

# For and Against Ownership: William Godwin's Theory of Property

*Robert Lamb*

**Abstract:** This article offers an interpretation of British philosopher William Godwin's theory of property ownership, as outlined in his *Enquiry Concerning Political Justice*. Godwin's work can be read as presenting an incoherent account of property rights, which, on the one hand, justifies its existence on seemingly utilitarian grounds while, on the other, impugns its legitimacy on egalitarian grounds. But the contradiction apparent in Godwin's position is actually illusory and can in fact be plausibly interpreted as comprising a coherent two-level understanding of political morality, wherein the right to own private property is best comprehended as a "right to do wrong."

## Introduction

The political thought of late eighteenth-century British philosopher William Godwin has been the subject of frequent labeling in recent years: it has, among other things, been described as "anarchist,"<sup>1</sup> "utilitarian,"<sup>2</sup> "perfectionist,"<sup>3</sup> and "bourgeois radical."<sup>4</sup> Debates over the appropriateness of such rival labels—though neither unimportant nor uninteresting—have often made difficult the task of presenting individual aspects of his thought with any significant degree of precision. With this in mind, the aim of this article is to attempt a more coherent presentation of one of the most important and influential areas of Godwin's political philosophy: his account of property ownership. I first outline the role of the concept of private property ownership

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<sup>1</sup>John P. Clark, *The Philosophical Anarchism of William Godwin* (Princeton: Princeton University Press, 1977).

<sup>2</sup>Peter Marshall, *William Godwin* (London: Yale University Press, 1984); Don Locke, *A Fantasy of Reason: The Life and Thought of William Godwin* (London: Routledge and Kegan Paul, 1980); Robert Lamb, "Was William Godwin a Utilitarian?" *Journal of the History of Ideas* 70 (2009): 119–41.

<sup>3</sup>Mark Philp, *Godwin's Political Justice* (Ithaca: Cornell University Press, 1986).

<sup>4</sup>Isaac Kramnick, *Republicanism and Bourgeois Radicalism: Political Ideology in Late Eighteenth-Century England and America* (Ithaca: Cornell University Press, 1990).

within Godwin's *Enquiry Concerning Political Justice*<sup>5</sup> and present what he identifies as three rival justifications for its existence, only one of which he regards as acceptable. I then go on to discuss the role of human moral equality—so important throughout his political theory—within his critique of property ownership as an institution. My argument is that a two-level interpretation of Godwin's moral philosophy reveals a coherence that his account might at first seem to lack, which simultaneously allows him to defend politically and impugn morally the legitimacy of private ownership rights.

The resolution of this issue has obvious resonance for Godwin scholarship, but it also has wider importance for both the history of political thought and political theory more generally. The impact of his contribution to late eighteenth-century political thought was huge, something evinced by his contemporary William Hazlitt's oft-quoted remark that

No work in our time gave such a blow to the philosophic mind of the country as the celebrated *Enquiry Concerning Political Justice*. Tom Paine was considered for the time as a Tom Fool to him; Paley an old woman; Edmund Burke a flashy sophist. Truth, moral truth, it was supposed had here taken up its abode; and these were the oracles of thought.<sup>6</sup>

A proper appreciation of Godwin's writing on property is thus important for understandings of late eighteenth-century theories of ownership and distributive justice. All of the major British "radical" thinkers of the 1790s—including Thomas Paine, Mary Wollstonecraft, John Thelwall, and Thomas Spence<sup>7</sup>—each inspired to some degree by the French Revolution, discussed the issue of distributive justice largely through discussions of property rights.

<sup>5</sup>William Godwin, *Enquiry Concerning Political Justice and Its Influence on Modern Morals and Happiness*, ed. Isaac Kramnick (Harmondsworth: Penguin, 1976 [1798]), 701. This version of the third edition of the text is currently out of print, but it remains the most easily accessible.

<sup>6</sup>William Hazlitt, *The Spirit of the Age*, ed. E. D. Mackerness (London: Collins, 1969 [1825]), 35–37. As Gregory Claeys notes, although Godwin's "impact on the plebeian reform movement was more limited" than on the literate middle classes, it was nevertheless highly influential on the reformist London Corresponding Society's charismatic leading writer, orator, and key theoretician John Thelwall, and partly because of this, the reach of Godwinian ideas were most definitely not confined to the formally educated. Claeys, *The French Revolution Debate in Britain: The Origins of Modern Politics* (Basingstoke: Palgrave Macmillan, 2007), 135.

<sup>7</sup>See Paine, "Agrarian Justice," in *The Complete Writings of Thomas Paine*, ed. Philip S. Foner, vol. 1 (New York: Citadel Press, 1969 [1796]); Mary Wollstonecraft, "A Vindication of the Rights of Men," in *A Vindication of the Rights of Woman*, ed. Janet Todd (Oxford: Oxford University Press, 1994 [1790]); Thelwall, "The Rights of Nature against the Usurpation of Establishments," in *The Political Writings of John Thelwall*, ed. Gregory Claeys (University Park: Penn State University Press, 1995 [1797]); Spence, "The Rights of Infants," in *The Political Writings of Thomas Spence*, ed. H. T. Dickinson (Newcastle: Averro, 1982 [1797]).

Each of these writers contributed to what historian Gareth Stedman Jones recently cited as the first modern debate about the possibility and moral rightness of the removal of poverty within a commercial economy.<sup>8</sup> But Stedman Jones's analysis of this debate focuses chiefly on the arguments of Paine and Condorcet, alluding to Godwin's ideas only in terms of their being the target of Thomas Malthus's *Essay on the Principle of Population*.<sup>9</sup> Such an omission is also a striking feature of Thomas Horne's otherwise comprehensive account of theories of property in seventeenth- and eighteenth-century Britain.<sup>10</sup>

Godwin's account of property rights is also of considerable theoretical interest and perhaps even uniqueness in two senses. First, it departs from an assumption held—either explicitly or implicitly—by almost all modern theories of ownership. Theories of politics that incorporate robust defenses of property rights typically place what might be termed a justificatory burden on some morally praiseworthy type of individual action. The right of one agent to exclude another from interference with their justly held resources is usually explained with reference to a morally significant mode of acquisition such as labor in the case of Locke and Nozick, first-occupancy in the case of Grotius, or the extension of an individual's will into the external world in the case of Hegel. As will be shown below, Godwin's defense of inviolable property rights represents a unique approach to the issue in its rejection of the relevance of the manner of acquisition when assessing the justness of a holding. How an object is acquired is not the important issue when gauging its legitimacy but rather the utility its acquisition provides for the individual holder.

The second unique aspect of Godwin's theory of property is the way in which it can be seen ultimately to stem from foundational principles that would seem antithetical to the existence of such rights: equality and utility. As will become clear, his theory reveals a commitment to an egalitarian distribution of ownership, yet in practical terms, his account seems ultimately to invite and legitimize significant inequalities in holdings. Godwin is also a utilitarian: for him the nature of justice is such that "we have in reality nothing that is strictly speaking our own."<sup>11</sup> Thus, the idea of a natural right is "the offspring of ignorance and imbecility."<sup>12</sup> Since "every one of

<sup>8</sup>Gareth Stedman Jones, *An End to Poverty? A Historical Debate* (London: Profile, 2004).

<sup>9</sup>*Ibid.*, 92–96.

<sup>10</sup>Thomas Horne, *Property Rights and Poverty: Political Argument in Britain, 1605–1834* (Chapel Hill: University of North Carolina Press, 1990). Like Stedman Jones, Horne does mention Godwin very briefly but only in relation to a discussion of Malthus (see 164–65, 167).

<sup>11</sup>Godwin, *Political Justice*, 194. "There is no situation in which we can be placed, no alternative that can be presented to our choice, respecting which duty is silent" (638).

<sup>12</sup>*Ibid.*, 193–94. In terms of his immediate context, Godwin's utilitarian rejection of rights-based theories is singular. For some discussions of the prominence of natural

our actions fall[s] within the province of morals," individuals "have no rights in relation to the selecting of them."<sup>13</sup> However, Godwin's political theory is not as hostile to individual rights as such unequivocal declarations suggest. Indeed, one of my aims in this article is to show that, in fact, the political philosophy advanced in *Political Justice* regards certain individual rights as fundamental and almost inviolable. This seems quite strange, given his insistence that justice is only a matter of utilitarian calculation.<sup>14</sup> But since utilitarianism as a moral theory is ultimately reducible to the foundational protection of a right to equal treatment, this should not be particularly worrying.<sup>15</sup> My argument is that Godwin's political theory contains other rights in addition to this one entitlement to equal weight in the utilitarian calculus of interests; one of these rights is the right to own private property, and this right is explicable through an oft-ignored distinction between the realms of politics and morality in his thought. "There cannot," Godwin asserts, "be a more absurd proposition than that which affirms the right of doing wrong."<sup>16</sup> Yet my claim is that, for him, the right to own private property that he defends exemplifies just such a right.

