property rights, as Harold Demsetz has discussed in a 1967 *American Economic Review* article. Each beaver-trapping area on a stream was assigned to a family, which then had both the incentive and the ability to adopt conservation practices. A family never trapped the last remaining pair of beavers in its territory, since that would harm the family the following year.

For a time, the supply of beavers was no longer in jeopardy. However, when a new wave of European trappers invaded the area, the native Americans—unable to enforce their property rights to the beaver or to their land—abandoned conservation. They took the pelts while they could. Individual ownership was destroyed, and conservation disappeared with it.

It's hard to know where even to begin with this mountain of bullshit, but I'll try.

First of all, even Hardin stipulated that his "tragedy" applied only to unmanaged commons, and that managed commons could function quite effectively:

Some of the common pastures of old England were protected from ruin by the tradition of stinting — limiting each herdsman to a fixed number of animals (not necessarily the same for all). Such cases are spoken of as "managed commons," which is the logical equivalent of socialism. Viewed this way, socialism may be good or bad, depending on the quality of the management.

Of course this is still intellectually dishonest, insofar as it neglects to mention that managed commons were the norm. And as Neeson points out, in those cases where commons *were* mismanaged, it was usually because the lord of the manor, who had a disproportionate share of grazing rights in the common pasture, took advantage of his superior power in order to abuse the rules — and of course it was this same gentleman who came to the rescue and solved the "problem" by enclosing the land. As Cool Hand Luke would have said, "Wish you'd stop being so good to me, cap'n."

As for the Montagnais, the significance of the story is just the reverse of the authors' framing. As communal owners, they *assigned* beaver-trapping areas to families in exactly the same way

a premodern European village would assign pasturing rights to a family, or distribute strips of land in the open fields to each household. In other words, the incident is actually an *illustration* of commons management.

There are plenty of other problems with right-libertarians' fondness for Hardin. For one thing, if you want to argue that it was good for the landed classes of England to steal the commons from the peasantry because they would manage them better, how are you going to consistently condemn the Kelo decision's identical defense of eminent domain? For another, there's some irony in the fact that Hardin — who was both a diehard Malthusian and a racist, obsessed with the prospect of nonwhite immigrants overwhelming the carrying capacity of the land — tends to be lionized by the same folks who regularly denounce Malthusianism.

And if defenders of capitalism think communal property is bad, they'll be shocked to learn about the modern corporation. Legally, the corporation is not the property of its shareholders, either severally or collectively. Its plant and equipment, as well as its intangible assets, are all the property of a fictitious corporate person — a collective entity, in other words. A share of common stock simply confers a set of limited and strictly defined rights, including voting rights subject to heavy regulation by a largely self-perpetuating managerial oligarchy. In other words, the corporation is every bit as collective as any common pasture in Merry Olde England.

Getting back to Greenhut, he might put his experience with the local government bureaucracy in perspective by taking a look at what it's like to deal with the private equity and other asset management companies that have been snapping up multi-family housing over the past couple of decades. The purchase of an apartment complex by private equity is an inevitable harbinger of rent increases, unresponsive management, decay, and neglect. Deferred maintenance and slumlord conditions are typical in apartment complexes acquired by asset-management firms.

"We would be told for weeks on end that requests for repairs were awaiting corporate approval," according to one resident of the Olume apartments in San Francisco after Greystar bought them out. The owners' response to complaints of broken appliances was straight out of *Brazil*:

When Titus' refrigerator and, later, her washing machine broke, she said building staff simply scavenged replacements from other apartments instead of getting the broken ones fixed or buying new ones. The shuffling was so extensive that when she had a problem with a replacement refrigerator and staff brought yet another one to her unit, she peered inside to find labels she had affixed there herself, months before. She realized staff had given her back her original appliance. It still leaked, she noted.

Greenhut gets it halfway right. The Hayekian principle that things are best managed by people in direct contact with them, with a personal interest in taking care of them, is entirely correct. But imagining that this description fits some property management company contracted out by a real estate baron, or by a private equity firm headquartered at the other end of the country, is nonsense. The lesson, if anything, is that absentee ownership as such — especially by a bureaucratic entity, whether government or corporate, whose management does its best to remain incommunicado from tenants or anyone else — is bad.

