The Highway to Serfdom

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Abstract: F. A. Hayek's *Road to Serfdom* argued central planning in lieu of market economies inevitably resulted in a new 'serfdom." A similar dynamic arises within the capitalist variant of a market economy, where all values are subordinated to profit and price signals have become price commands, creating a "systemic collectivism." Organizations adapting to this environment seek to buffer themselves from uncertainty by changing rules and increasing control over resources, including human beings. As a consequence, a new serfdom is arising. The cause arises from the central tension within all free societies/ The organizations people create, Hayek's *taxis*, have interests at odds with the spontaneous orders, *cosmos*, that arise within such societies. If they possess the power, organizations will seek to control them.

Keywords: capitalism, civil society, collectivism, corporations, ecology, freedom, markets, serfdom, slavery, surveillance capitalism, system.

> "Economic control is not merely control of a sector of human life which can be separated from the rest; it is the control of the means for all our ends. And whoever has sole control of the means must also determine which ends are to be served, which values are to be rated higher and which lower, in short, what men should believe and strive for."
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> F. A. Hayek, *The Road to Serfdom*

Hayek's comment was focused on individuals and political parties who advocated replacing the market process with central economic planning. But his reasoning goes well beyond this. *The Road to Serfdom* offers a much deeper analysis of the foundations for serfdom in the modern world than his usual fans imagined.

THE ROAD TO SERFDOM

When it appeared in 1944, F. A. Hayek's *Road to Serfdom* attracted well-deserved attention. His basic message was simple: substituting deliberate planning to replace the market process not only would not improve our material well-being, it would lay the groundwork for an oppressive state where the worst among us would end up in charge, and political and personal freedom would be suppressed. This outcome would happen no matter how well-intentioned those who initially sought to replace markets with central planning might be. In a variant of an invisible hand explanation, Hayek argued central planning and a free society were antithetical to one another, independently of anyone's intentions.

In making his case, Hayek distinguished between what he would later call spontaneous orders and organizations created to pursue specific purposes. A market system established procedural rules common to all but silent as to the specifics of what anyone might pursue within their framework. These rules facilitated voluntary agreement among status equals. The resulting price system created a distributed network of information sending signals as to where resources might be most effectively deployed compared to alternatives. Broad systemic information was simplified into prices able to assist decisions ultimately based on local and irreducibly individual knowledge.

As an alternative to the market, central planning subordinated local information to directives originating from the top of a hierarchy. It inevitably concentrated control at the top, divorced from most citizens, and from any local or tacit knowledge they possessed. The necessity of subordinating the economy to direction from the top would inevitably favor the ruthless, as he explained in a chapter titled "Why the Worst Get on Top" (1944, pp. 134-52).

Hayek contrasted these two ways of conceiving society as individualist and collectivist, the first based on individuals' freedom to use their knowledge in ways of their own choosing, the second subjecting them to centralized direction in service to a large group. Collectivist ideologies valued individuals in terms of their ability to serve the whole, but a whole defined in different and competing ways. Hayek analyzed collectivism from two perspectives, ideological and systemic.

Hayek distinguished three basic collectivist ideologies: nationalism, racialism, and classism (1944, p. 140). When he wrote, Nazi Germany and Communist Russia were the two dominant collectivist societies. The Nazis believed people were of value to the degree that they served Aryan supremacy. The Communists valued people in terms of their service to the proletariat. Nationalist collectivism long outlived the other two. While often equated with the Nazis, with whom the Italian Fascists were allied, nationalist collectivism served other values, and remains important in many countries.

Hayek argued every collectivist system "has two central features . . . the need for a commonly accepted system of ends of the group and the all-overriding desire to give to the group the maximum of power to achieve these ends . . ." (1944, p. 146). Collectivist political systems sought to implement collectivist ideologies, and to do so they needed to create and maintain a strong state able to dominate society as a whole. Totalitarianism, a term coined by collectivists themselves, described unchecked organizational power, or what Hayek later called *taxis*. In Benito Mussolini's words, totalitarianism meant "all within the state, none outside the state, none against the state" (Editors, 2019). One set of values dominated all others, and a society's strongest organizations existed to enforce them.

While modern collectivisms were justified in terms of an ideology, the ideology itself was interpreted by the ruling organization and, in practice, by those who controlled it. Serving the Aryan race meant serving the Nazi Party, which served Hitler. Serving the proletariat meant serving the Communist Party which, at its totalitarian height, meant serving Stalin. Mussolini never achieved such control over what serving the nation meant, but came close. *In short, collectivism is an ideology and its expression is an organizational system able to dominate all others.*

DIGGING DEEPER

There is one more dimension to this feature. During WWII collectivist states were under the control of single men, Hitler, Mussolini, and Stalin. The first two had largely created the parties that came to power, installing them as supreme rulers. Stalin had not, but used his position as party secretary to gain control of the organization and execute all potential rivals. Totalitarianism was associated with one-man autocracies.

Nazism and Italian Fascism were defeated during the war, and only the Soviet Union survived, accompanied by the rise of new Communist powers, most importantly China, which was also dominated by a single person, Mao Tse-tung. However, as both the Soviet Union and China persisted, an important change in totalitarianism's nature developed.

Organizations are tools, but they are not just tools. While created to pursue a goal, over time they tend to redefine that goal in terms beneficial to the organization itself. In totalitarian organizations the initial goal is one of conflict against powerful enemies. Such framing of a goal reinforces the rise of charismatic leaders, of Hitlers and Maos and Lenins and Stalins and Mussolinis.

Success alters the dynamic. Subsequent Russian and Chinese Communist leaders arose out of service to and identification with a successful organization. Conflict within as well as without was de-emphasized. In established Communist nations, serving the proletariat was never a major goal of the Communist Party, serving the Party was. Redefining of their goals in self-serving ways is a feature of all large organizations, but most lack the power to take this redefinition very far (diZerega 2015). Totalitarian parties have the power.

By distinguishing between the charismatic leaders who had risen to power during the time Hayek wrote, and the organizations they established to enforce their rule, we can deepen Hayek's analysis. There is the ideology and the organization created to enforce it, both of which Hayek discussed. But once created, the organization is in many ways an independent entity redefining the ideology to serve its interests. *Ultimately, universal subordination is not to the ideology, or even to the leader, but to the organization implementing the ideology and shaping its leadership largely on its own terms.*

By emphasizing the independent power of organizations as distinct from why they were organized, we can understand the rise of a new kind of collectivism, and the serfdom it is bringing with it.

SYSTEMIC COLLECTIVISM

Systemic collectivism is new in human experience. It has arisen largely independently of human intent, and ironically, its ideological justification is in terms of individualism. In these ways it seems very different from the collectivism Hayek criticized.

Hayek described collectivism as an ideology and the organizations used to implement it. Central to collectivism is elevating one value above all others, and evaluating individual worth in its terms. The value might be race, class, or nationality, and could easily be others, such as gender or language.

How, then, can capitalism as a *system* be collectivist? To understand this issue, we must distinguish between capitalism and markets.

Markets describe any system of cooperation where formally voluntary exchanges are made, coordinated by signals from a price system reflecting the pattern generated by all such exchanges. Capitalism is included here, but so is a craft fair, a farmers' market, proprietorships, cooperatives, the worker-controlled firms based in Mondragon, Spain, and other forms of economic cooperation where prices serve only as signals. Non-capitalist market economies have proven very successful, even in the context of contemporary world trade (diZerega 2014).

Ludwig von Mises wrote prices in the market are *signals* facilitating participants as to how and what to produce (Mises 1981 [1922], II.5.35). While conducting business, an independent businessperson can integrate many values beyond profit maximization and often these values will reduce total money profits even if it increases the businessperson's 'psychic income.' Prices signal how great such a monetary reduction might be from prioritizing other values, and the businessperson determines whether the monetary cost is worth the gain. For example, Brian Gitta created a test for malaria that could change how one of the most destructive diseases in human history could be treated. He explained he created his company "to close the gaps between communities and their rightful access to healthcare" (Thomson 2019, p. 47). For Gitta prices are important signals, as Mises described, but other values than money are more important.

Capitalism is a certain kind of market society distinct from other market orders in that economic success depends on subordinating *all* other values to profit (diZerega 2019). The organization most typical of capitalism, and exemplifying its dominant values, is the joint stock corporation. The logic of corporate ownership replaces individuals' pursuit of varied values with maximizing profit alone. Milton Friedman famously argued CEOs who subordinate profit to any other value are essentially robbing shareholders by using their wealth (Friedman 1962, chapter 8). In addition, corporate ownership is structured to reward anyone who, upon noticing unmaximized profits, can take the company over, replace its management, and reap the reward of more valuable shares. As more and more of an economy becomes dominated by such corporations, price signals become price commands because corporate structure penalizes prioritizing any other value. Prices shift from being signals to being commands, and those responding most quickly amass more capital at the expense of those who react more slowly or in response to other values.

In this way, as a coordination system, capitalism rewards those who best serve it by transferring additional wealth to them, at the expense of those who serve it less ably. As with the collectivism Hayek described, we find a single ideological value trumping all others: maximizing money profit. Theorists, such as Milton Friedman, arise who justify this system ideologically. But the theory is secondary to the systemic biases that push for such behavior.

