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Imagine a World of Individual Flourishing

Imagine no possessions,
I wonder if you can,
No need for greed or hunger,
A brotherhood of man,
Imagine all the people sharing all the world.

John Lennon, “Imagine”

We don’t need to imagine a society with no possessions, with no private property. Throughout human history, there have been societies with no private property. These attempts to create a society in which everything is shared have not resulted in the earthly paradise envisioned by Lennon and his fellow travelers. Instead, the result has been a living hell.

Private property rights are a fundamental enabler of individual flourishing. When property rights are recognized and protected, individuals have the incentive and the means to produce the values that life requires. When property rights are not protected, they don’t. With property rights, individuals flourish. Without property rights, misery and suffering are the result.

The right to property means the freedom to create, use, keep, trade, and dispose of material values. It means the freedom to farm, build homes, develop websites, and manufacture smart phones. It means the freedom to trade the results of one’s production with willing buyers. It means the freedom to purchase automobiles, DVDs, and Internet service from willing sellers. It means the freedom to create, acquire, and use the things that make our life better. The right to property protects the freedom of each individual to produce and consume the things that he needs and desires—to flourish. A society cannot flourish if the individuals comprising it are not free to flourish.

While history provides us with untold examples of this principle, over the past several decades two nations—Venezuela and China—have demonstrated it in different ways. One nation has slowly rejected Lennon’s vision and enacted greater protections for property rights. The other nation has rejected property rights and moved closer to Lennon’s ideal of a society with no possessions—private property. The well-being of the citizens of the two countries reflects these trends.

Let us begin by looking at the recent history of Venezuela.

From Flourishing to Misery

In the 1980s, Venezuela was the richest country in Latin America. While government officials were corrupt and frequently used the nation’s resources to enrich themselves and their cronies, some semblance of property rights existed and were protected. But that began to change dramatically in 1999.

In that year, Hugo Chavez was elected President of Venezuela. Since that time, Chavez and his successor, Nicolas Madura, virtually eliminated private property in the nation, despite

Article 115 of the Venezuelan Constitution, which states: “the right of ownership is guaranteed. Everyone has the right to use, occupy, enjoy, and dispose of their private property.” But the law and its objective enforcement are often two very different things. And that has been the case in Venezuela.

During his tenure, Chavez seized much of the nation’s farmland, declaring that “Land isn’t private; it’s the property of the nation... Land is, by nature, the property of everyone.”¹ He also nationalized some of the largest companies in Venezuela, including those in steel and steel bars, cement, electricity, and fertilizers. He confiscated the nation’s last privately-operated oil field from a conglomerate consisting of six international oil companies who had invested \$17 billion in the project. In early 2017, Madura seized a General Motors plant in Venezuela and the company promptly announced that it would cease operations at the plant. But large companies aren’t the only businesses subject to seizure by the Venezuelan government.

In December 2016, the government seized four million toys from a toy distributor to give to children for Christmas. The director of Venezuela’s fair pricing authority alleged that the company was attempting to sell some toys at a price higher than that allowed by law. He claimed that the action would teach businesses “that you can’t play with the rights of Venezuelans.”²

In March 2017, the government took over two bakeries amidst a bread shortage. The government accused the bakeries of engaging in “economic war” intended to destabilize the country. According to the *Miami Herald*, “In a statement, the government said the bakers had been selling underweight bread and were using price-regulated flour to illegally make specialty items, like sweet rolls and croissants.”³ In Venezuela, bakeries are only allowed to produce French bread and white loaves, and they must use flour that has been approved of by the government.

When Chavez took power in 1999, there were about 13,000 international companies operating in Venezuela. By the end of 2016, more than two-thirds had fled because their property had been taken, or they feared such action was imminent.

Chavez and Madura ended the freedom of individuals to produce and trade values. Farmland was seized and then left fallow. Major companies were nationalized and production plummeted. Indeed, in July 2017, it was reported that oil production—which is the country’s primary source of revenue—has declined in ten of the past eleven years. And it declined further in the first half of 2017 because the government had failed to make payments to the companies pumping the oil out of the ground.

