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Global Property – Global Power

SUMMARY: How can the classic scientific categories be construed under the new circumstances, in global contexts? How do the global system of property and the global division of assets develop? Is there a chance for the more fair, by now global distribution and redistribution of public goods? Will the global ownership power become even more concentrated or is it divisible? Does the global property have social responsibility as well, and how may that be enforced? Are the human rights related to property and social security universal or are they territorial? Can the national state balances of social solidarity knocked over in the hope for global solidarity? The study searches the answers for these questions and tries to help in searching for the ever compelling common answers.

KEYWORDS: globalization, property system, division of assets, division of power, global re-distribution, territorial rights

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*'Discover is seeing what everybody
has seen, and thinking what nobody
else has thought.'*
(Albert Szentgyörgyi)

In adapting the legendary thought of *Albert Szentgyörgyi* from the world of science to the gravest problems of social sciences today: everybody sees the foreshadows of a global disaster, but almost nobody thinks that this is actually the process considered as social 'developing' turning on itself, i.e. turning around.

GLOBALIZATION AND DEVELOPMENT

Most of the phenomena of globalization have overrun the opportunities of control by humans, since it is neither human-scaled, nor human-centered, but it has a compulsion to grow and is profit-oriented. Namely, chasing after giant

magnitudes getting further from humans – as it had already been established by *Schumacher* in 1971 – is a passion for self-destruction.¹ The furthest only a few got to in thinking is that although globalization has its disadvantages, it has far more advantages. Therefore, whoever stays out globalization, misses out. Albeit, the 'more' advantage had now become fiction, especially if incorporated in a broader context and looking further ahead. Globalization – which serves the interests of a narrow but very wealthy economic and financial elite primarily, and secondarily the interests of the richest countries – has more and bigger risks than advantages by now. If according to the orthodox economic scientific approach – and the political, legal, sociological, etc. scientific approach determined by it – 'development'

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shall mean everything that is growth, then it is obvious that more lending (more debt), more investment, more production and more consumption mean development. However, if all these are unsustainable because it causes more overpopulation more damage to the environment, more poverty, more natural disasters and more humanitarian disasters and human defenselessness, then it had drained its advantages until now, and it no longer can be considered as development. There are only few philosophers who research and² search for the ways of the 'non-growth-based development'. This process is progressing too slow compared to the pace and extent the disadvantages and risks of globalization are growing, although the new (unorthodox) thinking has started half a decade ago already, if calculated from the report of the Club of Rome (1968).

'THINK GLOBALLY, ACT LOCALLY!'

The first half of the well-known slogan of environmentalists and the 'anti-global' movements may be understood also as 'make use of the advantages of globalization' (these do not necessarily mean the compulsive growth!), while the second half may be understood as 'prevent and avert the disadvantages and risks of globalization locally, in your own environment and lifestyle'. The two together set the requirement that you should not break away from nature and the individual, and in particular you should never turn against the natural foundations of life, including the conditions of life which may be called human. But to whom do these requirements apply to, on what levels, and what tasks and specific action programmes do these requirements mean, being aware of the new challenges and risks of today?

For several millennia and today as well people are living in social communities which

formed states, therefore the primary obligation of the states is to not adopt acts which conflict the laws of nature or which let the natural foundations of life get ruined. The states shall not establish and shall not operate institutions which – along the lines of their distorted interests – can manipulate the masses and can gain power over the people, and which therefore can treat individuals and the masses formed by them as objects and can sink them into modern-day slavery (wage-worker and debt slavery), thereby infringe their human dignity. In addition to the national states, these requirements naturally extend to the intergovernmental and international organizations as well, since the global financial institutions rule the small and medium national states as well. It is public knowledge that by now, more than one third of the hundred strongest economic powers of the world are not states but transnational company groups, i.e. institutionalized ownership. The 'world dominance of corporations' – which had been forecast by *Korten* (1999) – is near.³ For this reason, individuals – each and every individual – have a special task both globally and within the states as well. According to famous Hungarian ecophilosopher *Ervin László* (2002), 'you can change the world', if you change yourself!⁴ Of course, this shall be understood to include 'each' of the more than seven billion individuals who live under marketing and advertising pressure and media power, and it is a giant task. If due to their conflicting interests, the institutions (i.e. the leaders) of transnational monocapitalism (TMC) and the national states and the institutions thereof (i.e. the leaders thereof) do not want to make our world sustainable, then the freedom of the individual is – in theory – determined in this regard. Subjected to external forces, moreover, despite external forces, anyone may think what (so far) no one has thought of yet, although everybody sees

it: the dangers of the global natural and social disaster, and anyone may take apart in averting these.

I want to illustrate my introductory thought through the current state of one single fundamental economic and social institution, the institution of property, taking a brief look back at the historical antecedents thereof and looking at the great questions of the future.