Of course, individual business people with complex values motivating their actions can still exist. For many years I was one, myself. But such people must adapt to an environment increasingly shaped by organizations subordinating everything to money profit. In the process institutions traditionally not reducible to a pure business model increasingly become so, such as the news media (diZerega 2004). Many huge tech firms, such as Google, were begun with countercultural values (Markoff 2006). Despite their founders' intentions, they soon ended up dominated by capitalist values alone (Zuboff 2019, pp 82-5).

A totalitarian state is an organization that dominates all others. In stark contrast to a totalitarian party, and the organization it creates to rule, there are thousands of corporations, often in competition with one another. It is here that we must shift from Hayek's focus on organizations of rule, or *taxis,* to the larger systems within which they exist, to *cosmos.*

COSMOS AND ECOLOGY

Hayek described a free society as including family, farm, manufacturing plants, firms, corporations, other associations, and all public institutions, "including government" (Hayek 1973, p. 46) Along with individuals, all "are integrated into a more comprehensive spontaneous order" he called "society." Society in this sense can be a particular society such as France, existing within a more inclusive "Great Society." Crucially, "different partial societies . . . will often overlap and every individual may, in addition . . . be a member of numerous other spontaneous sub-orders or partial societies of this sort as well as of various organizations existing within the comprehensive Great Society" (Hayek 1973, pp. 46-7).

This and similar passages emphasize two elements in Hayek's thinking often ignored by many theorists claiming roots in his thought. First, there are many spontaneous orders. Second, a free society is not subordinate to any of these orders, but knits them all together in, to use more contemporary terms, a dynamic network of relationships, or a social ecology (diZerega 2018). When considered within specific national boundaries, such a society is called "civil society," but civil society's boundaries often extend far beyond political ones, as with the worldwide community who are members of different scientific disciplines.

We are not describing a hierarchy, we are describing a network, and the umbrella word for networks of this type is "ecologies." "Ecology" describes the network of relationships that emerge, adapt, and even transform their environment, all in the absence of any directing goal. This term applies to both biological and social spontaneous orders and for the same reasons. Causal relationships flow in every direction, depending on linkages of mutual influence between a network's elements. For this reason, Garrett Hardin emphasized in an ecology you can never do only one thing, because linkages are so all-pervasive that any change will influence a multitude of other conditions and, in systemic terms there are no "side effects," only effects, intended and otherwise (Hardin 1985). To say something is an "externality" is an ideological value statement imported from outside the phenomena studied, not a scientific one.

How inclusive and extensive an ecology is depends on the questions asked because, in principle, a network extends as far as linkages exist between its elements. The ecology of a lake can be studied on its own or in relation to the larger forest ecology of which it is a part, which might be studied in an even larger ecology that includes the ocean, from which salmon swim to the lake, fertilizing the forest and lake alike. And of course, even this more inclusive ecology can be viewed as a part of the larger ecology of life on earth.

The same is true for social ecologies. The ecology of farmers' markets could be studied, as could that of agricultural production for the market as a whole, and both could be incorporated into a study of the market ecology in the U.S. Depending on the questions, these studies could also incorporate other ecological process in nature and society. For example, Jane Jacobs' work emphasized the importance of "the root processes at work... in human and natural ecologies" (1984, p. 224; also 1961, p. 433). Her study of networks within urban neighborhoods alerted many to the complex social coordination strong neighborhoods made possible. She also showed how the larger ecology of the city, such as its networks of roads, could enrich or retard them.

Michael Polanyi's, John Ziman's, and David Hull's studies of science as a spontaneous order described how knowledge vastly greater than any human being could ever grasp was made accessible to those needing it to conduct their own research. The same process enabled their new research to be made available to others engaged with the scientific ecological network (Polanyi 1969, pp. 49-72; Ziman 1968; Hull 1988, pp. 397-476). Perhaps the most important social spontaneous order is language, another ordered adaptive pattern in constant motion and arising spontaneously out of the independent actions of all its speakers (Hayek 1988, p. 147).

Specific values are embedded within the rules generating a system generated by people following general procedural rules. The spontaneous order of science privileges values different from those privileged by the market. This is why market signals do not give evidence of scientific validity. It is also why science is not a reliable source of investment guidance. These systemic values are distinct from the individual values that might motivate people engaged in business or science. No spontaneous order is value-free because the rules generating such an order carry their own bias.

Employing an ecological framework enriches our understanding of spontaneous orders as themselves embedded in networks with other such orders, both social and biological. Hayek's "Great Society" is the inclusive network of all social spontaneous orders and the patterns arising from those acting within them. Whereas specific spontaneous orders privilege some values over others, in such a society, individuals are free from domination by specific systemic values and so pursue the projects they believe in harmony with their own values. As such, the Great Society is in profound harmony with liberalism's basic ethical insight: the individual is society's basic moral unit and all individuals are equally so.

This view shares much with the continental liberalism rooted in thinkers such as Wilhelm von Humboldt rather that a purely negative concept of liberty as described by Isaiah Berlin and the general libertarian model inspired by him (Berlin 1969, p. 122; diZerega 2020). Humboldt considered the good society one facilitating "the absolute and essential importance of human development in its richest diversity" (Humboldt 1969, p. 51) Hayek agreed with Humboldt's insight rather than a purely negative idea of liberty (Hayek 1960, p. 394).

Hayek emphasized that collectivist ideologies subordinate individuals to serving some all-embracing value, from which individuals derive their worth. In ecological terms, central planning seeks to impose a social monoculture on a complex natural ecology. Capitalism simplifies the social ecology as the constraints on variation progressively strengthen. If civil society is like a rich rainforest ecosystem, capitalism is like a more constrained one such as a harsh desert, where biological variation is narrowed dramatically.

With this observation in mind, consider a statement by Lawrence Summers, once chief economist for the World Bank, adviser to presidents, and a former president of Harvard (among other positions at the apex of the corporate world). Summers *explicitly* demoted *all* human values, *even human life itself*, to 'efficiency' in responding to price commands (Summers 1991):

> The measurements of the costs of health impairing pollution depends on the foregone earnings from increased morbidity and mortality. From this point of view, a given amount of health impairing pollution should be done in the country with the lowest cost, which will be the country with the lowest wages. I think the economic logic behind dumping a load of toxic waste in the lowest wage country is impeccable and we should face up to that.

Summers argued economic logic subordinated all human beings to serving economic efficiency, as measured by profit. Some have argued Summers was ironically describing the implications of this kind of thinking rather than advocating such policies, which perhaps he was (Weisskopf 1992). But Summers' logic is *identical* to much standard capitalist economic analysis, and some 'free market' economists have explicitly defended his statement (Johnson et al., 2007). Given his own argument, Milton Friedman could have no objection to it as a guide for corporate CEOs.

No Stalin era Soviet Commissar or Nazi *Gauleiter* could have put a collectivist subordination of human beings to an ideology any more bluntly. Rather than serving classes or races, people exist to serve economic efficiency as measured by prices. In defending this reasoning, Jay Johnson and others, argued any harms inflicted now were the price of overcoming poverty, and so deaths and disease were acceptable prices to pay for the greater good (Johnson 2007, pp. 405-6) Similar arguments were used to justify suffering inflicted in the present to secure a glorious future for the proletariat or the Aryans.

Those not entranced by the ideology could see the implications. Jose Lutzenberger, then Brazil's Environment Minister, responded, "Your reasoning is perfectly logical but totally insane . . . Your thoughts [provide] a concrete example of the unbelievable alienation, reductionist thinking, social ruthlessness and the arrogant ignorance of many conventional 'economists' concerning the nature of the world we live in" (Smith 2011, p. 100).

Capitalism's reigning values are collectivist. This is its ideological dimension.

THE ORGANIZATIONAL DIMENSION

We can now turn to capitalism's organizational dimension. As members of a market ecology, organizations are created to take advantage of opportunities their founders see. But, as with the term "ecology," "market economy" is too coarse-grained a concept to shed light on the kinds of organizations that tend to define a particular economy.

Natural ecologies vary in the kinds of organisms they encourage, the patterns of adaptation they encourage, and the degree to which organisms can in turn modify the ecology. A tropical rainforest and arctic tundra are both ecologies, but differ profoundly on all these points. The same is true for market economies as a social ecology within the more inclusive ecology of the Great Society.

The structure of property rights, as well as contract and labor law, actively shape the kinds of organizations that arise in market economies, and in turn the organizations that arise will influence the content of property rights, as well as labor and contract law. The antebellum South was a market economy, with its dominant cotton production a major resource involved in world trade (Baptist 2016; Starobin 1970 a, b). It was also a slave economy shaped by laws different in crucial ways from those in states that had banned slavery. In principle, market economies may vary as much as a tundra ecology varies from a tropical rainforest one.

It is from this perspective that we can understand the "Capitalist Road to Serfdom."

LEVELS OF BIAS

There are two levels of systemic bias in a market system. The first is its systemic bias, where the market's procedural rules lead to different plans, different feedback, and different outcomes than those pursued within other spontaneous orders, such as science or language. However, like the term "ecology," this level allows for many different variations. Just as different sciences will employ what we broadly call the 'scientific method' in different ways, over time people develop different languages with different grammars and vocabularies, so the particular rules which structure market transactions can generate different market ecologies.

