Land Ethics
Suggested topics for Research and Conference

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Submitted to Ron Smith, Executive Director, LILP

Issues in economic policy involve either allocative efficiency or distributive equity. Most issues involve both, and often the issue is between them: they are perceived as clashing. In recent years professional economists have tended to put aside equity issues as subjective, troublesome and irresolvable, and focus on allocative efficiency.

To neglect equity, ethics and justice bodes ill for economists. It reinforces an image of them as mechanistic, lacking humanity and compassion. It also is unrealistic: equity issues have preoccupied mankind from the dawn of history, and will not go away.

These notes suggest ways of organizing studies of equity, especially in relation to land. The relation of people to land is also the relation of people, through land, to each other.

A. <u>Land and "Functional Equity"</u> -- the productivity ethic of distribution

The marginal productivity theory of distribution amended classical distribution theory and showed that land is productive, and that labor (and capital) are not responsible for the whole product, and that shares may be identified and divided rationally in free markets.

Question: has this development repealed the classical economists' position that landholders are recipients of a "surplus"? Has it established that landholders as such are productive? Or is that another issue?

Ditto for the associated concept of "opportunity cost", which gives land a certain kind of social cost, even though it is not produced.

Related questions: is land rent unearned? Is rent peculiar to land? Are land value increments unearned? Are such increments peculiar to land?

How can we resolve the clash between allocative efficiency and distributive equity? The productivity ethic of distribution goes a long way toward resolving it. A flaw in this resolution, however, is that landholders do not create land, either by labor or saving.

Land taxation has a special claim on our attention here as a means of perfecting this resolution. It seems to support both allocative efficiency and distributive equity (although both also depend on how tax revenues are spent).

B. Land and Egalitarian Equity

1. "The commons" (lands and resources without tenure control, hence of free access) today include air, navigable waters, wild game, parks, streets and highways, wilderness, beaches, etc. Free access to commons has historically been an important equalizing influence in society.

Growth of population, and per/capita demands put pressure on previously ample commons. To avoid overuse and premature use they are progressively put under tenure control. In our times the radio spectrum, parking space, the air (pollution rights), fisheries, campsites, etc. have been tenured.

Questions: Who is entitled to the rent? Do all persons have equal rights. All citizens? All local residents?

How shall those excluded be compensated for their loss, or "wipeout" of entitlement? If the rights of those excluded are truly "unalienable", how shall their descendants be compensated in perpetuity?

2. It is often alleged that control of land is more concentrated than control of depreciable assets, and certainly more concentrated than control over labor power. Inequalities in labor power tend to follow a normal curve, even when construed broadly to include inventiveness, entrepreneurship, etc. The distribution of wage and salary income is still somewhat skewed, but the distribution of property income is extremely skewed, of landholding even more skewed, and of increments to land value even moreso.

Questions: are those observations valid and verifiable?

If so, what policy conclusions follow?

C. Land and "Market Equity"

"Market Equity" is a condition when all have equal access to markets, both as buyers and sellers. Market equity requires free markets without monopoly barriers and without governmental barriers (other than those demonstrably serving purposes other than market restriction).

1. Land is often cited as the "mother of monopolies", the basis of various specific monopolies, etc. Is this claim valid and demonstrable?

2. Land markets are always micro-markets in that land is stationary in perpetuity, so the numbers of buyers and sellers in specific markets are often too small to allow effective competition and entry. Ownership turnover of 1-2%/year is again too little to make a perfect market. In some cases (like water rights in California) market movements lag 50-100 years behind immediate needs.

3. Concentration of land control in general militates against free competition in markets. To the extent that government intervention is responsible for market controls, landholding generally endows the landholder with political power to influence government actions.

If those observations are valid and demonstrable, what policy conclusions follow?

D. Land and Intergenerational Equity

Jefferson wrote that "...all men are created equal; ... they are endowed by their Creator with certain unalienable rights ..." This concept attended the birth of the nation, and is one which most Americans seem to take to heart, and remember and recite even though The Constitution omits it. "Equality before the law" is a related hallowed concept. Freedom is our "birthright".

The problem is in the specifics. Of what do these equal rights and freedoms consist? The heart and soul of Henry George's philosophy is that the poorest and least favored infant born becomes "seized of" a right to land equal to that of the Astors, then the largest landholders in New York (Progress and Poverty, pp. 338-40). This is "right-to-life" carried to its economic conclusion (we do not know George's position, if any, on abortion).

The tax measure he favored is now generally defended in terms of its "neutrality" and consistency with market "efficiency". Those are points he also advanced, but cursorily. His greater concern, judging from the pages devoted to it, was with distributive equity. In this he followed classical economics, which focuses on distribution.

1. "Unalienability" is a key concept, and very challenging. You cannot sell your child into slavery because of his "unalienable" right to freedom. George is saying, by analogy, you cannot sell your child's share of The Earth, it is his birthright. Neither can you buy the birthrights of others' children, they are unalienable. Recognizing the efficiency need to buy and sell land, George aimed to keep the kernel of rent unalienable by using it for public revenues.

George drew on Old Testament ethic, and had absorbed Leviticus 25:10. Moses' land law says the economic sins or weaknesses of the fathers are not to be visited on the children, at least not in respect to land holding. There is no fee simple tenure in Leviticus: we begin again every fifty years, all equal.

George often repeated that the world is inhabited by succeeding generations. Equal rights mean nothing unless every member of every new generation, however humble and helpless, be granted equal rights.