SYSTEM OF PROPERTY

One of the fundamental – if not the most fundamental – question of the development of human civilization is the system of division of the goods which ensure the subsistence – and together therewith the preservation of the species – of humans (as the set of goods: the assets), which is also known as system of property. Put simply, the main question today remains to be the diversification of proprietary rights, i.e. the extent and proportion of the social division of wealth and poverty. The majority of the theories for the improvement of man and society is based on the criticism of the given division of assets or system of property and offered a programme for the improvement thereof and tried to implement its programme, often through brutal violence. In course of its history, the European civilization has experimented especially much with the implementation of programmes (ideologies) aimed at the establishment and sustaining of systems for the division of assets and property.⁵ All three supporting pillars of this civilization contains the effort to create the correct equilibrium as a crucial issue. This civilization has been trying to enforce the virtues of dignity, justice and fairness since and based on the Greek philosophy, including the teachings of *Aristotle*. Since the Roman private right, it has been trying to make as many of its free citizens as possible free private owners, in

order to allow the summary of these to create a free civil society. Based on Christian ethics, it tries to socialize the selfish private property, elevate it to the level of ethics, and burden it with obligations and social responsibility. Over more than two millennia, the system of values of fundamental freedoms and human rights had developed on these bases, and the institutional system of the democratic rule of law – which in terms of ethics is also known as social rule of law, or in the material sense, the welfare rule of law – was established on these bases. The system of division of assets and property of the European national states (and starting therefrom, a lot of other countries of the world) was and is being formed – often correcting severe distortions as well at the same time – along the lines of these fundamental ideas and the fundamental values which arose from them.

SYSTEM OF ASSETS

The basis of social order is the rule of law, and the content thereof – in particular the values – are formalized by the constitution. The Hungarian constitution – in accordance with the international human rights documents and the constitutions of other nations – ensures the right to property for everybody, also emphasizing that property entails responsibility (Article XIII). Property is the main category of private law in the legal system, and within that the rights in rem. The social distribution of the proprietary rights and other rights in rem fundamentally determines the distribution of assets and the system of assets of the society. It is generally accepted textbook principle that according to the briefest and most concise definition: ‘Rights in rem: the law of the system of assets.’⁶ The broad concept which was created as a result of a high level of abstraction

(‘rights in rem’) exists with and in various specific content and forms in each and every national state, as well as in terms of location and time. Traditionally, it is part of private law (civil law) everywhere, and within that it regulates the fundamental legal relationships of property law (in the static state thereof). Their legal importance and significance are indicated by that – based on Roman law roots – rights in rem are included in the civil codes in separate parts (books). Primarily, this field of law reflects and determines the already established system of assets, which is formed by the type of economy, the dominant economic ideas and ideologies, as well as the political powers. However, by law and subject to the intention of the legislator, rights in rem form an instrument capable of adjusting, modifying the prevailing system of assets, and – in extreme cases, rights in rem are also capable of completely reestablishing the system of assets. Historical examples (in particular the Fascist and the Communist totalitarian dictatorships) prove that the system of assets newly established along the lines of new ideas and by new powers will definitively be different than the one preceding it, and there is no certainty that it will be better as well. However, certain elements of the tried and tested and well-functioning system of values may be rediscovered and restored.

Simultaneously with the fundamental questions of the rights in rem construed in national states frameworks and within the national legal systems, the main question of today emerges in a new dimension: how does the global system of assets develop, and what is the role – if any – of the global rights in rem – as the law of the global system of assets – in it.

With regard to the global system of division of assets, the facts (which everybody can see) have been well-known for a long time.

Twenty percent of the total population of Earth owns eighty percent of the total assets, and within that, less than one percent disposes of more than half of the total assets (according to the newest announcement of international aid organization Oxfam scheduled for the World Economic Forum in Davos: 26 natural persons identifiable by name). One percent of the population of Earth is wealthier than the remaining 99 percent. Compared to the European and universal human rights value system, this distribution of assets is obviously unjust, inequitable, moreover, unfair as well, it goes against the establishment and functioning of civil society and the democratic rule of law, and it is socially and morally unsustainable. At the same time, nature is also unable to endure the flaunting luxury and wasteful consumption typical for the world of the wealthy, as well as the production and trade serving the above, with that the environmental conditions of human life and the future generations are the ones which and who suffer. The current type of economy and the global institutional system thereof, the system of assets is therefore is unsustainable in respect of both the society and nature. But what may be the main reason behind the troubles, which nobody has thought of yet, or at least only a few are thinking of? Since the base legal relationship of rights in rem is the proprietary right, we will examine that closer.

THE ESSENCE OF PROPERTY

There are countless theory about property as social phenomenon; according to the most recognized ones, property, in respect of its origin is the occupation (taking the possession, putting under human control) and cultivation of a plot of land (or other natural object), and making it one’s own

through the human work added thereto, i.e. the acquisition of the land, the crop and the produce. In abstracting this, in the broader sense property is the acquisition of nature by man. This is the common key point of the approach to property of Rousseau, Hobbes, Locke and Smith,⁷ the era of Enlightenment, moral philosophy, economic sciences and of the legal sciences as well. These philosophers appreciated the man, his personality, his physical and intellectual working capacity, diligence and knowledge, so that it was justified for man to claim the results of these at his own. This constituted and still constitutes the natural law foundation of proprietary rights – as civil substantive right – and the right to property as constitutional fundamental right and human right. Because it is fair, equitable and just this way. It shall be emphasized as well that originally, the proprietary right of man to his own person and his proprietary right to the object created (made) as a result of his personal work had not been separated from one another. However, in the ranking order, working ability has priority in terms of that it is the source of all the other (in rem) properties of man (the person performing work), therefore the working ability is his most sacred and untouchable property!⁸ The joint interpretation of the proprietary right to the person and the object proved to be suitable for laying the foundation of the freedom of man, i.e. the dignity of man, so that he could become a citizen – and not a slave or serf anymore – and he could be a subject at law exclusively and not a legal subject anymore. The freedom of proprietary right of objects (assets) as the material foundation, condition precedent and guarantee – but simultaneously also the right rate, limit and responsibility – of the personal freedom of could have been conceivable in this sense (any exclusively in terms of this joint interpretation).