The logic of capitalism is that, subject to general rules, acquiring maximum profit justifies the means employed to achieve it. Organizations acting in harmony with it flourish at the expense of other organizations and other values. Like ideological collectivisms, capitalism's systemic collectivism subordinates individuals to a single value that they must serve if they are to succeed in systemic terms. But whereas ideological collectivisms elevate an organization to ultimate power, systemic collectivism subjects all organizations to domination by the system, and those organizations most in harmony with its dominant value flourish best.

The second level is that imposed by the dominant organizations within a market.

We are always creating organizations, ranging from the very small and ephemeral to the very large and long-lived. Most are not collectivist in practice but all have an inner collectivist logic to the extent members are expected to serve its ends. What prevents most organizations from being collectivist is not whether their goals are good or bad, but their limited demands combined with their members' freedom to leave without paying a high price. Most organizations cannot go very far in disciplining dissident or otherwise unsatisfactory members and most members see their membership as but one activity among many, one that does not claim supremacy over the others. The dynamic is different in capitalism.

Hayek wrote competitive capitalism "is a system which imposes upon enterprise a discipline under which the managers chafe and which each endeavours to escape" (1973, p. 62). Like successful organizations in other contexts, successful businesses will often employ their resources to try and modify the governing rules to weaken threats to their existence rather than competing and adapting under conditions of uncertainty.

Managers have two strategies, to adapt to challenges or suppress them. Not surprisingly, when the necessary resources exist, they often seek the latter. As Hayek emphasized "The interests of the organized producers is . . . always contrary to the one permanent interest of all the individual members of society . . . the continuous adaptation to unpredictable changes . . ." (1979, pp. 93-4). This dynamic between the logic of powerful organizations seeking to stabilize their environment and the resulting subordination of increasing realms of the market and, ultimately, civil society to capitalist values, gradually erodes the vitality and creativity of civil society as a whole.

CAPITALISM VS. CIVIL SOCIETY

Civil society is a complex network of mutually interacting people, values, and organizations which, taken together, facilitate people's pursuit of a wide range of choices and opportunities. Civil society cannot be reduced to any particular spontaneous order, but rather is an interlocking network of different spontaneous orders and the organizations existing within them. Spontaneous orders such as the market and science coexist within this network, providing common threads of practice and knowledge within which smaller and more concrete communities exist, such as families, neighborhoods, and clubs.

Usually members of a civil community pursue their own projects without much attention as to how their projects fit into the broader community. The pattern of individual relationships arising within a common frame of ethical and procedural rules *is* the community. Crucially, people make use of more than one spontaneous order to achieve their goals. This multiplicity of spontaneous orders within which people live provides a powerful institutional check on organizational power within any one of them. And organizations will seek to subordinate this complexity to their own interests.

Capitalism increasingly subordinates this complexity to market values alone, forcing organizations and people alike to subordinate themselves to serving a single value above all others. *Everything* is either a resource for capital or irrelevant. A person or thing's value reflects how much it serves to increase capital. As Hayek observed in this paper's opening quotation, "Economic control is . . . the control of the means for all our ends. And whoever has sole control of the means [determines] which ends are to be served, which values are to be rated higher and which lower, in short, what men should believe and strive for" (1944, p. 92).

The values of the impersonal market increasingly infiltrate and dominate many other dimensions of civil society, from education, science, and philanthropy to sports, medicine, and the arts. Civil society, the realm of maximum social liberty, is increasingly subordinated to capitalist values without anyone deliberately imposing them. Powerful organizations within the market are prone to seeking control over their uncertainties, while at the same time being subject to its domination to the degree they fail. And to the degree they succeed, the uncertainties arising from free human action are subordinated to corporate priorities. The system imposes a single dominant value on the dominant organizations within it, and those which are most responsive to this value seek, in turn, to subordinate their environments to their control. *This systemic collectivism sets the stage for the capitalist road to serfdom.*

THE RISE OF SERFDOM

Capitalist power initially arises from procedural rules shaping economic incentives to favor the logic of joint stock corporate ownership over other forms of enterprise. These rules increasingly subject relations between people and everything else to their utility in serving capital. Over time, more and more of life either serves capital, becomes irrelevant, or is a problem to be eliminated.

The power of capitalism is reflected in the relationships it rewards or punishes, transforming a society from one of relative freedom to one of increasing subjugation to an impersonal system that rewards everything in terms of their service to it. Hayek observed the basic operating principle of a collectivist organization is "the end justifies the means," which "makes collectivist morals so different from what we have known as morals that we find it difficult to discover any principle in them, which they nevertheless possess" (1944, p. 146). In human society ethics primarily applies to individuals or groups of individuals *distinct* from their contribution to a collective goal. By its very nature, in all its forms, collectivism *must* elevate power over ethics. This is as true for organizations embedded within a systemic collectivism as it is for a single organization seeking to enforce a collectivist ideal on society as a whole.

Anything that can be owned, and thereby controlled, becomes a potential target for corporate control. Corporations will also have an incentive to weaken or deny property rights over anything they cannot control. We have seen laws about copyrights extended far beyond the constitutional reasoning for their existence. We also continually witness efforts by powerful companies to free themselves from any responsibility for harmful 'externalities.' How either issue is addressed does not determine whether or not a market exists, but the answers will powerfully shape how it manifests. *In the absence of insurmountable barriers, there is no logical end point in this effort at seeking control of their environment and reducing others' control as well.*

ANOTHER LOOK AT SERFDOM

By "serfdom," Hayek meant being dominated by an all-powerful state whose subjects were mere resources existing to serve the interests and desires of its rulers. Travel was limited, entrance into important professions was controlled, freedom of speech, press, and organization was banned. This description fit Hitler's Germany, Stalin's Russia, and the other collectivist states of his time. However, Medieval serfdom, which shares these general features, did not originate in powerful states. It arose in their absence.

While earlier kinds of European serfdom had existed in the late Roman Empire, the better known Medieval serfdom began around the 10th century, with the breakup of the Carolingian Empire. Its demise ushered in a long period when no strong central governments existed in most of Europe. During this period, serfdom characterized the status of most people living in agricultural societies controlled by powerful landlords dominating others legally, politically, and economically.

Serfs were not quite slaves, for they could not be sold to another and were tied to the land they worked as farmers. However, like slaves, they lacked many personal liberties held by freedmen. They could not permanently leave their holding or village, marry, change occupations, or dispose of property, without their lord's permission. They were bound to a designated plot of land and could be transferred with that land to a new lord.

Feudalism's property arrangements were neither private nor public in any modern sense. In general, the lord could not sell his land, but rather held it in trust for his family as a corporate unit. In a sense, the land owned the lord. Upon his death the land in its entirety generally went to the eldest son. In other cases, absent a son, it was divided equally among daughters, who were expected to marry a nobleman and so continue the system.

The law of entail existed to preserve primogeniture from the normal affections parents had for their children. As one study of entail in England emphasized (Jamoussi 2011, pp. 13-14):

> The estate was the foundation, not only of the family's prosperity, but also of its social status and political influence, and as such, it had to be transmitted undivided and, ideally, improved, or at least undiminished from one generation to the next, according to the lineal order of succession established in the entail. This meant the exclusion of all except the first-born of the children, if any, and restrictions on the freedom of the possessor with regard to the estate in his possession.

Variations of these principles upheld serfdom and similar kinds of domination throughout much of Europe at one time.

Unlike the totalitarian serfdom Hayek warned of, this serfdom was not connected to strong states, though in time some states helped enforce it (and would later weaken it when stronger kings sought to undermine the power of nobles). Rather, serfdom emerged from economic circumstances where people were entirely dependent on others for their livelihood and protection. To be sure, serfdom was frequently described as 'contractual,' but to the degree these were contracts, they were made under radically unequal circumstances, and applied across generations.

This earlier pattern is re-emerging under capitalism: a market economy is developing whose "commanding heights" are dominated by giant businesses who use their resources to increasingly free themselves from normal market pressures. As they do, political and legal enablers replace consumers as their primary focus of concern (diZerega 2019b).

Corporate 'ownership' also dissolves traditional ideas of private property. Neither traditional concepts of individual control or responsibility remain in a corporate context. Unless they are majority owners, share owners are essentially trustees who succeed to the degree they maintain the value of shares and are weeded out of economic influence to the degree they do not. But they generally have neither control nor responsibility for what organizations so 'owned' actually do. So, as with feudal property, the crucial connections of individual ownership with responsibility and control is broken (diZerega 2019a, pp. 22-3).

What we would recognize as corporations long predated the "free market." In early European cases corporations enjoyed politically guaranteed monopolistic privileges and some became powerful players in colonial affairs, wielding the power of repressive governments over the lands and people they dominated. The Dutch East India Company slaughtered inconvenient natives on islands it devoted to growing nutmeg (Thring 2010). The British East India Company was also guilty of plenty of slaughtering, and prevented Alexander von Humboldt, probably the most famous scientist of his time and friend of Thomas Jefferson, from visiting India. Despite Humboldt's trying to visit for years, like any dictatorship with the power to control access by a potential critic, the corporation never allowed it (Wulf 2015, pp. 193-6, 216). The joint stock corporation is in no way the outgrowth of a free society, and when possessing the power, acted despotically towards all who were an impediment to its goals Modern corporations are as compatible as their ancestors with unfree societies, as their growing business with China demonstrates.

