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Despotism ain't a bad place to be

May 26, 2018 by Nulle Terre Sans Seigneur

Simon-Nicolas-Henri (S.N.H.) Linguet (https://fr.wikipedia.org/wiki/Simon-Nicolas-Henri_Linguet) (1736-1794) was a lawyer and man of letters who attracted a great deal of attention from the 1760s to the 1780s before falling into obscurity by the following century, in a fate analogous to Herbert Spencer in his own time (with the apparent exception of Japan (https://ci.nii.ac.jp/els/contentscinii_20180527014249.pdf?id=ART0010292002)). His modern reception is as contradictory and confused as it was by his contemporaries. He is chiefly remembered for his supposed defense of Asiatic monarchies as a superior form of governance to both European absolutisms and liberalisms (an oversimplification of what was his chief work, a multifaceted counter-Enlightenment treatise attacking ideas of “natural liberty”), which was something that irked him when he was still alive. Dubbed the “advocate of Neros, sultans and viziers” by his detractors, he was at the same time admired by Gracchus Babeuf, and was positively received as an early critic of bourgeois economy by Karl Marx in his *Theories of Surplus Value*. Marx particularly loved Linguet’s phrase that “the spirit of the laws is property.” A book by Norman Levine entitled Marx’s Rebellion Against Lenin (<https://www.palgrave.com/gp/book/9781137309259>) cites Linguet as a member of the “Enlightenment Left,” which may have been news to him.

An enemy of physiocracy and laissez-fairism, he was nonetheless not an identifiable socialist, as he quite openly rejected all emancipatory and liberatory projects as being incompatible with any form of society, the latter being necessarily based on subjection. He does not quite reject the idea of a primitive equality, but classifies it as highly distant and pre-societal, incompatible with civilization. However, his vivid and graphic discussions of the despondence of the Parisian working classes, as well as his brutal polemical assault (<https://www.tandfonline.com/doi/abs/10.1080/09672567.2015.1026919?src=recsys&journalCode=rejh20>) on physiocratic policies such as liberalization of the grain trade, made him endearing to early socialists. Linguet’s concern was to create an ordered and gentle system of subordination. His own sociological model is in some sense a form of historical materialism, in that he saw the management of property and the distribution of the food supply as both the determinants and most important elements of jurisprudence. “Abolition of property” is nonsensical under this view.

He can thus be considered the transitory link between aristocratic landed anti-capitalism and modern workerist socialism.

Running afoul of the law on numerous occasions, he spent three years in the Bastille from 1780 to 1783. After his release, he wrote the *Memoires sur la Bastille* — one of the key works in propagating the myth of the Bastille as a uniquely oppressive institution, and an important literary contribution to the delegitimization of the ancien regime, of which he was no friend. At one point he received a pension from Joseph II, but lost it when he defended the cause of the Brabant rebels in the Austrian Netherlands.

“Despot,” of course, did not always carry a pejorative connotation, but was a neutral title, for instance held variously by Byzantine, Bulgarian, Albanian, Serbian and even Latin crusader state rulers through the High Middle Ages, equivalent to “lord.” An example is the “[Life of Despot Stefan Lazarević](http://macedonia.kroraina.com/kk/kk_zh.htm) (http://macedonia.kroraina.com/kk/kk_zh.htm),” a hagiobiographical work of the 1420s in honor of the prestigious Serbian ruler, written by a Bulgarian scholar (Constantine of Kostenets) seeking refuge from Ottoman incursion, at the behest of the Serb Patriarch. It is a fine piece of Old Slavonic literature.

Linguet’s use of “oriental despotism” as an analytical device is meant to simultaneously subvert emphasis on climate (used e.g. by Montesquieu and Rousseau) in favor of property and nourishment in the origins of political constitutions, but also to draw attention to a proslavery ontology. Tyranny and slavery are not the same. The strict and spartan ethic of a patriarchal slavery is not tyrannical, rather tyranny emerges to counteract the debauchery and opulence that are consequences of a duplicitous liberty, in his view.

Though a prolific philosophe (his method is thoroughly in the camp of Enlightenment speculative intuitionism and criticism, but he deploys it to more renegade ends), nonetheless Linguet’s most important and notorious work is the *Theorie des loix civiles* (1767), published in two volumes. (I (https://books.google.com/books?id=4M_KMO6QZuoC), II (https://books.google.com/books?id=8_tCAAAAcAAJ)).