PROPERTY AND POWER

However, social reality – and consequently the history of mankind as well – developed differently. The material proprietary right to objects, especially the proprietary right to large fortunes had been overtaken by the ‘man and his object’ relation, the original extent of property, and it burst the frameworks of human personality, human scale and human-orientedness, and owing to its excessive size and the power accompanying it, it became an instrument to rule over other people, masses, entire societies and the states. Albeit its true purpose would have been the abolition of the power (the slave-owning, feudalistic power) phenomenon. The castellans were replaced by factory owners, and the feudalistic privileges at birth were replaced by the privileges of great fortunes. The human personality, the personal working ability and willingness of man became marketable (labour market) commodities. Whatever can be sold or purchased in the market is a legal object not a subject of law. Thus, the working power (‘human power’) was reduced to an economic science concept, and consequently it became a legal concept, while the concepts of work and property separated from each other and then turned on each other and commenced a contest which lasted for centuries. Having become objectified and materialized, the concept of property narrowed down to the proprietary rights of private law, to the ownership of the abstract ‘object’, which ensures exclusive rights to the owner entitled thereto, along with excluding everybody else from those, moreover, obliging them to tolerance and refrainment. In this manner, especially the large properties had again become instruments of indirect (economic, financial) rule and economic, financial and political power over the man, the people excluded from the property, instead of

becoming the instrument to free (grant citizenship to) the masses. This is the reason why we are hearing every more frequently about the expressions of ‘wage slavery’ and ‘debt slavery’ again today. However, nowadays, we do not or hardly hear the concepts of ‘capital’ or ‘capitalist’ linked to property. Instead, faceless and impersonal institutions are operating, such as multinational or transnational company groups, institutional investors, IMF, GATT, stock exchanges and brokers trading derivative proprietary rights, offshore owners, managements exercising proprietary rights, etc. However, the impersonal, unclear, unidentifiable presence of the (diffuse) property dispersed among them is experienced directly on a daily basis, everybody sees and experiences its power, and still almost nobody considers the dangers and excessive importance of this global phenomenon. However, here on the Eastern periphery of Europe, we – as the survivors of the ‘realistic’ Socialism, i.e. the socialized property system and state planned economy – have the duty to think about it. Since the two gravest mistakes of the Socialist social property were the impersonality thereof (the proprietary rights were dispersed in the organizational system of the one-party state),⁹ and that Socialist social property provided the economic foundation of and legitimized the totalitarian dictatorship and the political power. This is why *Tibor Liska* (1990) had reason to call this system ‘state wage slavery’.¹⁰ These two grave mistakes – impersonality and the legitimation of the totalitarian economic power – is especially characteristic for global property as well, the power of which is formally lawful, only the methods of power are cleverer and sophisticated. But the key points of the Communist ‘state’ and the global ‘market’ wage slavery and debt slavery are the one and the same: the infringement of human dignity and freedom.

THE SOCIALISATION OF PROPERTY

The latest stage of the development of property shall therefore be highlighted and emphasized on the road to the globalization of the institution of property. This direct antecedent is the social-scale (in reality, national state-scale) institutionalization of property. We could also call it ‘socialisation’, if the Communist dictatorships hadn’t discredited this concept already. Moreover, they fraudulently called ‘nationalization’ socialisation, which in fact resulted in the nationalization of the entire society, instead of the socialisation of property, and the entire society remained an outsider in respect of the states as the sole owner, society was excluded from the property. Based on the Western European examples, it is therefore more accurate to address it as the ‘socialisation’ of property (but even that shall not exceed the extent as it had been overused by the German National Socialism. The root cause of socialisation is actually the failure of the division and humanization of property, i.e. the widespread social diversification and relatively equal dispersing of property. In other words, the distortion of the civil property system, the model of the free private property – free citizen – free society. One of the fundamental achievements of the great European theoretical trend of embourgeoisement, i.e. equality before the law (also known as equal rights) was not followed by the realization of material (i.e. property, ownership) equality. The achievement of the first element of the great triple motto – freedom – was not followed by the realization of the second – i.e. equality – but having skipped over the step thereof, the third one – solidarity – was emphasized instead, first on religious ethical basis (*Rerum novarum*),¹¹ and then on ideological basis (National Socialist, racial, as well as Communistic proletariat solidarity), and even later on the