Having their roots in unfree societies, it is quite reasonable to expect corporations to seek to re-establish and expand any and all legal privileges that protect them from market uncertainties, and free men and women. Today corporations are seeking to re-establish societies based on privilege and domination rather than equality under the law and freedom of contract.

What follows proves this statement.

"TRADE SECRETS:" SERFDOM BY ANOTHER NAME

Corporations continually seek to privatize cultural and scientific values that have rarely, if ever, been privatized before. Water in any controllable form, literature, and scientific discoveries have all been targeted as appropriately owned and controlled by corporations that have created none of them. Even the genes in our bodies have been controlled by corporations, although, for now, that control has been set aside (Sturges 1999, p. 248).

If they can, corporations seek to appropriate what they call "human capital." Many corporations now argue that anything an employee learns on the job belongs to them and cannot be used without their permission due to "non-competition" agreements. This practice lays the foundation for a 21st century serfdom.

In order to take a job, a prospective employee must sign such an agreement. Even unskilled workers such as janitors are now being prevented from taking similar work at better pay because they signed 'non-compete' agreements (Westneat 2014a, 2014b). They learned a company's "intellectual property." The logic of this argument is that anything a person learns on the job is no longer theirs but remains the property of their employer. If this argument applies to janitors, to whom might it not apply?

Since in a real sense we are our minds, to the extent that our mind's contents belong to someone else we are enslaved. Something remarkably close to serfdom or slavery is arising disguised in the language of freedom of contract. Some states, such as California, have outlawed these attempts. But other states have not. If corporations have their way, laws banning such 'non-compete' agreements would be repealed as interfering with "freedom of contract."

CONTROLLING UNPAID TIME: SLAVERY BY ANOTHER NAME

Increasingly, people do not control their time, even when they are not on the job. Many workers are forced to be "on call" in case their manager wants them to show up, but will not be paid unless they are actually called in to work. In addition, employers don't need to give any notice for changes in workers' schedules, making it impossible for them to organize the most basic elements of daily life —things like childcare, dental appointments, or the family dinner. Employees who cannot count on regular hours cannot plan a monthly budget because they have no idea what they will make.

Laid off after 20 years because of a budget squeeze, a former teacher applied for retail jobs and discovered that "You had to be available every minute of every day, knowing you would be scheduled for no more than 29 hours per week and knowing there would be no normalcy to your schedule." He explained that when "I told the person I would like to be scheduled for the same days every week so I could try to get another job to try to make ends meet" his interviewer "immediately said, 'Well, that will end our conversation right here. You have to be available every day for us'" (Greenhouse 2014b).

In a *New York Times* study of this trend, Jim D. Taylor, a small businessman who runs a combined law and real estate firm said, "As a small-business owner for over 30 years, I have always been able to provide my part-time employees with a firm, steady and predictable schedule." Taylor explained "My employees are a vital and important asset. I treat them right, and they do their best for me. It's so easy . . . Why can't big business run by MBAs and highly compensated executives figure that out?" He added "In a small business, if you've scheduled someone to work, there should always be enough to do—you don't send them home. I don't know why big business is any different" (Greenhouse 2014b).

In April, 2015, *The Atlantic* reported the New York attorney-general's office issued a warning to major retailers; "We have been informed that a number of companies in New York State utilize on-call shifts and require employees to report in some manner, whether by phone, text message, or email, before the designated shift in order to learn whether their services are ultimately needed on-site that day." *The Atlantic* explains that this "practice might be in violation of a state regulation that employees who report for work must be paid for at least four hours (or the number of hours in a regular shift) of work" (Lam 2015).

Even medieval serfs controlled their time once they had served their lords. A report by the Economic Policy Institute found that the lowest income workers face the most irregular work schedules. The poorest are the first to be enslaved (Golden 2015). If left unchecked, many of the rest will follow.

Today's abuses have gotten so bad that some more liberal places, such as Vermont and San Francisco, are passing laws giving employees the right to demand flexible or predictable schedules. Seattle, the city with the enserfed janitor, is now finally discussing ending this practice (Hanauer 2016). Of course opponents to any change argue this interferes with the mythical "free market" (Greenhouse 2014c). In capitalist "Newspeak," serfdom is freedom when it is 'contractual.'

NON-DISCLOSURE AGREEMENTS: THE END OF FREEDOM OF SPEECH

Non-disclosure agreements make a certain sense for some business purposes, but their use has been broadened to include increasingly large areas of our lives, including areas unrelated to revealing genuine trade secrets, in government now as well as between private individuals (Dean 2018). Such agreements undermine public knowledge by prohibiting giving the names of people who broke the law, and protecting guilty parties in court cases (Philip 2003). Donald Trump has aggressively used such agreements for his employees and business partners, volunteers in his campaigns, and even public employees (Pace and Day 2016). Whether involved in his businesses, presidential campaign, or in the White House, Trump required nearly everyone to sign legally binding nondisclosure lifetime agreements prohibiting them from releasing any confidential or disparaging information, even about his family. Unpaid volunteers for his presidential campaign who would never meet any of the Trumps would be prevented from criticizing Trump, *for life* (Ruper 2016).

This practice is hardly limited to Trump. Harvey Weinstein made extensive uses of such agreements to prevent his victims from reporting what had happened to them. So did Bill O'Reilly. The NDA is an extraordinarily elastic way of suppressing freedom of speech because even if it might be ruled inapplicable in one case or another, the financial threat and cost of litigation will serve to prevent plaintiffs of limited means from taking the risk of losing. Organizations imposing such agreements on their employees eliminate freedom of speech through the language of private contract.

ARBITRATION: ENDING EQUALITY UNDER THE LAW

Gretchen Carlson generated national attention when she sued FOX News CEO Roger Ailes for sexual harassment. Under existing law Aisles' behavior was illegal, but many thought Carlson would never have her day in court. When she began work at FOX she signed a binding arbitration agreement. Disputes between her and her employer would not go to a court of law, but to binding arbitration in the private sector. Ailes' lawyers argued that, as a result of this agreement, she had no standing to sue.

The New York Times reported that, under arbitration, a typical plaintiff "would at least be able to speak publicly about his or her case. But Ms. Carlson . . . had a contract . . . stipulating that 'all filings, evidence and testimony connected with the arbitration, and all relevant allegations and events leading up to the arbitration, shall be held in strict confidence.'" A complete gag order would be applied to all facts and evidence (Scheiber 2016).

Carlson won her case in the court of public opinion, not in a court of law, from which she might well have been barred. Had she been a less visible victim, with such avenues of publicity closed to her, she could have been denied the right to a court case and forced to go to binding arbitration in a private court dominated by corporate lawyers, who also serve as the 'judges.'

In a 2014 study of binding arbitration *The New York Times* reported "Over the last 10 years, thousands of businesses across the country — from big corporations to storefront shops - used binding arbitration to create an alternate system of justice. There, rules tend to favor businesses, and judges and juries have been replaced by arbitrators who commonly consider the companies their clients." According to the *Times* (Silver-Greenberg 2015):

> Winners and losers are decided by a single arbitrator who is largely at liberty to determine how much evidence a plaintiff can present and how much the defense can withhold. Strict judicial rules limit conflicts of interest by judges. Such rules do not apply in private arbitration. To deliver favorable outcomes to companies, some arbitrators have twisted or outright disregarded the law, interviews and records show.

Not surprisingly, employees and consumers almost always lose. For example, "a cruise ship employee who said she had been drugged, raped and left unconscious in her cabin by two crew members could not take her employer to civil court over negligence and an unsafe workplace" (Silver-Greenberg 2015).

These agreements are hidden in contracts most consumers and employees never read. Additionally, their proceedings are kept secret, and so have become major weapons in corporations insulating themselves from both the law and from public knowledge. Wells Fargo engaged in fraudulent activities involving millions of Americans (Corkery 2015). Since its conviction Wells Fargo has been sued by many customers over its fraud. In response the bank has argued their victims must enter into private arbitration rather than the public courts. *The New York Times* describes customers arguing it is impossible for them to agree to arbitrate a dispute over an account that they had never even signed up for and had no knowledge of. In response, Wells Fargo claimed arbitration clauses in the legitimate contracts customers signed to open accounts also cover disputes related to the false ones set up in their names (Corkery 2016). Surreally, courts often accepted the bank's claim.

Corporate-dominated binding arbitration strikes at the very foundations of civil society and the rule of law. Corporations are establishing themselves as legal aristocracies not bound by laws that mere human beings must follow.

INTELLECTUAL PROPERTY AND THE END OF PRIVATE PROPERTY

"Intellectual property" is creating another road to serfdom, by eliminating important realms of what has traditionally been considered personal property once someone buys it. From a traditional liberal standpoint the importance of private property is that it gives the property holder independence from the power of others. From the yeoman farmer ideal to the thousands upon thousands of small businesses who make a living and preserve independence by providing services to others, independence has been a primary supporter of freedom from great power. The right to say "no" and not suffer enormously is perhaps one of the most basic supports of freedom in any form.