### Property in *Political Justice*

The subject of property is a major occupation of Godwin's lengthy *Enquiry Concerning Political Justice*—one that he described as "the key-stone that completes the fabric of political justice"<sup>17</sup>—and forms the focus for the whole of its eighth and final book. This book, "Of Property," has, in terms of its reception history, something of a life of its own, having been published throughout the nineteenth and early twentieth centuries as a stand-alone piece by British liberals and early socialists. It is one of the sections of *Political Justice* that

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rights theories among 1790s radicals, see for Paine, Mark Philp, *Paine* (Oxford: Oxford University Press, 1989) and Gregory Claeys, *Thomas Paine: Social and Political Thought* (London: Unwin Hyman, 1989); for Wollstonecraft, Lena Halldenius, "The Primacy of Right: On the Triad of Liberty, Equality, and Virtue in Wollstonecraft's Political Thought," *British Journal for the History of Philosophy* 15 (2007): 75–99; and for Thelwall, Iain Hampsher-Monk, "John Thelwall and the Eighteenth-Century Radical Response to Political Economy," *The Historical Journal* 34 (1991): 1–20.

<sup>13</sup>Godwin, *Political Justice*, 192.

<sup>14</sup>See, for example, *ibid.*, 191–99.

<sup>15</sup>As John Stuart Mill notes, the individual right of equal treatment is not a deviation from the utility principle but "the very principle itself"; what gets the theory off the ground in the first place. Mill, "Utilitarianism," in *The Collected Works of John Stuart Mill*, vol. 10, *Essays on Ethics, Religion and Society*, ed. J. M. Robson (Toronto: University of Toronto Press, 1969), 258.

<sup>16</sup>Godwin, *Political Justice*, 196.

<sup>17</sup>*Ibid.*, 701.

Godwin most substantially revised between the first edition of the text published in 1793 and the third and final version in 1798. It has even been suggested that because it was the final section of the book to be completed, with the preceding parts already sent to the printers, it demonstrates significant theoretical variances with those earlier parts, such that Godwin felt urged in the latter two editions to attempt to make the whole cohere in a way that the first did not.<sup>18</sup>

Whether this is the case or not, no doubt his views did evolve, and the initial hostility that Godwin expressed toward property as an established institution softened somewhat between the first and third editions as did his primitivist rejection of commerce.<sup>19</sup> The motives behind Godwin's revisions have been much discussed by scholars, and various explanations for them have been put forward, including the possibility that he "bent before the blast" in response to the increasingly violent turn taken by the French Revolution, an event that he had initially lauded.<sup>20</sup> Even if his increasing concern about events in France (and what he saw as the contemporaneously dangerous radical turn taken by British Jacobin organizations like the London Corresponding Society) did not solely or directly alter his beliefs, it is, nevertheless, the case that the two later editions of the text contain stronger criticisms of revolutions and political association as well as a firmer commitment to the legitimacy of property ownership as a social institution.<sup>21</sup>

Perhaps because of predominant concerns with the motivations lying behind his revisions and with the way in which his account of property fits with the rest of his theory, Godwin's argument is often treated as nothing but an ideological mouthpiece, a "manifesto for the liberal individualistic world view that lashed out at the still powerful remnants of the corporate and hierarchical polity."<sup>22</sup> By contrast, my analysis of Godwin's theory of property is one uninterested in the ideological motivations that might explain the various changes he made between editions, but interested instead with offering a plausible interpretation of what his theory of

<sup>18</sup>Gregory Claeys, "The Effect of Property on Godwin's Theory of Justice," *Journal of the History of Philosophy* 22 (1984): 81–101.

<sup>19</sup>For a discussion of this, see Claeys, *The French Revolution Debate in Britain*, 127–34.

<sup>20</sup>This claim was advanced by George Woodcock in his introduction to *William Godwin: Selections from Political Justice* (London: Freedom Press, 1943), 4. For a critical discussion of the claim, which also provides a comprehensive account of Godwin's revisions on property and revolutions and the possible contextual reasons behind the shifts in his thought, see Philp, *Godwin's Political Justice*, 120–41.

<sup>21</sup>Godwin had a temporary fall-out with John Thelwall in 1795 that centered on Godwin's authorship of "Considerations on Lord Grenville and Mr. Pitt's Bills," a pamphlet that criticized the political tumult inevitably caused by the activities of political associations. These worries were also given expression in *Political Justice*, 266–92. See Kramnick, "Introduction" to *Political Justice*, 32–50.

<sup>22</sup>Kramnick, *Republicanism and Bourgeois Radicalism*, 63.

property—as fully developed in the third edition—approximates as a theory. By the third and final edition of *Political Justice*, which was never explicitly revised, his account of property had changed into something remarkably complex, a mixture of potent social criticism and normative political philosophy. This complex mixture can be presented as incoherent but it need not be.<sup>23</sup> As far as the social criticism is concerned, Godwin appears at his most protosocialist: “[A]ccumulated property,” he declares, “treads the powers of thought in the dust, extinguishes the spark of genius, and reduces the great mass of mankind to be immersed in sordid cares.”<sup>24</sup> Yet despite the retention of such severe criticism of the institution of property ownership that marked the first edition, the other aspect, the normative claims, had the effect of altering the political character of the theory significantly and, ultimately, the argument he offers seems to comprise a defense of the right to own private property.

One of Godwin’s initial contentions is that the institution of property ownership has a negative, almost ideological effect on the minds of individuals, one that essentially alters human nature. “There is nothing” he suggests, “that more powerfully tends to distort our judgment and opinions than erroneous notions concerning the goods of fortune.”<sup>25</sup> The mere “accumulation” of property creates a “servile and truckling spirit . . . to every house in the nation.”<sup>26</sup> An unequal distribution of property creates a “continual spectacle of injustice,” which is then perpetuated as the “universal passion” becomes “to acquire wealth and to display it” and “the whole structure of human society is made a system of the narrowest selfishness.”<sup>27</sup> He concludes that “however great and extensive” the evils presented by “monarchies,” “courts,” “priests,” and “criminal laws,” “these are imbecile and impotent compared with the evils that arise out of the established administration of property.”<sup>28</sup> Yet, as will become clear, despite his severe criticisms of the effect upon society of property ownership, Godwin does not suggest that individuals should not have the right to own property.

<sup>23</sup>It might be argued—by someone influenced by the methodological writings of Quentin Skinner—that the entire project of trying to present Godwin’s theory of property as coherent is a misguided one and is evidence of bewitchment by a “myth of coherence.” See Skinner, “Meaning and Understanding in the History of Ideas,” in Quentin Skinner, *Visions of Politics*, vol. 1, *Regarding Method* (Cambridge: Cambridge University Press, 2002), 67–70. While there is, of course, a danger of mistakenly seeing and presenting coherence where there is in fact none, Skinner’s “myth” is best read as heuristic advice rather than as any methodological rule, for there is no reason to assume that authors do *not* strive for coherence in their writings.

<sup>24</sup>Godwin, *Political Justice*, 730.

<sup>25</sup>*Ibid.*, 701.

<sup>26</sup>*Ibid.*, 725.

<sup>27</sup>*Ibid.*, 727.

<sup>28</sup>*Ibid.*, 725.

But before we turn to questions of ownership and distribution, it is necessary to ask, what exactly counts as property for Godwin? "We do not," he claims, "call the person who *accidentally* takes his dinner at my table the proprietor of what he eats" even though "it is he, in the direct and obvious sense, who receives the benefit of it."<sup>29</sup> Property is not, then, simply an object from which an agent happens to benefit. The term instead "implies some permanence of external possession, and includes in it the idea of a possible competitor."<sup>30</sup> So property is, by definition, something an individual has legitimately a claim right over, a right that necessarily excludes other agents who have a corresponding duty to forbear from interference with it.

