

A Short Evolution of Marxism

Jovan Djordjevic has been one of the few great teachers who have had a lasting influence on my work and thinking. It was he who first introduced me to Yugoslav political and constitutional theory; to the self-management system based on the concept of social ownership. These ideas strongly shaped my thinking and emerging view of the Common Heritage of Marxism. He parallels indeed an ideology, and my own to be explained further in the future.

Bob Conroy, social ownership and common heritage are concepts of non-ownership. The resources or means of production which belong not only to other categories, cannot be appropriated by anybody, while state or ^{other} legal person. They can be utilized, but not owned. This ~~Secondly, both concepts presuppose a system that, inevitably is~~ Secondly, both concepts presuppose a system that, inevitably is ~~a non-economic theory of economics~~, based on a utilitarian value rather than the exchange value of things, but a theory he recently he proposed to Prof. Giazari, a non-ban economist.

Secondly, both concepts, social ownership and common heritage, presuppose a system of management in which all men share. It is the aspect that distinguishes the common heritage regime from a free laborer regime: for while the latter is an inappropriate, like to common heritage, the latter is a management regime, which is a form of

of natural resource exploitation says there are 2 "tragedies of the commons." The same distinction applies to the concept of "the commons" and social ownership, at a national level.

Thirdly, there may be benefit sharing, but ^{that} is Communa-logic and not a social-ownership regime; and benefit-sharing is to be understood in a broad sense, including sharing not only of financial revenue, but of ~~technology~~ and the benefit accruing from ~~technical~~ management, including technical transfer.

So much for the obvious analysis. The concept of Communa-logic, of the international level, is the point at issue, and it is clearly less developed as a social-ownership concept of the national level, although the way to implement it is simply taken for granted.

The common heritage of mankind is a statement of exclusive peaceful purposes; ~~that~~ a statement with a disarmament implication, based upon, at the present stage; and it must be interpreted in such a way that benefits can be shared not only with present ~~possibilities~~, but also with future generations; implies a concept of Communa-logic and environmental policy.

The Heritage of Mankind is excluded for peaceful purposes
1) focused in two ways, and will never mean just work of interpretation and development. In the first place, it applies only to "the Arctic as defined (see very page), in Part XI, of the L.O.S. Convention - not to the resources - nickel, cobalt, copper and manganese, - & other

one by one ³ ~~to~~ ^{to} ~~the~~ ^{the} ~~area~~ ^{area}; are primarily used for strategic purposes -
 and this doctrine applies, even though the ~~to~~ ^{to} ~~Area~~ ^{Area} and its resources are
 solemnly declared to be ~~to~~ ^{to} ~~Common~~ ^{Common} ~~heritage~~ ^{heritage} of mankind. Secondly, of course
 to keep in mind that not only to ~~to~~ ^{to} ~~Area~~ ^{Area} and its resources, but also to
 Common heritage of mankind, are ~~to~~ ^{to} ~~resources~~ ^{resources} ~~of~~ ^{of} ~~peaceful~~ ^{peaceful}
 purposes, but also to ~~to~~ ^{to} ~~keep~~ ^{keep} - ~~to~~ ^{to} ~~see~~ ^{see}, that are subject to a different type
 of historical freedom, ^{and} ~~to~~ ^{to} ~~will~~ ^{will} ~~scientific~~ ^{scientific} ~~research~~ ^{research} (and the
 "restoration of peaceful use," a definition in art... -- a definition
 which means to ~~to~~ ^{to} ~~concepts~~ ^{concepts} ~~predominantly~~ ^{predominantly} ~~means~~ ^{means} ~~then~~ ^{then}.