John Deere, joined by many other corporations, is now arguing that since their products make use of software that is licensed, not sold, customers no longer own what they thought they bought. As John Deere put it to the U.S. Patent Office, rather than owning their tractors, farmers only own a lifetime license "to operate the vehicle." They are licensees, and the terms of the license spell out where the person can buy services, parts, apps, and other rights traditionally associated with the powers of ownership. Corporations making this argument contend any licensee who violates corporate imposed terms is guilty of a felony on their first offense (Wiens 2015). Corporations are abolishing private property and people's ability to create independent businesses in yet another area of life.

Interestingly, Tesla did not join these corporations seeking to reduce people's rights of ownership, because Elon Musk and his personal values still dominate the company. Tesla is not (yet) a capitalist enterprise responding only to market values. Musk's values as a human being, and not a capitalist corporation, still matter.

PRISONS AND THE NEW SLAVERY

Privatized prisons are profit making corporations benefiting from incarcerating people and keeping their facilities full (Sanchez 2011). Corrections Corporations of America, provides approximately 45% of all private prison beds in the US. They reported, "We believe we have been successful in increasing the number of residents in our care and continue to pursue a number of initiatives intended to further increase our occupancy and revenue" (Meyerson 2013).

According to the *Columbia Journalism Review,* the Corrections Corporation of America and the GEO Group, which between them provide a majority of private prison beds, have (Chavkin 2013):

> more than doubled their revenues from the immigrant detention business since 2005 . . . Prison companies have spent heavily during this time to influence government: over the last decade, according to the Associated Press, the industry has spent more than $45 million on campaign contributions and lobbying at the state and federal level.

Many federal prison inmates are in for drug offenses, and most drug offenses are nonviolent. Private prisons make money off these inmates. Corrections Corporation of America revealed in a regulatory filing that continuing the drug war is part and parcel of their business strategy. Matt Stoller reported prison companies have spent millions supporting pro-drug war politicians (Stoller 2011).

Of course, these corporations claim they do not try to influence legislation that would imprison more people. But the truth appears to be quite different. NPR reported that the CCA engaged in a "quiet, behind-the-scenes effort to help draft and pass" an Arizona law allowing police to demand papers from individuals suspected of being undocumented immigrants and imprison those who failed to provide them (Sullivan 2010). The CJR reported that "Most of that law has since been struck down by the Supreme Court." More corporate friendly justices would have ruled differently.

Private prisons have flourished as never before under the Trump administration. The morning after his election, stocks in CoreCivic and the GEO Group of private prisons rose dramatically. Both two companies have informed their shareholders that federal government contracts are essential to their profitability, and acknowledged policies likely to reduce the U.S. detainee population threaten their business model (Ahmed 2019).

Nor are private prisons the only capitalist institutions with a financial interest in criminalizing nonviolent behavior. Beer sales are declining in states that legalized marijuana, dropping about 2% in Colorado, Oregon and Washington, while marijuana use has increased. The decline was around 4.4% for mainstream beers such as Bud Lite and Coors Lite. Craft beers did not decline nearly so much (Peterson 2016).

Rather than seek to improve quality or accept that tastes have changed, the beer industry seems to prefer jailing their competition. In an interview, Howard Wooldridge, a retired police office active in efforts to decriminalize marijuana reported that (Fang 2012):

> The beer wholesale industry donated five figure money to defeat [California] Prop 19 [to legalize marijuana] because marijuana and alcohol compete right today as a product to take the edge off the day at six o'clock. Just because marijuana is illegal, doesn't negate the fact that there's still com-

> petition. The beer companies don't want it, same thing with big PhRMA. […] Private prisons fight me because they want more people in jail. Is it good policy? These lobbyists don't care.

Giant corporate beer producers are not alone. Insys Therapeutics donated $500,000 to oppose legalizing marijuana in Arizona in 2016. This amounted to about 10% of the total donated to the group "Arizonans for Responsible Drug Policy," that led opposition to legalizing marijuana. No other pharmaceutical company made similar donations. In 2017 Insys Therapeutics' synthetic marijuana was accepted by the DEA as a schedule 2 drug, a category containing many prescription painkillers. Marijuana remains a Schedule I drug, supposedly without any accepted medical use (Ingraham 2017).

The huge American prison population of well over 2 million people is providing the foundation for the reintroduction of slavery into this country. Increasingly prison labor, paid next to nothing, is farmed out to corporations to compete with free labor. From manufacturing solar panels to clothing, modern-day slaves are proving profitable investments for the capitalist world. In the process they are forcing companies employing free labor to lay workers off as they cannot compete with enslaved labor (Starr 2015). As Wooldridge's comments illustrate, this growing slavery is supported not only by corporations directly profiting from it, but also by other corporations who support it as a means of eliminating potential competition.

THE END OF FREEDOM OF THE PRESS

On September 3rd, Journalist Amy Goodman filmed private security guards attacking Native American protesters with dogs and pepper spray as they sought to stop a pipeline whose construction involved bulldozing Indian graves and sacred sites. Reporting corporate violence resulted in negative press for the Dakota Access Pipeline company. Goodman's footage received widespread coverage from CBS, NBC, NPR, CNN, MSNBC and Huffington Post, all of whom found it newsworthy. This was an example of why freedom of the press is important. An arrest warrant was then issued for Goodman, charging her with criminal trespassing, a misdemeanor offense (Raymond 2016). The charges did not stand up, and the warrant was withdrawn . . . this time.

Seeking to arrest journalists doing their job is an escalation in efforts to subordinate freedom of the press to corporate interests. In an earlier action the FAA closed off access to airspace over a pipeline spill while the corporation responsible for the spill barred others from accessing it on the ground (Heidelberger 2016). And that action was itself an escalation from the BP oil spill in the Gulf of Mexico when local law enforcement forced people, including the press, away from beaches BP did not want people to see. Government's concealing corporations' misdeeds and disasters from public awareness leads to a corporate-controlled police state.

When access to major news events can be banned because they are on private land, and more and more land is corporate-controlled, increasingly freedom of the press becomes irrelevant. When the government can even close airspace to protect the interests of corporations, there is no limit to how news can be blocked when a well-positioned corporation wishes it to be so.

CRIME

On one level, the financial and real estate collapse of 2008 was the result of the kinds of speculative bubbles that have plagued market economies since the Dutch tulip mania of 1637. Before that bubble burst, a single bulb could sell for many times the income of a skilled craftsman. However, in the case of the real estate collapse of 2008 considerable genuine crime was involved as well, and it exposed a double standard that made one more mockery of equality under the law.

Corporate crime not only helped cause the bubble and subsequent collapse, but also prevented the most practical counter-measures. One idea to help prevent the growing economic chaos was for the government to buy up the bad loans, which would have helped both Main Street and Wall Street. However, this could not be done because no one could determine who actually owned the loans.

The basic problem was simple. At one time, banks would create two main contracts to buy a house, one for the loan and one for the mortgage, which safeguards the lender if the buyer defaults. Both contracts required a genuine signature before they could be transferred. Usually, banks would keep both documents.

This practice changed in the run-up to 2008. Banks would sell both contracts, which in turn, could be sold to still another bank in a process called "securitization." Banks had turned loans into securities, which they then sold. The people who made the original decisions about the loans were no longer at risk of a default. If loans can be made and then passed along to somebody else, there is no incentive to care about risk.

Investment banks bought millions of mortgages from fly-by-night companies and then packaged them into bonds for sale to investors around the world. Often no signatures were involved and the steps that legally transferred ownership were not taken. When the bubble collapsed and homeowners began to default, no one could prove who owned what property. In response, many banks just faked the missing signatures. In his book *Chain of Title* David Dayen explains how big banks fraudulently counterfeited signatures and otherwise engaged in illegal activity (Dayen 2016).

In a later interview, Dayen explains how the banks (quoted in Parton 2016):

> hired third-party companies (or sometimes mortgage servicing companies and "foreclosure mill" law firms did this in-house) to fabricate the necessary documents after the fact. Because they needed these documents by the millions, they prized speed over accuracy. So they would have multiple people sign the same person's name to double the output, or sign on behalf of companies that were out of business, or backdate the documents, or whatever . . . So whatever the lawyers needed to get the foreclosure done, they would fabricate.

The damage to millions of mostly working-class families from this fraud was extensive. For many Americans, decades of accumulated wealth were wiped out by illegal foreclosures. The sanctity of contracts, essential to markets' capacity to serve human well-being, was subordinated to enhancing corporate wealth.

In an interview, Dayen argued that had the government conducted a genuine investigation, the criminal behavior would have been traced up to the highest people in American banking. But once the Justice Department got involved, this wasn't done. Only one low-level person was ever convicted. Immunity from prosecution of top bankers is now routine, as the case of Wells Fargo's widespread fraud discussed earlier demonstrates.

The most powerful corporations are above the law that applies to mere citizens. So are their executives.