In the preface to vol. 1, Linguet adheres to a “principle of legal simplicity” that causes him to be skeptical of modern civil codes, but also of canon law. He instead shows a preference for simple folk-laws, reasoning that this makes magistrates less prone to error. However, he is not a fan of legal polyarchy as such, favoring legal unification. The principle of simplicity at the same time causes him to dismiss separation of powers (“under a appearance of regulated monarchy, the most disastrous anarchy”) and assume some form of autocracy as natural (I, 45). “If [the prince] leaves this delicate employment to other hands, he will be no more than a family father who gives his lands to govern to intendants, to strangers.” (I, 125)

At the outset we are introduced to his equivalence between proprietorship and society, and the paradox of wage-labor versus serfdom (I, 60):

The non-working holidays have multiplied with inconvenience, at a time when consecrated servitude rendered these festivals indifferent, or even advantageous to slaves. These were; for them precious days, days of rest, in which idleness did not detract from their subsistence, since it was assured, independently of their labor, that the master, in order to apply them the next day usefully to his works, was obliged to feed them during the religious interruption that piety prescribed.

But today everything is changed, today a murderous indulgence has peopled Europe with free men, who are dying of hunger, in the place of these well-fed serfs... When all those who were called gentlemen were little despots tyrannizing their vassals legally and recognizing the suzerainty of the prince only by a homage without consequence, all the prerogatives of feudalism were not unreasonable: it was natural that the lords had to them the administration of justice, and that on their estate it was known in their name that they should pronounce sentences.

How to provide for the sustenance of workers in the absence of these conditions is one of the questions raised.

It would not be through a radical equalization of ownership. On this he is quite clear that (I, 80) “anyone who dared to undertake a deepening of the source of the rights attached to sovereignty, to prove its injustice, would shake the whole of society,” that “those of private individuals would no longer be certain. The prince is the key of the vault. By moving it, one necessarily brings about the destruction of the whole building.”

The philosophes had been far too preoccupied in their fictions of “some sort of chimera of free convention, of a voluntary act made between kings and their subjects” rather than addressing things in a realistic manner.

Linguet derisively quotes the purported words of a Polish palatine who had declared “I prefer an ostentatious liberty over a peaceful slavery,” as being mistaken. The interest of the great numbers is in the serenity of the state and the legitimacy of authority, not in multiplying the numbers of “petty tyrants” who would sever the command-obedience relationships in society in order to enact a redistribution of spoils in their favor.

“A just tyrant relative to the administration of distributive justice, no matter how cruel he may be, can be sure of dying tranquilly: on the contrary, a king whose caprices disturb the order of civil possessions, rarely reigns with security, some virtues that he owns elsewhere,” he says. The attempts of princes to tamper with the laws of property are ultimately self-compromising, inciting the sheep to become bitter lions. Hence: “It can be seen everywhere that the true support of thrones is the security with which individuals enjoy in their shadow what belongs to them. It is not the soldiers who support empires; it is equity.” (I, 105)

The security of the thrones can afford cruelty, but it must be “righteous, if it be permitted to say so; it is because the properties were sacred to them, in the midst of the sanguinary orders they [sovereigns] gave. They respected the possessions of the people, and consequently forced them to respect theirs. They strengthened the private rights of the citizen, and made their universal rights solid, in the same proportion.” (I, 110)

After the preface ends, we arrive at the definition of law and its necessity.

Law boils down to command and obedience. The laws are not to be confused with the relations they prescribe, in Linguet’s view. A law whose provisions are not obeyed is not destroyed merely on basis of its inaction. For all practical purposes, Linguet is a legal positivist.

“Laws are the defense against any person to touch what belongs to another, without the consent of the first possessor. This is property. Justice is at one and the same time the opinion which makes this defense respectable, and the power by which any person yielding to the urge to violate it, will be forced to respect it. These are the two great springs of the social order.” (I, 215)

Linguet has a very intriguing speculative anthropological account on the origins of society. He posits a bipartite division between sedentary pastoralists and itinerant forgers, the former with strong bonds of kinship, the latter more flexible but also more opportunistically violent.