In spite of these conceptual deficiencies, the concept of
 to ~~to~~ ^{to} ~~Common~~ ^{Common} ~~heritage~~ ^{heritage} ~~to~~ ^{to} ~~see~~ ^{see} ~~to~~ ^{to} ~~stay~~ ^{stay} as to ~~to~~ ^{to} ~~concept~~ ^{concept} of social ~~to~~ ^{to} ~~community~~ ^{community},
 is ~~to~~ ^{to} ~~see~~ ^{see} ~~to~~ ^{to} ~~stay~~ ^{stay}. But ~~to~~ ^{to} ~~concepts~~ ^{concepts} are more ~~to~~ ^{to} ~~modern~~ ^{modern}, ~~to~~ ^{to} ~~mean~~ ^{mean} a ~~to~~ ^{to} ~~line~~ ^{line}
 not to ~~to~~ ^{to} ~~requirements~~ ^{requirements} of ~~to~~ ^{to} ~~the~~ ^{the} ~~UNESCO~~ ^{UNESCO} ~~to~~ ^{to} ~~hold~~ ^{hold} ~~of~~ ^{of} ~~an~~ ^{an} ~~environmental~~ ^{environmental}
 and ~~to~~ ^{to} ~~documentary~~ ^{documentary} ~~requirements~~ ^{requirements} of ~~to~~ ^{to} ~~the~~ ^{the} ~~age~~ ^{age} ~~the~~ ^{the} ~~to~~ ^{to} ~~classical~~ ^{classical}
~~set~~ ^{set} ~~of~~ ^{of} ~~renewable~~ ^{renewable} ~~concepts~~ ^{concepts} of ~~to~~ ^{to} ~~social~~ ^{social} ~~community~~ ^{community} ~~properly~~ ^{properly} ~~and~~ ^{and} ~~global~~ ^{global}
~~community~~ ^{community}.

with both "ownership" and to ~~to~~ ^{to} ~~documentary~~ ^{documentary} ~~principles~~ ^{principles} of "sovereignty"
 in a state of ~~to~~ ^{to} ~~transition~~ ^{transition} ~~and~~ ^{and} ~~re-interpretation~~ ^{re-interpretation}, ~~to~~ ^{to} ~~the~~ ^{the} ~~own~~ ^{own} ~~input~~ ^{input} ~~division~~ ^{division},
 a process leads to ~~to~~ ^{to} ~~merge~~ ^{merge} of ~~to~~ ^{to} ~~concept~~ ^{concept} of social ~~to~~ ^{to} ~~community~~ ^{community} and ~~to~~ ^{to} ~~Common~~ ^{Common} ~~heritage~~ ^{heritage}.

Extensive and intense debate have taken place in recent years over the "ownership" of offshore ~~petroleum~~ hydrocarbon resources between the federal Government of Canada, and the Governments of the Provinces of New Scotland and Newfoundland. In some respects the debate echoes earlier ~~one~~ ^{one} of ~~the~~ ^{the} ~~debates~~ ^{debates} of the 1940s, between the federal Government and the states of Texas, California, and Louisiana, which eventually led to the Truman Reclamation of 1945, placing offshore resources beyond 3 miles of shore under federal jurisdiction. A Canadian debate, over some 40 year later, however, is based on different historical agreements between the Great federal Government and the Province ^{from} ~~the~~ benefit shares and shared management (through joint federal-provincial committees). They do regard the concept of ownership, a whole Federal Government and province simply cannot agree. For all practical purposes, then, Canada is now to ^{under} ~~the~~ concept of non-ownership + shared management, and benefit shares in regard to resources in an area, the Exclusive economic zone, a whole the L.O.S. boundary grows to the coastal state exclusive, sovereignty rights to explore and exploit sub resources - not ownership - in claimed sense, not sovereignty, or to have been sense.

Thus an outer layer to the limits of national jurisdiction (which is areas ~~of~~ ^{of} ~~the~~ ^{the} ~~high~~ ^{high} ~~seas~~ ^{seas} ~~and~~ ^{and} ~~continental~~ ^{continental} ~~shelf~~ ^{shelf}) and as the extension of "the Area" of the Moon, of Antarctica - as seen in Science and technology - and "Common heritage" ~~with~~ ^{with} ~~an~~ ^{an} ~~area~~ ^{area} ~~under~~ ^{under} ~~national~~ ^{national} ~~jurisdiction~~ ^{jurisdiction}, has led to concept of "Common heritage" and "social ownership" ~~may~~ ^{may} ~~become~~ ^{become} ~~indistinguishable~~ ^{indistinguishable}.
 But a regime would be the best of the MIEC

In an essay, "The Social Property of Mankind," written for Pacea & Marchus (1970), Djordjevic dwells on these analogies. He postulates, as a corollary of his ~~basic~~ common-venture concept, he postulates the establishment of "social enterprises of mankind," just as his basic enterprises of self-management are a corollary of his concept of social ownership, and you could not have one without the other.

It should be noted that the ~~thought~~ thought at that early date, the thought of "enterprises" and of "Enterprise," as stipulated in the 1982 L.O.S. Convention.

"Direct Management," to be done in 1970, "That is, utilization, use and conservation, plus all of the economic and legal consequences this would entail, cannot be entrusted to a single organizational mechanism which would be a monster international enterprise. The technology of work and other peculiarities of the worker, the geographical position, and the problems of efficient management will demand in principle regional and similar enterprises for direct management. However, it is an inevitable consequence of the concept of social property that these enterprises cannot be national, by proxy, or mixed, meaning an organization of "interested" or territorially national states. They can only be enterprises of social property and hence social enterprises of mankind."

