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Fragment:
Property and Rule in the 21st Century

Preface

The purpose of this fragment is to summarize those insights I have been able to gain in the course of research and teaching over the last 16 years. The core area of my thinking has been, in a variety of fields and with reference to different empirical problems, the question of the relationship between property and rule within different social formations.

Due to its conditions of production, this text does not contain an exhaustive account, but rather a summarized, hopefully reasonably consistent and brief argument, rounded out by some normative considerations. I am aware that the format of this text necessarily contains abridgements and many omissions, some of which are certainly problematic. I also apologize to my colleagues if I can only summarize the insights I have adopted from them, and in some cases only superficially. In spite of all these limitations, I hope that the text will serve as an invitation to further study of what I see as the central question of our age.

My greatest thanks go to the more than 400 interlocutors with whom I was able to talk about this matter over the course of time. These include politicians, legislators, judges, lawyers and officials (in nation states and international organizations), as well as many representatives from indigenous and local communities, NGOs, businesses, journalists, development workers and priests. It goes without saying that the perspectives of these diverse groups of people are often widely divergent, but they all helped me to form my own assessment. For this I am more than grateful.

§ 1: What is property?

1. Property as social practice

In its most general form, property may be viewed as a bundle of rights, agreed upon between people, to tangible or intangible objects. Over time, various authors (such as Hohfeld 2001, Ostrom 2012) have developed numerous taxonomies of these various rights, as in, for example, the differentiation among the rights of possession, disposal, distribution and destruction. These (and other) rights can be attributed to a single person, but also separately to different persons. By way of example, the French *droit morale* prohibits the owner of a work of art from modifying it without the consent of the author

(*Code de la propriété intellectuelle*), and many local communities in the Global South clearly distinguish different types of use for the resources available in nature (Eimer 2013).

The allocation of property rights thus defines, first, the relationship of persons to each other with regard to the objects of this earth. As a speech act (Austin 1962), property rights determine which modes of use people may avail themselves of in relation to things. Thus, property rights are always an expression of an interpersonal practice: a Robinson Crusoe could not own anything, because he would be unable to distinguish his property from that of another. At the same time, property rights also have a quasi-ontological function: the specification and parceling-out of objects for the purpose of formulating property rights constitutes them as perceptible by the human mind and distinguishable from other objects.

2. Contingency of property derivations

Since antiquity, a wide variety of arguments regarding the justification and derivation of property has developed to explain its genesis. The brevity of this fragment does not allow for a comprehensive presentation, and therefore focuses on a few central points. In pre-Christian and early Christian concepts, the starting point is a pre-legal general mass of natural resources and artifacts, from which specific individual or group-based and preliminary claims to property may be derived; however, these remain subject to a separately-defined *dominium proprium*, the supreme property either of the state or spiritual authorities (Drahos 1996). In many – albeit rather vague – legal concepts used in modern nation states (for example "eminent domain" in India, the social bond of property in Germany, "property of the Union" in Brazil), or in international law (the "collective heritage of mankind"), the idea of such supreme property still reverberates. Yet by the late Middle Ages and in European modernity, the thinking of Machiavelli and Locke prevails. Here, property is depicted as the result of the processing of things by human effort ("*industria*," "labor"): through agriculture, innovation and other human activities, man makes the world "his own" and justifies taking from the *terra nullius* of unused resources or yet-to-be-produced artifacts (Locke 1978).

The modern interpretation has significant conceptual weaknesses and, as Proudhon (1844) clearly shows, tends to reflect the ideological self-assurance of the emerging early capitalist bourgeoisie. For instance, the derivation of property from labor does not explain how we could justify a right to ourselves and to our bodies through labor, or out of what obligation an object devoid of consciousness and volition could conceive of itself as the property of a person (Kant 1966). Nevertheless, most justifications of property in early European bourgeois societies are based on the explanation of property from labor, and even Marxist writings structurally resort at least in part to this construct. By contrast, in pre-capitalist societies especially, utilitarian explanations tend to predominate. From

Scottish moral philosophy onward, the dominant idea has been that property rights serve the formation and progress of social orders (Smith 2015).