WAGE THEFT

David Weil, director of the federal Labor Department's wage and hour division, explains "wage theft is surging because of underlying changes in the nation's business structure. The increased use of franchise operators, subcontractors and temp agencies leads to more employers being squeezed on costs and more cutting corners, [and]. . . companies on top can deny any knowledge of wage violations" (Greenhouse 2014a).

The size of the problem is hidden by the decentralized nature of our legal system. When federal and state court records are viewed as a whole, corporations have paid out billions of dollars resolving wage theft lawsuits brought by workers. The most-penalized companies include Walmart, Bank of America, Wells Fargo and many other large banks and insurance companies as well as major technology and healthcare corporations. Many are repeat offenders, and 450 firms have each paid out at least $1 million in settlements and/or judgments (Mattera 2018).

Recently a jury fined Walmart a paltry penalty of $54 million for refusing to pay truckers for work they were required to do. Total civil and other penalties could amount to $150 million. However, a long series of appeals by the corporation will drag the process out and, from Walmart's perspective, hopefully derail it (Bender 2016).

Private companies now use eminent domain laws that destroy the property rights of the weak when they impede their projects. Eminent domain's logic was that public purposes, such as building a road, were of such importance that private land could be taken for its use, so long as just compensation was provided in turn. Now increasingly it is used by the economically powerful to increase their personal wealth. George W. Bush used eminent domain to seize land for a stadium parking lot when he owned the Texas Rangers. The parking lot was officially 'publicly owned,' but Bush had control over it while paying a 'rent' of one dollar per year (Somin 2016).

This corruption is widespread among the economically powerful. Donald Trump used or attempted to use eminent domain on numerous occasions to try to seize others' land to increase his wealth. In one case he tried to demolish a widow's home to make room for a limousine parking lot, though for the moment, legally that was a step too far. David Boaz writes (2015):

> Trump turned to a government agency—the Casino Reinvestment Development Authority (CRDA)—to take Coking's property. CRDA offered her $250,000 for the property—one-fourth of what another hotel builder had offered her a decade earlier. When she turned that down, the agency went into court to claim her property under eminent domain so that Trump could pave it and put up a parking lot.

The *ultimate* logic of capitalism is not the logic of seeking maximum profits, but of the powerful taking whatever they want from the less powerful. It grows out of the market once it begins to free itself from the context of civil society. Having done so, organizations adapted to capitalism run roughshod over the rules of the market as well. Of course, there is pushback, but as more and more wealth is concentrated in those serving capital alone, the effort to do so gets more difficult.

DESTRUCTION OF FUNDAMENTAL FREEDOMS

Privatization *always* implies exclusion. That is both its strength and its weakness, and where to decide the balance between what is truly social and what is truly private is always contested. Different rules apply when I rent out a room within my house than when I rent out rooms in an apartment building I own. Few people find this distinction unreasonable. I have freedom of speech in public spaces, but the owner determines whether I can speak as I wish in private space. The degree of private control is limited by the larger relationships within which it is exercised. Capitalist frames of thought are incapable of appreciating this point. From within them there is no limit to privatization, and thus control by the 'owner.'

Consider this disturbing example.

After eating his lunch, Chip Py took a walk in downtown Silver Springs, Maryland. He took out his camera and started to photograph the contrast between the tops of the office buildings and the blue sky. Within seconds, a private security guard informed Py that picture-taking was not permitted. In his report of this episode, Marc Fisher of the *Washington Post* quoted Py: "'I am on a city street, in a public place . . . Taking pictures is a right that I have, protected by the First Amendment'" (Fisher 2007).

The guard informed Py that he was on private property, and sent him to the office of the developer. "There, marketing official Stacy Horan told Py that although Ellsworth Drive—where many of the downtown's shops and eateries are located—may look like a public street, it is actually treated as private property, controlled by Peterson." It had once been a public street, until the county 'privatized' it. In Silver Springs, a basic constitutional right disappeared without debate and, until Py sought to exercise it, apparently without notice.

There could be no freedom in a fully privatized Silver Springs.

Public space is space for the community, the public. As more and more public space is privatized, the liberties associated with political freedom begin to lose their power. For example, shopping centers and malls have attempted to limit the kinds of expression people can exercise within their spaces. They argue that private property is properly subject to control by the owner. A mall is not a public street with stores alongside it. So long as adequate public space exists this argument is of no great issue. However, the shrinking of the public sphere leads to the elimination of political freedom of speech and organization.

So far, I have described efforts to re-establish serfdom based on variants of traditional feudal-style domination. But the capitalist system is collectivist in an all-embracing way feudalism was not. With the aid of modern technology, a kind of totalitarianism is arising that dwarfs anything previously existing.

BIG BROTHER AND SURVEILLANCE CAPITALISM

Viewed from one perspective the tech giants of Google, Facebook, and such are examples of monopolistic power, a recurrent problem within capitalism (Wired 2019; Askonas 2019, p. 47). But something more is happening that makes surveillance capitalism an even deeper threat to a free society. Ironically, this new threat does not grow from traditional monopoly problems, for exploited consumers do not fuel it. When we use Google or Facebook or drive our car we do not engage in a monetary exchange. Consumers increasingly engage in varied kinds of interactions with ever more sophisticated apps, often for free.

At the same time, surveillance capitalism enables dominant corporations to know the books and magazines we read, movies we see, places we go, our health issues, and ever more intimate details of our lives. This information is then sold to others. That initial market lies in organizations' desire to control their environment. Surveillance capitalism's origins lie in the intersection of three factors: a technology originally unconnected with the market, a perennial problem facing all businesses, and capitalism's systemic logic.

The rise of personal computers and the internet was originally rooted in institutions and values far removed from modern capitalism. Or from even the market. The young engineers who pioneered the personal computer often opposed the logic of big business, and its reliance on IBM mainframes. Many were also involved in the 'counterculture' of the time. Using a slogan common at the time, the personal computer was to give "power to the people" (Markoff 2006).

The internet was initially developed by scientists seeking better communication with their peers, aided by DARPA's interest in decentralized networks less vulnerable to hostile attack. In practice it was uniquely fitted to science's gift economy rather than the market's exchange economy. Knowledge could circulate as a gift rather than a commodity, available only for a price (Hyde 1988, pp. 77-81).

Vint Cerf, who developed the protocols that underlie the internet, explained "We made it as open-ended as possible, and invited anyone to participate in the system's design and evolution. We decided not to patent the technology at all, to remove any barrier to its adoption" (Webb 2019, p. 42). However, as the internet grew from the academic and scientific community to include the population at large, ever more resources were needed to support it.

In the absence of public funding, (as for public highways) private financing was needed for information highways. Private funds were raised, but the problem facing the new companies was how to integrate the values of the gift economy with the market's commodity economy. Who would pay the tolls?

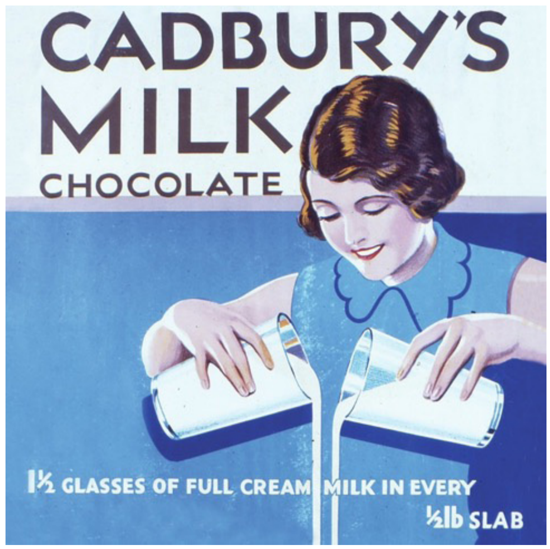
ADVERTISING WAS THE KEY

A friend, who has been involved in networking and internet-working since being a student at Stanford in the 60s, wrote me:

> I remember in the '90s being involved in discussions on the future of the Internet. A raging argument was whether the future was paywall (pay for service), or advertising. It was a foregone conclusion that money had to be made to support development and growth. The consensus was mov-

ing towards advertising. The Internet tradition of free services (the gift economy) transitioned by economic need into an advertising model, getting the necessary money by continuing to give away content and services for free but charging for advertising.

A complex market economy depends on advertising for linking potential consumers with products they might want. Early advertisements were straightforward descriptions of a product and those to whom it was targeted. For example, the Cadbury Chocolate Company, initially a family owned business run along Quaker principles, sought to balance good business practice with the Quaker values they sought to exemplify (Cadbury 2010). Cadbury Chocolate Co. exemplified civil society's complex values, not capitalism's simplified ones. Here is an example of a Cadbury advertisement from 1928.



Today chocolate is often advertised with quite a different depiction of its associations.

Advertising exists to increase sales. The desire for effective advertising is intrinsic to organizations whose well-being depends on purchases from people they do not know. When advertisers discovered pictures of sexy women could sell products better than describing the product itself, a first step was taken in the search for ever greater information about consumers, in order to get them to do what the advertiser desired. Advertising privileges manipulation over providing information.

Google Search was initially created to improve people's ability to find what they were looking for. Doing so required the company to collect data enabling it to coordinate search results with users' interests. While users themselves generated no income, the data they provided opened the door to another income source: targeted advertising.