bases of human legality (humanitarian). At the expense of in no way small efforts and sacrifices, the extreme equality theories tamed down to become 'social equal opportunities' as objective and the human and constitutional fundamental right to 'social security'. Subject to the historical development, the elements and extents of are versatile in every national state, however, the key institutions thereof are the same: free public education (popular education, elementary school), public health, health insurance scheme (medical care and provision of medicines), pension system, pension insurance scheme (caring for the elderly) and the system of social assistance. The state is obliged to raise the financial (material) instruments required for the institutional establishment, maintenance and development of these; the states is obliged (motivated) to do so by the general, equal and secret right to vote, the political institutional system of popular democracy (now: democratic rule of law). These equal opportunity and social security institutions – as the civilization-related achievements of Christian Europe – are called social solidarity institutions. The moral (humanitarian) interpretation of these is also possible, however, in reality, these are the results of the battle between capital (property) and workforce (property) spanning over several centuries, more generally, the rivalry of Capitalism and Socialism (the cold and active wars of the bipolar world order), as well as the already mentioned socialisation and elevation to ethical level of the – from our viewpoint – selfish and unscrupulous private property. Their instruments lead from the general and proportional taxation – through the social constraints of property – to the widespread redistributive instruments of the democratic rule of law. The key points of these are taking from the proceeds of private property in favour of the public, and the more fair and equitable redistribution thereof as

public property (public funds). Thus, through the institutions of social solidarity, those who themselves are not owners at all of who are only working ability owners and the contribution taken from them is less than the share received and enjoyed by them may also get a share from the proceeds of all the properties which exist in the social community concerned. The security and other advantages of the institutional systems are the achievement of the simultaneous and consecutive cooperation of multiple generations. The balancing of rights and obligations, the redistribution, the fairness and equitableness, extents and criteria of the taking and the allocation are among the most acute of political issues everywhere and always, regardless of whether the distribution system concerned is need-based, merit-based or substantive (institutionalist). In respect of their final substance, all social solidarity shares are therefore direct property (not directly ownership) shares. Therefore, it is no accident either that the European Court of Human Rights and the national constitutional courts – by virtue of interpretation – extended the 'right to property' – as human rights, as well as constitutional fundamental right – to the such cases of sharing the goods. From this viewpoint, there is no difference between the two cases where the owner citizen saves from his goods and accumulated for the education of his children, for the doctor and medicine in case of illness, for his life in old age or in the event or any other unexpected hardship (for example, unemployment), and where for the same cases and expenditures, based on his civic (statutory) duty, he pays taxes and contributions to a financial fund, from which he then may get a share. However, from another viewpoint, there are significant differences between the two cases: the first are the freedom and responsibility of the self-providing owner citizen, and the second are the obligation of the paternalistic state and the

right of the citizen. In the first case, property has an individual (individual and familial) function, while in the second case, the social function is given larger emphasis. The first case is the traditional function of property, while the second case is the modern age and the most recent (current) function of property. Obviously, the two do not exclude each other, one may prevail while supplementing the other, in which case the extent and proportion of the two functions will be the especially significant political issue.

THE SOCIAL FUNCTION OF PROPERTY

The most important lesson to be learned from the new function of property – as social institution – is that all the goods which are available to society have social function, partially regardless of the persons among whom and the manner (to which extent and in what proportions) in which the proprietary rights related to all goods are distributed. This lesson is not new, it had already appeared during the era of European Enlightenment and embourgeoisement, on moral philosophical and religious ethical basis. According to Locke, ‘the Earth, and all inferior Creatures be common to all Men’. Meanwhile, *Pope Leo XIII* wrote the following in *Rerum novarum* (1891): ‘...for God has granted the earth to mankind in general... no part of it was assigned to any one in particular, and that the limits of private possession have been left to be fixed by man’s own industry, and by the laws of individual races.’ From such thoughts¹² both the social and the universal (in today’s expression: global) function of the goods may be understood. However, this requires that two important circumstances are emphasized. Firstly, when these thoughts were formulated, the total population of the Earth was less than one billion, and compared

to human production and consumption, the availability of natural resources was unlimited. Secondly, it was only at the expense of grievous struggles spanning over multiple centuries (economic and political battles of interests, revolutions and wars, sometimes mass human casualties) that the institutions (state and legal institutions) of the European nations established the current institutional system of the ‘division of possession’, i.e. the current social solidarity (redistributive) institutional system of distribution of proprietary rights, assets and goods, which is relatively balanced – although unsustainable on the longer term – in respect of the wide wealthy middle class, and which is social solidarity-based (redistributive) in respect of the poorer ethnic groups. The primary – but certainly one of the most important and hardest – question of global property is whether through a so-called ‘giant leap’, this multiple-century European development phase can be left out in referring to the universal function of goods and the universality of the human right to property in respect of – by now – seven billion people, on two thirds of the Earth, i.e. in the poor and in the even poorer countries? Is direct transition from the half familial, national, tribal, half feudalistic civilizations to social market economy and democratic rule of law possible?