In spite of the multiplicity of justifications in modern Europe, it ought not to be forgotten that the derivation of property rights can also follow completely different patterns. Religious legitimations and conventions commonly play an important role. In rural communities of the Global South, for example, healers and other traditional authorities often determine how and under what circumstances ownership of material and non-material objects can be justified, sometimes by application of metaphysical distinctions between materiality and immateriality (Eimer 2014). Yet even Western justifications are at least partially based on far more archaic views (e.g. property as a result of family succession) than we would like to admit today. In summary, it would appear important to stress that there is no inherently logical justification or derivation of property, but that all lines of argument ultimately only represent attempts at an explanation or legitimation by the authors of their time.

3. Institutionalization of ownership claims

Given the centrality of the point for this fragment's line of argument, I would like to at least briefly discuss the differentiation of ownership claims, especially as they are often used in modern philosophy and modern institutional and transaction-cost economics. Here, a fundamental distinction is made between the allocation of property rights to individual claimants (private property) and the general public (collective property). In the case of private goods, the subcategory exists according to which several – usually well-defined – claimants may share the use of a property right (club good); this is in contrast to the use of collective property rights limited to a certain group of persons, but which remain rather unspecific in common, or which arise spontaneously (commons).

Many authors presume that certain objects in this world have at least a natural tendency to develop a specific form of institutionalization in relation to ownership (e.g. Musgrave / Musgrave 1973). This presumption is often linked to functionalist explanations. It is thus assumed that private goods are used in a particularly efficient and resource-saving way due to individual self-interest (Hardin 1968), whereas pure collective goods are in danger of being underproduced or overused. On closer examination, however, these explanations are neither empirically nor normatively convincing. With the example of the privatization of the English rural commons, Polanyi above all (1957) illustrated empirically that the categorization of ownership is quite mutable over time. More contemporary instances of this would be the privatization of publicly regulated housing, or other forms of civic resource-sharing (such as temporary housing leases), which are increasingly moving from the commons to the club-property sector. But normatively, it

is also difficult to see why certain things would be assigned to a specific category of ownership. Why should public safety become a private good? From the vantage of the *longue durée*, the ongoing historical dispute over the institutionalization of claims to ownership actually demonstrates their fundamental contingency.

Summary

Property can be understood as the performance of a speech act that determines the relationship of people to each other and to the objects of earth, and defines the latter in this way. The derivation and justification of property, however, ultimately remain inconsistent and, at least in their initial forms, appear to be grounded in myth. As such, property constitutes a paradox: on the one hand, it cannot, in the end, be justified; but on the other, the institutionalization of property rights is functionally indispensable, because only in this manner is our minimal, basic self-assertion and relation to the environment possible.

§ 2: How do property and rule relate?

1. Property and rule interwoven

Property and rule are reciprocal and interdependent. This follows from the definition of property as a social practice (§ 1.1). In order to be certain of the right of ownership over an object, people need partners in interaction who also recognize this right – otherwise it would only be a matter of arbitrary usage. In itself, this assurance can occur bilaterally between only two people, as in the form of a contract of non-interference with the property of another. In practice, however, such forms of recognition show themselves to be precarious. Differences in personal resource endowments (physical or intellectual power), or structural inequalities in the quality of potential means of power, always constitute an incentive to break out of a bilateral agreement and to appropriate the property of others by force. The resulting "war of all against all" would then, according to Thomas Hobbes (2004), make the human state of nature "solitary, poor, nasty, brutish and short."

In order to prevent this state of affairs from coming to be, it must be assumed that in the vast majority of cases property is to be secured by rule. In this context, ruling authority has the function of stabilizing the expectation that property rights will be mutually recognized by contracting parties. To serve this function, a ruling authority must have two characteristics. First, it requires *potestas*, in the sense of the capacity to exercise its coercive power over the contracting parties in actuality (Rowe 2013). In societies which are structured simply, this capacity can arise from the superior abilities (power and

intelligence) of a leader (feudal lord, prince or the like); but in more complex societies it may be vested in institutions which have already been otherwise established. Regardless of its origin, the *potestas* of the ruling authority gives parties to a property agreement certain protections against a potential breach of contract. In *The Civilizing Process*, Norbert Elias meticulously traces how a lone individual, through the mere prospect of the deployment of *potestas*, induces an increasingly large number of people to place their property rights under his or her protection, and, in exchange, to forego an independent use of their own lesser means of power. For Elias at least, this is the starting point for the development of progressively complex social formations, whereby a circular dynamic takes hold: the protection of property strengthens the authority of rule, which in turn makes a more effective protection of property possible (in a structurally similar manner to Nozick).