The environment of the pastoralists had conditioned their character like such:

The valleys fertilized ordinarily by rivers or streams, covered with healthy herbs, stolen from view by mountains, offered a convenient refuge for those unfortunate beings to whom a beginning of riches already made their like formidable. They went to hide their anxiety and their secrets. The two principal sentiments of which they disclose being affected, were the pleasure of enjoying their new ease, and the fear of losing it. These two produced a third, the love of solitude, the repugnance to publish a happiness that the witnesses might have been tempted to disturb.

In contrast, the foragers “do not form strong society. They derive from their mutual presence only the pleasure of not being alone. There is no real benefit to them. They do not try to avoid each other because they have nothing to take away; but they do not help each other either. All they seem to propose when they put themselves in troops is the stupid pleasure of composing a large band.”

Pastoralists, jealous of their independence, and foragers, little curious to attack the independence of others to satisfy hunger pangs, clashed in a symbolic and primordial act of violence.

Linguet puts great emphasis on this primordial act of violence, “the first negation,” where those who possessed all were from the beginning robbed by those who had nothing.

After slaughtering part of the flock, the foragers found it more difficult to appropriate the rest, and instead taxed the pastoralists in kind in exchange for them keeping their source of income as a property interest. The latter accustomed himself to servitude, the state of the ploughman and the shepherd becoming synonymous with it. Their possession of arms was restricted.

The until then ad hoc divisions of property were beginning to be formalized: “These slaves, those herds which made up the general domain, by continuing to belong to everybody, belonged to no one. A complete dissipation would have been the fruit of this species of abandonment. It was necessary to fix to whom some were to answer, and by whom the others would be consumed, lest the acquisition would become more fatal by the combats which it could not fail to occasion, than by the advantages which she procured. It was therefore necessary to proceed to the partitions, and this operation produced another. After assigning each party his share, it was necessary to secure his possession.” (I, 245)

Property was declared inviolable to the social order so as to prevent further usurpations, since the primordial act of violence had now become the source of all the pastoral rights that the shepherds and ploughmen would lose if they shook themselves away from the bond of servitude.

Domination is quite natural, in fact more so than servitude itself, maintains Linguet. There had to be masters before slaves. Moreover, after the “first negation,” a non-voluntary incorporation of surrounding peoples into this protective system of property was unavoidable. For if they were not incorporated, they could have no right to the fruits enclosed by property. (I, 250)

Draconian and strict laws were a tool to instill on the conquered peoples that they could not repeat the primordial violence that was part of the “first negation,” that is brutal laws were needed to domesticate the conquered into an obedience that had now become irrevocably necessary for the mutual flourishing of masters and slaves.

“From that moment his existence ceased, so to speak, to belong to him. His arms, his thoughts, his life, everything was tightened in a common deposit, whose usage was no longer at his discretion.” All of his movements from that point had to be proscribed by law.

Hence there is no “natural right” compatible with the existence of society: “If the society or the laws do not at first take possession entirely of all the faculties of the man, if they do not annihilate the original independence which he has received from nature, it would be in vain that he would be told orders; he would always remain the master of eluding them, by virtue of this portion of his political free will, which we suppose he would have maintained.” (I, 265)

From now on, there is only the social law, the civil law. The title that makes possession exclusive, that divides the world into a number of small domains constrained against each other, becomes the stalk of all institutions of society.

How is the succession of property secured?

Linguet ends vol. 1 by pointing out three indispensable means:

These are the three principal objects of private law, of civil law, from which perhaps all others derive. An empire can not be flourishing, and the citizens happy, that as much as **the power of the husbands over their wives, the fathers of their children, the masters of their slaves, is absolute, and knows from each family a little empire of submission**, which chiefly corresponds to that of the state. A government can tend to its perfection only because of its approach to these principles; it is degraded in proportion to how much it gets away from it.

All of this undergirded by a chief despot.

Vol. 2 contains in-depth discussions of patriarchy, contracts, wills, testaments and the institution of slavery. In the main, there are three crucial areas: a) paternal right/paterfamilias as a compensation for paternal dependence to society and to ensure familial harmony against blood feuding and disobedience by children; b) civil independence of some people a corollary to political servitude of others in the state, and hence not an indicator of progress; c) slavery as a peaceful mitigation of the right of war, and its use in the maintenance of the laborer and promotion of his fecundity.