THE GLOBAL FUNCTION OF PROPERTY

At least until now, historical ‘giant leaps’ (from the ancient community to capitalism, from feudalism to Communism) have not been very successful. Similarly, it would make no sense to think in terms of global utopias, to build a global phalanstery, where the rich give up their possessions to public property voluntarily, and where they join the order of work, so that they could distribute the goods jointly as well. A global proletarian revolution has

no chance either, which would require global Communism, and where everybody is working according to his abilities, and where everybody gets a share according to his needs as well. Due to the large-scale objective and subjective differences of people, both in abilities and needs, this has not been successful so far, and afterwards it would be even less successful (on a global scale) due to the huge natural, social, cultural, religious, etc. differences. For this reason, the global extension of the protective shield of the social solidarity institutional systems – which are established and sustained in national state frameworks and as a result of the cooperation of multiple generations – would not be advisable either. The sensitive equilibrium of these is difficult to sustain even in each national state, and the global straining thereof on the expenditure side would deplete these systems within a very short period of time, and their collapse would take down even the strongest of national economies with them, together with the democratic political institutional system of such national economies. Put simply, for objective reasons as well, there would be too few contributors (the contribution) and too much beneficiaries (the expenditure). The poor world would not be pulled out of poverty (including their overpopulation and environmental problems as well), but instead it would drag the richer world into poverty too, which would have unpredictable economic, social and political consequences. Moreover, the provision of rights in large numbers without the fulfilment of preliminary obligations raises serious questions regarding fairness as well.

Therefore, instead of the strategy of some kind of giant leap, the tactic of small civilizational steps would be feasible, while making use of the historical experience of the European civilizational development, but also taking into account the new challenges and constraints arising from the risks of the

global disaster (the criteria of sustainability). Following *Mahatma Gandhi*, *Schumacher* (1991) called these small steps and gradualness ‘intermediate technology’.¹³ They wanted producing masses rather than mass production, especially when the immediate adoption of the latest techniques and the most efficient technologies would cause mass unemployment and thereby exclusion from property and work, as well as poverty. In the world of robotization, producing property and ever-expanding consumption and trade, this thought may serve as general guidance even today. But what is happening with the social solidarity institutions which fulfil the new functions of property? Primarily for material reasons, it is impossible to mechanically copy the most developed systems of these established in the richest countries in the so-called developing (in fact poor) world (i.e. in at least two thirds of the countries of the world), thus these cannot be developed into global institutional systems. Accordingly, it would be unnecessary to start solving the global problems by turning the UN General Assembly into a global parliament, and the operation of the UN specialized agencies into a world government. The principle of division of powers shall however be extended to the global proprietary power as well. The principles of small steps and gradualness may be applied in this respect as well. The UN General Assembly shall discuss the global problems – separately and in connection with one another as well – more intensively than before (more frequently and profoundly). In the same way as we could already see it in respect of environmental protect at the world conferences in Stockholm, Rio de Janeiro and Johannesburg, and most recently in Paris. Even if a global public education system, a global health insurance system, a global pension insurance system or a global social benefits system cannot be established (yet), the structure and functioning of the

specialized agencies (UNESCO, WHO, ILO, UNICEF, FAO) can be developed in this direction gradually. However, the main objective should not be expansion of themselves but rather supporting the establishment and maintenance of such institutions in the national states, with taking into consideration the local circumstances, capabilities and opportunities, and making use of the best experiences. The global redistribution of goods shall be started by supporting the establishment of the social solidarity institutional systems in the developing (poor) countries. Afterwards, the most support will still have to be used to lessen the remaining imbalances, in particular the extreme imbalances. Education and training shall be supported first.

THE GLOBAL DOMINATION

On this international level, the detection and containment of the interests and global domination efforts of the global property (transnational economic and financial) institutions (moreover, institutional systems) – which are functioning stronger and more organized – seem like an especially difficult task. Such large international conventions and institutions such as the GATT, the WTO, the IMF, the World Bank, the UNCITRAL and the UNIDROIT, etc. have also contributed to the establishment of the current distorted system of distribution of income and assets. Usually, only the successes of the above institutions are ever mentioned, and their role in causing the global risks and distortions are hardly ever brought up.¹⁴ In addition to these global institutions, the process of distortion was caused, moreover, supported by the neoliberal Washington Doctrine as well, in particular the holy trinity of ‘liberalization, privatization, deregulation’.¹⁵ Similarly to globalization, these had and have advantages,

as well as obvious disadvantages. Some go as far as calling our time ‘usury civilization’, the domination of credit money (from the other side: debt money), which of course must be overcome, while its negative effects should be corrected. In the 21st century, the functioning of the local and national state property, the economic participation of the states, and in particular planned economy are still not in the interest of the capital (by now: global capital), not even the actions of the ‘developing states’ or even the welfare state, if it is accompanied by the increased redistributive power of the state. The same way maintaining the restrictive power of the string national states is not in the interest of the global property, neither are the increasing and institutionalization of global redistribution. Meanwhile, the danger of the bipolar world order and Communism – which kept the global capital at bay and forced it to make concessions – has ceased. Nevertheless, it should be understood that the dangers of global disasters (overpopulation, global migration, world poverty, climate disaster) jointly cause a much bigger emergency than the danger of Communism at its time. Although there is no longer danger that the selfish private properties, and in particular the large properties of global extent, would be nationalized (socialized) by dictatorships of the proletariat, however, it was replaced by the need and necessity for the more fair redistribution of goods, in particular on the level of the poor national states, as well as on the global level. The expansion and deepening of global poverty, and even the relative impoverishment in the wealthier countries following the financial-economic crisis – on the volitional basis of popular democracy – keep the social expectation for the redistribution of goods constantly on the agenda and strengthen it. Despite the neoliberal economic policy turnaround at the end of the 20th century – even in