Customarily, however, the *potestas* of rule is unlikely to be sufficient to sustain this circuit. This is due to the aforementioned fact that ruling authority is embedded in other institutions and limited in principle (structurally and/or personally). In order to increase its degree of effectiveness, rule requires not only *potestas* but also *auctoritas*, viz. the belief of those subject to rule in its morally justified practice (Rowe 2013). Max Weber's distinction among religious, traditional, or bureaucratic sources of legitimacy maps well onto the spectrum of possible justifications of rule, in the sense of *auctoritas*. When applied specifically to the protection of property, it becomes particularly clear how various sources of legitimation have been interwoven up to the present. Notarized deeds, highly elaborate certifications and ceremonial rites of admission into the professions are commonplace even in our contemporary modern societies, and lend a veneer of religiosity to what are actually bureaucratic processes. On the other hand, more oral societies (such as indigenous communities) also use technocratic sources of legitimation to secure their own identity, as for example when documents and signatures are used in groups that are nearly without written language. Here again, the almost mythical character of property and the protection of it through rule becomes clear.

At least until the middle of the 20th century, many authors saw in the genesis of the modern (Western) state an almost ideal combination of *potestas* and *auctoritas* for the purpose of property-securing rule. In many cases, this was also associated with the hope of democratizing it – that is, of expanding the ranks of those involved in defining property. Both basic property rights (inviolability of the body or freedom of expression) and more complex rights of co-determination – within particular institutionalizations of ownership – were seen as stabilizing factors for the mutual protection of rule and property. However, this view may be doubted somewhat, because it underestimates two features of property that will be described in greater detail in the following sections.

2. Expansion of property and rule

A characteristic of property that should hardly be underestimated is its capacity for expansion. The most obvious example is spatial expansion. Since time immemorial, the territory subject to property rights has been expanding. While this expansion may have been limited to uninhabited areas during the earliest periods, it is quickly evident that the property claims of certain societies have been ignored by more powerful groups in order to generate more property for their own group. Even Augustine had remarked that a state is, at its core, an organized band of thieves for the appropriation of foreign lands. Almost all armed conflicts arguably demonstrate that, since the early Middle Ages, nothing fundamental has changed in this respect.

Alongside spatial expansion, the temporal expansion of property rights should likewise not be overlooked. Socio-technological developments such as the spread of written language and the introduction of money may be considered the most important driving forces in this regard. With writing (including its numeric form), and in contrast to oral agreements, effective, traceable, future-oriented property claims become possible. Compacts, contracts and other written instruments, insofar as they are secured through rule, allow credible expectations regarding the future protection of property, even among a large number of contracting parties. This development is massively reinforced by the growing use of money. Used initially and primarily as a means to increase the interchangeability of property claims, money extends the flexibility of exchange beyond an exact point in time toward a more distant future date. Since at least the official repeal of the ban on interest during the Reformation, money has no longer served merely as a means of exchange, but also as an alienable title to property – thus dramatically increasing its leverage (Marx/Engels). The possession of money, and its quantitative increase through interest, becomes an "asset": an accumulation of potential courses of action (Tönnies) by means of which the production of further assets may be transferred into the future and multiplied immensely.

In addition to the increasing prominence of money, intellectual property law in particular plays an important role for the expansion of property claims into the future. Property here refers not to the tangible, but to the intangible world (of ideas). Initially closely tied to the protection of written forms of expression, scientific and technical achievements in Europe and the United States could be subject to proprietary claims from the 19th century on, provided they were the result of individual inventiveness. The ownership of ideas has taken a qualitative leap due to legal and political developments in the USA since the 1980s. Two characteristics are typical here: first, property rights no longer refer solely to the results of human (intellectual) labor. Instead, the discovery of natural or logical regularities (such as gene combinations and algorithms) is also gradually being

transferred into the realm of proprietary entities. On the other hand, the expansion of property into the immaterial coincides with its spatial diffusion. An increasing number of world regions are being forced – though certain colonially-privileged states' claims to rule – to remove intangible objects from their general powers of disposal, even if this contradicts their own legal concepts considerably, entails significant damage to the basic needs of their own populations (as in patent protection for medicines) and hinders their own technological progress.