A thoroughgoing application of Hayekian principles would be, first, to undo the mass expropriation of land and forcible imposition of capitalist property rules which took place in early modern times, and restore land to the commons through such vehicles as local, democratically governed community land trusts; and, second, to convert apartments and other multi-family dwellings into self-managed cohousing.

As usual, the best deconstruction of capitalist power relations is the capitalists' own stated principles.

The Poverty of Right-Libertarian Cliches

Right-libertarians, it seems, have a love affair with Garrett Hardin and his so-called “tragedy of the commons.” It’s a principle to which they return, time and again. But as a foundation, it is historically illiterate; and the structure which they erect upon it is conceptually incoherent. Take, for example, Saul Zimet’s piece “The Poverty of Slavoj Žižek’s Collectivist Vision of Property Rights,” at *The Freeman*.

Zimet doesn’t limit his poorly reasoned talking points to the commons. He also throws in an *obiter dictum* at the outset, denying “that the resources being called ‘the commons’ already existed before they were ‘monopolized’ by tech entrepreneurs,” and asserting instead that “the likes of Gates and Bezos have primarily earned their wealth not by monopolizing resources that already existed, but by facilitating the creation of new technologies that have generally made the rest of the world much wealthier rather than poorer.”

This is nonsense. Zimet ignores the fact that Gates and Bezos are only needed to “facilitate” the creation of new technologies because of the enclosure of the credit commons. Because of a legal structure which limits the credit function — which properly conceived requires only a unit of account to coordinate the production streams between different groups of workers — to the possessors of previously accumulated stocks of wealth, Gates and Bezos have an artificial property claim on the right to coordinate those flows.

With this out of the way, we can pass on to the meat of the argument, such as it is. The rest of Zimet’s commentary being such a rambling hodgepodge of tangentially related talking points and ahistorical assertions, I will simply address them in the order presented.

Zimet points to a “theoretical flaw” in “the idea of broadly collectivized property [Žižek] calls ‘our commons.’”

This idea of collective ownership is often advocated by collectivists of many stripes, from socialist, to communist, to fascist, to justify confiscating the earnings of peaceful wealth producers. So it is important to understand the fundamental distinction between individual and collective ownership, and how the former facilitates widespread prosperity while the latter reliably spreads poverty and desperation to the masses.

But his own theoretical flaw lies in framing the Lockean labor theory of property as an “*individualist* labor theory of property” (emphasis mine).

[Locke’s] core idea has remained the central principle of the free market: in order to justly acquire something, one must produce it from previously uncultivated materials, or else receive it in a voluntary transaction or donation from someone who justly acquired it themselves....

Any divergence from this free-market conception of property rights, such as those divergences typical of socialism, communism, corporatism, feudalism, and fascism,

must necessarily take the form of someone at some point being allowed to expropriate the product of someone else's labor against their will.

First of all, Zimet ignores the fact that the historic commons of premodern Europe, similar arrangements like the *Mir* in Russia, or examples of Marx's so-called "Asiatic mode" like that prevailing in India before Hastings' Permanent Settlement, were not some free-for-all of unowned resources. They were the rightful common possession of the villagers who worked them, based on the collective labor of their ancestors who had cooperatively broken the ground for cultivation at the time of settlement.

And second, it was actually Zimet's individual private property in land that was established by enclosers expropriating the product of peasants' collective labor against their will.

The idea that land titles of the modern capitalist type — i.e., land as a fee-simple commodity — can be traced to individual "labor-homesteading" of land that was previously "unclaimed," is an ahistorical myth. Its primary function is to conceal the fact that the overwhelming majority of society was robbed of its legitimate rights in the land by a tiny minority of expropriators.

Zimet refers to such individual private property as "free market property rights." But in fact there is no one self-evident model of "free market" property in land. Even if we stipulate to the admixture of labor in the land, whether individually or collectively, as establishing ownership rights of some nature — which admittedly has some reason to it, from the standpoint of maximizing people's right to their own labor-product — land and natural resources present unique problems.

Locke himself admitted that, unlike moveable and reproducible goods created by human labor which could be treated as the absolute possession of their creators, humanity retained at least some residual common claim to the land by virtue of its fixed supply. He felt it necessary to address this special status through the so-called Proviso (that appropriators must leave "enough and as good").

