

PROPERTY RIGHTS AND THE WORLD POWER SYSTEM

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1. Contrary to “common sense” notions of property, and to most of the explicit or implicit assumptions in the literature on property rights, property is not a right over things. Property is a right of legal persons (owners) against all other legal persons in connection with the object of the property. In day-to-day life one can avoid the pedantry of correcting this mistake. Making this mistake, however, prevents the development of a proper understanding of property rights and their role in society.
 - a. Of all the authors, Ludvig von Mises was the most mistaken when he depicted property as “purely a physical relationship of man to the goods” (1932, 1981).
 - b. Marx was also very much mistaken, considering that “an object is only ours when we have it”
 - c. No economist came close to a proper understanding of property. The main problem is that understanding property requires a deep understanding of the legal system (and not only of the discrete law of property) which is hard to attain. Property is a legal notion and the approximations of economists prevent the development of a proper theory of property rights and of institutional economics generally.
 - d. As written by Cole (2015), “the notion of extra-legal, non-institutionalized “economic property rights” creates unnecessary confusion that obstructs efforts by legal scholars and economists to advance our understanding of how institutions structure exchange”. Or, as written by Hodgson (2015, 685), “the standard economics of

property rights strive to understand property as a spontaneous institution ... consigning a secondary or epiphenomenal role to State law”. This neglect of the law is deeply mistaken.

2. In this paper, I am only interested in dealing with property as it operates in the early 21st century in Western type societies constitutionally guaranteeing the right to property. Very interesting developments could be made about property at other points in time or in other contexts. They would distract from my main argument.
 - a. As written by Hodgson, “If we make our categories universal, then we fail to capture property” (2015, p. 693).
 - b. It is an issue in much of the writings about property rights which contain substantial developments about property in a number of circumstances unrelated to the modern operation of property.

3. I am aware of the debate about “economic property rights” (which would more or less resemble possession) and “legal property rights” (“property rights proper”). But I do not find this debate to be fruitful because it starts with a wrong notion of property as a right over things. To develop a coherent understanding of property, one has to free oneself from this “obvious” notion. Property as a notion is useful only if there are conflicting demands over the object of the property. It is useless otherwise. Whether Robinson Crusoe owned the desert island on which he landed and the fruits growing on it or not is irrelevant as long as no one comes to dispute his use of the island. And even when Friday appears, property is still irrelevant because force (physical or psychological) will determine who has what, i.e. who decides what to do with what. Property can only arise in an orderly society. It is a social construct.

4. I will discuss possession only to a limited extent as I am mostly interested in property/ownership. Possession is a factual situation which may be legitimate or not.
 - a. A thief possesses the stolen good but does not own it. Illegitimate possession is still not merely an illegitimate *factual* relation between a person and a thing because it is the legal system which

- makes the possessor a fief and allows characterizing the relationship between the fief and the thing as illegal.
- b. A tenant legitimately possesses the apartment but does not own it. The owner does. Legitimate possession is a legal relationship of the possessor towards the rest of the world, derived from the property right of the owner and usually resulting from a contract.
 - c. Note that in both cases of legitimate and illegitimate possession, the owner does not have possession. With legitimate possession, the possessor has some of the rights of the owner transferred to him by the owner, usually via contract and for a consideration. For example, a tenant is free to use the rented house (within the limits set by the lease and law) and to set the “rules of the house” (within the same limits). He does not need *ownership* for that but he needs the owner to grant him these rights. But granting possession for a consideration is just one way for the owner to use his property and it is temporary whereas ownership is potentially eternal. And the prerogatives granted by legitimate possession are just a sub-part of those granted by ownership. So I will concentrate on ownership which comprises all the rights of possession although the two can be separated.
 - d. Possession will mostly be discussed in this paper when it raises agency issues: in certain circumstances, an agent has possession over an asset or a bundle of assets but has to manage them in the interest of a principal. This is particularly the case with corporate law where corporate officers manage assets they do not own. It gives them power without property.¹ This raises very important issues. These issues are usually improperly addressed by economists because they do not understand, or misrepresent, the property relationships involved in firms legally structured using corporations, as I will show.
5. Property as a legally enforceable right is first of all a right to exclude: as a matter of illustration, absent any violation of the law leading to the issuance of a warrant, the owner of a house has the absolute freedom to refuse access to his house – to anybody.
- a. This right to exclude translates into a right to hire and fire: the owner of a house hires and fires, as a matter of principle, whoever

¹ **BERLE, Adolf A., Jr.**, *Power Without Property – A New Development in American Political Economy*, Hartcourt, Brace and company, NY (1959).

he wants to clean the house. Laws can reduce his ability to discriminate, impose restrictions to the working hours, etc.