George dramatized his point by asking rhetorically if all persons have an equal right to breathe. In his day it seemed self-evident they did. Today it is not so clear, when the right to pollute air is for sale in Southern California and elsewhere (offset rights, they are called); and those wanting to breathe clean air in the airshed "bubble" are regarded as having no higher right than the right of others to pollute. Indeed it is the latter who are given the original entitlements to offset rights, based on their histories of pollution.

Again, George dramatized his point by asking if some people have a right to be in this world, and others not? Garrett Hardin has replied "Yes", the world is like a lifeboat nearly swamped, and those on board have a right and duty to keep off new boarders, who would merely bring disaster to all. The issue between Hardin and George needs to be explored and resolved.

2. A second concept of intergenerational equity, (not found in George), is that future generations have some equal claim on exhaustible resources, which should be conserved for them. Interpreted severely this might seem to prevent any use of exhaustible resources at any time. In practise it has been used to defend severance taxes, delay in leasing public lands, and other devices to retard extraction of exhaustible resources. It is increasingly used to support land reservations for open space, wilderness, scenic, park and farm uses.

Critics of this concept say that the progress of technology compensates future generations for the depletion of natural resources. The issue is vigorously debated on both sides.

3. A third concept of intergenerational equity has it that the nation serves future generations by creating capital. The policy thrust of that is a tax system to encourage capital formation. What has this to do with land? A nation can untax capital without shifting the tax burden off property owners by substituting taxes on land for taxes on capital.

Of course a nation can also shift taxes to economic activities like production, payrolls and sales. The equity issue there is the massive transfer of tax burden from owners to workers, tantamount to a wealth transfer from workers to owners. Shifting taxes from capital to land also involves some wealth transfers, but they are small by comparison if one believes, with many tax economists, that one is still taxing the same real estate, but just taxing it in a different way.

For intergenerational equity a central question is, what policy will most encourage capital formation? One familiar position is that sales taxes in some form will do the trick.

A less familiar position relates to land taxation. There is probably a diminishing marginal utility of wealth, as persons accumulate more total assets. It has been observed that holding slaves and government bonds both tend to bank the fires of thrift without creating real capital. The same is true of holding land. As land values rise they satisfy the need for financial security, for accumulation, without any real increase in national capital. Some persons even take out cash and consume.

The different policy implications of the two positions are most apparent with respect to "capital gains". The first position says tax them less or not at all. The second one says some of them are unearned increments to land values, tax them more.

This particular unresolved issue is moving fast to the top of the national agenda as the nation's consumption binge careens on. I can hardly think of a topic more timely and more appropriate for the LILP to address.

E. Land and "Status-quo Equity"

Another concept of equity is that no one should ever be damaged by public action. "Pareto optimality" includes this concept. It is also incorporated in the slogan "An old tax is a good tax" (because its effects have been capitalized into land values, and every buyer is making just a market return on the price of land). It is found in concepts like Transferable Development Rights (TDRs) premised on compensating wipeouts from windfalls. Economists try to limit themselves to formulating "win-win" situations.

These concepts have been criticized as too narrow, since only those with formal tenure of land have "standing" to be compensated for wipeouts. Losses of common rights, perhaps the most common wipeouts, are not compensated. Restricting one's-self to finding "win-win" situations has been criticized as turning away from the hardest and most common unresolved public problems, and merely brokering.

F. Origins of property in land

Since land is not produced by man, property in land originates in unproductive seizure, using force, politics or guile. Is the title so acquired then strengthened by passage of time? Or is it weakened by the weakness of the case for inheritance?

Is title to land then validated or strengthened by sale to "innocent" buyers? Buyers of stolen personal property are not held innocent. Are buyers of stolen land different? The argument once carried some weight, but law and sentiment are fickle and ambivalent on the point. Proposition 13 in California is premised on the value judgment that ancient possessors should pay lower taxes than recent buyers at high prices. Thus the "innocent" buyer is now treated as the less innocent one.

Again, some titles originate as possessory interests premised on use, often just one specific and traditional use. These may be weakened or destroyed by sale, stigmatized as "trafficking" or "speculating" and violating terms of stewardship. A mere change of use may jeopardize some precarious tenures.

Are titles strengthened when land is pledged as security for loans? Certainly the number of people implicated in the system is increased, and moreso when many of those loans are from commercial banks so that much of our circulating medium of exchange is based on them.

Is title to land strengthened by subsequent weakening of those who seized it, or of their successors in interest, as they age and retire? Is title strengthened by gift to eleemosynary institutions, or purchase by pension funds and insurance companies? It is a curious wrinkle that titles originating in superior force are later defended on grounds of weakness and charity.

G. <u>Land in the polity of a nation</u>

What is the polity on which nations (particularly ours) are based?

1. Extended family, with equal rights of inheritance. This is the George concept. He calls it an "organic" theory, and it may also be likened to a corporation. All citizens are equal shareholders in a government which holds sovereignty over the land, and distributes dividends from the rents.

2. Contractual theory. Here landholding is presumed to have originated independently from the state. Landholders then create

the state to render specified services. They may pay according to specific benefits received. This seems to fit the case of local governments better than it does the federal one.

3. "One-world" theory. The organic theory has to come to terms with the fact of national particularism. Should land be granted as a reward for military service? How are immigrants to be incorporated into the polity? When do emigrants and expatriates leave it? Should rent-sharing be extended worldwide? Should oceanic rents be turned over to the U.N., as has been vigorously pushed by some? These questions could open up new realms of inquiry to which here I merely allude without developing.

The three theories have different implications for distribution. Resolving them raises hard and basic questions, but perhaps they seem hard only because they are so seldom addressed that we lack the background that helps us address other questions which may really be of lower priority.