The scope of property that Godwin details turns out to be quite wide: it seems to refer to anything that must be appropriated in order for individuals to live a happy life: "[S]uch things in particular are food, clothing, habitation and furniture."<sup>31</sup> Godwin then further divides property (the "good things of the world") into four different classes:

1. "subsistence,"
2. "the means of intellectual and moral improvement,"
3. inexpensive gratifications, and
4. luxuries—described as "such gratifications as are by no means essential to healthful and vigorous existence, and cannot be purchased but with considerable labour and industry."<sup>32</sup>

Godwin singles out luxury goods, which, he claims, more than any other class, "interposes an obstacle in the way of equal distribution."<sup>33</sup> In spite of this, he insists that luxuries are completely inferior to the other three classes of property. This is because individuals are capable of happiness without the possession of such goods, which can anyway only be obtained by "abridging multitudes of men to a deplorable degree."<sup>34</sup> There would seem to be no necessary reason for a utilitarian theorist to advance this argument. The acquisition of luxury goods is, as Godwin acknowledges, a pleasurable activity, and in so being, something that would seem to make a significant contribution to the overall stock of general happiness. But Godwin maintains that "no man, if the *direct* pleasure were *the only thing in consideration*, would think the difference to himself worth purchasing by the oppression of multitudes."<sup>35</sup>

<sup>29</sup>Ibid., 709 (emphasis added).

<sup>30</sup>Ibid.

<sup>31</sup>Ibid., 702.

<sup>32</sup>Ibid., 703–4.

<sup>33</sup>Ibid., 704.

<sup>34</sup>Ibid.

<sup>35</sup>Ibid., 705 (emphasis added).

There are two arguments at work in Godwin's critique of luxuries. First, there is the claim that even were an agent to derive a huge quantity of pleasure from the acquisition of a luxury good, that agent's pleasure happens to be far outweighed by the suffering of those who had toiled to manufacture the good in question. His second argument does not rely on this essentially empirical assumption. Unlike the first argument, which is predicated on calculation, his second claim is that while individuals should not refuse pleasure when it is available, the acquisition and ownership of luxury goods is a special case, for it is a source of the sort of pleasure that is in some important sense artificial. The popularity of such pleasure, indeed the very existence of such pleasure, can, in Godwin's view, be attributed to malignant social forces. The acquisition and consumption of luxury goods should thus be regarded as what he elsewhere describes as an inferior primary, rather than superior secondary, pleasure.<sup>36</sup> To illustrate this point, Godwin lauds Epicurus's commitment to a plain diet of fresh herbs and spring water at the expense of more "boisterous" refreshments. The habits of Epicurus should serve as an analogous example for other individual desires, for things such as "the splendour of furniture, equipage and dress."<sup>37</sup> Godwin's contention is that were individuals to be interested solely in "direct pleasure," they would not wish to make others suffer and as a result, would lose interest in luxury goods.<sup>38</sup>

### The Three "Degrees" of Property Ownership

#### *Utility and Need*

Having introduced the different classes of good over which an individual can hold a property right, Godwin then goes on to identify three degrees of ownership, three different potential justifications for private property rights, one of which he endorses and two of which he rejects.<sup>39</sup> The first, which he endorses, is the "simplest" degree, according to which

<sup>36</sup>The qualitative distinction Godwin draws between types of pleasure is expressed in terms of "primary" ("pleasures of the external senses") and "secondary" (like "intellectual feeling, the pleasures of sympathy, and the pleasures of self-approbation") and the latter are "more exquisite" than the former (*ibid.*, 75).

<sup>37</sup>*Ibid.*, 705.

<sup>38</sup>He does not seem to deploy the term "direct pleasure" in any systematic or definitive manner, but it seems akin to the qualitatively more valuable "secondary pleasures" that he describes in the "summary of principles" that he inserted at the start of the third edition (*ibid.*, 74–78).

<sup>39</sup>Godwin's decision to refer to justifications of property rights as "degrees" of ownership is strange and has confused some commentators. Laura Brace, for instance, appears to argue that all three degrees are part of the same system of property (*The Politics of Property: Labour, Freedom and Belonging* [Edinburgh: Edinburgh University Press, 2004], 51). Clark's interpretation of the text, whereby Godwin "describes three

my permanent right in those things the use of which being attributed to me, a greater sum of benefit or pleasure will result than could have otherwise appropriated. It is of no consequence, in this case, how I came into possession of them, the only necessary conditions being their superior usefulness to me, and that my title to them is such as is generally acquiesced in by the community in which I live. Every man is unjust who conducts himself in such a manner respecting these things as to infringe, in any degree, upon my power of using them, at the time when the using them will be of real importance to me.<sup>40</sup>

So, according to this first degree of property, the condition for individual ownership is simply the utility that such a circumstance generates: I have an exclusive right to a particular resource because I can make use of it to increase my happiness and, in turn, the overall stock of general happiness. Moreover, "it is of no consequence *how* I came" to appropriate the particular piece of property, only that I am in possession of it. This justification seems unique within modern theories of property. Indeed, thinkers that offer a moral defense of exclusive property rights typically do so by placing the justificatory burden on some form of individual action, such as first occupancy, labor, or the like. Thus, in the natural law tradition, Grotius justifies private property rights based on first occupancy using Cicero's analogy of theater seats<sup>41</sup> and Locke on the basis of individual acts of labor-mixing.<sup>42</sup> Even Hegel's account of property ownership in *The Philosophy of Right*, while seemingly unwilling to grant intrinsic moral significance to either first occupancy or labor, is clearly committed to the belief that the legitimacy of a particular property holding is dependent on some form of individual action (e.g., taking possession, farming, etc.). For him, "my inner idea and will that something should be *mine* is not enough to constitute property";<sup>43</sup> rather there must be some physical externalization of that will for property to exist. For Godwin's first degree of property ownership, such activities carry no such moral weight. Whereas for Locke, the legitimate ownership of a deer depends on "who hath killed it" and rights over a hare depend on "who pursues her during the Chase," for Godwin such activities cannot confer rights.<sup>44</sup>

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possible systems of property and ranks them according to their conformity with justice," is much more convincing (Clark, *Philosophical Anarchism*, 249–50).

<sup>40</sup>Godwin, *Political Justice*, 710.

<sup>41</sup>Hugo Grotius, *De Jure Belli ac Pacis Libri Tres*, trans. F. W. Kelsey, vol. 2 (Oxford: Clarendon Press, 1925), I.II.15.

<sup>42</sup>John Locke, *Two Treatises of Government*, ed. Peter Laslett (Cambridge: Cambridge University Press, 1988), II: §27.

<sup>43</sup>G.W.F. Hegel, *Elements of the Philosophy of Right*, ed. Allen W. Wood (Cambridge: Cambridge University Press, 1991), §51.

<sup>44</sup>Locke, *Two Treatises*, II: §30.

Of course, the type of justification Godwin invokes here entails that ownership rights are, while exclusive, nevertheless remarkably insecure. This is clearly implied in an earlier discussion of the nature of justice, in which he makes clear that “every shilling” we possess is “appropriated by the laws of morality,” and because of this, I have “no right to dispose of [my property] at my caprice.”<sup>45</sup> Thus, while utility grounds our right to ownership, it also places inevitably severe limitations on it. Indeed, as Alan Ryan points out, this argument would seem to amount “to the denial of anything one could call property rights at all.” “Anyone,” Ryan suggests, “who thinks Godwinian utilitarianism a plausible version of utilitarianism has to accept that utilitarianism is not in principle favourable to property rights.”<sup>46</sup> The reason for this is that any agent’s right of ownership would seem potentially transferable to any other agent at any given moment, provided that the agent in question could make better use of it and, in doing so, generate more utility. The utilitarian defense of property rights is, therefore, really an argument for “stewardship” rather than “ownership” as it robs the institution of the permanency that seems to define it.<sup>47</sup>

However, it is clear that this utilitarian idea of property rights is not as straightforwardly thoroughgoing as it first seems. Godwin’s moral theory is often depicted as comprising the strictest possible utilitarian argument. In one sense, this is true; his theory is utilitarian and the stipulations are strict. But it is not, despite what he himself sometimes appears to suggest, an act-utilitarian theory.<sup>48</sup> Indeed, he details a number of crucial moral rules

<sup>45</sup>Godwin, *Political Justice*, 199.

<sup>46</sup>Alan Ryan, *Property and Political Theory* (Oxford: Blackwell, 1984), 93.

