Markets and Justice

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John Gray’s chapter, “Contractarian Method, Private Property, and the Market Economy,” contains these principal theses:

1. For reasons of efficiency, private property in the means of production is mandated by Rawls’s two principles of justice.¹

2. Private property in the means of production is required as a matter of justice. This is so because Hobbesian contractarianism—which provides the most plausible account of justice²—requires neutrality among “productive ideals,” and only a system with private ownership of capital is appropriately neutral.³

3. Apart from requiring markets and the private ownership of capital, a Hobbesian contract theory is largely indeterminate. It does not, for example, mandate political democracy, or the protection of liberties of thought and expression, and is consistent with a wide range of distributional principles, though emphatically not with the Rawlsian maximin principle.

In responding to Gray, I will focus primarily on the first two theses. Before turning to that response, I should emphasize one important limitation to it. In my not very idiosyncratic view, the central arguments for socialism are arguments about democracy—about the limits on democracy imposed by the private ownership of capital, and the possibilities of expanding democracy that might follow on the abolition of the private ownership of capital.

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capital. Correspondingly, the main arguments against socialism aim to show that it is not an implication of or even a plausible extension of democratic commitments. As his third thesis indicates, however, Gray is not committed to democracy. He counts "political equality and democratic participation" among the "recent and, arguably, peripheral features" of "the Western individualist tradition." He does not discuss the implications of democratic commitment for the organization of the economy. Since I confine myself here to responding to the considerations that Gray does advance, I will not pursue those implications either. But the consequence of this restriction is that I will not be discussing the issues that are, I think, at the heart of debates about socialism.

I. Market Socialism: Background

In *A Theory of Justice* Rawls claims that his two principles of justice can be satisfied by either capitalist democracies or democratic, market socialist systems. Gray rejects Rawls's claim about market socialism, and proposes Thesis 1 in its place. I find the reasons offered in defense of Thesis 1 wholly unpersuasive. As background to explaining why I find them so, I will begin with a few remarks about a democratic form of market socialism. Like Gray's remarks on this subject, my discussion inevitably combines large elements of stipulation and speculation, not least because no such forms exist. But some account is needed as a supplement to Gray's, which is both excessively abstract and highly tendentious.

Since Thesis 1 addresses an issue *internal* to Rawls's theory, the appropriate characterization of market socialism must be attentive to both of Rawls's principles of justice. Specifically, we assume a set of background political arrangements that provides protection for basic political and civil liberties, that secures a fair value for the political liberties, and that provides fair equality of opportunity. Thus we assume, inter alia, the rule of law, competing political parties, public finance of education, inheritance taxes, and the full employment and dispersal of resources.5

Embedding a market socialist economy in this scheme re-
quires a system of enterprises satisfying the following conditions:

1. The enterprises are *worker-managed*. Final authority is in the hands of workers, who may choose to delegate the exercise of that authority to managers. All and only the workers in the enterprise have voting rights concerning the operations of the firm—including what to produce, how much income to invest and how much to distribute as wages, what the distribution of earnings should be, whether to expand the scale of operations, how to organize the work itself, etc.

2. The enterprises are *publicly owned*, and leased to worker cooperatives. While enterprises can trade assets with other enterprises, the workers in the enterprise are barred from selling its assets to supplement their incomes.

3. Apart from taxes and interest payments on loans from the state, no one outside the firm has any claim on enterprise income. The only source of external finance for enterprises are state banks and development funds, and the aggregate level of finance is a political decision made by constitutionally designated, elected officials.

Several elements of this sketch will figure in the discussion later on, and so I want briefly to highlight them.

First, that an enterprise is worker-controlled implies very little about its internal organization beyond the fact that it is to be determined by workers. The size of the enterprise, the degree to which authority is delegated to managers, the extent of cooperation in the organization of work itself, the distribution of enterprise earnings, etc., could all in principle vary considerably across worker-controlled enterprises.

Second, the political system is not comprised solely of a bureaucracy that provides finance to firms. It also includes political parties, a legislature, courts, etc. So there is no justification for treating the state bank in a market socialist democracy as a monopolist with no limits on its power to set economic policy.

Finally, there are many alternatives between the arrangements I have just described and a system of "full liberal ownership" in which all capital is privately owned. There are, for example, endless varieties of a "mixed system" in which firms that are publicly owned and worker-managed exist alongside capitalist firms, as well as systems in which enterprises are coop-
eratively owned. Indicating the difficulties with particular forms of market socialism, then, should not be confused with providing a case in favor of full liberal ownership.