There is no model of property in land which is entirely satisfactory, in both maximizing individual rights to the labor sunk in the land, and at the same time addressing the fact that the land is a good in fixed supply and immobile from which labor once mixed cannot be picked up and carried off. There has been a wide range of libertarian approaches aimed at finding the least unsatisfactory tradeoff between these two values. I would argue that Zimet's no-Proviso Lockeanism is the worst of them; but even it treats land as a unique good to the extent that it regards simply fencing off vacant land and holding it out of use as no basis for a legitimate title, if the land is not actually developed. And even capitalist property law has at least some threshold for constructive abandonment. If we lower this threshold sufficiently, we wind up with the occupancy-and-use criteria for land title advocated by J. K. Ingalls, and Benjamin Tucker and the other Boston anarchists. Henry George and his followers attempted to separate the individual right to one's labor in buildings and improvements from the common right to the land itself, by taxing only the unimproved site value. The community land trust attempts the same distinction by restoring the land itself as common property while retaining markets in buildings and improvements.

Zimet also frames Chinese "free market reforms" as a partial retreat from the evils of forcible collectivization by "recognizing" private property rights. This enabled "escaping extreme property" by a billion people. But his framing ignores the fact that the forced collectivization of the Great Leap Forward and the Dengist privatization policy were *both* violent assaults on villagers' communal rights to the land. Naomi Klein, in *No Logo*, quotes Chinese sweatshop workers'

laments that, had their families not been robbed of common rights which were transferred to capitalist farmers or industrial parks, they would greatly prefer working on the land.

Before we finish, we can't let this howler pass:

One of the sectors that still conforms to free-market principles more closely than almost any other is the tech industry in which Gates and Bezos have amassed their fortunes.

They earned their wealth largely by coming up with ideas for new technologies and business models that created opportunities and products where none previously existed. Their startup capital came partly from investment of their own hard-earned wages, and partly from others who invested in them by choice. They hired voluntary employees to build the products and operate the businesses on contractual terms that nobody was forced to accept. And when the products were built, they were sold to willing customers in mutually beneficial transactions.

That's right — the tech sector, whose profit model depends even more than the rest of the corporate economy on state-enforced intellectual property monopolies, “conforms to free-market principles more closely than almost any other.” Never mind the enormously intrusive (not to say totalitarian) anti-circumvention provisions of the Digital Millennium Copyright Act, the constant arbitrary DMCA takedowns on YouTube, or the administrative mass seizures of domain names by the Justice Department, all based on the claim to “own” the rights to control who can replicate a string of information. Never mind the felony contempt of business model laws that Amazon's monopoly position depends on. Didn't happen.

And it was other people who “came up with” those “ideas for new technologies.” It was only the enclosure of the credit function, mentioned above, which enabled them to also enclose the ideas of others for their own profit. Don't forget, by the way, that Bill Gates — who has dismissed free and open-source software as “communist” — got his start digging other people's code out of the trash.

As for Gates' and Bezos' “own hard-earned wages” — I'm not even gonna touch that one.

Zimet comes down hard on the “voluntary,” “by choice,” “willing,” and “nobody forced them” thing, doesn't he? That failure to ignore background violence or power relations, and to frame any transaction as “voluntary” in which there is no gun immediately present, is typical of right-libertarian ideology. In fact, the capitalists and their state have put a huge amount of work into creating a state of affairs where people “voluntarily” accept the shitty deals offered to them. People will always “voluntarily” accept the “least bad option”; the proper question to ask is, who determined the range of available options? The existing range of options reflects the foundational and ongoing state violence entailed in the capitalist system, including — among many other things — the enclosures of land, credit, and information mentioned above. As Marx might have put it, the history of their range of available options is written in letters of blood and fire.

Right-libertarian polemics are all about framing as “voluntary” a system which is based, to its very core, on coercive power relations and the ongoing threat of violence. Fortunately, they usually fail to persuade anyone who isn't already in the choir — down-punching authoritarians who are instinctively in sympathy with the bosses and owners. And even more so than most, Zimet's boot polish-infused prose is likely to evoke a response of “Yeah, them poor ol bosses need all the help they can get.”

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