Irrespective of these limitations, it is the owner who decides to hire.

- b. Similarly, the owner of a factory determines who has access to the factory in the same manner the owner of a house determines who enters his house. The factory owner, because he is an owner, hires and fires at will, unless legal rules come as a derogation to restrict this right. Of course, a contract can be concluded to determine the rights and duties of the hired person and of the employer. But the right to hire and fire and to give orders is in the ambit of the owner because he is an owner. He is the one who determines, as a matter of principle, who has access to the factory and the tools used by the employee under what conditions.
- c. The counterintuitive idea that employees hire bosses as much as bosses hire employees neglects this fundamental difference between the two parties to the employment contract. Nobody is forced to work. But those who accept to work either because they want or like it or because hunger gives them no choice will have to obey the rules set by the owner, as long as they are in compliance with the employment contract and laws. Property is not only inequality in terms of *wealth*; it is also inequality in *legal terms*: it determines who is in a position to give order and who has to obey. Pushed to the extreme, *“it is the law of property which coerces people into working for factory owners.”*²
- d. With regards to this coercive power, it is important to notice that taking this control *“from the owner of the plant and to vest it in public officials, in a guild or in a union organization elected by the workers would add nor subtract from the constraints which is exercised with the aid of the government. It would merely transfer the constraining power to a different set of persons.”*³

6. Property entails the right to set “the rules of the house”.

- a. This is a fundamental right which can only be limitedly reduced by laws or judges. Take, for example, Jeff inviting Bod to his home. Bob sits down and puts his feet on the table. Jeff asks Bod to

² HALE, Robert L., *Coercion and Distribution in a supposedly non-coercive State*, 38 Pol. Sci. Rev. 470 (1923), p. 472.

³ HALE, Robert L., *Coercion and Distribution in a supposedly non-coercive State*, 38 Pol. Sci. Rev. 470 (1923), p. 478.

please not put his feet on the table. If Bob goes to court to argue that this is an excessive restriction to his freedom, no judge will change the rule of the house set by Jeff. Bob has to obey Jeff or leave and no judge will help him obtaining a different result. Jeff on the contrary can get the help of a judge in case Bob refuses to obey and to leave the house. When the government is actively protection a property right, “*it is forcing the non-owner to desist from handling it unless the owner consents*”.⁴

- b. The same applies in factories, offices, shops, etc. In these various locations, the rules applicable to the use of the premises can take several denominations. Several theories have been developed to give them a contractual basis. They are unfounded. The origin of these rules is not to be found in contracts; it is to be found in property. Laws can provide for procedures to establish these rules, involving employee representatives, for example, or they can limit the content of the rules. But these are derogations to the principle that, absent rules set by contract, laws, customs, etc. it is the owner who sets the rules in connection with the use of his property.
 - c. Because property rights are protected by law, the rules created by owners are part of the legal system. Factory rules are law proper, mandatory rules created by the owner as a consequence of his property right over the factory. At its roots, any legal system protecting property rights is therefore necessarily pluralistic. It protects the autonomous creation of legal orders -system of rules- by owners. Of course, this is not very important in connection with property rights over pens, eggs or apples. It is fundamental when it comes to the massive amount of productive assets controlled by large firms.
7. This “right against others in connection with things” we call property extends to the relationship between property owners and the State. State law can limit the content of the “rules of the house” or the “factory rules” (prohibit or limit the fines the employer can impose on employees, protect certain fundamental right of the employees, etc.). The fact remains that the owner is the rule maker towards others in connection with his property *as a matter of principle*. Laws are only limited derogations to the rule making right of the owner as a matter of principle.

⁴ HALE, Robert L., *Coercion and Distribution in a supposedly non-coercive State*, 38 Pol. Sci. Rev. 470 (1923), p. 470.