But honoring a pledge of money, time and ideas still requires the existence of a trusted authority, in the sense of both *potestas* and *auctoritas*, to enforce it. In the 19th and 20th centuries, this function was primarily vested in the state apparatus. Beginning with the bourgeois revolutions of the Enlightenment, but especially in postwar Europe, this is indeed associated with at least a partial democratization of rule, in which different social factions jointly claim to define property rights, albeit under quite different basic conditions and chances of success.

Yet a paradigm shift may be identified in the wave of liberalization that began in the 1980s, accompanied by its ideological correlate neo-liberalism. Rule over specific property rights has increasingly shifted to functionally defined transnational and international bodies (transnational regimes, international and regional organizations, sector-specific networks), albeit with the participation of state authorities. At the same time, however, the complexity of functionally intertwined networks of rule leads to disillusionment in the hope for any kind of democratic control. Many authors refer to a new medievalism at the end of the 20th century, in which the numerous, functionally overlapping jurisdictions of securing property grow so unwieldy that a synoptic view becomes impossible. As a consequence, the hope of partial ruling rights vanishes for broad layers of the population. The numerous mass protest movements at the end of the 20th century expressing increasing doubt about the *auctoritas* of the existing ruling institutions are a response to this.

3. Concentration of property and rule

The second essential characteristic of property lies in its tendency to be concentrated in a shrinking circle of ownership. Although no historically constant process can be identified here, there nevertheless appears to be a movement throughout the ages toward an emphasis on forms of private property as opposed to collective property – a process occasionally punctuated by revolutions and (more rarely) radical reforms.

The reason for this tendency in development is that property significantly increases the rights of disposal over both objects and interpersonal interactions (§ 1.1). The power of disposal over objects, as postulated by property, enables the accumulation of *potestas*.

Owners are able to intervene significantly in the *status quo* of the material and non-material environment and reshape it to their own advantage. This power increases again considerably if their authority refers not only to the near present, but also to the future. Increased power of disposal over property is accompanied by an increased power to intervene and even to determine interpersonal relations. Property generates wealth, and wealth in turn increases the capacity to rule. The cycle repeats itself when this ruling capacity is used to gain even more property and power.

However, because attaining power and ruling capacity are elementary components of human need, it is reasonable to assume that individuals will always attempt to transform general property relations into individual claims, and thus to widen the scope of property, wealth and rule. With the expansion of property from present to future claims (see § 2.1), it can be stated that the radius of this circle tends to grow. Individual property gains in importance and collective property recedes. Even if this dynamic is interrupted time and again by revolutionary counter-movements, or occasionally by radical social reforms, this appears to be the constant trajectory.

It is not possible at this point to provide a historically comprehensive overview of this trend in development. Nevertheless, it will be noted at the end of this section that the leveraged forces strengthening individualized claims to ownership have once again increased enormously in significance, especially after the failed attempt at re-communization across the Eastern European states. The Washington Consensus, the guiding principle of the 1990s, is arguably a paradigmatic example of this. Its mantra was privatization even of those goods that Keynesian-inspired economists had recommended for collective management, and this led to massive socioeconomic catastrophe and the failure to meet even the most basic needs (such as supply of water), especially in developing and emerging countries. To be sure, intellectual counter-movements like Elinor Ostrom's stress on the commons as an alternative still occur even now within the field of *auctoritas*. But these counter-movements are incorporated into the neo-liberal paradigm in much of the world. They often serve (as in Tony Blair's "Third Way") to justify a further dismantling of state ownership of infrastructure and social services, the replacement of which is then left to an unspecified commons, which in the final instance legitimizes the concentration of private ownership in an ever-narrower circle of commercially driven organizations (corporations, investors or even individuals). As will be shown later, this development lays the foundation for the relationship between property and rule in the 21st century.

Summary

Property and rule are intrinsically intertwined. The enforcement of property claims, whether collective or private, requires a guaranteed safeguard by a third party capable

(*potestas*) of imposing effective sanctions for breaches of contract between propertied agents. At the same time, this governing body must enjoy the normative or even moral trust of the contracting parties and broader circles (*auctoritas*), since a perpetual exercise of its *potestas* would overburden all ruling capacity. If ruling authority can however secure property effectively, it promotes a spatial and temporal extension of itself. Yet again simultaneously, rule through wealth awakens the need for individual acquisition of the property claims it secures, and thus promotes a concentration of ownership: away from larger collectives and toward smaller private units.

§ 3: How will property and rule develop in the 21st century?