II. Efficiency and Market Socialism

With this background, I turn to Thesis I. I will begin by restating it in a way that locates more precisely the proposed challenge to Rawls's view: Given a market socialist system, it is reasonable to expect that an alternative arrangement based on private property in the means of production would improve the well-being of the least well-off. Gray offers several considerations in support of this thesis, and here I will respond to two, a minor and a major consideration.

The minor argument is that worker-managed firms do not generate as much employment as capitalist firms do, because the former aim to maximize "profit" per worker while the latter aim to maximize aggregate profits. As a consequence, an economy composed of worker-run firms is likely to feature higher levels of unemployment than a system with private ownership, and thus work to the disadvantage of those who are less well-off. But even if we assume that Gray has the right view about worker-run firms, nothing follows about the level of employment in a market socialist economy. That level is a function of at least two factors—the employment policies of firms and the number of firms. Employment for the less well-off could be expanded by easing the entry of new firms, for example by making finance available on favorable conditions.

Gray's major argument concerns the determination of interest rates in an economy with no capital market: I will refer to this as the "Vienna-Virginia argument." According to the Vienna-Virginia argument: (V1) in the absence of a capital market in which shares in firms are traded and in which finance is raised from non-state lenders, the state bank will lack the information required for fixing the rate of interest in a way that promises an efficient allocation of investment; and (V2) even if the bureaucrat-bankers had the information, they could not be trusted to fix interest rates in an allocatively efficient way. Taking the two points together, (V3) we can expect greater "waste,
malinvestment, and discoordination” than in a private property scheme. Gray acknowledges that “the imperfect coordination of economic life is an inevitable consequence of limitations in human knowledge.” Still “a decentralized system will promote co­ordination, and eliminate errors in decision-making, better than a centralized system could.” Drawing on (V3), Gray holds that Rawls’s difference principle requires private ownership of the means of production, since the efficiency gains that result from such a scheme can be expected to improve the condition of the least well-off.

This argument has at least four problems.

First, let us assume with Gray that the shift in property system reduces “waste, malinvestment, and discoordination,” and increases per capita GNP. It does not follow that the least well-off could reasonably expect their condition to improve, or that they could expect the new arrangement to protect fair equality of opportunity, or the fair value of political liberty. In particular, the less well-off might expect that the shift in property systems would increase the inequality of pre-tax/transfer distribution of income and wealth, and that the state would not be able to mitigate the consequences of that increased inequality. Thus the increase in per capita GNP might be associated with a worsening of the material circumstances of the less well-off. And even if increased inequality were materially beneficial to them, they might expect that the greater material inequality would undermine fair equality of opportunity and fair value of political liberties. Gray’s remarks about the efficiency gains following on “full liberal ownership” fail even to acknowledge familiar sources of scepticism about the equitable distribution of those gains.

Second, income and wealth are not the only primary goods whose distribution is regulated by the difference principle; powers and positions of authority are covered as well. In moving from the market socialist system with worker-run firms to the capitalist system, the less well-off might well lose power and positions of authority (in the firm), even if they gained in income and wealth. The difference principle properly understood does not, therefore, mandate the capitalist arrangement, even if there is uniform material improvement, and no other loss of liberties or opportunity. The switch would be inefficient in respect of the non-material components of the difference principle, and this might serve as sufficient reason for rejecting it.
Third, interest rates are deeper economic waters than I feel comfortable in. But it is not clear to me why (V1) is true, that is, why the absence of capital markets deprives policy-makers of the information required for setting reasonable rates of interest. In particular, it is not clear why the state bank would be in an essentially worse position than monetary authorities, budget-makers, or policy planners in capitalist systems. They would have some information concerning growth rates, capacity utilization, and past responsiveness to changes in interest rates. Citizen preferences would be revealed—however imperfectly—through representative institutions. If the government sold bonds to raise revenue, it would have information about time preferences. Of course, all of this information is very imperfect. But then so is the information transmitted by capital markets, and so is the information available to central banks and budgetary planners in capitalist democracies. Perhaps Gray thinks that, because of these imperfections, central banks in capitalist democracies should operate on fixed rules, or that there ought to be constitutionally balanced budgets. I will return to this speculation below.

