

# « The ecological limits of private property »

Ethics, Policy and Environment

Special issue proposal

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## Introduction

There is something obviously wrong with the consequences of existing property rights for the environment. Year after year, it becomes clearer that the ecological crisis is the main challenge humanity will face in the coming century while the responsibility of a mode of production and way of life based on private property becomes more and more evident. Private property is traditionally conceived as the unlimited right to control a resource freely. It is characterized as the power to exclude others from the decisions made on how an appropriated resource will be used, even when others are directly affected by this use or when this use is immediately destructive of the environment<sup>1</sup>. In other terms, the protection of private property allows the owner of a resource (or mean of production) to put that resource to whatever (legal) use is best for his or her interests regardless of the global and long term consequences of that use.

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<sup>1</sup> William Blackstone, *Commentaries on the Laws of England: A Facsimile of the First Edition of 1765-1769*, Chicago, University of Chicago Press, 1979

In these circumstances, the coming ecological crisis raises new problems for theories of private property. Resource exploitation based on the concentration of private property in a few hands rights has definitely shown its limits. It is particularly doubtful that any global coordination of extractive and productive activities is likely to happen to limit the impact of these activities on climate change in an economic system based on the right of the owner to defend and insulate his or her interests against those of the community. If the capitalist mode of production is unable to generate these necessary self-limitation mechanisms, should we modify and amend the institution of private property on which it is based, or is it time to consider radical alternatives? Moreover, if we recognize that capitalism is unable to generate these limits that are needed to preserve the environment, doesn't this acknowledgement also call for a reassessment of the very idea of private property? How could it still be said that it is legitimate because it promotes an efficient organization of the production if it does not take into account its devastating effects on the climate (and the political crises that are potentially linked to it)? In this sense, it is now more than ever necessary to rethink the type of property rights that should apply to resources and means of production in order to integrate ecological and political constraints.

The aim of this special issue is to examine how private property deeply structures our representations and ways of life (Weiler, Tourneux), why and how it should be limited to cope with environmental challenges (Manakun, Bourban) and finally how other perspectives inspired by the Global South or the Socialist tradition can help us overcome this foundational institution (Mbaya, Acosta, White).

In the current political and ecological context, we believe that it is more urgent than ever to reopen the property question in light of the coming environmental crisis. This special issue hopes to contribute to this effort by publishing the conclusions reached after two days of intense discussions on this topic by junior and senior researchers from various disciplines and origins.

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## Putting Down the Strawman of “Absolute Dominion”

**Eva Weiler (University of Duisburg-Essen),**

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Proponents and critics of private property alike share the view that private property conveys “absolute dominion” to the owner. For liberal property theory, this liberty to use ones property as one pleases without having to fear interference from the state or others grounds property rights – so much so, that some defend “property as the law of things” against the standard metaphor of property as a bundle of rights (Smith 2011). According to a Marxist critique, that same liberty turns property into a means of violence and oppression: not only does it convey the right to forcefully exclude others from the use of privately owned resources, it also includes the liberty to destroy the things owned. Especially the liberty to destroy and waste and the right to deploy resources for uses that only benefit a small number of people have been much critiqued, given that natural resources will become increasingly scarce and degraded due to climate change and intensive use (Dardot/Laval 2014; Loick 2016).

In this paper I want to argue that for productive analysis and critique we should put down the strawman of “absolute dominion”. As a “Blackstonian” legal title to “despotically” dispose over ones property, it never existed: property rights are always restricted, as Blackstone’s extensive commentaries on the property law of England show. Property is a complex structure of legal and other institutional norms and regulations, that are used in different ways by different actors and do have different and changing effects. If we want to problematize certain forms of property and property regimes, we should focus on the institutional settings they are embedded in and on their internal normativity and logic to understand, how and why detrimental effects to human society and nature in general do occur and in which way and why they are not effectively met. Putting aside a fictitious “absolute dominion”, we can look at those structures or forms within existing institutions that might serve as a starting point to rebuilt our understanding and reality of property towards (a) sustainable normative and institutional order(s).

## The Suburban Society. Ecological and Societal Challenges of Neoliberal Housing Policies

**Odile Tourneux (Ecole Normale Supérieure, Lyon)**

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### **Abstract:**

Suburban villas, isolated or inserted in suburban areas, have been part of the European landscape since the 1960s. On the outskirts of cities or in rural areas, the low-cost individual house was imposed in space and in the imaginations. Since the 1990s, this suburban housing has been subject to numerous criticisms, in particular ecological ones (without preventing its expansion). The individualization of plots leads to urban sprawl which lengthens mobility, which emits greenhouse gas. The systematic use of cars generates specific modes of consumption: creation of peri-urban shopping centers accessible by expressway and equipped with free parking lots. In France, the laws resulting from the Grenelle de l'environnement of 2009-2010 seek to regulate the development of suburban housing, precisely in the name of the ecological issue. However, far from curbing the deleterious ecological effects of urban sprawl, the contemporary local urban plans contribute to strengthening the close ties that unite public power, private land ownership and ecological crisis.