<sup>47</sup>This should not be confused with the Christian “stewardship” argument often thought to underpin the spoilage proviso present in Locke’s account of ownership rights in the *Second Treatise*. For Locke, individual ownership rights evaporate when there is a risk that the goods in question shall go to waste (*Two Treatises*, II: §§31, 38). The goods in question essentially return to the “common” and can be re-appropriated accordingly by other individuals. The utilitarian idea of stewardship that Godwin defends goes much further. It would seem that for him, an individual might make good use of property—very good use even—but still not be able to reserve an inviolable right over it. All that it takes for an ownership right to be transferred to another is if that other can make *better* use than the possessor. And after the right is transferred, the next “steward” has no more secure an entitlement to it than the previous one.

<sup>48</sup>Godwin’s moral philosophy is distinct from act-utilitarianism in numerous ways, including: his insistence that a virtuous intention is a necessary ingredient to a moral action rather than just the outcome of that action (*Political Justice*, 185); his construal of human happiness in nonhedonistic terms (75–78, 391–95); the discretionary weight he affords affective relationships under “ordinary” circumstances (173); the inviolable right to individual freedom he defends (200–208); and, as will be shown below, his defense of rights to private property ownership even under circumstances where their effect on society is to reduce overall utility.

and individual rights that undermine any act-utilitarian reading of his thought. Nor is his account of property ownership simply act-utilitarian. In the passage quoted above, in which Godwin outlines the utilitarian basis for the right of ownership, there is a carefully worded clause that significantly modifies what might seem at first to be the nature of the argument. He describes as "unjust" any individual who infringes upon my property right if the use of the property in question is "of real importance *to me*." This condition is quite different from that found in a standard utilitarian line of argument. For the strictest act-utilitarian, all that is necessary for an individual to relinquish a property right over an object would be a failure to make optimal use of a particular object or resource—or, more precisely, a failure to make more use of it than anybody else could. But what Godwin seems to suggest instead is that an individual agent has the right to a piece of property, provided that individual can make personal use of it without taking into account wider considerations of general utility. The utility to be protected is not that of society at all, but only of the individual person who is in possession of the property in question at a certain time. Therefore, to put this in terms of how one would come to own property within Godwin's utilitarianism, the appropriation of the object can take place in any fashion, provided that the object that is appropriated has some discernible personal use-value for the appropriator and the object is not currently in the possession of another agent for whom it has such a personal use-value. So, when Godwin states that my ownership of property is justifiable because of its "superior usefulness to me," the emphasis should not be regarded as on the usefulness as such, but on the fact that it is useful to me specifically. The definition of use is a personal, subjective one.

The first degree of ownership that Godwin identifies can, therefore, be construed as one that involves a consideration of individual need; because all an individual has to do in order to secure a right is claim that it serves some subjective use. The nature of the right generated by need is such that it overrides or excludes wider concerns about the maximization of overall utility. No individual, therefore, has the right to "make use of my apartment, furniture or garments, or of my food, in the way of barter or loan, without having first obtained my consent."<sup>49</sup> The implication seems to be that all that is required to secure a property right is that an individual has a (subjectively defined) need for it and, therefore, must provide their consent to any other who seeks to use it. But how would this work in practical, political terms? How would disputes between two agents over a property holding be resolved were both to claim that the holding in question was of personal, subjective use to them? Such a dispute would seem at first insoluble because individual need is defined in subjective terms. As will become clear, though, this problem evaporates because of the principle of consent that emerges to stabilize political rights of ownership when faced with the issue of moral equality.

<sup>49</sup>Ibid., 710.

### *Merit and Reward*

The second degree of ownership that Godwin considers and rejects is that which suggests “every man is entitled over the produce of his own industry, even that part of it the use of which ought not to be appropriated to himself.”<sup>50</sup> This seems to be an argument for property ownership as a reward for effort exerted—though this is a strange way of putting it and the “part” of property that “ought not” to be appropriated through industry remains undefined. Earlier in *Political Justice*, Godwin does in some sense validate the principle of reward through his assertion that it is part of what it means to treat individuals as equal moral agents.<sup>51</sup> However, although he describes the claim that property should be distributed according to merit as a proposition that is in some sense true, after some analysis of reward as a basis for such a distribution he rejects it. It is worth exploring exactly why he does so.

He introduces a number of reasons to reject reward as a suitable criterion for property ownership. First, he suggests—in tune with his writings on the corrupting role played by government on individuals<sup>52</sup>—that positive institutions are unable to provide a forum for the facilitation of virtue. The existence of rewards necessarily threatens utility because it inevitably prevents the acquisition of a virtuous intention, which, for Godwin, is a necessary component of moral action.<sup>53</sup> Thus, when considering the distribution of property according to some kind of desert principle, he maintains that “human excellence will be more effectually forwarded by those encouragements which inevitably arise from the system of the universe” rather than those that are purposefully institutionalized.<sup>54</sup> He adds,

if you show yourself deserving, you shall have the essence of a hundred times more food than you can eat, and a hundred times more clothes than you can wear. You shall have the patent for taking away from others the means of a happy and respectable existence, and for consuming them in riotous and unmeaning extravagance. Is this the reward that ought to be offered to virtue, or that virtue should stoop to take?<sup>55</sup>

<sup>50</sup>Ibid.

<sup>51</sup>His claim is that the argument that “the treatment to which men are entitled is to be measured by their merits and their virtues” is “in reality, so far from being adverse to equality in any tenable sense, [it] is friendly to it, and is accordingly known by the appellation of equity, a term derived from the same origin” (ibid., 183–84).

<sup>52</sup>Ibid., 243–47.

<sup>53</sup>He describes as virtuous “any action or actions of an intelligent being proceeding from kind and benevolent intention and having a tendency to contribute to general happiness” and insists that “in whatever instance either the tendency or the intention is wanting, the virtue is incomplete” (ibid., 184).

<sup>54</sup>Ibid., 707.

<sup>55</sup>Ibid.

The argument here, then, is that the recognition of merit or virtue and corresponding reward is simply not justifiable in the case of property, because the only real reward is the spectacle of others suffering. The conclusion Godwin reaches is unsurprisingly that this second degree of property ownership is “a sort of usurpation,” which “vests in me the preservation and dispensing of that which in point of complete and absolute right belongs to you.”<sup>56</sup> It is not, for Godwin, a legitimate justification for property ownership and it is definitely inferior to the first (need-based utilitarian) degree that he identifies.

### *Commerce*

The description of the third degree of property ownership described by Godwin is the “system” that currently exists, which “occupies the most vigilant attention in the civilized states of Europe” and involves occasions when “one man enters into the faculty of disposing of the produce of another man’s industry.”<sup>57</sup> This system sounds very much like capitalism.<sup>58</sup> He claims that its perpetuation is largely reliant on the practice of inheritance, which he appears to regard as an illegitimate practice: what is “bequeathed” by a property owner after death is merely a “mouldy patent which they show as a title to extort from their neighbours what the labour of those neighbours has produced.”<sup>59</sup> It is within his critical discussion of this system that he is often at his most protosocialist, claiming that “there is scarcely any species of wealth, expenditure or splendour, existing in any civilized country, that is not, in some way, produced by the express manual labour, and corporeal industry of the inhabitants of that country.”<sup>60</sup> Although property is the product of manual labor, this system does not guarantee any subsequent entitlement to the object labored upon. In fact,

Every man may calculate, in every glass of wine he drinks, and every ornament he annexes to his person, how many individuals have been condemned to slavery and sweat, incessant drudgery, unwholesome food, continual hardships, deplorable ignorance, and brutal insensibility, that he may be supplied with these luxuries.<sup>61</sup>

<sup>56</sup>Ibid., 711.

<sup>57</sup>Ibid., 711.

<sup>58</sup>Though he does not actually employ the term “capitalism,” to ascribe such a concept to him for the purpose of analytical exegesis does not seem outlandishly anachronistic—he does, for instance, refer to “capitalist” individuals. He refers to the “capitalist” as “an idle and useless monopolizer” (ibid., 793).

<sup>59</sup>Ibid., 712.

<sup>60</sup>Ibid., 711.

<sup>61</sup>Ibid., 711–12.

The production of luxury goods condemns numerous individuals to “drudgery,” “continual hardship,” and other discomforts, despite the irony that those condemned are in fact responsible for the labor necessary for the production in the first place. Within this system,

Very little indeed is employed to increase the happiness or conveniences of the poor. . . . Those who, by fraud or force, have usurped the power of buying and selling the labour of the great mass of the community are sufficiently disposed to take care that they should never do more than subsist.<sup>62</sup>

It is, then, part of the nature of this system that those who labor are maintained barely at subsistence level.