Fourth, Gray’s defense of (V2)—that bureaucrat bankers cannot be trusted to do what is correct, even if they know it—is weakened by the lack of institutional structure in Gray’s account. Gray treats the state bank as, in effect, a monopolist in setting economic policy. But as I indicated earlier in the discussion of market socialism, there is simply no justification for this assumption. Bureaus operate in complex institutional environments. In the case of a state bank in a democratic market socialist system, the institutional environment would include political parties and legislative committees. In the absence of an analysis of this institutional setting, including the information available to the different actors and the oversight powers of legislative committees, nothing specific can be said about the actions of such a bank. Furthermore, anything that might be said in general terms about the untrustworthiness of banker-bureaucrats can equally well be said about state officials in capitalist democracies.

In responding to Gray’s Vienna-Virginia argument, I have suggested that there are important parallels with respect to information and trustworthiness between officials in capitalist democracies and in (hypothetical) democratic, market socialist
systems. Gray would not, I think, wish to deny these parallels. He would, I think, allow that everything I have said about them is correct, and that this just serves to underscore the common sources of “waste, malinvestment, and discoordination” shared by socialist systems and interventionist, welfare states. But if he did allow this, then he would be conceding that his efficiency argument has nothing in particular to do with socialism. He could with as much justification have argued that Rawls’s difference principle requires a “non-interventionist” state with no stabilization, transfer, and distributional functions. But if he did, then he would owe us an account of the mechanisms for ensuring distributional equity. In the absence of such an account—and there certainly is none in either Vienna or Virginia—we are back in the business of assessing alternative politicized economies, and nothing that Gray says begins to address the question of which of these is best suited to the Rawlsian theory.

III. Justice and Private Property

I turn now to Thesis 2, that considerations of justice mandate private property in the means of production. Gray supports this by arguing that a just system must be neutral among different “productive ideals,” and that such neutrality is achieved by a private property system but not by a market socialist system. In response, I will first challenge the claim about the neutrality of private property systems, then qualify the claim that market socialism is non-neutral, and finally suggest that insofar as market socialism is non-neutral among productive ideals, this is not an important objection to it.

In support of the claim that systems with private property are neutral among productive ideals, Gray appeals to the fact that, roughly, individuals in these systems can form “worker’s cooperatives or communes” if they want. Since private ownership “permit[s] individuals to use their resources to express their own ideal (whatever this may be),” it is neutral. This is weak support. Private property systems now all prohibit production based on slavery. In this respect at least they are not neutral among productive ideals, even if we follow Gray and confine ourselves to a formal conception of neutrality that “requires
only that the legal and institutional framework of society does not favor any one ideal over any other.” But for the purpose of evaluating the justice of basic institutions, neutrality ought not to be interpreted in formal terms. If we do not, then a variety of ways emerge in which private property systems appear to be biased against more cooperative ideals of productive association:

1. **Resource constraint.** Forming enterprises requires resources. Productive ideals, like all ideals of the spirit, must be made flesh. Those who want to form cooperatives and are resource-poor may lack the resources to advance their associational ideal.

2. **Collective action constraint.** For reasons that are familiar from the theory of collective action, it is easier for single individuals or small groups to start firms than it is for larger groups, particularly when the larger groups are resource-poor. As a result, it may be easier to start a firm and hire labor than to form a cooperative.

3. **Financial constraint.** While access to finance can overcome initial resource disadvantages, cooperatives that are unwilling to sell voting shares to non-members are very likely to be at a competitive disadvantage. In particular, because of their unwillingness, they may need to borrow at especially high interest rates, or to pay unusually large dividends on nonvoting shares. And this imposes special burdens on their operations, making it difficult to compete with capitalist firms.

4. **Managerial constraint.** It might be that, as a consequence of the historical absence of cooperatives, people who would prefer to work in them lack the managerial skills required for running them, those who have the managerial skills would prefer not to work in them, and private property systems do not help to overcome this disadvantage.