1. Connection between property expansion and concentration

At the start of the third decade of the 21st century, there is an evident connection between the expansion of property and its concentration. First, it should be noted that the territorial expansion of property has by no means reached its end point. Investments in areas previously excluded from human use are still the norm, especially in the countries of the Global South, as can be seen in the deforestation of Latin America and many areas of Asia. But other territories, which until now have hardly known any specific instantiation of property, are also increasingly caught up in this expansive pull – think only of the depths of the oceans. It is already foreseeable that in the future the human claim to property will by no means be limited to our planet, but will also extend to other parts of the universe.

The last remarks already indirectly refer to a new dimension of the expansion of property which increasingly also concerns areas of the imagination. The reduction of CO2 emissions levels through trade in certificates would be an obvious example of this. Promises to refrain from the use of emissions rights and to reforest or maintain forest areas are mathematically highly complex, but often in practice they turn out to be vapid schemes – or, they barely achieve their intended effect on the real environment (Eimer 2020). During the crisis of 2008/2009, it became even more apparent that in the financial world, the proprietary exchange of imagined financial values occurs by way of increasingly complex vehicles whose composition even their inventors themselves usually no longer understand, and whose valuation by other agents (the rating agencies, accounting firms etc.) fails more often than succeeds. Nevertheless, the complexity of monetary property commitments increases continuously, and this manifests itself in ever-more intricate financial constructions. Such commitments are often decoupled from any correlate in the material world, as they are hardly – or not at all – connected to economic dynamics such as the real productive output of firms. With Baudrillard, one could say

that an ever-lengthening chain of signifying systems is becoming independent, and is subjected to propriety commitments without any equivalent physical value.

The extension of property from the material through the immaterial to the imaginary also simultaneously accelerates the concentration of private ownership. There are three reasons for this. First, only a small part of the world's population is at all capable of participating in this new dimension of property. The mastery of complex signification systems requires enormous assets in previously acquired property, possessed only by a very few. Second, the increase in complexity requires a level of technological expertise and social capital (Bourdieu) that the general population lacks, and thus runs counter to its likely participation in this dimension of property. Third, the focus on imagined property promotes a withdrawal of resources from the material world. For example, as the speculative value of real estate rises, ownership of it becomes unattainable for an ever-larger part of the population; the loss of real economic productive activity to speculative income from stock market gains effectively diminishes the opportunities for participation of those who are essentially dependent on those same productive assets.

One may doubt the exact scientific validity of critical NGO reporting and that of individual authors. Nevertheless, it is plain to everyone that the mass of property held by private speculators and entrepreneurs is rapidly increasing and comprises an increasing share of the world's wealth. Thus, property is increasingly becoming a private good or, at best, a club good in the hands of a network of privileged, often transnationally interlinked economic actors. Whereas in the 20th century the consequences of this development mainly affected regions of the Global South, in the 21st century these effects are also swiftly reaching the population in industrialized countries. This, however, also reduces the ability of the latter to effectively counteract a concentration of property in the hands of a few.

2. Merging of property and rule

The coupling of property expansion and concentration in the 21st century also permanently changes the relationship between property and rule. This is largely because both practices are losing credibility in the eyes of an ever-increasing proportion of the world's population, in terms of both *potestas* and *auctoritas*.

It is especially relevant for ruling power that citizens in many parts of the world have less and less confidence in the problem-solving capacity of public institutions in particular. Without going into the Covid pandemic in depth, the current crisis makes it clear how unsuitable the existing system of rule is for preventing, by means of *potestas*, massive damage to health and even the death of many people. The lack of public property (capacities, structures, personnel) affects not only the state institutions of rule, which have

already been weakened by privatization in developing and newly industrialized countries, but also those national systems of rule which have to date been depicted as "strong states."

Even the international and transnational institutions of "global governance"¹ developed over recent decades cannot provide any convincing answer as to how this pandemic can be combated in the long run. Yet if a relatively harmless virus in epidemiological-historical terms is able to disrupt the course of the world for over a year, how could one expect the looming and even greater catastrophes of this century (such as global warming and its social consequences) to be solved through the overlapping jurisdictions of 1990s-era "global governance"? If humanity's most basic property claims, such as the claim to one's own life, can no longer be secured, the *auctoritas* of both state and international systems of rule inevitably will decline.