Despite Venezuela’s constitutional guarantee that individuals have “the right to use, occupy, enjoy, and dispose of their private property,” the government has repeatedly and consistently refused to protect that right. The government has not only seized private property, it dictates how businesses can operate and the prices they may charge. The

1. Christopher Sabitini, “Venezuelan President Hugo Chávez Versus the Human Right of Private Property,” *Americas Quarterly*, May 19, 2009, <http://www.americasquarterly.org/chavez-private-property>, accessed October 21, 2017.

2. “Venezuela seizes 4m toys to distribute to poor children as Christmas gifts,” *The Guardian*, December 10, 2016, <https://www.theguardian.com/lifeandstyle/2016/dec/10/venezuela-toys-kreisel-christmas-gifts-poor>, accessed October 21, 2017.

3. Jim Myss, “Venezuela has a bread shortage. The government has decided bakers are the problem.” *The Miami Herald*, March 16, 2017, <http://www.miamiherald.com/news/nation-world/world/americas/venezuela/article138964428.html>, accessed October 21, 2017.

freedom to create and trade values is disappearing in Venezuela, and with it, the ability of individuals to flourish.

The International Property Rights Index for 2017 ranked Venezuela 126 out of 127 countries.⁴ In 2007, the nation ranked number 65. In only one decade, property rights in Venezuela were virtually eliminated. And not surprisingly, as property rights have been destroyed, the well-being of Venezuelans has declined. Deprived of the freedom to create and trade material goods, they can't create and trade the material goods that life requires.

The Global Misery Index has ranked Venezuela in the top spot in 2014, 2015, and 2016. In 2016, the country "achieved" a score of 573.4, which was a dubious "improvement" from its score of 106.3 in 2014.⁵ Argentina, which came in second, had a score of 83.8. As a point of comparison, the United States scored 9.4. While the Global Misery Index tells us that the well-being of Venezuelans has deteriorated substantially, what does this really mean? How have the lives of individuals been impacted?

Since 2013, shortages of such basic items as toilet paper, flour, and milk have been common. And even when stores have items on their shelves, prices are skyrocketing and often unaffordable to many Venezuelans. According to the International Monetary Fund, inflation was projected to reach 720 percent in 2017 and 2,000 percent in 2018.⁶ Doctors quit performing many surgeries in 2014 because of a shortage of supplies. As companies leave the country or curtail their operations, a growing number of employees are losing their jobs. The government quit reporting unemployment statistics, which is telling in itself. However, *CNNMoney* reports that unemployment was expected to reach 25 percent in 2017.⁷

By any rational measure, Venezuelans are suffering horribly. And the fundamental reason for their suffering is the absence of property rights. Without property rights, Venezuelans do not have the means to produce even life's most basic needs. As the nation moves closer to Lennon's "brotherhood of man," misery is expanding. Venezuelans aren't free to create and trade the goods and services that life requires. In upcoming chapters we will examine the connection between property rights and individual flourishing in more detail. But first, we will turn our attention to a nation that has been moving away from Lennon's idea of utopia and slowly enacting greater protections for property rights.

From Misery to Flourishing

In 1949, the communist government of Mao Zedung took over power in China. The government embarked on a program to collectivize farms and nationalize industry. By 1956, nearly two-thirds of all industrial enterprises were state owned, and the other one-third were under joint public-private ownership. No privately owned industrial firms remained in China. In 1955, collectivization of farms began to intensify. This eradication of private property was known as the Great Leap Forward.

4. "International Property Rights Index 2017," Property Rights Alliance, <https://www.internationalpropertyrightsindex.org/countries>, accessed October 21, 2017.

5. The Misery Index is calculated by adding unemployment, inflation, and bank lending rates, and then subtracting the change in Gross Domestic Product.

6. Stefano Pozzebbon and Patrick Gillespie, "Venezuelans are losing weight amid food shortages, skyrocketing prices," *CNNMoney*, May 3, 2017, <http://money.cnn.com/2017/05/03/news/economy/venezuela-food-prices/index.html>, accessed October 21, 2017.

7. Patrick Gillespie, "As protests swell, Venezuela's economic crisis deepens," *CNNMoney*, April 20, 2017, <http://money.cnn.com/2017/04/18/news/economy/venezuela-economy-protests-imf/index.html>, accessed October 21, 2017.

However, China did not “leap” forward. From 1959 to 1961, the economy regressed and the nation suffered a famine that historians estimate killed tens of millions of people. Historian Frank Dikkoter, who specializes in modern China and studied the official records of communist officials, estimates that at least 45 million died during the Great Leap Forward.