Godwin recognizes that the justification for this system of property ownership—based on the production of luxuries and the practice of inheritance—stands “in direct contradiction” to the reward-based, “second degree” principle of property. This is presumably because he notes the tension between the principle of reward, which distributes property according to the behavior of an agent and the principle of inheritance, which is based on the choice of an individual to bequeath, a choice that need have nothing to do with concerns with merit or desert.

Although Godwin’s criticisms of a commercial or capitalist system are severe, it should be noted that their basis does not seem necessarily to be a protosocialist conception of exploitation reliant on the claim that workers have an entitlement to the value of their labor. As noted earlier, when discussing the first degree of ownership, Godwin claims that any evaluation of the justness of a holding is independent of how an individual comes to possess it, which suggests a severance of any link between legitimate ownership and any intrinsically important moral action, including individual acts of labor. In addition to this apparent rejection of any link between particular actions and rights of private ownership, for Godwin labor as a human activity is actually something to be bemoaned, an evil that cannot be meaningfully distinguished from drudgery. He even suggests that “the most desirable state of human society would require that the quantity of manual labor and corporal industry to be exerted . . . be reduced within as narrow limits as possible.”<sup>63</sup> He further takes this conviction to entail that the circumstance under which individuals employ others is morally questionable. Thus, “the country-gentleman who . . . finds work for hundreds of industrious poor is the enemy, and not, as has been commonly imagined, the friend, of his species.”<sup>64</sup> What also follows from this is that any technological innovations that increase employment are likewise to be distrusted.<sup>65</sup>

<sup>62</sup>Ibid., 713.

<sup>63</sup>Ibid., 712.

<sup>64</sup>Ibid.

<sup>65</sup>Ibid.

There does not seem substantial evidence of a concept of a moral entitlement based on labor in *Political Justice*. But what Godwin definitely does appear to find objectionable about the treatment of workers in a capitalist economy is that this system of production—one that prioritizes luxuries—makes individual workers suffer. As the previously cited passage makes clear, the “slavery and sweat, incessant drudgery, unwholesome food, continual hardships, deplorable ignorance, and brutal insensibility” that is experienced by workers, the painful nature of this experience is important to him and appears to be as close as Godwin comes to offering a definition of exploitation. Seemingly, if this third degree of property violates any rights, it is the right not to feel the kind of pain caused by this type of labor, which is a right that would befit comfortably the utilitarian framework described so far. Individuals appear to have an equal right to a certain minimum level of welfare that Godwin believes capitalism to violate inevitably.

This is a potentially contestable interpretation of Godwin's critique of capitalism. It could be argued that Godwin's opposition to capitalism reveals no such “right to a minimum level of welfare,” but instead just another commitment to utilitarian calculation. Thus, because there are a larger number of exploited workers than there are capitalists, an alternatively plausible interpretation would seem to be that his critique is a contingent one rather than one intrinsic to capitalism as an economic system. On this reading, if there happened to be fewer exploited individuals than individual exploiters (and thus more happiness than unhappiness generated), the utilitarian calculus would produce a different result, and Godwin would have to produce a different argument. In other words, perhaps it is not capitalism as an economic system that wrongs individuals through instances of exploitation (or exploitative relationships), but rather the large amount of pain that happens to have been created by it—and therefore it is not simply the case that capitalist property violates individual rights. Some of the comments Godwin makes do seem to lend credence to this alternative, basic utilitarian, interpretation. At one point, he does suggest that

whatever may be the value of the life of man, or rather whatever would be his capability of happiness in a free and equal society, the system we are here opposing [capitalism] may be considered as arresting, upon the threshold of existence, four fifths of that value and that happiness.<sup>66</sup>

The problem with capitalism here seems to be quite clear: it erodes the happiness of workers, “four fifths” of their potential happiness to be exact, and is, therefore, wrong for instrumental reasons. Nevertheless, other passages clearly demonstrate that there is no contingent aspect to Godwin's critique of capitalism: for him “it is a system in *whatever manner established*, by which one man enters into the faculty of disposing of the produce of

<sup>66</sup>*Ibid.*, 735.

another man's industry."<sup>67</sup> It is, then, an evil because of the exploitation of workers, which is an evil because it entails unhappiness; but this unhappiness is an inevitable part of the system, and while the system exists, nothing can serve to diminish the force of this unhappiness.<sup>68</sup>

### Equality and Property

So far, then, Godwin's discussion of private property ownership has centered on possible justifications for its existence and his claim is that it cannot be justified on grounds of merit or reward. Nor can it be justified as part of the existing economic system, because that system is itself unjust. Rather, the only acceptable justification is that of utility defined subjectively by the agent in question: in other words, a property holding is legitimate to the extent that an individual needs it, where need is defined in personal terms. But how does (or can) this justification cohere with the other, critical, component of Godwin's account of property, which details the negative consequences caused by its existence? Indeed, in "Of Property," he devotes far more space to outlining the "benefits attendant on a system of equality" of ownership and to deflecting criticisms of such a "system" than to the aforementioned case for its legitimacy.<sup>69</sup>

<sup>67</sup>Ibid., 711.

<sup>68</sup>But what if, despite the inevitable nature of exploitative relations within capitalism, this system of property did somehow manage to produce an overbalance of pleasure rather than pain? What, indeed, if the number of exploiters increased (and the number of exploited correspondingly decreased) to the point when the quantity of happiness experienced by the former significantly outweighs (and thus negates) the quantity of pain experienced by the latter? Godwin does not actually seem to consider this possibility, but there appear to be two answers available to him. The first would simply be to suggest that it is in the nature of the system to have always more exploited than exploiters, and the scenario just suggested would, therefore, be an impossible one. Such a response does not seem particularly impressive, especially since there is a far better alternative open to him, which is already implicit in his account of utilitarianism. For Godwin, pleasure is most definitely nonhedonistic (see *ibid.*, 75–78), so any calculation of happiness is not a straightforwardly quantitative calculation. He also makes clear that the definitive characteristic of the capitalist is the pursuit of luxury goods, and that this pursuit belongs among the lower rank of pleasures. In qualitative terms, then, any comparison between the pleasures of the exploiter and the severe pain felt by the exploited will inevitably favor the latter. It is both the nature of capitalism and the nature of pleasure, then, that generates the individual right not to experience a certain level of pain, which can also be characterized as the right to a certain level of welfare.

<sup>69</sup>Compare *ibid.*, 709–24, for consideration of possible reasons for the legitimacy of property with 725–56, for the case for a system of equality of holdings and the deflections of the case against.

In his discussion of the benefits of an egalitarian system of property ownership Godwin claims that one of the main protectors of inequality is a dominant "feudal spirit."<sup>70</sup> This feudal spirit has effectively "reduced the great mass of mankind to the rank of slaves and cattle for the service of a few."<sup>71</sup> Such inequalities then have a deleterious effect on the quality of human life: they create "selfishness" among the populace, a dangerous "sense of dependence" among the impoverished,<sup>72</sup> and they foment criminality and war.<sup>73</sup> Following these criticisms of inequalities, the conclusion that Godwin draws is that

[i]t is impossible not to see the beauty of equality, and not to be charmed with the benefits it appears to promise. It is impossible not to regret the unbounded mischiefs and distress that grow out of the opposite system.<sup>74</sup>

This clearly amounts to a utilitarian case against the proliferation of significant inequalities in the distribution of property, since they bring only "distress" compared to the "benefits" of an egalitarian alternative.

But Godwin's argument for equality is not expressed solely in negative terms; that is to say, he does more than simply identify the social problems that result from the existence of inequality. Indeed, he also at several points strongly suggests that the morally correct distribution of property is an egalitarian one. He explicitly claims there is "justice" in "an equal distribution of the good things of life."<sup>75</sup> At the start of "Of Property," he fleshes this out further:

It follows, upon the principles of equal and impartial justice, that the good things of the world are a common stock, upon which one man has as valid a title as another to draw for what he wants . . . each man has a sphere the limit and termination of which is marked out by the equal sphere of his neighbour. I have a right to the means of subsistence: he has an equal right. I have a right to every pleasure I can participate without injury to myself or others; his title in this respect is of similar extent.<sup>76</sup>

Godwin here defends a number of fundamental equal rights, on which it seems there can be no negotiation or compromise.<sup>77</sup> Most remarkable is his

<sup>70</sup>At one point he declares (in response to Burke) that the "age of chivalry is not gone" (ibid., 726).

<sup>71</sup>Ibid.

<sup>72</sup>Ibid., 727, 725.

<sup>73</sup>Ibid., 731–32.

<sup>74</sup>Ibid., 741.

<sup>75</sup>Ibid., 725.