But private property is also suffering a considerable loss of confidence. As described in Section 2, *auctoritas* was already its Achilles heel in the late 20th century. In the 21st, this crisis seems to be growing even more acute. Despite all efforts at concealment, it has become evident time and again that private property's extensive use of *potestas* damages its *auctoritas* significantly. Massive tax evasion and corruption cases, often coupled with human rights violations and environmental damage, are progressively more accessible to a broad public; the actions of many investors and companies against the most fundamental needs of the population worldwide have become common knowledge. It is probably not necessary to detail a complete list here, since many other activities of private ownership likewise indicate how little moral authority this sector can claim for itself.

If, however, rule is losing *potestas* mainly, and private property *auctoritas*, a stronger alliance – if not a fusion – becomes increasingly attractive for both, and is in fact already beginning to be observed. It is striking here that private property chiefly uses its assets based in temporal, intellectual and imaginary expansion to pressure national ruling institutions, and to force them to extend the reach of material private property even further. Due to their internal fragility, national ruling systems are often forced to respond in order to preserve a residual *potestas*. In the few cases in which nation states still have relatively greater *potestas*, they may even use it to boost their comparative advantage within the international order – one thinks above all of China and Russia.

For the majority of nation states, however, their rule is increasingly dependent on a synthesis with private property. Depending on the structure of this rule, different variants emerge. They oscillate between rentier capitalism (e.g. Netherlands, USA), neo-

¹ Translator's note: English in the original.

patrimonialism (Russia, most Gulf states) and state monopoly capitalism (China). Many states attempt to salvage their well-being by "rescuing" real property in those industries from which they hope to strengthen their *potestas*, even if the future usefulness of this property as an asset appears questionable, including for the beneficiaries themselves. Subsidies for the German car industry, the British steel industry or Dutch aviation are stark examples of this. At the same time, however, a more open state monopoly capitalism is emerging in other countries, in which rule is sustained not only nationally, but also internationally through an inseparable link with property – the growing importance of mercantilist policies even in highly interdependent market economies (USA, EU) are clear indications of this.

3. Risks and prospects for the 21st century

The fusion of rule with private property, as outlined above, simultaneously promotes the concentration and expansion of the latter at an increasingly rapid pace. Massive associated changes in the world order are to be expected. This includes firstly a dismantling of those transnational and international institutions of rule, or at least a restructuring in favor of a few beneficiaries. The current dependence of the World Health Organization on private foundation funds, the pharmaceutical industry and the contributions of a few states may be cited as a good example. It is true that the collapse of international institutions of power means that some state systems of rule will gain relative importance within the world order in the short term through their capacity to impose their preferences more effectively on other states. Yet at the same time, less powerful states will suffer a further loss of their own *potestas* due to the dismantling of the international order. From a long-term perspective, it is even questionable to what extent even the remaining great powers can continue to maintain their *potestas* against concentrated private property, or if relations of dependence will not shift increasingly in favor of the latter.

In any case, concentration of private property leads to an intensification of the loss of power for the broader layers of the population. If the *potestas* of the (national) ruling apparatus delivers an ever-diminishing collective infrastructure, the population dependent on collective property increasingly misses its chance to lead life in accord with its own ideas. Pauperization and austerity, once typical features of the regions of the Global South, have long since had a lasting impact on the peripheries of the industrialized world – the southern European EU states may be used as a prime example here. Now, however, the core regions of the ostensibly strong states are also revealing how little the general public is protected from impoverishment, indebtedness and destitution. The increasing precariousness of their inhabitants is becoming steadily more visible in the hubs of the OECD world.

So far, however, there has been largely no resistance to this development on the part of the population at large. There are various reasons for this. First is the attempt by national systems of rule to use the remaining *potestas* against their own populations. In doing so, they do not hesitate to suspend those basic proprietary rights, such as freedom of expression and association, which once underpinned the *auctoritas* of those very systems of rule. Bans on protests and strikes became part of the standard repertoire of southern European governments during the financial crisis. In the course of the Covid crisis, however, it is also evident in northern Europe how little restraint is shown in banning protests, restricting access to public space and developing digital surveillance systems capable of altogether different freedom-restricting uses once the pandemic has subsided.