During the famine, food was often withheld or doled out by the spoonful to force people to obey government officials. In 1959, Mao ordered the seizure of one-third of the nation’s available grain, declaring, “When there is not enough to eat people starve to death. It is better to let half the people die so that the other half can eat their fill.”⁸ To Mao, China would move forward by climbing over a mountain of corpses.

But the famine was only one cause of death. Dikkoter believes that two to three million were tortured to death or simply executed, often for minor offenses, such as not working as hard as party officials believed they should. He estimates that another one to three million committed suicide rather than endure the widespread misery Mao’s “brotherhood of man” unleashed on the country.

Upon the death of Mao in 1975, Deng Xiaoping began a series of reforms that reduced government control of the economy and began moving in the direction of protecting property rights. The reforms began furtively, with the government giving more autonomy to factory managers and farmers. Though China officially recognized virtually no private property, some individuals were permitted to treat their operations more like private property—they were allowed to make decisions regarding production and the compensation of workers. They were given more freedom in the use of the property under their control. Production immediately improved, with the availability of food, housing, and other consumer goods increasing. As one example, between 1975 and 1985, agricultural production increased 25 percent.

Encouraged by this success, the government embarked on another series of reforms that included legalizing and encouraging private businesses, privatizing state-run enterprises, deregulating, and lifting price controls.

Since the reform movement began, the Chinese government has increasingly enacted laws to strengthen property rights. In 2004, the government passed its first law protecting private property. Though tentative and lacking teeth, it was a significant step forward (not a Great Leap Forward). In 2007 and 2016 it passed further protections. More importantly, the laws are generally respected and enforced, unlike those in Venezuela.

Since reforms began, the Chinese economy has arguably been the most vibrant in the world. Economists estimate the nation’s GDP growth to have averaged between 9.5 percent and 11.5 percent from 1978 to 2013. In 1978, the per capita disposable income in China was less than \$1,000 per year. In 2016, per capita disposable income had risen to more than \$33,000.⁹ The Chinese not only have more money to spend, the growing economy provides more products to purchase, including cell phones, televisions, and other modern conveniences.

Protecting property rights—even slowly and tentatively—has unleashed China’s innovators and entrepreneurs. According to the World Bank, China’s reforms lifted more

8. Frank Dikkoter, “Mao’s Great Leap to Famine,” *The New York Times*, December 15, 2010, <http://www.nytimes.com/2010/12/16/opinion/16iht-eddikoter16.html?mcubz=0>, accessed October 21, 2017.

9. “China Disposable Income Per Capita,” TradingEconomics.com, <https://tradingeconomics.com/china/disposable-personal-income>, accessed October 21, 2017.

than 800 million people out of poverty, reducing the nation's poverty rate from 88 percent to 6.2 percent in just thirty years.¹⁰ By nearly every measure, the Chinese people are flourishing.

While China's efforts to protect property rights have not been perfect—as one example, individuals cannot own land—the nation has made dramatic improvements. The lives of Chinese have been improved in equally dramatic fashion. And they did it by moving from a world in which private possessions were prohibited to a world in which private possessions are encouraged. China has demonstrated that private property enables individual flourishing.

In 1995, the Heritage Foundation gave China a score of 30 on property rights. In 2017, the score had increased to 48.3.¹¹ Venezuela went from 50 in 1995 to 6.8 in 2017.¹² While Venezuela and China present starkly different lessons regarding the importance of property rights to individual flourishing, many in America have not learned those lessons. America is following Venezuela's path, if not in degree, then certainly in kind. From 1995 to 2017, America's score on property rights has declined from 90 to 81.3. America has declared war on property rights, and that war has many facets.

America's War on Property Rights

Suzette Kelo purchased her dream house in New London, Connecticut in 1997. But her dream soon became a nightmare.

The following year, the city of New London gave eminent domain powers to the New London Development Corporation (NLDC), a private organization that wanted to condemn Kelo's neighborhood to make way for a private development. The NLDC argued that the new development would bring in more tax money and create economic opportunities for the community, and thus qualified as the "public use" that eminent domain can be used for.

Kelo sued, and the case eventually reached the Supreme Court. The Court ruled 5-4 against Kelo, and the NLDC seized her property, as well as that of her neighbors. The development plans of NLDC eventually fell through, and today the land is a vacant field.