The study of the suburban model offers a window to understand how the promotion of private property is above all a political cog that allows the public power to establish and legitimize its power. Lever of growth, the land ownership of the middle classes could be perceived as the real social pact on which the European political systems are based. This article explores the way in which the theorists of German ordoliberalism based neoliberal democracy on the promotion of the private property of individual housing, to the detriment of the environment. "Prosperity for all" (Ludwig Erhard), particularly in terms of housing, constitutes the basis of a democratic model in which the consumer is sovereign.

## Limitarianism, Ecological Citizenship, and Private Property

Michel Bourban (University of Warwick)

*Michel Bourban is a postdoctoral researcher and associate tutor at the University of Warwick (UK). His research on climate justice, ecological citizenship, sustainability ethics and innovation ethics appeared in journals such as Ethics, Policy & Environment, Environmental Ethics, and Philosophy & Technology, and with publishers such as Elsevier, Routledge, and Rowman & Littlefield.*

### **Abstract:**

The paper proposes to investigate *limitarianism* as an alternative way to address the most urgent ecological issues. According to limitarianism, “it is not morally permissible to have more resources than are needed to fully flourish in life” (Robeyns 2017: 1). In contrast with sufficientarianism, limitarianism sets *upper* limits on the distribution of financial resources individuals should be allowed to possess to live a flourishing life.

More specifically, the paper explains how *wealth* limitarianism could be complemented by *ecological* limitarianism, an approach that sets an upper threshold on the ecological resources individuals should be allowed to appropriate. To do so, the paper draws on the normative framework of ecological citizenship: the ecological citizen aims at limiting his or her ecological footprint so that it “does not compromise or foreclose the ability of others in present and future generations to pursue options important to them” (Dobson 2003: 119). A major challenge is to explain why there is a duty of justice to reduce one’s individual carbon footprint.

## A Freedom-Based Argument for the Intergenerational Right to an Unspoiled World and the Reform of Private Property

Tawan Manakun (University of Manchester)

*Tawan Manakun defended his doctoral thesis at the University of Manchester in 2021 and is now teaching assistant. His work in political theory specializes on the application to contemporary property issues of Republican and Neorepublican ideas. His general interests include freedom, property, distributive justice, republicanism, political economic thought, social-choice theory.*

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### **Abstract:**

This paper argues that the value of freedom as non-domination obliges a polity to implement the intergenerational right to an unspoiled world through reforms of the private-property rule at the constitutional level. The right to an unspoiled world refers to the guarantee that a person of the next generation will, on reaching adulthood, have access to a world condition no worse than that inherited by a person of their parent's generation from their predecessors. This guarantee expands across generations. It starts from the obligations of present-day adults towards their already-born children, through to the obligations these children bear to their children, and so on into the future. The intergenerational right embedded at the level of the constitution imposes a collective duty on the current cohort of all adults, through their control of political power, to implement necessary regulations and prohibitions over the right to private ownership in the ways that will ensure such a future. I argue that the failure to guarantee such rights entails that the current generation holds power to exercise their arbitrary will over the next generation, representing domination and so unfreedom in the neo-Roman republican sense.

If sound, the freedom-based argument I propose constitutes another support to the legal attempt to meet the socio-ecological demands by adjusting in detail the complex, bundle-of-rights structure within the ideal type of private-ownership rule.

To conclude, I explain how my argument might be more apt than most green proposals made in recent Neo-Roman republican works, which tend to collapse the freedom-based argument into egalitarian or civic humanist values by implicitly inserting these values into the definition of "arbitrary will."

## **Alli Kawsay (Buen vivir) in the indigenous movements of Colombia - Ecuador, political-economic practices as a global model, in defense of the rights of Mother Nature in the global south.**

**Eduardo Erazo Acosta (Universidad de Nariño)**

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Buen vivir-alli Kawsay (In kichwa indigenous language), is part of the epistemology of resistance, which in the practice of indigenous communities implies addressing the dimension/interrelationship: spiritual dimension, economic dimension (clean practices-sustainable economies), political dimension (defense of the territory) ancestral, family dimension, cultural, environmental. This model is a more just way of distributing wealth and income, which is part of the economies of resistance. The Sumak Kawsay is part of the alternatives to the development taken care of from the indigenous cosmovision the dimensions: cosmovision, solidary economies, own right, own health, own education as alternatives with strong spiritual base of respect to the mother earth. The Sumak Kawsay as an epistemology of respect for life, is linked to "The Rights of Nature" already included in articles 70 to 74 of the Political Constitution of the Republic of Ecuador in 2008.