- a. In this respect it is a mistake to see property as a “bundle of rights”, something finite, an addition of identifiable prerogatives. What is finite is not the set of prerogatives. What is finite are the limitations to the right to property, to the auto-nomy it entails. The auto-nomy of the property owner is the rule; the hetero-nomy of the rules created via the political system limiting the uses of property is the exception. Property is a right as a matter of principle with evolving “bundles of limits” when the law evolves. It is a *right in rem*, not a series of *rights in personam*.
- b. De Vareilles-Sommières appropriately defined property as the right pursuant to which a person can, as a matter of principle, do what she wants with the object of the property.⁵ Without property losing its name and definition, laws do restrict many of the property’s uses and the owner himself, by granting others rights other the thing, often reduces his freedom over the thing.⁶ It is necessary and sufficient for ownership to exist that the owner has the freedom to act with regards to the thing *as a matter of principle*.⁷
- c. This specific character of property as an entitlement to make decisions as a matter of principle allows having a unified property rights theory. The restrictions applicable to the uses of property vary from jurisdiction to jurisdiction. But the fundamental nature of property is the same everywhere there is a constitutional form of government protecting property rights.
- d. Property is a fundamental tool in modern society to structure the overall governance system. It decentralizes the decision making power to the largest extent possible: to the individual, as a matter of principle. And the individual decision maker is potentially liable for any damage created by his property, i.e. by his decisions relating to the object of his property.
- e. At the root of the overall governance system one finds property owners as the decision/rule makers of first instance. Via their rights over property, i.e. the right to make the rules in connection with what they own, owners are part of the political system of society.
- f. Via property, at the lowest level in society’s overall governance system, one finds myriads of what are, as a matter of principle,

⁵ VAREILLES-SOMMIÈRES, Marquis de, *La définition et la notion juridique de propriété*, R.T.D.C. 443 (1905), at 443.

⁶ Id, pp. 443-444.

⁷ Id, pp. 444.

dictatorships. Irrespective of the democratic nature of the political system, at the lowest level, the governance systems created by property owners are, as a matter of principle “micro-governments where one person [the owner] makes all the rules and decisions without input from anyone else”. This is the definition of a dictatorship. Individual owners are of course free to organize differently the production of the rules governing the use of their property. But it is an option for them, not an obligation. Democracies are therefore only marginally so. As a matter of principle, the rules at the root of the governance system in constitutional systems of government protecting property are dictatorial in nature.

- g. The operation of these dictatorships can be modified from the outside in limited, derogatory, “as a matter of exception”, ways via laws created through the legal/political system.
8. Property rights operate as a decentralization of sovereignty. Looked at from a World perspective, they are very much connected to the notion of sovereignty. In his essay, de Vareilles-Sommières actually compared property and sovereignty and noticed that, like property, sovereignty can be restricted, have limits. The same word “sovereignty” actually designates two very different types of legal concepts which need to be distinguished. There is “external sovereignty”. It is a relationship of equality among States leaving each State free, as a matter of principle, to deal with its internal affairs. There is “internal sovereignty”, which is a relationship of hierarchy which determines who has the ultimate power of decision making within a State. In France, for example, prior to the 1789 Revolution, the king was sovereign. After 1791 the nation was declared the sovereign.
- a. In constitutional States, the way internal sovereignty operates is defined by the Constitution.
 - b. The constitution of liberal States *de jure* or *de facto* comprises two parts (it may not be written like this, but can be analyzed in this fashion). One part defines fundamental rights, rights which in fact are out of reach of the second part of the system which defines the operation of the political system. So fundamental rights are to a variable extent out of the reach of the political system. Democratic

constitutional States combine democracy and the distrust for democracy.⁸

- c. One of the purposes of constitutions is to prevent the political system (the organs of the State) from being too intrusive in certain areas. And it so happens that the right to property is among the fundamental rights. So it is out of the reach of the political system, to some extent. The political system can regulate, reduce some of the uses of property. It cannot change the fact that property is, to some degree, “above the law”, a competence *as a matter of principle*.
- d. Property rights are not a delegation of authority, something which can be taken back.
- e. Owners have a constitutional right to be the regulators of society (in connection with what they own) in first instance. Law in a constitutional system of government is by definition pluralistic because the constitutionally guaranteed right to property allows the creation of the small scale dictatorships.
- f. Norms created via the collective political system come second. Political regulation via law is merely a reduction of the sovereignty of the owner. The owner remains the regulator as a matter of principle.
- g. This mode of operation of the Power System is generally accepted because political institutions, especially when they are democratic, allow a certain degree of correction of the issues generated by the micro-governments created on the basis of property rights. The quantity of legal rules generated to correct the autonomous operation of the Power System is so vast that for some, property has lost its meaning. The limitations come from several sources. The most important ones are laws, rules limiting, for example, how much a factory can pollute, the working hours in the factory, safety rules in the factory, etc. Contracts are other sources of limitations although they represent more an agreed upon use of property than a limitation of the property right. It is one way to exercise it. The rules of family law also play a substantial role for property rights owned by individuals within families. All the statutory rules (and part of the contractual rules) can of course be enforced by force. Property remains, however, as a competence in principle, irrespective of the amount of the restrictions.