Paternal power was absolute and only gradually diminished: “The fathers in the beginning had the right to sell their children when they were poor, to expose them at the moment of their birth, when they found them deformed or that they did not wish to feed them; to beat them, to kill them at any age, when they were dissatisfied with them; they took possession of the property they had acquired; they arbitrarily disinherited them; finally, the most free and extended right was that of a head of the family over the children who composed it.” (II, 7)

Children are not naturally obedient, moreover there was the risk of them abandoning the familial vocation and so posing a threat to the economic order by relinquishing the estates of their fathers. Their subjection was codified to prevent this.

This yoke had a clear benefit in the distribution of the social surplus, however. Though natural liberty had been eradicated and social subjection made inescapable but through becoming feral, the upside was that “devoting themselves to the servile fatigues which the spectacle had made the amusement of their childhood, and after having helped slaves to plow the land, or to lead flocks, they extended their hand with them, *to receive the portion of food which became the wages of their labors*; from that moment they were furnished like them to the owner’s empire.” (II, 57)

At this point in society there were virtually no immediate gradations between conqueror and conquered, but a bifurcation.

Paternal power secondarily had the role of clamping down on family feuds: "The paternal power, enveloping them all indistinctly, absorbed this inexhaustible principle of dissension. It prevents quarrels by tying them all to the same yoke. It reduced each of them to fearing outrage in the one who protected them all, by wallowing them to enslave them. A free equality would have produced great fights; instead, equality of obedience was the most important in the maintenance of peace." (II, 67)

Paternal power necessarily had to extinguish maternal right. This had a physiological reason in that maternal right expires when the child reaches the age of reason, whereas it is precisely at this point that the power of the father begins, to regulate succession and appoint a heir from within the lineage.

We thus arrive at a compensation theory of patriarchy (II, 100):

One of these concessions was the rampart of property to which everything was subordinated; the other became the price of a long servitude endured patiently. From then on the head of the family could consider the multiplication of his children as the increase of his property: he confided to them the defense, and the administration, which began to interest them, since the property was to return to them one day. He lives without anxiety, and increases the number of these guardians, who exist through him, and could henceforth exist only for him. His care for them was more tender, and his attachment increased in proportion to the tranquility of his domain.

Customs like primogeniture evolved later in this scheme, succession initially being on the will of the father and not order of birth.

It also follows that civil rights, social liberties, emancipation of certain groups come at the expense of others. "Subjected like their mothers to the most despotic yoke as long as simplicity and ancient frugality lasted, the children with the help of the multiplication of vices. They did not begin to become free until their fathers had begun to know slavery. The progress of the civil independence of some in the family has always been in proportion to the political servitude of others in the State."

This reflects a knowledge of a feudal theory of liberty. Liberty is not the absence of servitude, but merely servitude to a higher and less proximate master, such as a king, a commonwealth, etc. "By destroying the power of the fathers over the people, no one respected the power given to them by the law and the custom over property." The consequences of such a liberation from patriarchy are the multiplication of litigation, the intensification of class war, fiscal mayhem and rationalization of life as states must take over the functions of sustenance stripped from fathers. More fundamentally, this emerges from the consequent loss of obedience as patriarchs lose their legitimacy, and with them personal authority in general. His wife, his children, his slaves — each of them must be given fixed rights, which they owe to the Prince, and of which they will have no obligation save to himself. The father must subtract their goods and their heads from the fancy of a particular master, who; after all, is their equal before the common master. (II, 202)

Linguet concludes that civil power has none of these advantages of paternal power, because civil power is reduced to moving an immense machine with the same amount of force which is used by a head of the family to direct it to a small extent. But this quantity which is sufficient and beyond in the latter case is impotent in the other. It is only by redoubled efforts that one manages to make up for it: and then the machine does not move with a smooth and gentle movement that keeps it in operation, but by a violent perturbation that breaks it. Everything gets strained, because everything is equally tense. (II, 222)

As to the question of slavery, it originated simultaneously with society, founded as it was in primordial violence and subjection. Beginning with unpaid cultivation of the soil, it only multiplied with wills, contracts, debts, etc.