The Enterprise to be established under Part XI of the L.O.S. Convention, undoubtedly a concept born of the same philosophy that inspired Djordjevic, has had ~~the~~ ~~encouraging~~ ~~prominent~~ ~~pre-sent~~

difficulties - almost from the moment of its conception.

The functions and structure of the Enterprise, as formulated in Part XI and in the painstakingly detailed provisions Annexes II, and IV, are in fact based on assumptions which, if they ever were valid, certainly are not valid today: namely (1) that restructuring would be a commercially fair concern by 1985 - an assumption, invalidated by the severe and protracted economic recession (2) that restructuring would be primarily a matter of managerial methods - an assumption invalidated by recent scientific discoveries, especially those of polymetallic sulphides; and (3) that restructuring would be carried out primarily if not exclusively in "the North" beyond the limits of national jurisdiction - an assumption invalidated both by scientific and political circumstances: the sulphide ore discoveries themselves are predominantly in areas under national jurisdiction; so ~~the~~ ^{is} a considerable part of managerial methods; and the boundaries of the EEZ and the continental shelf, as defined in the Convention are concurrently elastic, so that any deep-sea resource will in fact be claimed by ^{some} Coastal State, island state, or archipelagic State.

The Preparatory Commission of the International Law Commission and the Sub-Committee of the Law of the Sea which has just completed - very successfully - its first term in Kyoto, Japan - has ~~stands~~ ^{stands} the face to back of adjusting - by interpretation and development - the text of the Convention to the changed economic, scientific reality: a great and challenging task, demands creativity and innovation, no less than the task of drafting the Convention itself.

And how is Oscar Spangberg's ^{idea:} Social Enterprise of ~~maintain~~ ^{maintain} may ~~become~~ ^{provide} provide inspiration and guidance.

a working paper, circulated informally during the first session of Commission, and
 was to be introduced formally at the beginning of the next session, deal
 with this issue. Exhibit JEFERAD (Joint Europe for Exploration,
 Research and Development) is paper points out that "activities" in the area
 should show measured changed circumstances, while in fact most activities
 of exploration, research and development, which were well in the way until
 the end of the century, by the end of the century - that and before it, a Commission
 should concentrate on exploration, research and development, and be considered
 streamlined & better.

Resolution II on the Protection of Intellectual Property Government Protection
 (PIP), which was adopted by the Council - it is pointed out, Orde, of all
 product groups, an increase requires for R, D, of private investment,
 there, in private sector of a parallel system, which is urgently needed
 - in public sector, etc. of a parallel system, and is being belated -
 is an instrument, parallel analogue to Resolution I, concerning a
 early entry into effective operation of a Europe. This, it is pointed out,
cannot be effective, and must economically be achieved through joint
ventures or joint Europe & E, R and D: with a Commission raising
 50% of the required (market) funds, the it remains 50% should be
 provided by private investors and the governments. Such JEFERAD(s)
 would be able and self-manageable. This establishment would
 serve the interests of industrialized states, as a new stage in the
 & vitally important advancement of the kind of economic co-operation -
 the interest of developing countries, given the strong appealing
 & participative & high-tech European enterprise, but to
 acquire technology when co-development will be transfer (of new experience)

and it would be only efficient way to prepare for the long entry and effects
 aspect of the "Eutopian" state + ~~must be~~ ~~growth~~ + to have of the development
 would and likely decentralize it operation and social enterprise of
Manikins.

This is an exciting and challenging prospect. How far
 it will be realized, will of course depend on circumstances for
 transcendence to stage of advanced of Preparatory Commune.

"Establishing solidarity, cooperation and reciprocity is
 one of the conditions for the prevention of new divisions
 leading to new conflicts and to great catastrophes,"

Djordjevic - Work in 1970. "The social property of

Manikins and its management is not only an
 essential technical-economic question; it is also
 a moral-political problem of life importance
 for the world and for each one of us."

THE SOCIAL ENTERPRISES OF MANKIND

BY

ELISABETH MANN BORGESE

Novan Djordjević is a great teacher, who had had a lasting influence on my work and my thinking. It was he who first introduced me to Yugoslav political and constitutional theory: to the self-management system based on the concept of social ownership. His ideas shaped my thinking on the emerging new concept of the Common Heritage of Mankind. The parallels between the two concepts indeed are striking, and may have to be explored further in the future.