<sup>76</sup>Ibid., 703.

<sup>77</sup>As Clark observes, Godwin's "egalitarian view of human nature leads him to this position. Since each person shares in a universal nature, there should be a presumption of the equal right of all to property, until evidence is presented to justify the superior right of one over another" (*Philosophical Anarchism*, 249).

assertion that the “good things of the world” are “common” and because of this, every individual has an equal right to “draw for what he wants.” The implication is that the good things of the world are commonly owned and that not only are inequalities in private property unjust, but private property is itself unjust as it establishes exclusive rights over things. What Godwin’s argument thus seems to entail is that every individual has an “equal right” to the “means of subsistence” provided the use of such provisions does not cause “injury” to another agent.

This is a sentiment repeated later in “Of Property” where he suggests that “for any man to enjoy the most trivial accommodation, while, at the same time, a similar accommodation is not accessible to every other member of the community is, absolutely speaking, wrong.”<sup>78</sup> This certainly looks like a very radical egalitarianism, with far-reaching consequences for any idea of property rights. It would seem to entail that either

- (a) Any initial act of appropriation that fails to leave a “similar” object for another (or the opportunity of acquiring a similar object) is unjust, or
- (b) All *exclusive* ownership rights (that is rights that are absolute and require a duty of forbearance in others) are unjust.

Clearly, neither of these options is compatible with any of the three degrees of property that Godwin has previously considered. This incompatibility is unimportant as far as the second and third systems (meritocracy and capitalism) are concerned, because he rejects them outright anyway. But there is surely a conflict between his particular defense of equality (and what it entails) and the first utilitarian system of property that he favors. As shown, the utilitarian justification favored by Godwin ignored how property was initially acquired and established that the basis for ownership was individual need. This clearly does not fit with what is an egalitarian case for common ownership and against private acquisition because the definition of need is to be defined by the individual owner. If an individual can claim a legitimate property right over an object simply on the basis that it is needed, then this object can clearly not be owned equally or commonly. To render Godwin’s account coherent, it is necessary to further explore his analysis of property and moral equality.

As shown above, Godwin’s critical analysis of the three different distributive systems indicates that it is not private property ownership per se that is of particular concern for him, but rather its unequal distribution. The third (capitalist) system is most glaringly inegalitarian, because of the inevitable suffering it causes. The second (meritocratic) system is seemingly preferable to the third, but as noted is also rejected for egalitarian reasons: distributing property according to reward “vests in me the preservation and dispensing

<sup>78</sup>Godwin, *Political Justice*, 712.

of that which in point of complete and absolute right belongs to you."<sup>79</sup> But what is this "complete and absolute" right? Is it, as Godwin's analysis of capitalism might be taken to imply, some right not to experience a certain level of pain, which could also be conceptualized as a right to a certain standard of welfare? One plausible answer seems implicit in the reasons he gives for preferring the first, utilitarian justification to the alternatives. As the earlier discussion indicates, Godwin appears at first to endorse a utilitarian theory of property, but, on further inspection, only applies utilitarian criteria to the individual owner rather than to society as a whole: it is personal happiness (also describable as subjective need) that carries moral weight rather than the overall happiness of a society. Thus, an agent can be said to hold a legitimate ownership right to an object for as long as it is "of importance" to that individual, regardless of the overall social utility that would be generated by the transference of that ownership right to another.

In practical terms, what is also important about this justification is that, once established through possession, exclusive rights over property become fairly secure and can be maintained indefinitely. This can in turn entail severely inequalitarian circumstances. Indeed, the sort of exploitative scenario that Godwin rails against so passionately in his critique of capitalism seems potentially validated by his argument. Consider the following scenario. The world is carved up, with some individuals acquiring land through nonviolent means, such as cultivation and enclosure, and some individuals through violent means. The individual cultivator who has possession of a particular piece of property is then able to recruit workers—who are willing to work because they have no such property themselves—in order to produce luxury goods. To any imputed exploitation, the property owner can simply respond with the claim identified above that such land is of "real importance to me."<sup>80</sup> Such a claim, though subject to limited verification, is, according to Godwin's utilitarian scheme, quite sufficient to undermine any egalitarian argument against the right of ownership. Thus, any potential dispute over the ownership of a particular resource is not to be settled by reference to any egalitarian standard but rather to the issue of whether the agent in possession of it views it as of personal use. It is enough that the land is *possessed* by the particular agent and of *utility* to that agent for the exclusive right of ownership to be justified. The possession requirement might be thought in danger of lapsing back into first-occupancy, but this is not the case as occupancy is a necessary but not sufficient condition for just ownership because of the subjective utility requirement and it is this latter aspect that plays the crucial role in the argument.

<sup>79</sup>Ibid., 711.

<sup>80</sup>Ibid., 710.

### Godwin's Two-Level Moral Theory

There is clearly a marked conflict between Godwin's substantive commitment to an egalitarian distribution of property and the utilitarian justification of ownership he favors most of the three degrees. On the one hand, equality should hold as a distributive principle for property and yet, on the other, existing property arrangements can be construed as just with only the most minimal of assessment criteria, and any transfer of a property holding requires the consent of the owner. There is "justice" in "an equal distribution of the good things of life"<sup>81</sup> and yet the property-less cannot "make use" of the proprietor's "apartment, furniture or garments, or of my food, in the way of barter or loan, without having first obtained . . . consent."<sup>82</sup> There would seem to be little hope of reaching any theoretical reconciliation between these two perspectives, both of which Godwin defends within the same text. Yet it is possible to resolve this conflict. Indeed, one way of doing so is to regard Godwin's theory as comprising two levels (moral on the one hand and political on the other) and correspondingly read his two normative claims—that property ownership is wrong for egalitarian reasons but property ownership cannot be interfered with without the consent of the proprietor—as being made at different ones.

Further analysis of his political philosophy as a whole should help demonstrate this. Those keen to defend a traditional utilitarian interpretation of *Political Justice* have often conveyed the impression that all his prescriptions concern the morality of individual acts, which Godwin does occasionally appear to suggest. "Every one of our actions," he alleges, "fall[s] within the province of morals," and, therefore, "we have no rights in relation to the selecting of them." Such statements unsurprisingly encourage the view that Godwin demands individuals to adhere to utilitarian calculation of all acts and under any circumstances, which is why historian Leslie Stephen dubbed him an "ultra-utilitarian" and why philosopher Shelly Kagan has described him as a moral "extremist."<sup>83</sup> But this interpretation is actually somewhat misleading. Though Godwin does suggest, "I am bound to employ my talents, my understanding, my strength and my time, for the production of the greatest quantity of general good"<sup>84</sup> and that "everything in my power" is bound to the "general weal,"<sup>85</sup> it is clear that this is in fact not actually the case when it comes to gauging the political permissibility of such individual acts, but only their moral legitimacy.

<sup>81</sup>Ibid., 725.

<sup>82</sup>Ibid., 710.

<sup>83</sup>Leslie Stephen, *The English Utilitarians* (London: Duckworth, 1900), 231; Shelly Kagan, *The Limits of Morality* (Oxford: Clarendon Press, 1989), 1–2, 10.

<sup>84</sup>Godwin, *Political Justice*, 175.

<sup>85</sup>Ibid., 174.

This becomes clear in his defense of an inviolable right for individuals to a "sphere of discretion," a sphere that guarantees them the freedom to decide whether or not to obey the various dictates of morality he identifies. Within such a sphere, "it is necessary that every man should stand by himself, and rest upon his own understanding" when it comes to deciding on a particular course of action: individuals must, then, be ensured this certain area of liberty, within which they are subject only to the reasoned arguments of others but not to any coercion or interference.<sup>86</sup> Godwin refers to this individual entitlement as "the right to private judgment." This right is not a self-justifiable "natural right," which he refers to as an "active" right.<sup>87</sup> It is rather what he terms a "passive" right justified on the grounds of its intrinsic connection with human development: It "derives its force . . . from the consideration that a greater sum of happiness will result from its observance than from its infringement."<sup>88</sup> Its existence enables what he refers to as "natural independence," which means "freedom from *all* constraint, except that of reasons and inducements presented to the understanding."<sup>89</sup>

The effect of this right to private judgment is ultimately to render politically permissible actions that are morally illegitimate. So, for example, though he suggests individuals have a moral duty always to act in a sincere manner,<sup>90</sup> the "sphere of discretion" gives them the ability to act insincerely. Godwin's defense of the freedom of individuals to act insincerely, while at the same time arguing that individuals should act sincerely might appear no less philosophically contradictory than his view of property ownership. In the same way as it appears strange for Godwin both to defend and criticize the legitimacy of private property ownership, it might be thought to look strange for him to defend a principle of sincerity while simultaneously defending the rights of individuals to decide whether always to act sincerely or not. But both these seemingly contradictory positions can be plausibly accounted for. As noted at the beginning of this essay, during his critical discussion of the nature of individual rights, Godwin declares, "there cannot be a more

<sup>86</sup>Ibid., 198. No individual should "expect to dictate to me" and each "should remember that I am to act by my deliberation and not his. He may exercise a republican boldness in judging, but must not be peremptory and imperious in prescribing." For further discussion of the nature and justification for individuals having such a "sphere of discretion," see Robert Lamb, "William Godwin on the Morality of Freedom," *History of Political Thought* 28 (2007): 661–67.