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John Hart Ely, *Democracy and Distrust. A Theory of Judicial Review*, Cambridge, Mass. 1980.

- h. Judges, as part of the judiciary, can no more intervene in the fundamental (property) rights of individuals than the other branches of government can. All they can do is protect these rights, i.e. protect the auto-nomy they entail. This is merely a consequence of the pluralistic nature of law: the legal order of the State is external to the legal orders of the dictatorships which can be created via property rights, and State judges can only enforce State laws which are always limited derogations to the principle of auto-nomy entailed by property rights. If they could interfere, that would be the end of the auto-nomy and it would be unconstitutional.
 - i. The ultimate consequence is that many small scale dictatorships, or political system in their own right, are in existence, underneath the official political system. They are in effect part of the overall political system. Constitutions actually provide for complex political systems comprised of many autonomous sub-systems. The fundamental rights out of the reach of the democratic institutions allow the construction of myriads of dictatorships which are only marginally affected by the laws adopted through the democratic system. That is even more so in a globalizing world because of the competition among States. But it all comes from the inner constitutional structure of our political systems. It may be hard to accept it, but we only marginally live in democracies: of all the rules applicable to our daily lives, only a marginal number is created via the democratic political system.

- 9. Modern property was initially an instrument of liberalization of the individual (albeit a very specific individual: white, male and sufficiently old). Property amounted to a decentralization of the rulemaking authority to individuals having specific characteristics.
 - a. With individual liberalism, property lost its collective nature and became a component of the rise of the auto-nomy of the individual.
 - b. Shared ownership does exist, but it only adds a degree of complexity because the shared owners must define a governance system among themselves to determine how the property rights will be used; or use the rules provided by the legal system for the exercise of shared ownership. For example, there are rules about how to manage the shared parts of a condo (the corridors, etc.). Or part of family law deals with how the property has to be managed by the family members (mostly the parents). With shared

ownership come potential disputes among the co-owners which do not exist with individual ownership since, by definition, the owner does what he wants with what he has as a matter of principle. It is a much less efficient decentralization of the decision making power over things and is rarely encouraged by the (modern) legal system.

- c. Corporate ownership is not co-ownership and it is a fundamental mistake to treat shareholders as owners of corporations or firms. Would that be the case, large corporations or firms would be unmanageable.

10. Property rights entitle to easy, simple decision making processes in connection with production. They are economical in that they reduce the need for collective decision-making.

- a. Organizations, ruled by owners, do not exist to address market failures. Nothing entitles to write that “in the beginning there were markets” (Williamson 1985). Organizations in fact are at the *center* of the system with markets at their *margins*, be it as suppliers of resources or consumers of the goods or services produced by the firm.
- b. Working people do not spend their daily lives in markets. They spend them in organizations, be it a factory, a University, a farm or the army. (And all these operate thanks to property rights).
- c. What distinguishes the firm is that it is an organization, built thanks to property rights and the contracts concluded with other contributors of resources. At its limits, it purchases inputs and sells output on various “markets” (in fact from various suppliers and various customers). The limits of the firms are clearly identifiable by the existence of a specific legal instrument: the pure sale and purchase contract through which a specific object of property is instantly purchased or sold through the agreement to pay a price in exchange. Any other type of contract can be a source of total or partial integration within the firm (the organization).
- d. If the firm is efficiently organized, its total costs are less than its turnover and it makes a profit, i.e. assuming all costs are being accounted for (in particular, there are no negative externalities), the firm created value.
- e. “Markets” are at the margins of firms and are marginal to the overall system of governance of society. They provide an essential incentive to produce efficiently goods potential purchasers will

want to buy. But “the market” is a marginal, simple mechanism in the overall governance system.