In her important study of surveillance capitalism, upon which much of this section's analysis depends, Shoshanna Zuboff observes "The idea of delivering a particular message to a particular person at just the right moment when it might have a high probability of actually influencing his or her behavior was . . . the holy grail of advertising" (Zuboff 2019, pp. 77-8). The internet made approaching this grail more possible than ever before.

Initially this alternative was rejected. In 1998 Sergey Brin and Larry Page, who co-founded Google, described a tension between their goal and devotion to advertising (Brin 1998 quoted in Zuboff 2019, p. 71):

> We expect that advertising funded search engines will be inherently biased towards the advertisers and away from the needs of the consumers. . . . . we believe the issue of advertising causes enough mixed incentives that it is crucial to have a competitive search engine that is transparent and in the academic realm.

However, under pressure from impatient investors, the company's founding ideals were abandoned in favor of profit (Zuboff 2019, p. 288). Google shifted from serving its users to collecting increasing amounts of data from them. In Zuboff's words, Google made "a 180 degree turn from serving users" to the "unilateral expropriation of behavioral data" (Zuboff, 2018, pp. 85-7).

This data enabled companies to better target others' ads to potential customers. This targeting could be continually improved beyond that needed to improve search services through acquiring what Zuboff describes as "behavioral surplus" (Zuboff 2019, p. 75). This data surplus separated Google's interests from its users'. Other companies soon followed Google's example.

Today Google, Facebook, Samsung, and Amazon, among others, seek to collect every imaginable fact about anyone who uses them, or a smart device, the better to target ads to potential customers. Online websites often provide tracking data to Google and Facebook. For example, today 76% of the websites most popular for mental health information in the UK, Germany, and France contain third party trackers, often from Google, Facebook, and Amazon (Lu 2019). Once connected, this technology also tracks other sites' users visit. Once downloaded, apps launch other apps unknown to the user, particularly those with Android phones. Even applications like weather and flashlights possess tracking programs unconnected with their user's reasons for wanting them (Zuboff 2019, pp. 136-7).

Consider Google Glass, which, as Zuboff wrote, "combined computation, communication, photography, GPS tracking, data retrieval, and audio and visual recording capabilities in a wearable format patterned on eyeglasses" (Zuboff 2019, p. 156). At the time, Google Glass was a step too far for most. However, as John Hanke, a leading Google manager, noted, "Ultimately we will want these technologies, wherever they are on your body, to be totally optimized based on the job they are doing. . ." (Zuboff 2019, p. 156). And their primary job is not serving the user. Google refuses to allow apps providing disconnect abilities to be sold on its otherwise very open site, confirming Brin and Page's initial observation about the disconnect between serving its original consumers and advertisers (Zuboff 2019, pp. 137-8).

Facebook is no better. Mark Zuckerberg introduced the 'like' button as a way of continuously transmitting users attitudes on a wide variety of things to the company for its use (Zuboff 2019, p. 159). Facebook's 'likes' could "automatically and accurately estimate a wide range of personal attributes that people would typically assume to be private" (Zuboff 2019, p. 274). Among the information revealed by such actions are sexual orientation, religion, ethnicity, happiness, intelligence, age, gender, parental separation, and use of addictive substances (Kosinski 2013).

Samsung's television is activated by voice commands. These commands are also sent to third parties (Zuboff 2019, p. 264). Its smart phones appear to have other capacities as well. If I spend an evening at an open mic session here in Taos, I will often get a message the next day on my Galaxy, asking me to rate the place I had been at, even though I never used my phone. Google Maps does not have a decent option for disconnection because doing so threatens the phone's operating system (Zuboff 2019, p. 154).

This kind of surveillance appears to go deeper still. In early December of 2019 my friend Adrienne had a lengthy phone conversation with a friend who:

> wanted my feedback on some ideas she had for a skin care product she was developing. She had some money to invest and needed to start small and so was researching co-packers who would allow her to order a lower amount of units to begin with. I knew a few people in the industry, and told her I would speak with them. I also advised her to consider investing more money as it takes money to make money, as they always say. We mulled over different ideas for ways to raise the funds. No amount of funds was ever mentioned on the phone. However, when we finally hung up, immediately—within one minute—I received a call from an unidentified number. I never answer them. I wait to see if a voice mail is left. It was, and when I checked it, it was a male voice telling me the he was a lender who could get $2 million to me within 38 hours.

Even our cars are becoming surveillance devices. Geoffrey Fowler of the *Washington Post* wrote "On a recent drive, a 2017 Chevrolet collected my precise location. It stored my phone's ID and the people I called. It judged my acceleration and braking style, beaming back reports to its maker General Motors over an always-on Internet connection." Importantly. "the data it produces doesn't belong to you. My Chevy's dashboard didn't say what the car was recording. It wasn't in the owner's manual. There was no way to download it" (Fowler 2019). Nor is the information only about directly car-related issues, such as driving habits. Fowler hired a hacker to see what could be obtained from a used Chevrolet infotainment computer: "It contained enough data to reconstruct the Upstate New York travels and relationships of a total stranger. We know he or she frequently called someone listed as "Sweetie," whose photo we also have. We could see the exact Gulf station where they bought gas, the restaurant where they ate (called Taste China) and the unique identifiers for their Samsung Galaxy Note phones." And more. Cellphones are perfecting even more invasive surveillance out of all proportion to their supposed utility as phones with apps. Claims this data protects privacy through anonymity is false (Thompson 2019).

We are witnessing an unprecedented ability of organizations with no stake in our well-being to know increasingly intimate details about ourselves and others, the better to manipulate us. Hal Varian, Google's chief economist observed approvingly, ultimately, "Everyone will expect to be tracked and monitored, since the advantages in terms of convenience, safety, and services, will be so great . . . continuous monitoring will be the norm" (Zuboff 2019, p. 257, note on p. 607). Advertisers will be able to know what websites you visit, what books you read, where you go for entertainment, conversations in your bedroom (via a smart mattress) and the layout of your home (via Roomba) (Zuboff 2019, pp. 235-8). Once enough is known about a target, the technologies used to collect information can also be used to manipulate it (Zuboff 2019, p. 203).

Data useful to sellers of commodities and services are also useful to others with different intentions. The Obama campaign got data about 21 million Americans, including online and behavioral data from Facebook, and developed a "persuasion score," rating how easily each undecided voter could be persuaded to vote Democratic. This information helped their outreach efforts (Zuboff 2019, pp. 122-3). In itself this is not necessarily objectionable, but it was only a small step to shift from targeting information to receptive recipients to sending false information to recipients deemed uniquely receptive to it.

Cambridge Analytica possesses 4 or 5 thousand data points for every adult in the United States. Facebook played an important role in their acquiring this information, enabling them to micro-target information to people based on their personalities (Zuboff 2019, pp. 278-80). Much of this information was not true. In *New Scientist* Annalee Newitz observed in a healthy democracy politicians can (Newitz 2019):

> Spout as many lies as they wanted. The whole citizenry could mull their words over [alerting] each other to falsehoods or distortions . . . But Facebook has destroyed the public sphere where such a debate might take place. Instead a politician can craft one set of lies for urban voters and a totally different set for rural ones . . . the problem isn't that politicians can lie on Facebook. It is that Facebook's micro-targeting prevents liars from getting caught.

Newitz points out this is why Facebook's former chief security officer, Alex Stamos, has called for Facebook to stop microtargeting ads. They have refused, and refused to even seek to weed out lies.

People naturally suffer from confirmation bias and so generally prefer sources that confirm their beliefs. A complex society of intertwined relationships provides constant pressures to keep this bias from reaching toxic levels. However, Michael Hogg observes, the Web "provides nonstop access to unlimited information that is often cherry picked by individuals themselves and algorithms that do it discreetly. . . [separating] information and identity universes that fragment and polarize society" (Hogg 2019, p. 87).

In the hands of government this capacity to micro-target individuals creates opportunities for totalitarian control dwarfing the dystopias of George Orwell (1992)[1949] and Aldous Huxley (1946). China is well-known for using the data it collects in its "social credit" system to control people through perpetual surveillance, with rewards for good behavior and penalizes others who act differently (Roth 2019). Less known, this possibility was first explored in the US in an explicit alliance of corporate and government surveillance after 9-11.

Former NSA director Mike McConnell explained the government valued the information Google possessed about citizens. He foresaw it becoming part of a "seamless" empire where "the boundaries of public and private melt" in the name of combatting terrorism (Zuboff 2019, pp. 114-21). McConnell admitted achieving this "will muddy the waters between the traditional roles of the government and the private sector" (Quoted in Zuboff 2019, p. 120).

The Chinese state controls its computer industry whereas in the U.S. it is owned and managed by corporations. But given the growing melding of the state and the corporate elite, this may be a difference that makes no difference. Alternatively, the Chinese may develop an updated "oriental despotism" similar to what long characterized its empires, whereas the American model will be more feudal. *Either way* serfdom will be most people's fate.

Secure property rights provide a critical foundation for preserving freedom from the powerful. A defining feature of capitalism is the gradual merging of government and corporations. Central to this is the subordination of property rights to corporate power, and nowhere more deeply than in surveillance capitalism.