Both concepts, social ownership and common heritage, are concepts of non-ownership. That is, resources or means of production which belong into either category, cannot be appropriated by anybody, whether State or individual or legal personality. They can be utilized, but not owned. This leads, inevitably to a new economic theory, based on the utilization value rather than the exchange value of things. Such a theory has recently been proposed by Orio Giarini, a Swiss-based economist.

Secondly, both concepts, social ownership and common heritage, presuppose a system of management in which all users share. It is this aspect that distinguishes a common-heritage regime from a high-seas regime: for while the high seas are inappropriable like the common heritage, they lack a management regime, which, in an era of intense resource exploitation, lays them open to "the tragedy of the commons." The same distinction applies to the concept of "the commons" and "social ownership" at the national level.

Thirdly, there must be benefit-sharing, both under a common-heritage and under a social-ownership regime; and benefit-sharing is to be understood in a broad sense, including sharing not only of financial revenues but of the benefits accruing from shared management, such as technology transfer.

So much for the striking analogies. The concept of the common heritage, at the international level, has two further attributes, which are less developed in the social-ownership concept at the national level, although they may be implicit or simply taken for granted.

The common heritage of mankind is reserved for exclusively peaceful purposes: a statement with a disarmament implication, however vague; and it must be managed in such a way as to benefit not only present but also future generations: implying a concept of conservation and environmental policy.

The reservation exclusively for peaceful purposes, in the Convention, is flawed in two ways, and will require much further work of interpretation and development. In the first place, it applies only to "the Area" as defined (also very poorly) in Part XI of the Convention -- not to "the resources" -- nickel, cobalt, copper and manganese -- which are primarily used for strategic purposes, once they have been removed from "the Area." And this distinction is upheld even though both the Area and its resources are solemnly declared to be the common heritage of mankind. Secondly, it should be kept in mind that not only the Area and its resources, which are the common heritage of mankind, are reserved exclusively for peaceful purposes, but also the high seas (Article 88) ~~to 88~~ which are subject to a different regime of high-seas freedoms, as well as scientific research (Article 240); and that "reservation for peaceful uses" is defined in Article 301 -- if one can call this a definition, as refraining^A from any threat or use of force against the territorial integrity or political independence of any State, or in any other manner inconsistent with the principles of international law embodied in the Charter of the United Nations" -- which makes the concept practically meaningless.

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In spite of these conceptual deficiencies, the Common Heritage of Mankind, just as the concept of Social Ownership, is here to stay. Both concepts are more modern, more in line with economic, as well as with environmental and disarmament requirements of our age than the classical Roman-Law concept of property and absolute ownership.

With both "ownership" and the concurrent principle of "sovereignty" in a state of transition and re-interpretation, and the boundaries between "national" and "international" getting blurred, one can indeed discern a process leading to the merger of social ownership and common heritage.

Extensive debates have taken place in recent years over the "ownership" of offshore hydrocarbon resources between the Government of Canada and the governments of the Provinces of Nova Scotia and Newfoundland. In some respects these debates echoed those of the 'forties, between the Federal Government of the United States and those of Texas, California, and Louisiana, which eventually were resolved by the Truman Declaration of 1945, placing offshore resources beyond three miles from shore under federal jurisdiction. The Canadian debate, coming some forty years later, however, is taking a different direction. The Canadian debates between the Federal Government and the Provinces focus on benefit-sharing and shared management (through joint federal/provincial commissions). They disregard the issue of ownership, on which Federal Government and Provinces simply cannot agree. For all practical purposes, Canada thus is moving, empirically, towards a modern concept of non-ownership, shared management, and benefit sharing, with regard to resources in an area, the Exclusive Economic Zone, in which the Law of the Sea Convention grants to the coastal State exclusive sovereign rights to explore and exploit such resources, not ownership, in the classical sense, nor sovereignty, in the classical or territorial sense.

Thus one could begin to think in terms of a regime of Common Heritage in areas beyond the limits of national jurisdiction -- such as the resources of "the Area," of the

moon, or of Antarctica -- and of common heritage in areas under national jurisdiction: and here the concepts of common heritage and social ownership merge: become indistinguishable.

Such a regime would be the basis of a really new international economic order, which must also be a new national economic order.

In an essay, "The Social Property of Mankind," written for *Pacem in Maribus* (1970), Djordjević dwells on these analogies. As a corollary of the common-heritage concept, he postulates the establishment of "social enterprises of mankind," just as the basic enterprises of self-management are a corollary of the concept of social ownership, and you could not have one without the other.