the countries with the most liberal market economies, on European and global average as well – the rate of state redistribution has increased, especially after the 2008 worldwide financial crisis. At the same time, over the last decade, the number of Dollar millionaires of the world has doubled. The need for the taking (acquisition) and redistribution of the goods (allocation to the poor) by the state is getting increasingly stronger, and we may call this the modern age need for socialisation of property, but by now it is dependent on the social solidarity institutions which by now have taken over the traditional functions of private property. The novelty of this in the 21st century is that – having crossed the national states frameworks – is emerged on global level and on the global scale as well. This is nothing other than the ever-increasing demand for the global acquisition, socialisation – i.e. the fairer distribution and redistribution – of the global goods.

STRUGGLE FOR THE PUBLIC GOODS

There were examples for a similar phenomenon in the history of mankind, during the era of colonization and the half a millennium thereafter. However, back then the political battles and bloody wars were fought for the territorial division and then re-division of the world, which actually meant the occupation, i.e. acquisition, distribution and then redistribution of the natural assets of the Earth. The colonial freedom wars and the emergence of hundreds of independent national states put an end to this process. Of course, the acquisition of the natural assets did not cease, moreover, the extent thereof increased significantly, however, the methods of the acquisition changes: conquering wars were replaced by the establishment and operation of economic – financial – legal

instruments and institutions. Some consider these as the new instruments and methods of the continuing colonization.¹⁶ In this case, it is logical that the fight against the new kind of colonization, the instruments and methods of the ‘new colonial freedom war’ are changing and transforming as well. These new instruments could very well become the instruments and methods of the global acquisition and redistribution, distribution and redistribution of goods, while setting global equal opportunities and global social security as objectives. Meanwhile, the global migration (which a lot of people think is an irregular invasion) may be considered as a new method, which is a peculiar struggle for the social goods and for a bigger share from those. Using the input-output calculation, the largest crowd seek where they are given the most benefits in return for the least (or possible no) obligations. In addition to this pursuit raising the same severe global fairness problem as the excessive share of the ‘recolonizing’ wealthy countries and the wealthiest elite of the world from the goods (distorted extra share), the main problems still is that the quantity of the goods redistributed through the social solidarity institutions is tailored to the needs of the individual national states, is severely limited and it is different in each national states, however, until now it has adjusted to the size, ability to pay and the political willingness of the national states. Consequently, the national states institutions have no global ability to pay, either separately or jointly, or they have hardly any compared to the needs. Thus, this means that global redistribution may be established, operated and expanded based primarily on the social charging of the large globalized properties, while also emphasizing that global property entails global social commitments, restrictions and responsibility. However, the traditional principle of proportional taxation may be

applied to this as well, calling it ‘globally proportional taxation’ in accordance with its 21st century requirement. Taking into account the global redistribution of the social assets, we could refer to – although knowing that there is no such thing – global social rule of law (world state), which would not even be pure fiction considering the universality of human rights. In connection with this, it is becoming more pressing day by day to – with regards to the global ownership power as well – think about the principle and the methods and instruments of practical implementation of division of powers, including the system of checks and balances, and the establishment of the institutions and instruments thereof.

TERRITORIAL RIGHTS

However, even for humanitarian reasons, one should not get removed from reality. The fundamental freedoms abstracted on the highest level and the human rights may be universal, however, to the most part material *goods* are not universal but are attached to places and persons, states and the citizens thereof. The majority of the proceeds of the globalized property goes to the private account of individual persons, thereby increasing their extreme wealth. Distinction may also be made among the rights declared to be universal:

- a** non-territorial,
- b** partially territorial and
- c** territorial rights.¹⁷

The majority of the fundamental freedoms referred to also as first-generation rights (freedom of thought, freedom of expression and press, the freedom of political and trade union association, freedom of belief and religion, etc.) is rather non-territorial, however, the right to vote and to stand for election are already bound to a state, i.e. they are partially territorial. In respect of these, the key criterion

is that the state refrains from violating these rights. However, those second (and further) generation(s) of human rights – economic, social, cultural, environmental, equal opportunity, etc. rights – the enforcement of which requires material assets and state participation are largely bound to the territory concerned. The citizens may demand these from their own states, or conversely, these rights impose obligations on the national states, but only in respect of their own citizens. The right which would oblige the national state globally, in respect of all inhabitants of the Earth is rare, exceptional and temporary. Thus, it is limited by the material performance, regarding which there are significant civilizational, historical, traditional and cultural differences among the national states, in the field of the fulfilment of civil obligations essential to financing (extent, types) rather than the rights. On a global scale, the European national states – due to their common Christian roots – are leasing in the undertaking and fulfilment of obligations. It is no accident that the majority of global migration is aimed at Europe. However, the ability to undertake social solidarity is finite in respect of not only the European national states but the European Union as well, i.e. it is territorial per continent, too. Compared to the global population, the population of Europe has already overextended itself in terms of both its economic performance and social undertaking (which is otherwise exemplary), and burdening it even further is unconceivable without severe political risks.