PROPERTY RIGHTS

Shortly before the invention of surveillance capitalism, Georgia Tech described a smart home that existed to serve homeowners. Their study emphasized the individual alone would decide what counted as data for such a home's functions. Its purpose was to enrich each individual's life on their own terms. It was a vision in harmony with the values motivating the inventers of the personal computer and the internet. It was also the opposite of today (Zuboff 2019, pp. 234-5). The reason is that advertisers and others who pay for tech companies for data are the ultimate customers.

Google and FaceBook are doing all they can to prevent individuals from having any rights to their own privacy, and incessantly lobby against online privacy protection (Zuboff 2019, p. 105). As Zuboff observes, the result are companies that "aggressively, secretly, and unilaterally" extract information from people immersed in a modern economy (Zuboff 2019, p. 112). Technology makes this greater control possible, but its motivation is a traditional one, the need to ensure long-term profitability in the face of competition by controlling as much that would otherwise be uncertain as is possible.

This apotheosis of capitalism's inner logic would be undermined if individuals had property rights in the personal data they now provide freely and involuntarily to companies such as Google. If they owned this information, and had to be paid for its use, and only for uses of which they approved, a different economic ecosystem serving people rather than advertising, and ultimately government control, would emerge.

Jaron Lanier, "Father" of virtual reality technology, explained "we got into this [mess] by trying to be socialist and libertarian at the same time, and getting the worst of both worlds" (Lanier 2018). Lanier is stressing the contradictions of combining the gift economy with the commodity economy. In his view there are two superior options. "You either have to say, 'Okay, Facebook is not going to be a business anymore.' . . . We're gonna turn it into a nonprofit; we're gonna give it to each country; it'll be nationalized." His preferred alternative is a market-centered solution.

The other option is to monetize it. And that's the one that I'm personally more interested in. . . . we'd ask those who can afford to—which would be a lot of people in the world, certainly most people in the West—to start paying for it. And then we'd also pay people who provide data into it that's exceptionally valuable to the network, and it would become a source of economic growth. And we would outlaw advertising on it. There would no longer be third parties paying to influence you . . . people would pay into it in the same way that we pay into something like Netflix or HBO Now.

Lanier argues we should own this data and provide it to others only when we choose to, and perhaps by being paid for it. We are paid when it is used and we pay for services made possible by its use. On balance, Lanier says, we come out ahead, and simultaneously free our society from the most totalitarian use of the net. In his terms, "You should have the moral rights to every bit of data that exists because you exist" (Lanier 2019; also Lanier and Weyl, 2018). Property rights is the answer.

A HISTORICAL CONTEXT

For thousands of years most people in civilized societies live in one form of bondage or another (Scott 2017, pp. 155-6). Slavery, serfdom, and other kinds of unfree status was the fate of most. Even the first quasi-free societies, such as Athens, enabled only a minority to live in ways we would consider free, while supported by an enslaved majority (Finley 1959, cited in Scott, 2017 pp. 156-7). It is easy today to forget just how recent this had been the fate of most human beings. James C. Scott quotes Adam Hochschild that, as late as 1800, perhaps 75% of the world's population lived in bondage (Scott, 2017, pp. 155-6).

History has long demonstrated that profit-seeking organizations, even joint stock companies seeking to sell their wares to willing consumers, were compatible with the most extreme kinds of domination and even enslavement of others. Strong states were not necessary, for powerful organized economic interests did so as well. If they could ally themselves with states the subjugation of others was increased.

Alexander deTocqueville saw this pattern earlier than most (Tocqueville 1972, pp. 193, 4):

> I am of the opinion that the manufacturing aristocracy which is growing up under our eyes, is one of the harshest which ever existed in the world; but at the same time it is one of the most confined and least dangerous. Nevertheless the friends of democracy should keep their eyes anxiously fixed in this direction; for if ever a permanent inequality of conditions and aristocracy again penetrate into the world, it may be predicted that this is the channel by which they will enter.

In Tocqueville's time the danger was not great, though important business interests in the antebellum South explicitly pursued aristocracy (Sinha 2000). But today there are no limits to what capitalism can bring under its control by making it corporate property or denying property rights to others, nor are traditional freedoms safe from being destroyed in the name of contract and private property. A new serfdom unlike any that previously existed is arising around us.

Already theorists who embrace surveillance capitalism are anticipating a 'utopia' where virtually everything is known about people, and so they can be shaped and steered into paths required in service to the collective good (Lanier 2103; for detailed discussions, see Zuboff 2019, pp. 398-474). As with earlier forms of collectivism, they assume those in charge will be well-meaning people like themselves. And they believe the organizations they devise to oversee this coordination will selflessly do so. This vision is as collectivist as that of any fascist, Nazi, or Communist, and as assured to result in tyranny.

Capitalism today is a kind of "inverted totalitarianism," in Sheldon Wolin's words, a totalitarianism without a ruling political party or terror (Wolin 2008). It is closer to Aldous Huxley's *Brave New World* than to George Orwell's *1984,* unless it is challenged. But, like all totalitarian power, it seeks to enlarge its sphere of domination until its all-encompassing edges harden into the fetters of genuine serfdom and slavery. Anything that can be controlled to serve corporate power can be privatized, and in the process basic rights checking this power evaporate, in the name of freedom. Slavery is re-entering the world, in the name of freedom.

THE BIG PICTURE

By subordinating the institutional and organizational richness of civil society to a single standard rooted in the control of resources, capitalism has grown a new, systemic, collectivism (diZerega 2019a). However, like organizations within any other environment, organizations within this system, will seek to buffer themselves from external threats, such as new competitors or unexpected shifts in consumer desires. Unlike organisms in a biological ecology, organizations in a cultural one can seek to modify its rules in their favor. Deer cannot outlaw cougars nor cougars require deer run with handicaps, but unlike them, organizations in social ecologies can seek to change the rules in their favor.

Under capitalism, first the value complexity of markets embedded in civil society is gradually reduced to serving one value alone: profit. Secondly, within this process, successful organizations will seek to better control their environment by influencing basic rules of property right and contract to enhance their freedom from competition. For example, in the United States, The IMF's updated estimate of fossil fuel subsidies (defined as fuel consumption times the gap between existing and prices warranted by supply costs, environmental costs, and revenue considerations) is estimated at $649 billion (Coady 2019). At the same time fracking companies are not required to pay for clean-up of their polluted sites after fracking ceases (Scofield 2019).

Some have suggested that this manipulation of law and government enables corporations to plan the economy rather than relying on the market (Galbraith 1985). This is an oversimplification. A market economy coordinated by prices remains, but one whose most powerful economic organizations have freed themselves from much of its uncertainty and the discipline of prices to occupy privileged places. It is through this process that corporations responding to capitalism's inner logic might to re-establish serfdom in societies that have long abandoned it, and do so in the name of freedom.

As Hayek observed for the collectivisms he criticized, this outcome is happening despite the hopes of those who gave us the personal computer and the internet that they were expanding the realm of freedom. But unlike these earlier totalitarianisms, the villain is not so much the organizations of rule ideologues created to make their dreams come true, but a two-fold process. First is corporate domination of the economy, and second is successful corporations' efforts to free themselves from subservience to that economy.

As of this writing, capitalist serfdom has not yet penetrated deeply into society. Pushback sometimes gives it pause. Google Glass went too far. Some cities are forbidding controlling employees' time when they are not paid for it. But the pressure is relentless, and systemically rooted.

Too often today, a worker's knowledge gained on the job remains his or her employer's intellectual property. NDAs nullify the First Amendment. A worker's time even when not on the job remains under the control of their employer, on pain of losing their job. What jobs exist are increasingly poorly paid due to the impact of one-sided power over employees. This tendency is magnified by trade rules that advantage the most exploitive countries, while growing robotization setting an absolute ceiling on the income from jobs a robot can do. And for the jobs left over, growing numbers of job seekers will become increasingly poor as wages continue to fall.

Picture-taking on city streets has been classified as an infringement of corporate property rights (Fisher 2007). Hundred-year-old names of natural features have become the copyright-protected property of corporations (Doyle 2016). Any disputes an employee or consumer might have are increasingly decided by private arbitration where, even more than in public courts, the advantage is with the corporation. What you learn is no longer yours to employ as you wish. Even when neither working nor paid, people increasingly have no control over their time. Meanwhile, powerful pressures exist to expand or at least maintain the number of incarcerated citizens because full prisons mean enhanced corporate profits. This is not government making life hard for business, it is business allying with government to extract profits they could not make in the absence of those privileges.

The defense that this situation arises from 'consumer sovereignty' is absurd. *None* of these examples was desired by consumers. *None* of them serve consumers, let alone people as members of civil society. *None* resulted from people trying to regulate business against its will. *No* regulations here were denounced as "socialist" by the companies affected. Most of these measures victimize people as members of civil society, or as consumers, and the rest victimize labor or smaller property owners. All of these measures serve a new kind of totalitarianism: the subjection of everyone in society to power operating free from all values save a systemic greed removed from any other human motive.

Increasingly the old Eastern European joke about the difference between capitalism and communism applies as much to us as to them: under capitalism, man exploits man. Under communism it is the other way around.[57]

NOTES

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