Parkview Associates obtained a building permit to erect a 31-story condominium in Manhattan in 1985. Seven months and \$7.2 million later, the structural work had been nearly completed and much of the mechanical work was finished. Then, the City of New York ordered work to halt, stating that the building permit had been issued in error. Ten days later, Parkview was ordered to remove the top twelve stories of the building because the location was zoned for buildings no taller than nineteen stories. The Supreme Court refused to hear the case.

Spec's Spirits and Fine Foods, one of the largest liquor retailers in Texas, opened a new store in Houston in 2008. A year later, the city informed Spec's that the permit for the store had been mistakenly issued. The store was located within 1,000 feet of a school, which city ordinances prohibit. Spec's had been aware of the proximity of the school and had noted it on its application to the city. When a permit was issued for the store, Spec's assumed that a waiver had been granted. The city claimed a clerical error, and Spec's eventually surrendered its license for the store after spending nearly \$2.5 million.

10. "The World Bank in China," The World Bank, <http://www.worldbank.org/en/country/china/overview#1>, accessed October 21, 2017.

11. "2017 Index of Economic Freedom, China," Heritage Foundation, <http://www.heritage.org/index/country/china>, accessed October 21, 2017.

12. "2017 Index of Economic Freedom, Venezuela," Heritage Foundation, <http://www.heritage.org/index/country/venezuela>, accessed October 21, 2017.

Andy Johnson owned an eight-acre ranch in Wyoming. He built a small pond on his property and stocked it with trout so his grandchildren could fish. The pond attracted ducks and geese and became a tiny sanctuary for wildlife. But the Environmental Protection Agency (EPA) wasn't happy with Johnson's actions and threatened him with fines of \$75,000 a day for violating the Clean Water Act if he did not remove the pond. Johnson sued the EPA and accumulated nearly \$20 million in fines before the EPA finally withdrew its complaint.

Each of these stories has several things in common. The most obvious commonality is that these individuals and businesses were deprived of their property. They were deprived of their property, not by a burglar or mugger, but by the government—the very institution that was formed to protect individual rights, including property rights. That the government's actions were legal illustrates the fact that property rights are under attack. And those attacks are not coming from marauding bands of thugs, but from a plethora of government agencies. Each of these injustices is made possible by the same principles. And, as we will later see, the victims of property rights violations often accept and advocate those same principles. In accepting those principles, they sanction their own victimization.

The right to property means the freedom to do what you choose with your “stuff,” so long as you respect the freedom of others to do the same with their “stuff.” In the examples above, individuals and businesses were not free to use their property as they chose. They were deprived of their right to property.

Kelo was forced to “sell” her home. Parkview was forced to remove more than a third of its building. Spec's was forced to close a store. The EPA attempted to force Johnson to remove a pond. In each of these examples, individuals and businesses were prohibited from using their property as they wanted, even though they had not violated the rights of others or committed fraud.

Across the country, individuals are suffering a similar fate. Federal, state, and local laws erect a labyrinth of obstacles for property owners to navigate. The controls and restrictions include environmental regulations, business regulations, and land-use regulations, each of which forces property owners to seek the permission of government officials before they can use their property. And even when they obtain that permission, it may be later removed and the property owner is forced to bear the financial burden of the government's errors.

In America today, property rights are largely a façade.

We may own title to our land, our buildings, and our home. We may pay taxes on them and keep them maintained. But as the above examples demonstrate, our “ownership” is largely a mirage. The government may descend upon us at any time and restrict our use of our property. Or worse, government may simply take our property, as happened to Suzette Kelo.

Unlike Venezuela and China, where violations of property rights were applied to the entire country, these violations are more isolated. The regulations that victimized Kelo, Parkview, Spec's, and Johnson were limited in scope and application. And so, the destructive results were also more limited. The entire nation did not suffer when property rights were violated. But Kelo, Parkview, Spec's, and Johnson certainly suffered in the past. And until property rights are respected and protected, any one American can become a victim in the future.

Unfortunately, many individuals, including those in these examples, attempt to defend their property rights without identifying the moral principles underlying those rights. They proclaim that they are victims of an injustice, but they fail to identify and articulate why.

