

OWNING THE EARTH

MIKE HANNIS enjoys ANDRO LINKLATER'S thought-provoking history of land tenure.

Pondering the inequities of the modern world leads inevitably to thinking about who owns the land. Puzzlement may swiftly be replaced by anger, as even a cursory reading of history reveals that most land has at some point simply been taken, whether by force or by legal processes (backed up by force) which favour the rich and powerful.

But while plenty of land has certainly been taken from those who thought they owned it, historically much more has been taken from people for whom the very idea of 'owning land' was entirely alien. Early European colonists in Africa and the Americas for instance often 'bought' land from the people they encountered, paying with goods varying from glass beads, to cooking pots, to guns and ammunition. These transactions were fraudulent and exploitative for many reasons. Perhaps most important, though, was the lack of any shared understanding or agreement about what exactly was being sold.

Feudalism to Enclosure

So where did this revolutionary idea that land could be exclusively owned by individuals come from? Andro Linklater claims to trace its origin with surprising precision to sixteenth century England, and the momentous move from feudalism to enclosure, driven initially by the massive profits to be made in the booming wool industry (see *The Land* issue 7).

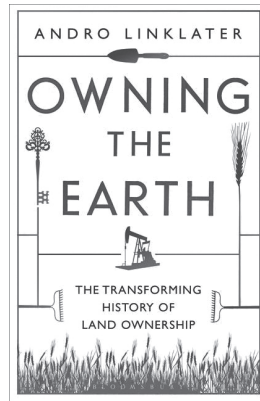
Magna Carta in 1215 had essentially granted absolute rights to freehold landowners, with no balancing civil obligations towards those who might be living on the land. Soon after, the Statute of Merton (1235) guaranteed the lord of the manor's right to enclose common land. Building on this foundation, later landowners bent on maximising profits through enclosure started by removing peasants who had no tenancy agreements, then pushed off more formal tenants by raising rents to impossible levels.

Large scale enclosure was often resisted by the crown (as well as by the peasantry), feeding tensions that eventually led to the Civil War. But by the late sixteenth century, property owners in Parliament had forced through a new regime of property law, destroying the basis of feudalism and setting up a remarkably modern landscape of surveys, deeds, mortgages, conveyancing and inheritance. "The hidden weapon of private property was paper ... everything was written down." This was indeed a powerful weapon, as Linklater goes on to observe when considering later colonialism:

"The ability of paper-based structures of private property to harness the legal resources of an entire society, to direct them at a particular parcel of ground, and to offer financial rewards for success, simply overwhelmed the oral, local and conservative systems of communal land ownership that stood in their way."

A paper tiger then, perhaps: but one with a voracious appetite.

"In 1450 about 60 percent of the twelve million acres of farmland in England had been held by the crown, by the church, and by some thirty dukes, earls and barons. By 1700, the nobility, church and crown together owned less than thirty percent of the cultivated land. Almost three quarters of what had grown to be fourteen million acres of farmland now belonged to the heads of more than two hundred thousand families of gentry, yeomen and tenant farmers with land worth more than forty shillings a year in rent. Perhaps 150,000 more families rented less valuable properties. Out of a population that had increased to almost five million in 1700, almost two million had an interest in landed property."



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are from the book.

Turning Land into Capital

This was the beginning of organised capitalist agriculture, aimed at selling a commodity rather than at subsistence. By the end of the seventeenth century, with farms averaging over 50 acres and still growing, England had irrevocably diverged from the peasant economies which still dominated the rest of northern Europe, where as Linklater puts it

"the self-sufficient goal of peasant agriculture remained as it was in the 1st century AD when the Roman farming authority Lucius Columella declared 'he is a bad farmer who buys what he can get his land to supply'."

"For most of history, most people have viewed their pasts and their futures as peasants. No other system of land ownership is so stable and widespread. ... What the skeleton is to anatomy, the peasant is to history, its essential, hidden support."

Only in England and its North American colonies had land become capital in this way. The transformation brought an 'agricultural revolution' in productivity, as measured by production of the desired commodities and profit for landowners. This in turn gave rise to a different variety of capitalism, built on competition, private property and democracy – for landowners. This version contrasted with the existing mercantile capitalism, seen most clearly in the Netherlands (though also in English trading monopolies such as the East India Company), which was much more tightly controlled by the state. Adam Smith was later to develop this new variant into a broader system of free-market capitalism, which aimed "to ensure that government set the conditions for free markets to operate, and prevent the evil genius of mercantilism sliding toward monopoly".