Determining the importance of these and other potential sources of bias in private property systems, of course, requires empirical investigation, and the assessment of alternative explanations of the relative scarcity of more cooperative forms of work organization. Williamson, for example, argues that more hierarchical forms of productive organization exist because they are more efficient, in particular because they economize on transactions costs. But the bearing of Williamson's important efficiency argument on the present argument is marginal, for
two principal reasons. First, if capitalist hierarchy is the most efficient form of productive organization, it does not follow that a system of private property is neutral in the relevant sense. Instead, private property systems might be non-neutral precisely in that they exhibit an unwarranted bias in favor of productive efficiency, and against such competing values as autonomy or community. Second, Williamson classifies both capitalist firms in which capitalists themselves hire labor (the “Authority Relation,” in his terms) and democratically organized, cooperatively owned firms (“Peer Group” organizations) as hierarchical. He argues that both forms of hierarchy are considerably more efficient than non-hierarchical, cooperatively owned firms in which there is no worker specialization (the Communal Every-Man-for-Himself form). But the efficiency advantages of the Authority Relation over Peer Groups are much less clear, even on Williamson’s own argument. In view of this, it is at least premature to opt for the organizational efficiency explanation.

Returning to the main issue, then, it is reasonable to doubt on the claim that the existence of private property is by itself sufficient for neutrality. Now, some of forms of non-neutrality I have indicated might be mitigated in a system with private property, by, for example, a more equal distribution of resources; others (e.g., problem (3) concerning finance) might require more complex measures. But all cast doubt on the force of Gray’s assertion that private property brings neutrality in its train.

What about market socialism? In what way is it non-neutral? It is true that in such a system “one form of productive enterprise—that involving wage labor—is prohibited.” But then, as I noted earlier, a similar point could be made about private property systems: One form of productive enterprise—that involving slave labor—is prohibited. So in respect of formal neutrality, the systems are on a par. To pursue the question of substantive neutrality, I want to refer to an earlier point about market socialism—that the details of enterprise organization are not fixed by the fact it is worker-controlled. As a consequence, a wide range of productive ideals—small/large, centralized/decentralized, cooperative/atomistic—may appear and flourish within this order. In principle at least a diversity of associational ideals are consistent with market socialism. In respect of substantive neutrality, then, the case is unclear, and not at all advanced by Gray’s analysis.
That private property and market socialism regimes are each non-neutral suggests what may seem a natural solution to the problem of neutrality. There ought to be a "mixed system" with two sectors: the first composed of worker-managed, publicly owned firms, the second of capitalist firms that hire labor. The state would then aim to advance the goal of neutrality among productive ideals by seeking to preserve a balance between the two sectors. Preserving a balance would likely involve measures designed to address the several problems of bias enumerated earlier. There would, for example, need to be measures designed to maintain a fair distribution of wealth, to facilitate enterprise formation among groups of interested individuals, and to subsidize interest repayments for cooperative firms to ensure that they are not at a competitive disadvantage.\(^{21}\)

But suppose that a mixed system is unstable, or that the state is unable to do what is necessary to preserve it, or that people in the cooperative sector hold the view that the private sector is unfairly imposing on them longer working hours and more intense labor than is consistent with preserving democratic enterprises. Would it be objectionable to eliminate the private sector? I do not see why, and certainly do not think that considerations of neutrality ought to guide the judgment, in part for reasons that I have already suggested. We now outlaw slavery. This is non-neutral among productive ideals, but unobjectionable. Democratic states all impose associational ideals by outlawing vote selling, and not requiring citizens to buy their rights. If these measures are non-neutral among associational ideals, then once again non-neutrality is unobjectionable. The U.S. Constitution contains a "republican form of government" clause, thus rendering the constitution non-neutral on the ideal of political self-government. If, then, in the name of advancing a recognized and firmly rooted ideal—that is, the ideal of democratic association—a market socialist system ruled out the "productive ideal" of wage labor, then it is not at all clear why that would be more troubling than any of the restrictions just canvassed.

In this last set of remarks, I have appealed to the ideal of a democratic association. In response to that appeal, Gray might argue that I have missed the point of the remarks about the contractual method that comprise a large part of his essay. According to Gray, the pluralism of values that marks our con-
dition renders Hobbesian contractualism the appropriate theory of justice for contemporary circumstances. But Hobbesian contractualism treats democratic association as simply one among several forms of sovereign authority—and, in Hobbes's own view, as the last among equals. So we should not regard democratic order as a matter of fundamental principle, and should not appeal to this ideal in assessing forms of economic organization.