It should be noted that, at that early date, he thought of "enterprises," not of an "Enterprise" as stipulated in the 1982 L.o.S. Convention.

"Direct management," he wrote in 1970, "that is, utilization, use and conservation, plus all of the economic and legal consequences this would entail, cannot be entrusted to a single organizational mechanism which would be a monster international enterprise. The technology of work and other peculiarities of the seabed, its geographical position, and the problem of efficient management will demand in principle regional and similar enterprises for direct management. However, it is an inevitable consequence of the concept of social property that these enterprises cannot be national, by proxy, or mixed, meaning an organization of "interested" or territorially national States. They can only be enterprises of social property, and hence social enterprises of mankind."

"The Enterprise" to be established under Part XI of the L.o.S. Convention, undoubtedly a concept born of the same philosophy that inspired Djordjević, has encountered tremendous pre-natal difficulties -- almost from the moment of its conception.

The functions and the structure of the Enterprise, as formulated in Part XI and the painstakingly detailed per-

in -
tinent Annexes III and IV, are in fact based on assumptions which, if they ever were valid, certainly are not valid today: namely (1) that seabed mining would be commercially developed by 1985, an assumption invalidated by the severe and protracted economic recession; (2) that seabed mining would be primarily the mining of manganese nodules, an assumption invalidated by recent scientific discoveries, especially the discovery of the polymetallic sulphides; and (3) that seabed mining would be carried out primarily if not exclusively in "the Area" beyond the limits of national jurisdiction; an assumption invalidated both by scientific and political circumstances: the sulphides discovered thus far are predominantly in areas under national jurisdiction; so is a considerable portion of the manganese nodules; and the boundaries of the EEZ and the continental shelf, as defined in the Convention are conveniently elastic, so that any major resource discovery will in fact be claimed by some coastal State, island State or archipelagic State.

The Preparatory Commission for the International Seabed Authority and the International Tribunal for the Law of the Sea, which just has completed, very successfully, its first session in Kingston, Jamaica, now faces the task of adjusting, by interpretation and development, the text of the Convention to this changed economic and scientific reality: a great and challenging task, demanding creativity and innovation, no less than the drafting of the Convention itself.

And this is where Djordjević's idea of the Social Enterprises of Mankind may provide inspiration and guidance. A working paper, circulated informally during the first session of the Commission, to be introduced formally at the beginning of the next, deals with this issue. Entitled JEFERAD (Joint Enterprise for Exploration, Research And Development), the paper points out that "activities in the Area," due to the above mentioned changed circumstances, will not consist in commercial mining for the foreseeable future, but exclusively in exploration, research and development. If that is so, the Authority, and before it, the Commission, should concentrate on exploration, research and development, which would considerably streamline its task.

Resolution II on Preparatory Investment Protection (PIP) which was adopted together with the Convention -- the paper points out -- creates, for all practical purposes, an interim regime for exploration, research and development, for the pioneer investors, that is, the "private sector" of the "parallel system." What is urgently needed now -- if the "public sector" of the "parallel system" is not to fall hopelessly behind -- is an instrument analogous to Resolution II, providing such an interim system for the Enterprise side. There is of course a difference: The "private sector" already exists; the Enterprise does not yet exist: some entity will have to be established for the interim period. This, it is pointed out, could most effectively and most economically be achieved through joint ventures or joint enterprises on exploration research and development: with the Commission raising 50 percent of the required (very modest) funding while the remaining 50 percent would be provided by pioneer investors who would want to join, and their Governments. Such JEFERADs would be small and self-manageable. Their establishment would serve the interests of the industrialized States, as it would halve their investment cost, a vitally important advantage at this time of economic recession; it would serve the interests of developing countries, giving them a unique opportunity to participate in a high-technology management venture and to acquire technologies through co-development rather than through transfer (the latter being far more costly), and it would be the only efficient way to prepare for the early entry into effective operation of the Enterprise which, in the wake of this development, would most likely decentralize its future operations into social enterprises of mankind.

This is an exciting and challenging prospect. How far it will be realized, will of course depend on circumstances far transcending the scope of activities of the Preparatory Commission. "Establishing solidarity, cooperation and reciprocity is one of the conditions for the prevention of new divisions leading to new conflicts and to great catastrophes," Djordjević wrote in 1970. "The social property of mankind and its management is not only an essential technical-economic question; it is also a moral-political problem of life importance for the world and for each one of us."