DIFFERENT SOLUTIONS

Based on all of the above – having briefly touched upon the problem of the globalization of property and the difficulties of the global redistribution of goods – it shall be also considered whether there is any (are)

other solution(s) for averting or managing economic, social and environmental risks, in the interest of sustainable development. I heard the following thought from Ervin László during one of his lectures: *'our future was in our past, we just did not notice it and passed by it.'* In terms of its content, this thought is the same as Schumacher's (1991) ecological economy explained in his book titled 'Small Is Beautiful', the key point of which is the encouragement and support of human-scale and environmentally friendly solutions, in particular in the field of agriculture, especially in respect of the basic legal relationships and the formation of the property relations. And this covers the second half of the well-known slogan of environmentalists and the anti-global movements: act locally! Anything multinational, transnational or global is the deadly adversary of everything that is personal (familial) and local, furthermore, these are far from being in the same league, and those who have dominance play according to unfair rules, since they are the ones dictating, moreover, writing more often than not the rules. In order to handle the cases with lack of balance, the 'principle of protecting the weaker party' emerged and worked in law (for example in the field of protection of workers and then in consumer protection). In the field of agricultural and proprietary relations, a similar process has started through the support of the micro, small and medium enterprises and the appearance of microcredits, which should be given more emphasis and the process should be accelerated. All this would mean the re-reduction, *the diversification* of the structure of agriculture and simultaneously the structure of property. According to the proposal of *István Bibó* (1986), this would be the undoing and humanization of the property relations.¹⁸ According to the ecological-economy proposal of Schumacher (1991), the same would mean making the agricultural and proprietary rela-

tions human-scaled, the adjustment thereof to the size of man.¹⁹ Man is small, and 'small is beautiful!' The same scientific development that had chased agriculture towards the large organizations and mass quantities for centuries has by now developed the most state-of-the-art instruments of individual work again. Therefore, in terms of agriculture locality means that all production, processing, trading and service activities which can be carried out locally (as well) should be carried out locally. Adjustment to the local needs also means versatile and various orders, as well as the satisfaction of individual needs (tastes). Of course, all of this means the conscious diversification of the settlement structure as well, thus there is a way back from the dead-end of excessive urbanization. The conscious formation (restoration) of the small private ownership structure

- would restore the freedom (and the responsibility as well) of the owner,
- would restore the original (natural) function of property, the unit of property and work,
- would restore the dignity of work and of the worker,
- would restore the equal opportunities and co-ordination of the contracting parties, the self-esteem of the individual and the appreciation of the individual by the community, etc.

The human scale of agriculture and the agriculture being human-oriented would reinforce the institutions of marriage and family, the local community, economic and civil associations, the self-management, self-government, and through these, the local, national (social) democracy. Those who are able to manage their own lives responsibly will decide more independently and responsibly in the matters of the community as well, and the same applies to their own 'environmental' matters, too. A responsibly farming person does not break away from nature and

the environmental conditions of his life and farming. The humane economy and property unit is also environmentally friendly. Therefore, the principle of locality does not simply mean the dispersion of property and the more even social distribution of property, but owing to its widespread and spill-over effects, it is much more than that. It would mean the ending and at least the partial reversal, correction of a developmental process which has become unsustainable.

MAN AS CO-OWNER

The historical role (and the spread and in this context, the success) of Marxism had been greatly aided by the fact that the individual, the society and science as well fell under the spell of the industrial revolution, the bigger and bigger factories and the industrial armies. In contrast, the Socialist states did not restore the co-owner power of the individuals as ‘ideal total capitalist’ but established the state economy power of these over the individual (with the help of the nationalization of property and the totalitarian ‘proletariat’ dictatorship). Let us not embellish things, global capital, the transnational monocapitalism rules over the masses (including the individuals) in the same way, only its methods are more cunning and sophisticated, as well as lawful owing to its lobbyists, but its methods are not fair. It pleads the ideas of rule of law and human rights, but it allocates only that much from the material assets which is enough to avoid mass death from starvation and global slave uprising. In the 21st century, capital exploits a mass of people as never before, and to the extent never seen before. Is use this strong and maybe excessive language only to give greater weight to the correction of unsustainability, the requirement of sustainability, thinking human-centered again, as well as the laws

of nature, and the right to life of nature, including humans.

In order to prove my good intention, I admit that the fragmentation of all large properties and turning them back into small-scaled properties would be neither necessary, not possible today either. However, the establishment of the actual co-owner (and not the fake ‘social’ owner!) status of individuals could be ensured in the large properties as well, its legal opportunities have been available for a long time (see: forms of common private ownerships, companies limited by shares, employee co-ownership programmes, control participation rights, share certificates, etc.). Owing to the social democracies, these opportunities have emerged by the mid–20th century, however, as a result of the neoliberal changeover, these opportunities vanished or declined. Namely, these opportunities were in our past just as the small property did, but we passed by these, too. Let’s notice and use them.