But an alternative conclusion seems more plausible. If it is true that Hobbesian contractualism construes democracy as simply one political option, then we have good reason for thinking that Hobbesian contractualism is an inadequate interpretation of "our historical circumstance." In particular, we have good evidence that Hobbesian contractualism does not provide an adequate rendering of the notion of equal citizenship—itsel the product of the more than three hundred years of social and political struggle, institutional development, and cultural transformation since Hobbes wrote his *Leviathan*—and that it is this feature of Hobbesian contractualism that lies at the roots of the agnosticism about a democratic state. Once we find Hobbesian contractualism an unsatisfactory point of departure for political argument, however, we will land back in the intrademocratic disputes that I referred to earlier concerning the forms of property that are suited to a democratic order—and I promised to stay away from them in responding to Gray.

**NOTES**

1. Gray makes several additional descriptive claims about market socialism—e.g., that it is not stable, and for this reason is not "ultimately" a genuine alternative to a "command economy" or a private ownership regime. Much that he says in his analysis of the alleged inefficiency problem does not engage the details of Rawls's principles. I have focused on Thesis 1 because it is the only point that is both argued in the chapter and consistent with its stated aim of providing "immanent criticisms" of Rawl's view.

2. Gray cites James Buchanan's work—e.g., *The Limits of Liberty*—as an example of a contractarian theory of justice in the Hobbesian tradition. This rests, I believe, on confusion. Focused on Pareto-improvements from an initial state of anarchistic equilibrium, *The Limits of Liberty* is not about just distributions, but simply about the importance of some

3. In his account of the justice of private property, Gray actually offers two arguments, one from neutrality, another from the “minimal egalitarianism” of the Hobbesian view. But the notions of neutrality and equality deployed by Gray are virtually interchangeable, and the arguments from neutrality and equality are, as far as I can tell, virtually indistinguishable. I see no substantive loss from focusing on neutrality alone.


6. That is, in addition to a restriction on voting rights to firm members, we also stipulate that there is no market in nonvoting shares, and that there are no private financial intermediaries who loan money to firms and who earn interest on such loans.


9. Gray’s actual formulation is this: “Indeed, the covenaners will be compelled to adopt a private property regime if, as is suggested by my argument, the Difference Principle minimum achievable under capitalist institutions is higher than that achievable under market socialism” (emphasis added). But this is too weak for Gray’s purposes, and so I have taken the liberty of reformulating the thesis. The issue is not the “achievable” minimum under different institutions, but the minimum that the least well-off could reasonably expect to achieve. Suppose that the achievable minimum under capitalist institutions is higher because those institutions maximize wealth. It is still possible that those who are less well-off would not expect, in the normal operation of capitalist institutions, to reap the benefits of the increased wealth.


11. And also through state employment policies. See Dahl, *Preface to Economic Democracy*, 122 (and references).


14. I do not mean to be conceding the thesis about waste, etc., and do not think that we will get anywhere on this question by comparing the performance of idealized systems with perfect capital markets with unidealized alternatives.

15. I am skeptical that neutrality is an important virtue of social systems, and not at all certain that it plays a central role in liberal political conceptions. For the purpose of addressing Gray’s argument, however, I have put these considerations to the side.

16. For further discussion of the points that follow, see Bowles and Gintis, *Democracy and Capitalism*, 79–87; John Roemer, “Property-Relations and Surplus Value in Marxian Exploitation,” *Philosophy and Public Affairs* 11 (1982): 306–9; David Miller, “Market Neutrality and the Fail-


20. Williamson derives the overall efficiency ranking of different forms of organization by first providing dichotomous scores for the forms on eleven dimensions, and then summing the scores. Using this method, the Authority Relation is scored at 9, Peer Groups at 8, while Communal Every-Man-For-Himself receives a 4. This procedure obviously involves considerable simplification, and not much can be concluded from the aggregate scores. For example, peer groups perform better than capitalist hierarchy on the dimension of eliciting innovations from workers, while capitalist hierarchy is superior on the dimension of assigning people to suitable tasks. If we believe that the capacity of systems to elicit innovations from workers is more important to their efficiency than their capacity to assign people to suitable tasks—a judgment that plays no role in a scheme of unweighted summations of dichotomous scores—then the peer group form might turn out at least as efficient as capitalist hierarchy. Furthermore, some of the scoring on individual dimensions seems unmotivated. Thus, Williamson supposes that peer group and capitalist hierarchies share common problems of eliciting intensive work. It is not clear why this is so as a general matter. He also supposes that peer groups and hierarchical capitalist firms are both able to respond to shocks. But it is not at all clear why peer groups are not more responsive. For discussion of “shock responsiveness” see Charles Perrow, “Economic Theories of Organization,” *Theory and Society* 15 (1986): 11–45.