Slavery by birth is not inherently unjust. No more than inheriting wealth unearned by one's exertion, reasons Linguet. An attack on slavery and on inherited ranks subsisting in families is an attack on property in general, in his view. The more radical Marxist would agree, but then go on daydreaming of a society without subjection.

"It seems to me very plain that the right exercised over the children of a slave father is no more unjust than that which has been usurped on the father himself. One drifts from the other: the second follows from the first. Whoever enslaved the parents, could treat their race like them. Else there will never have been just slavery, or the unanimous consent of all peoples will not have sufficed to legitimize a rigorous law, it is true, but which they have all adopted, and by virtue of which they form solid bodies; or finally, property is a crime, and the right to pass on an extension of iniquity; **or** hereditary slavery is equitable, and there is no more reason to pity those who are subjected to it, than the workers whom the cannon overturns in the trench. There must be pioneers everywhere and in everything: misfortune to those who are born peasants, are destined by this very thing to perish without glory." (II, 262)

Marx himself [sampled much of the proslavery tidbits](https://www.marxists.org/archive/marx/works/1863/theories-surplus-value/ch07.htm) (<https://www.marxists.org/archive/marx/works/1863/theories-surplus-value/ch07.htm>) of Linguet's work in his manuscripts, though he seems to dismiss him as "half-serious." As if he is only putting on a reactionary "veneer."

In Linguet's view, emancipation from slavery means freedom to starve. Where will they live? Who will feed them? From whom will they take orders (the independent anarcho-syndicalist commune, maybe)? "The master who cares for him, who grooms him, who gives him water, who feeds him, only gives him help for his own use, not the man he attends in his slave; the laborious animal that he maintains." (II, 267) Emancipating them means banishing them from the fruits of the proprietors.

Slavery is also one way of mitigating the vengefulness and carnage of war whereby potential rebels are converted into pieces of fixed capital for long-term exploitation rather than be exterminated. (II, 302)

Abolishing servitude in a social state of civil law is merely changing masters (II, 352):

Thus servitude, or, if you like, social subordination, though embarrassing, though detrimental to the greatest number of the members of society, is a legitimate yoke, which they could not shake. It is justified by its utility, by its necessity: it would make it impossible for the human race, if it managed to avoid it, to return to this peaceful independence, of which it wiped out the slightest idea. By this imprudent revolt they would only be exposed to new troubles; they would change tyrants, but they would not recover their liberty; perhaps even this mutation would produce them more ills than they would have expected.

Abolitionism has had many undesirable consequences. "The essence of society is to exempt the rich from work." (II, 461)

Since opulence and wealth necessarily exist, after abolitionism it remains that "it has always been necessary that the greater part of men should continue to live on the payroll, and in the dependence of the smallest, who have appropriated all the goods."

“He is free, you say! That’s the misfortune. He does not care for anyone, but nobody cares for him. When we need him, we rent him as cheaply as we can.”

The advantage of slavery over wage labor is that the former assigns a monetary value to persons, whereas the latter only to the labor-power of persons and not their bodies. This has implicitly been an undesirable implication of Orthodox Marxism that its theorists tried to brush off (<https://carlsbad1819.wordpress.com/2018/01/06/scientifically-historicizing-progress/>), with appeals to historicism. Linguet lays it down explicitly (II, 478):

By destroying the inequality that must be found among men, [abolitionism] has increased it in a proportion which is not possible to calculate. The clothes of the slave, his food, his illnesses, his children were at the charge of the Master. The continual expenses which the latter made for his serfs carried his cash, though he took interest in it. They diminished his treasures by increasing his real income. These were daily expenses which did not prevent him from being rich; but which occasioned him a perpetual circulation of his species. In contrast, with us, the laborer must live with his wife from the product of his arms. He must feed the price of his day, his children when he has it. He must pay his tailor, on his modest and uncertain pay, when he dresses; his surgeon, when he is sick; his priest, when he gets married. The owners who fill in do not count for anything in these dull and overwhelming expenses. By means of the ten or twenty sols given to him a day, it is to him to talk about everything: but it is impossible; as this income, puny as it is, is still subject to an infinity of accidents.

This is the *Theorie des loix* in summary. It packs quite a punch, it rustled the jimmies of many enlightened readers in its day, and it ultimately got its author guillotined by Jacobins. Yet for all that socialists have (obscurely) credited Linguet, they don’t appear to have learned much from him.

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