Moral Outrage Isn't Enough

The Kelo ruling sparked a national backlash against the use of eminent domain for private development. As an example, in 2015, *The National Review* said that Kelo “was the decision that got more people indignant than any other”¹³ since 2000. In response to the ruling, states across the country enacted new laws to limit the use of eminent domain, though many were little more than window dressing to appease angry citizens and did little to curtail the seizure of private property through eminent domain. Nor did they address the myriad other regulations that control and limit how individuals and businesses may use their property.

During Congressional hearings in the wake of Kelo, Thomas Merrill, a Columbia University law professor who once served as deputy solicitor general of the United States, told Senators that he found it “remarkable and indeed quite stunning” that there was such an “overwhelming reaction on the part of the American public.” He went on to say,

This really sobered me quite a bit. I’ve given a great deal of thought to what it is about the decision that has caused this. . . . And I think there are many explanations, but I think the nub of the problem is that the American people believe that property rights are invested with moral significance. It’s not just a measure of value. It’s something that people think has an important moral and constitutional dimension.¹⁴

Merrill is correct that there is a moral dimension to property rights. But unfortunately, few have identified that moral dimension. And so, the moral principles that gave rise to Kelo and the other examples cited above remain unchallenged and unrefuted. Indeed, those principles are widely accepted, even among critics of Kelo and other government regulations that limit and control the use of private property.

While Americans may sense that property rights involve a moral issue, few have the words to express it properly. They may sense that it isn’t proper to violate property rights, but they don’t know why or how to articulate that outrage in an effective manner. They don’t know how to defend property rights on moral grounds.

Being angry isn’t enough. We may not like certain policies, but if we cannot identify why and do so at a fundamental level, our anger is intellectually powerless. Anger may motivate us to action, but it will not persuade others. And more importantly, anger cannot effectively refute and defeat those who perpetuate these injustices.

Why were so many Americans angry over the Kelo ruling? The answer is: Implicitly, they viewed it as theft. And it was implicit because they did not identify the principles involved.

Theft is the act of taking someone’s property without his consent. This is true whether the property is taken by a burglar, a mugger, or a government agent. It is true whether the property is seized in its entirety, or our use of it is curtailed. If we cannot do what we want with our property, the value it holds to us is reduced. A reduction in value, by any means, including regulations and restricted use, is tantamount to taking something from us.

For example, suppose you have a four-bedroom house, but you are prohibited by law from using two of the bedrooms. You may as well not have them. Your inability to use two

13. Richard Epstein, “Kelo v. City of New London Ten Years Later,” *The National Review*, June 23, 2015, <http://www.nationalreview.com/article/420144/kelo-v-city-new-london-ten-years-later-richard-epstein>, accessed October 21, 2017.

14. “Hearing on Eminent Domain Laws,” C-Span, September 20, 2005, <https://www.c-span.org/video/?188951-1/hearing-eminent-domain-laws>, accessed October 21, 2017.

bedrooms diminishes the value of the entire house. Technically, it's a four-bedroom house. In practical use, it's a two-bedroom house. And that restriction has taken something from you.

Rational people recognize theft as an injustice. It is an act of taking something that one is not entitled to. It is an act of brute force, in which might supposedly makes right. This is true whether the theft involves taking the entire value, as with Kelo and Spec's, or only a part of its value, as with Parkview, Johnson, and two of your bedrooms. In each instance, the victims were deprived of their property.

Violations of property rights, no matter their form, are an injustice. They take values from individuals without their consent, even when they have done nothing to violate the rights of others. The property owner is innocent, and yet he is punished.

Many Americans sense that examples such as these are an injustice, but they are unable to identify why it is an injustice. And so, they are unable to clearly state, at a fundamental level, why these actions are wrong. At the same time, they do not understand the moral principles that give rise to property rights. The Kelo case serves as one example.

In this book, we will identify the source of property, the nature of rights, and the meaning of property rights. We will examine the moral principles that give rise to the right to property. We will then explore numerous ways by which property rights are commonly violated in America today. Only then can we identify the principles that underlie and unite these violations. In the final part of this book we will apply the principles of property rights to a variety of issues, including those supposedly solved by violating property rights. We will see how to effectively defend one of our most precious freedoms—the right to property.

If we do not want to follow Venezuela's path into misery, then we would do well to understand that property rights are a fundamental enabler of individual flourishing. To understand this, let us begin by identifying the source of property.

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