<sup>87</sup>Active rights are identified as individual entitlements simply to "do as we list" (*Political Justice*, 191) and, as such, are "superseded and rendered null by the superior claims of justice" (197).

<sup>88</sup>Ibid., 225. "The pleasure of intellectual feeling"—which is among the most "exquisite" (ibid., 75) pleasures—is, he claims, "connected with the soundness of our understanding," which, in turn, is connected with "freedom of enquiry" (ibid., 78).

<sup>89</sup>Ibid., 754 (emphasis added).

<sup>90</sup>Ibid., 311–31.

absurd proposition than that which affirms the right of doing wrong."<sup>91</sup> Yet, as Jeremy Waldron has argued (with direct reference to Godwin's declaration), the concept of a "right to do wrong" is not only a coherent one, it is also one that actually underpins contemporary liberal accounts of political morality.<sup>92</sup> Waldron lists numerous activities that are morally permissible in liberal societies but remain wrong within liberal accounts of morality, such as campaigning for a candidate for political office that is known to hold racist beliefs and failing to give the time of day to a stranger. Within liberal accounts of political morality, individuals have a right to engage in such activities, yet these same accounts also regard the action itself as constitutive of a wrong because it violates the commitment to equal treatment that justifies the right in the first place.

Analysis of Godwin's political thought, and in particular, his account of property ownership, reveals that he recognizes an individual's "right to do wrong" despite his explicit rejection of such a category. Individual property owners are wrong to retain their holdings while others are engaged in the drudgery of luxury production, and yet they have a perfect right to do so. Individuals should realize the beauty and the benefits of an egalitarian distribution of property ownership, but no authority can compel them to do so and potentially significant inequalities are thus permissible. The way, then, to make sense of Godwin's theory of property right seems to be as follows. Equality of distribution is the morally right basis for ownership and, therefore, no individual agent should be able to appropriate anything that is not available to another and because of this ownership rights should not be thought of as absolute or exclusive. However, though a system of equality is morally right—and hence desirable since moral rightness and desirability are the same for Godwin—the proprietor still has a right to consent that effectively trumps the egalitarian claims of any other individual. In practical terms, then, such a right of consent emerges as more fundamental than that of equal distribution, making an individual entitlement to hold more than an equal share of the world's private property an example of a "right to do wrong."

The justification for this clearly relates to the "right to private judgment" that Godwin defends: it is because every individual must be guaranteed a sphere of discretion that nobody can be compelled to transfer any part of their property even in extremely inegalitarian circumstances. Any such

<sup>91</sup>Ibid., 196.

<sup>92</sup>Jeremy Waldron, "A Right to Do Wrong," in *Liberal Rights: Collected Papers, 1981–1991* (Cambridge: Cambridge University Press, 1993), 63–87. Although Waldron's claim about the theoretical coherence of the "right to do wrong" is sound and though I argue that Godwin's theory shows his agreement, the original declaration in *Political Justice* is not conceptually nonsensical and would presumably be thought tautological by strict act-utilitarians or consequentialists like Kagan (see *The Limits of Morality*).

transfer must be voluntary because of the evils involved in compulsion. Thus, in the clearest statement of his position on the issue, he writes:

I have a right to the assistance of my neighbour; he has a right that it should not be extorted from him by force. It is his duty to afford me the supply of which I stand in need; it is my duty not to violate his province in determining, first, whether he is to supply me, and, secondly, in what degree.<sup>93</sup>

The needy individual has a right to assistance from an able other, who has a moral duty to supply it; but, crucially, this is an imperfect duty, as neither the needy individual nor any political authority are able to enforce it legitimately. So, when considered in Hohfeldian jural terms, the right that the needy individual has is not a claim-right, but rather a mere privilege and the able other does not have in fact a corresponding duty.<sup>94</sup>

So far, then, it seems plain that Godwin defends the right of one proprietor to possess a far greater share of resources than another, and this right holds even when that other is in a situation of "need." The "right to do wrong" is the (political) right to possess holdings in (morally) wrongful situations of inequality. But how inviolable is this right, and does it hold under circumstances in which an individual is in very desperate need, or does imperfect moral obligation to assist others at any point become a perfect political obligation? Does the distinction between moral and political levels I have identified within Godwin's political theory entail that property holders are under no political obligations whatsoever to the very needy? In his exposition of the utilitarian degree of property based on subjective need outlined above, he does state that the principle of consent applies in "ordinary cases,"<sup>95</sup> implying that it can be overridden in extraordinary situations, which could perhaps mean circumstances of desperate need on the part of the property-less. But for this to be at all compelling, there is the need to show that ordinary cases are those in which no human life is at stake and extraordinary cases are those in which such a life is at stake.

But there seems no necessary reason to privilege this understanding of an extraordinary case based on need from a more straightforwardly utilitarian understanding. For example, in his discussion of ethical impartiality, Godwin argues that individuals should be allowed the discretion to give due weight to partial affections only in "ordinary cases" and absolute impartiality in extraordinary ones.<sup>96</sup> But here he defines extraordinary cases as

<sup>93</sup>Ibid., 735–36.

<sup>94</sup>While the logical correlative of a claim right is a duty, the correlative of a privilege is simply the lack of such a duty. See Wesley Hohfeld, *Fundamental Legal Conceptions* (New Haven: Yale University Press, 1923).

<sup>95</sup>Godwin, *Political Justice*, 710.

<sup>96</sup>Godwin suggests the individual can follow existing social conventions by providing "in ordinary cases, for my wife and children, my brothers and relations, before

situations of extreme moral emergency in terms of the greatest general good rather than in terms of individual need. Thus, as he memorably illustrates, Archbishop Fénelon should be rescued from a burning building at the expense of our mother or father because he is worth far more to society.<sup>97</sup> The impending death of Fénelon is an extraordinary circumstance, and, therefore, we cannot give the sort of weight to our partial affections that we would in ordinary circumstances. Thus, we are morally bound to sacrifice our nearest and dearest to the greater good.<sup>98</sup> The definition of an extraordinary case is an ultimately utilitarian one, concerned with maximizing overall happiness, not a need-based one concerned with sustaining human life.

Yet in spite of the apparent unlikelihood of Godwin accommodating any inviolable right to property for the desperately needy that is capable of trumping the proprietor's right to give consent to any transfer, consideration of *Political Justice* as a whole does in fact reveal such a right. The suggestion of a perfect obligation to offer assistance to the very desperately needy appears not in book eight "Of Property," but within an entirely separate, critical discussion of the moral status of promises in book three on "Principles of Government." Herein instances of what would otherwise be theft are rendered legitimate: as Mark Philp puts it, "in extreme cases where I might perish if I do not violate your right of stewardship."<sup>99</sup> Godwin's claim is that there are cases that "supersede" the "ordinary" rule that "property is sacred":<sup>100</sup> no right of private property ownership is completely "inviolable" because "the imperious principle of self-preservation may authorize me to violate it."<sup>101</sup> "Nothing" (apart from a prudential concern with one's own welfare) should "prevent me from taking by force from my neighbor's store, if the alternative be that I must otherwise perish with hunger."<sup>102</sup>

Gregory Claeys argues that this right reveals Godwin to be "clearly committed to uphold the old Scholastic doctrine that theft was justified in cases

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I provide for strangers," though he admits that such an argument "is to be admitted with great caution" (ibid., 173).

<sup>97</sup>Ibid., 169–170.

<sup>98</sup>Discussions of this aspect of Godwin's thought include D. H. Monro, *Godwin's Moral Philosophy: An Interpretation of William Godwin* (Oxford: Oxford University Press, 1951), 9–35; Brian Barry, *Justice as Impartiality* (Oxford: Oxford University Press, 1995), 217–33; Peter Singer, Leslie Cannold, and Helga Kuhse, "William Godwin and the Defense of Impartialist Ethics," *Utilitas* 7 (1995): 67–86; and Robert Lamb, "The Foundations of Godwinian Impartiality," *Utilitas* 18 (2006): 134–53.