As this formidable process unfolded, Linklater adds, "All those who might have challenged the solitary male owner's right to exclusive possession of the land were sidelined."

Diggers and Pilgrims

The Diggers, of course, play an important role in this story. Linklater notes there was "nothing new about trying to alter a society's values by changing the way its land was owned"

– he cites for instance the egalitarian land redistribution undertaken by Roman Tribune Tiberius Gracchus in 133 BC. But Winstanley and the Diggers were the first to be explicitly seeking an alternative to the new and “fundamentally unjust” modern institution of land as private property. Despite their defeat, they were not to be the last.

At this point Linklater reveals, in a tantalisingly brief aside, that he himself

“lived for longer than was sensible on communes in the United States and Europe, farming unproductive, steeply sloping fields locked away in the mountains, unwanted by their original owner”.

Along the way, he made the evergreen discovery that “it was not the group but the individual who actually ploughed the field ... some performed tasks better or more lazily than others.” With obvious regret, he concludes that “Winstanley was wrong ... equal ownership entailed a surprising intensity of organisation, and policing of personal foibles.”

Here speaks the disillusioned communitarian, learning the timeless lesson that living in community is not an easy path. It requires more confrontation of ‘personal foibles’ than solitude, not less. Worse still, it involves not only one’s own foibles, but other people’s. This can easily result in individualism reasserting itself – and Linklater produces a fascinating example.

The 102 pilgrims on the Mayflower in 1620, he says, were “communists”: they had agreed to work the land communally. But the harsh realities of life on the land led to quarrels over whether those who worked harder should get more food, leading them in the end to subdivide the land into separate holdings. Neatly setting the scene for all that was to come later, “the first major democratic decision taken on American soil was in favour of individual ownership [of land].”

Subsequent waves of emigrants to America wanted to be sure they would also be able to own land individually. As religious men (for it was men who made such decisions) they wanted not just legal or political but also theological reassurance on this thorny question. This was provided by the new doctrine that although God had indeed created the world as a common treasury for all, enclosing and ‘improving’ land brought a civil right to own it as well as a natural right to occupy it.

This doctrine was later famously expressed by the philosopher John Locke, who worked as secretary to the colonial Lords Proprietors of Carolina from 1669-1675. This period obviously shaped his highly influential views on property, which are prefaced by the famous words “in the beginning all the world was America”. As Linklater puts it

“It was from this unconstrained state, Locke argued, that private property spontaneously, naturally and inevitably occurred. [...] harking back to Winthrop’s old Puritan thesis that labour itself created privately owned property independently of the common law. [...] By working a parcel of the earth and improving it, a person separated it from what had been shared and thereby acquired exclusive ownership. [...] The settler’s natural rights of ownership came from their daily labour in clearing the ground of its giant trees, of planting rice and herding cattle, and of dealing with the emergency demands of floods, hurricanes and wars against Native American and Spanish marauders.”

Measuring out the Spoils

Under feudalism, land was not considered as a commodity, but as part of a complex system of rights, obligations and customs. One clear illustration of this was that the landholdings were not measured by mathematically calculated area, but by likely yield, meaning that size varied with quality. As late as 1789, at Bourges in Northern France land was measured by the *setérée*, defined as an amount of land that could be sown with a *setier* (half a bushel) of seed. The actual area varied with topography and soil quality.

Similarly in England “a yardland was a feudal unit representing an area large enough to support a family”. When William Shakespeare bought ‘four yardlands’ at Old Stratford in 1602, the land was also measured out as 107 acres. Linklater says this shows that this was a key transitional period between the old system and the new, where “in a market involving buyers with no local knowledge, an objective unchanging quality such as area allowed strangers to compare the value of different commodities. Thus one unmistakable indicator that a true market in land had developed was the appearance of exact, invariable measurements in place of local organic units.” This new market led to an explosion of surveying and measurement, which played a crucial role in creating the colonial reality, as detailed in Linklater’s earlier book “Measuring America”.



William Petty, who surveyed Ireland for Cromwell.