TO BECOME MORE

And finally – before you branded me as ‘materialist’, moreover, ‘Marxist’ – it should not be forgotten either that man does not live by bread alone! In addition to the material assets of subsistence, the man needs intangible assets as well, since then man is an intellectual and spiritual being as well. The spiritual, intellectual and cultural needs of the man shall be satisfied the same as his material needs. Furthermore, the abundance of intangible assets can actually be expanded without limits, and nobody will be poorer through the distribution and redistribution of intangible assets, however, enrichment may be achieved by anybody through them. (Here we do not refer to the world of ‘intellectual property’, which in following the model of material – i.e. in rem – property, has become

materialized and globalized itself, and by now it contributes almost half to the distorted distribution of assets!) The true quality of man depends not on his things but on his accumulated incorporeal assets. As Saint Pope John Paul II explained it: *‘culture is the great educator of people, which teaches us to become*

*‘more’ within the community*²⁰, and not to have ‘more’ in the material (in rem, possession) sense. Thus, we do not live to have more but to be more! Naturally, ‘being more’ also means that we should be ‘better’. We must rethink our world constantly so that we can make the world – including the man – better.

NOTES

- ¹ Schumacher, E. F. (1991). *A kicsi szép.* (Small Is Beautiful) Közgazdasági és Jogi Könyvkiadó/Economic and Legal Publishing House, Budapest, p. 164
- ² Keserű, B. A. (2016). *Szellemi tulajdonjogok a fenntartható fejlődés szolgálatában.* (Intellectual Property Rights Supporting Sustainable Development) PhD thesis, SzE DFK, Győr, pp. 24–101
- ³ Korten, D. C. (1999). *Tőkés társaságok világhuralma* (When Corporations Rule the World), Kapu kiadó/Kapu Publishing House, Budapest
- ⁴ László, E. (2002). *Meg tudod változtatni a világot.* (You Can Change the World) Magyar Könyvklub, Budapest, pp. 72–76
- ⁵ Lenkovics, B. (2013). *Ember és tulajdon.* (Man and Property) Dialóg Campus Kiadó/Dialóg Campus Publishing House, Budapest, pp. 236–262
- ⁶ Lenkovics, B. (1995). *A dologi jog vázlat.* (The Outline of Rights in Rem) Eötvös József Könyvkiadó/Eötvös József Publishing House, Budapest, p. 13
- ⁷ Lenkovics, B. (2018). *Ember és jog.* (Man and Law) Dialóg Campus Kiadó/Dialóg Campus Publishing House, Budapest, pp. 299–303
- ⁸ Lenkovics, B. (2018). *Ember és jog.* (Man and Law) Dialóg Campus Kiadó/Dialóg Campus Publishing House, Budapest, p. 300
- ⁹ Sajó, A. (1989). *Diffúz jogosultságok ügynököt keresnek.* (Diffuse Rights in Search of an Agent) Állam- és Jogtudomány, Issue No. 1989/3–4., p. 38
- ¹⁰ Liska, T. (1990). *A munkapiaci reform vállalkozási koncepciójának kiterjesztési lehetőségei a keleti átalakulásban.* (The Expansion Opportunities of the Enterprise Concept of the Labour Market Reform During the Eastern Transformation) Valóság, issue No. 1990/11, p. 4
- ¹¹ Pope Leo XIII (1891). *Rerum novarum*
- ¹² Lenkovics, B. (2018). *Ember és jog.* (Man and Law) Dialóg Campus Kiadó/Dialóg Campus Publishing House, Budapest, pp. 300–301
- ¹³ Schumacher, E. F. (1991). *A kicsi szép.* (Small Is Beautiful) Közgazdasági és Jogi Könyvkiadó/Economic and Legal Publishing House, Budapest, p. 158
- ¹⁴ Tóth, B. (2013). *A jog és a gazdaság megváltozó viszonyrendszere.* (The Changing Relationship of Law and Economy) Európai Jog, Issue No. 2013/5., p. 9
- ¹⁵ Mellár, T. (2015). *A liberális gazdasági doktrína tündöklése és ...?* (Liberal Economic Doctrine: Rise and ...?) Polgári Szemle, Issue No. 2015/12
- ¹⁶ Tóth, B. (2013). *A jog és a gazdaság megváltozó viszonyrendszere.* (The Changing Relationship of Law and Economy) Európai Jog, Issue No. 2013/5., p. 9

- ¹⁷ Andrásy, Gy. (2018/1). Az emberi jogok terület szerinti tagolódása. (The Territorial Division of Human Rights) In *Medias Res*
- ¹⁸ Bibó, I. (1986). Az európai társadalomfejlődés értelme. (The Meaning of European Social Development) In: In: *Selected Studies*, Vol. 3, pp. 5–123, Magvető Kiadó/Magvető Publishing House, Budapest
- ¹⁹ Schumacher, E. F. (1991). *A kicsi szép.* (Small Is Beautiful) Közgazdasági és Jogi Könyvkiadó/Economic and Legal Publishing House, Budapest
- ²⁰ John Paul II (2005). *Emlékezet és azonosság.* (Memory and Identity) Európa Könyvkiadó/Európa Publishing House, Budapest, p. 90

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