<sup>99</sup>Philp, *Godwin's Political Justice*, 135.

<sup>100</sup>Godwin, *Political Justice*, 225.

<sup>101</sup>Ibid., 226.

<sup>102</sup>Ibid., 225.

of extreme necessity, such as impending starvation."<sup>103</sup> Though this explains the origins of Godwin's argument, the argument itself is distinct from it in that the Scholastic doctrine in question involves an appeal to natural law that is antithetical to the philosophy defended in *Political Justice*.<sup>104</sup> Mark Philp's suggestion is that the right held by a desperately needy individual to claim enough of the property of another to sustain her life is best understood as an extension of the right to private judgment: this is because, were a proprietor to allow an individual to starve to death, this action (or inaction) would violate that person's right to private judgment insofar as it would prevent her from being able to make the decision herself about whether or not to die.<sup>105</sup> However, although this position might be thought implied by Godwin's theory, it is not actually entailed by it. There is no doubt that the exercise of one person's private judgment (to withhold assistance) will necessarily violate the opportunity of another to exercise hers. But it is equally the case that if the needy individual does have a right to invade the property of another, then this situation is simply inverted: as the exercise of one indigent person's rights to appropriate the resources that would otherwise belong to another would violate the right of the proprietor to exercise his private judgment about whether or not to offer assistance. The right to private judgment seems to be violated in both scenarios. The only way in which it can be shown that Godwin regarded one of these scenarios as preferable to the other would be to demonstrate that he has some additional commitment to the intrinsic importance of human preservation.<sup>106</sup>

But, as Philp points out, there is no such commitment in *Political Justice*, wherein Godwin even suggests that "death is in itself among the slightest of human evils."<sup>107</sup> Yet it is undeniable that despite this view, there is an

<sup>103</sup>Claeys, "The Effect of Property," 97.

<sup>104</sup>This doctrine is probably most associated with Aquinas, who writes "Things pertaining to human right cannot take anything away from natural right or Divine right. Now according to the natural order established by Divine providence, lower things are ordained for the purpose of supplying man's necessities. And so the division and appropriation of such things which proceeds from human law does not cancel out the fact that man's necessities must be supplied by means of those things. And so whatever anyone has in superabundance is due under the natural law to the poor for their succour" (Aquinas, *Summa Theologica* II-II, Question 66, Seventh Article in Aquinas, *Political Writings*, ed. R. W. Dyson [Cambridge: Cambridge University Press, 2002], 216). Clearly Godwin's theory has no place for natural law so understood.

<sup>105</sup>Philp, *Godwin's Political Justice*, 137. Philp further argues that "Godwin might best be seen as holding that the man who denies a starving person food is explicitly making a declaration of war on the principles of society and justice, and therefore cannot expect to be protected."

<sup>106</sup>It is such a commitment, expressed in the "Second Treatise" (*Two Treatises*, II: §6) that is usually thought to underpin Locke's alleged defense of an unconditional subsistence right in the "First Treatise" (*Two Treatises*, I: §42).

<sup>107</sup>Godwin, *Political Justice*, 272; Philp, *Godwin's Political Justice*, 137.

individual political right to subsistence provision that acts to trump the right of private judgment when the individual in question is in danger of death. One possible way to explain the existence of this right is ultimately utilitarian: as individuals are capable of contributing more to the overall happiness of a society through being alive than being dead, they have a right to the resources necessary to keep them in that state. This interpretation would also fit with Godwin's belief that severe inequalities in holdings can be permitted, but not circumstances of very desperate need, because while the former do not necessarily involve a definitive diminution of overall happiness, the latter does. It would also fit (or at least not conflict) with the definition of extraordinary circumstances offered in the discussion of impartiality cited above. Since one of either Fénelon or my parent simply cannot be saved, the proposition that both individuals have a right to subsistence cannot seriously be entertained, and the utilitarian argument would presumably shift from ensuring an individual remains alive so that she can contribute to general happiness to ensuring that the one person that can be rescued from a burning building is the person most capable of contributing to that happiness. It seems, then, if the level of need is desperate enough such that the person in question will perish, the imperfect moral duty to assist actually becomes a political right to assistance.

### Conclusion

So where does this all leave the political and philosophical identity of Godwin's theory of property, since as noted, he dedicates so much of his discussion to a vitriolic and egalitarian critique of capitalism; a system characterized by exploitation and perpetuated by inheritance? If the right of consent holds in situations of manifest inequality as I have suggested, then Godwin's theory appears to present an implicit defense of this system, regardless of the qualitative misery it causes both the capitalists in pursuit of luxury goods and the workers who produce them. Individuals have the right to enough property to sustain them should their existence be in jeopardy, but no more. He is aware of this uncomfortable entailment. The capitalist "species of property should be respected," he suggests, because, "ill as the system is, it will perhaps be found that it is better than any other, which, by any means, *except those of reason, the love of distinction, or the love of justice*, can be substituted in its place."<sup>108</sup> Only those political strategies that involve "reason" and such sentiments as "the love of justice," rather than those of violent revolution, can present legitimate avenues against the

<sup>108</sup>Godwin, *Political Justice*, 713 (emphasis added). Key to Godwin's thought is the rejection of any violent or revolutionary means of political change (266–81), which explains his stress on reason here as a possible mechanism for reforming or replacing the "system."

established system. Part of Godwin's argument is that in order for any equal distribution to last anyway, "positive institution" cannot force it; in order for equality to establish itself properly, there instead must be a "change in men's dispositions and sentiments."<sup>109</sup> But the main component of the argument reveals again his crucial commitment to the (almost) inviolable right of private judgment:

*Every man should be urged to the performance of his duty, as much as possible, by the instigations of reason alone. Compulsion . . . if in any case to be resorted to, is at least to be resorted to only in cases of indispensable urgency. It is not therefore to be called in for the purpose of causing one individual to exert a little more, or another a little less, of productive industry. Neither is it to be called in for the purpose of causing the industrious individual to make the precise distribution of his produce which he ought to make. Hence it follows that, while the present erroneous opinions and prejudices respecting accumulation continue, actual accumulation will, in some degree, take place. . . . The most destructive of all excesses is that where one man shall dictate to another, or undertake to compel him to do, or refrain from doing, anything (except, as was before stated, in cases of the most indispensable urgency) otherwise than with his own consent. Hence it follows that the distribution of wealth in every community must be left to depend upon the sentiments of the individuals of that community.<sup>110</sup>*

It seems at first difficult to believe that this passage comes from the same author who so passionately argues against the painful drudgery of labor, the exploitation of workers, and the illegitimacy of the practice of inheritance. What is suggested here is that because every individual must be free of coercion, a right of consent is generated, which then blocks any attempt to redistribute any property holdings. His conclusion is that this "makes it difficult to set bounds to the extent of accumulation in one man, or of poverty and wretchedness in another."<sup>111</sup> So, ultimately, although Godwin offers a

<sup>109</sup>Ibid., 714. Thus "agrarian laws, and others of a similar tendency which have been invented for the purpose of keeping down the spirit of accumulation, deserve to be regarded as remedies more pernicious than the disease they are intended to cure." The view expressed here seems evidence of Godwin's shift away from primitivist criticisms of commerce. For discussions of the republican context within which late eighteenth-century debates about property can be understood, see most famously J. G. A. Pocock, *Virtue, Commerce, and History: Essays on Political Thought and History, Chiefly in the Eighteenth Century* (Cambridge: Cambridge University Press, 1985); and for specific discussions of the 1790s in the light of this context, see Gregory Claeys, "The Origins of the Rights of Labor: Republicanism, Commerce, and the Construction of Modern Social Theory in Britain, 1796–1805," *Journal of Modern History* 66 (1994): 249–90 and Mark Philp, "English Republicanism in the 1790s," *Journal of Political Philosophy* 6 (1998): 235–62.

<sup>110</sup>Godwin, *Political Justice*, 715 (emphasis added).

<sup>111</sup>Ibid., 716.

passionate defense of equality as a distributive principle, it is not the kind of egalitarianism that requires (at the political level) any radical transfer of resources, which no doubt hints that whatever other labels can be legitimately used to classify aspects of his thought, there is clearly the case for a “liberal” understanding of his philosophy as a whole.