Cromwell in Ireland

1649 saw not only Winstanley’s experiment but also Cromwell’s brutal invasion of Ireland, on the pretext of putting down the 1641 uprising. After Cromwell’s victory communal ownership was all but eradicated, and hundreds of thousands of Irish people were killed or relocated, with the result that Protestants owned 90% of the land by 1659. Before 1641, Catholics had owned two thirds of it. In Cromwell’s wake came “an army of surveyors, measuring out the devastated land to be sold as private property.” Much of the land was sold to British colonists, who swiftly formed a new aristocracy: the ten million pounds raised from land sales paid the bill for the war. Large tracts were given directly to those who had either financed the campaign or been part of it. William Petty, who had been in charge of the survey, himself received not only £10K but also 15,000 Irish acres. All these new freeholders “held their land under English common law that recognised a single owner whose exclusive rights would be enforced by the magistrate and, if need be, by the army.”

What happened in Ireland, Linklater observes, “proved to be a blueprint for a way of owning the earth that, with some significant variations, would eventually displace millions of people and overwhelm hundreds of indigenous cultures from Newfoundland to New Zealand.”



William Penn, founder of Pennsylvania, making a treaty with the Delaware people in 1682. Was it really like this?

Of course, the Native Americans were not really the “marauders” in this story. Even Locke had to acknowledge that the ‘right’ to land ownership potentially applied equally to those forcibly dispossessed. But he (and others) got around this awkward fact by claiming that the people already living on the land had not really been doing anything useful with it. Traditional forms of managing land (as illustrated on our front cover), based as they are on working with it rather than ‘improving’ it, were largely invisible to the colonial eye. Linklater concludes:

“The violence of expelling indigenous people and taking the territory that gave them identity as well as feeding them was an injustice that should invalidate the moral argument for private property.”

Was it Worth it?

But in a strangely utilitarian piece of reasoning, he then argues that the fact that conquered areas of the British Empire eventually saw great increases in population, and many good lives lived, must also be taken into account.

“both the sustenance of the extra lives and the improvement of their quality that were made possible by the change in the way the earth was owned must be entered into the balance ... the inhabitants of private property societies have claimed for themselves a degree of individual freedom unknown in other societies ... some of the dispossessed have been able to claim a similar freedom by regaining or being compensated for what they have lost”.

Ultimately Linklater seems to propose a grand reassessment, facing history squarely in order to see whether the facts that have been created on the ground can be justified by having produced a net increase in human happiness. If not, then “without that moral basis, a private property society is inherently unstable” and eventually, as has happened so often,

“the resentment of the many despoiled have-nots will coincide with the ambitions of a sufficiently large number of have-not-enoughs to create a more or less viable democratic uprising.”

Many would argue that a reassessment of the Lockean private property revolution need go no further than considering his famous proviso. Having argued that ‘mixing labour with nature’

creates private property, Locke says that this clever conjuring trick is legitimate only if there is “enough and as good left in common for others”. This certainly is not the case today: but as Linklater acknowledges, it had already become impracticable even in colonial America by the early eighteenth century.

Selfishness and Fairness

This is a big book, about big ideas. But it is also very readable, and brim-full of fascinating historical nuggets. For example, in comparing private property with the two other predominant land tenure systems, peasantry and serfdom, Linklater explains the role of the *mir* council which organised life for the serfs at a communal level in tsarist Russia. Each family had its own dwelling and garden, but “in the interest of fairness, the *mir* periodically redistributed both land and grazing rights”. It determined which crops should be grown and where, managing rotations and key dates in the agricultural year, all aiming at egalitarian redistribution.

“Thus, paradoxically, the autocracy of tsarist rule made possible for most Russians the communal life that Winstanley and the democratic Levellers had dreamed of.”

Linklater enjoys this kind of paradox. He argues that “selfishness and fairness are both intrinsic to human nature”, and makes much of the connection between private property and modern democracy. As Locke pointed out, those in the club of property owners have a strong incentive to set up social and legal frameworks in which all their interests are represented, and in the process to sacrifice some freedom to the state, in order to protect what they have. But the obvious problem is that those left outside the landowning club tend also to get left out of the democracy. This is arguably as true today as it was in the sixteenth century. Fortunately there are other, more genuinely egalitarian, ways of constructing and justifying democracy.

Private ownership of land, Linklater concludes, has been ruthlessly destructive, but very dynamic and hence also very creative. Many readers may feel that what has been created does not outweigh what has been destroyed. But Linklater does also identify a familiar tension – people who believe land should be held in common are nonetheless often pretty keen to get hold of a bit of their own.