At the same time, but presumably even more fundamental, are changes in the conceptual space and within the population itself regarding what is politically possible. The hegemonic position, which has persisted since the 1990s, that the concentration of private property is preferable to a larger degree of collective forms of ownership, has become so entrenched in the consciousness of many citizens that they simply no longer believe in the possibility of alternative forms of distribution, or – for the younger generations brought up after the end of the East-West antagonism – have never known them at all. Clear evidence of the erosion of belief in collective ownership is the disintegration of left-wing parties and groups in the majority of industrialized countries. But even in emerging countries, belief in the superiority of private property has reached a level that makes reexamination seem unlikely. Consumerism and the addiction to the short-term satisfaction of even the most banal desires are ranked by a majority of even the petit bourgeoisie above the insight that long-term sociopolitical reforms would be far more likely to guarantee their own long-term interests, and far more sustainably. Even those spheres commonly associated with spirituality are often converted into spaces for the creation of club goods. The increase in evangelical congregations and attendant self-enrichment of a few priests collaborating with each other would probably be the clearest example of this.

These lines of development do not exclude the formation of associations that are socially, spiritually and economically communal in character. For the Western world, this can be seen in the increasing appreciation of closer family ties, the ostentatious preference for local production goods (especially food) and the generally growing appreciation for the local vicinity. At least in part, these developments represent an almost necessary reaction to the state's withdrawal of collective provision, since even basic needs can hardly be met without the participation of the immediate family group. At the same time, however, this development also points to a change in orientation in segments of the population, who no longer seek purpose in their lives through participation in the highly complex state or supranational systems of rule, but rather in their attachment to smaller and most

importantly more homogeneous communities. Right-wing parties in particular are both an expression and a driving force of this development, since they promise a sense of meaning outside of those apparatuses of rule perceived as technocratic, and which have largely lost their *auctoritas*.

Yet in the Global South too, the tendency to retreat to the small scale can be observed taking place with greater intensity. Here, communal associations are indicated by the fact that one's own ethnicity is placed in the foreground, often in connection with special traditions and religions. Regardless of the geographical region, there is currently a worldwide tendency toward communal fragmentation, as confined by small-scale sub-state territories. Aspirations to autonomy and the desire for secession are growing stronger worldwide. With this development, a rise of nationalism in some countries is not precluded, but this comprises only a minority of existing states. In view of this advance of small-scale zones of identity, it is perhaps not going too far to speak of tribalization in numerous regions of the world, along the lines of the new medievalism of the late 20th century. Depending on the extent of this tendency and the willingness of more powerful governing systems to strengthen individual groups, there is the danger of a multitude of small-scale conflicts that end lethally for many populations, or at least diminish the already meager resources of the commons. Because of the lack of both *potestas* and *auctoritas*, even among these major powers, sweeping warlike confrontations, say on a world scale, are unlikely at present. More likely is an increase in pinprick outbreaks of violence arising from the antagonism of and overemphasis on group-specific identity on the one hand, and the attempt of state systems of rule to preserve the rudiments of their *potestas* and *auctoritas* on the other.

Can this development be arrested? The present fragment certainly cannot provide a comprehensive answer to this question, and even a great number of authors would probably only be able to develop a holistic concept with considerable difficulty; the question of the possibilities of implementation would always remain open. I will therefore limit myself to only a few concluding thoughts. It seems to me to be the highest priority that we return to those insights described in Section 1. Within the framework of collective awareness, it appears to me necessary to abandon the current prevailing assumption that property is a law of nature. We must get back to that starting point which sees property as social practice and thus also – in principle – alterable and malleable. Only then will it be possible to question the fusion of property and rule, and thus also to counteract the concentration and expansion of private property. However, in light of the already advanced extent of property's expansion, such a development cannot take place at the level of the state (alone), but must be set in motion by international ruling institutions. This is because neither the *potestas* nor the *auctoritas* of even the most powerful state-controlled territories is adequate. Should an establishment of clear

supranational institutions of rule be achieved, it might even be possible to use the technological progress attained thus far to enable a greater part of the world population to co-determine the distribution of general and private property globally, and to adopt the various myths of justification from all regions of the world in the process. For this purpose, it may be helpful to return to the oldest derivations of property, based on a primordial *dominium proprium*, where the world belongs to all of its inhabitants in common.

I am fully aware that especially the last paragraph of this fragment belongs to the realm of utopia rather than scientific knowledge production, but I believe we must think along such lines in order to avoid a scenario in which all of our lives revert to the Hobbesian state of nature and become for most of us "solitary, poor, nasty, brutish and short" (Hobbes).

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