In the midst of the great destruction by mining and resource extraction at a global level, indigenous communities are more affected because it is precisely in territories//species where there is mineral wealth that great mining increases, putting at greater risk the animal and plant species that live in indigenous territories, as well as the ancestral knowledge/indigenous worldview is threatened. In this way, when indigenous communities defend Mother Nature (Pachamama) politically, they also take care of the biological chain in terms of wealth and biodiversity or geostrategic areas, life reserves at a global level.



# Transformation of Private Logging Forests Through the Prism of the REDD+ Ecological Emergency in Mai-Ndombé in the Democratic Republic of Congo

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The paper is in the editorial phase and could be sent to peer review between the end of June and the beginning of July 2022.

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## Abstract

The climate emergency is reducing the livelihoods of rural forest communities: drought of rivers, deforestation, scarcity of natural resources, lack of game, impoverishment of arable land, etc. The ecological emergency requires a change in the behaviour of rural actors but also of private loggers with for the sustainable use of natural resources. The Deforestation and Degradation Emissions Reduction Mechanism (REDD+) authorized by the Conferences of the Parties on Climate Change (CoP 13 and 15) in Bali (2007) and Copenhagen (2009) to mitigate the consequences of climate change through the sustainable management of local tropical forests. REDD+ mobilizes incentives for forest carbon conservation, reforestation of degraded savannas, agroforestry and payments for environmental services (PES). The benefits of these incentives improve the socio-economic situation of local communities. Rural actors increase their earnings by participating in REDD+ activities. Ecologically in the province of Mai-Ndombé, REDD+ offers an opportunity for the reconversion of private logging forests, gradually turning into carbon conservation forests. Private concessionaires now allocate all or part of the concession to REDD+ activities in order to obtain profits on payments for environmental services. They transform into REDD+ projects and sign agreements with rural communities. REDD+ financial incentives determine the social relations of rural actors with private concessionaires. REDD+ is becoming a factor of social tension with regard to land tenure and at the same time an instrument of social cohesion between private concessionaires and local communities. Private forest owners express the need to collaborate with local people in order to benefit from the local workforce needed for REDD+ activities. This reflection questions how the ecological emergency is changing the allocation of private local forests? the answers aim to highlight the standards empowering the ecological urgency of REDD+; identify REDD+ incentives; demonstrate the challenge of social cohesion and of social tensions in local forests; explain the impacts of forest conversion to carbon conservation.

## Liberalism, the State and the Commons

Stuart White (University of Oxford)

*Dr Stuart White is Fellow and Tutor in Politics at Jesus College and Associate Professor of Politics at the University of Oxford. Stuart White's research focuses centrally on democracy, citizenship and property rights and the question of what rights to resources we should have as members of a democratic community. A unifying theme is the concern to explore visions of society that are at once anti-capitalist and opposed to authoritarian forms of socialism. He explores this theme in studies that range across political philosophy, public policy and the history of political thought. Major publications include: The Civic Minimum: On the Rights and Obligations of Economic Citizenship (2003); The Ethics of Stakeholding (2003); The Citizen's Stake: Exploring the Future of Universal Asset Policies (2006); Equality (2006); How to Defend Inheritance Tax (2008); (co-ed. with Daniel Leighton) Building a Citizens' Society: The Emerging Politics of Republican Democracy (2008); and a free to download e-book (co-ed. with Niki Seth-Smith) [Democratic Wealth](#) (2014).*

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### Abstract:

Contemporary discussions of a fairer and environmentally sustainable economic system frequently refer to the notion, or notions, of the 'commons'. One expression of this is the interest in 'commons-based peer production', a form of decentralised, cooperative production of goods outside of both the market and state command-and-control hierarchies. However, while occurring in a space of voluntary association outside of the state or market, some proponents of the commons paradigm envisage a constructive role for the state as a 'partner' in facilitating commons-based production, e.g., through creating supportive legal and physical infrastructures. What, if anything, justifies this role for the state? Some arguments for the distinctive value of commons production seem to rest on accounts of virtue and the good life. If these considerations are used to justify state support for commons production, then the proposed justification or justifications look questionable from the standpoint of (some) liberal conceptions of political legitimacy that emphasise the value of eschewing comprehensive ethical theories and related claims in public justification. To what extent can a case for state support for commons production be made on grounds that do not appeal to claims rooted in comprehensive ethical doctrines? This paper aims to identify a range of considerations, including environmental ones, that can plausibly ground a liberal, non-perfectionist case for state promotion of commons-based production.