11. The introduction of business corporations in the legal system (a movement against which there was much resistance) has fundamentally changed the operation of the overall political/legal system.
 - a. Business corporations initially were authorized only if they were pursuing a public interest: by concentrating large amounts of property rights, they were concentrating the decision making power in first instance into organizations which were losing some of their private character. It's not individuals' owners who are going to make decisions and be potentially liable for them. It is agents, of potentially eternal organizations, who are going to make decisions about somebody else's property.
 - b. Property other productive assets is now concentrated in the ownership of artificial legal persons owning most of these assets.

12. Via the corporate system, capitalism as we know it appeared. Two separate but interrelated property systems came to life.
 - a. “Real”, productive assets tend to be concentrated in the ownership of corporations, artificial legal persons which concentrate the power of making rules in first instance. They concentrate sovereign rights.
 - b. Using this concentrated property, firms are being created via contracts with other resource contributors.
 - c. The governance of the firm (the economic organization) and of the corporation (the legal vehicle(s) used to structure it), because it is a governance of the property rights controlled via the corporation(s), and of the micro legal systems created as a consequence, is necessarily part of the overall governance system.
 - d. In this system, shareholders are owners in a very limited sense. Shareholders only own securities issued by corporations. They own objects of property rights giving them certain economic and political rights over the operations of the corporation -but not over its assets or the contracts it concludes.
 - e. The bundle of property rights owned by the corporation and of contracts executed by it in connection with the operation of its assets (the firm) is legally totally isolated from the shareholders. Shareholders are not part of the constituents of the firm.

- f. The value of the bundle of rights and contracts of the corporation (the value of the firm) is not connected in a direct manner to the value of the shares. For example, the capital stock of loss making corporations can be worth billions.
- g. It is impossible to understand capitalism without understanding this dual type of property rights in the operation of a corporate economy. Rights over things are structured within firms via the corporations owning them. Rights over shares can be exchanged, sold, given, inherited without any impact on the structuring of firms via corporations. Vast and relatively stable organizations have been created thanks to corporations. But this has inherently affected the legal/political system which was not designed to cope with the surge of these auto-nomous corporate powers. Modern legal/political systems have been originally designed without integrating the (future) large concentrations of property rights into corporations and the existence of large firms.
- h. Businesses (real assets, real people, etc.) are managed via corporate law rules. Shareholders manage shares, exercise the rights they have thanks to the shares they own which are not direct rights over the business of the corporation. There is, on the one hand, the so-called “real” economy, and, on the other, the financial system. The two are somewhat related, but not in a direct way.

13. In large businesses, property over productive assets is owned by corporations which are not owned by anyone. This is contradictory to widespread beliefs but this is an inescapable conclusion of a strict analysis of property rights as they are and not as they are misrepresented by most economists.

- a. Neoclassical analysts have tried to salvage classical, market analysis, by inventing a property right of shareholders over firms/corporations (they do not make the difference) which does not exist.
- b. As a consequence, firm managers are deemed to be the “agents” of shareholders who are understood as “principals”. The economy therefore remains understood as a network of contracts, as a “market economy”.
- c. The reality is totally different. Shareholders own shares. They do not own corporations. No one does. (If shareholders want to

appoint someone to manage their property, they can only appoint someone who will manage what they own: their shares).

- d. A corporation is a legal person. To have capital, it issues shares of stock. In exchange for the contribution of capital the corporation will be free to use subject to the rules of corporate law, the shareholders get shares. With the capital, the corporation buys assets (real estate, machines, chairs, computers to create a firm). It signs contracts with other contributors of resources to enroll them in the operations of the business. Now we have a business operating. The corporation owns the productive assets (which it can sale, loan, etc. i.e. do everything an owner can do with them). The shareholders own the shares (and can do whatever an owner can do with his things). But the shareholders do not own the corporation. Strictly speaking, the corporation cannot be sold: only shares can be sold. And even if 100% of the shares are being sold, technically it is not the corporation which is sold but shares. The corporation still operates as an autonomous legal person, with its corporate organs under a duty to manage it “in the corporation’s interest”, which is distinct from that of the shareholders. Of course, the shareholders play a significant role in the operation of the corporation. But not as owners (of the corporation). And their interests are excessively taken into account in firm management because of a dominant faulty “agency theory”.
- e. Firms’ managers are not the shareholders’ agents: they are the agents of the corporation which owns the productive assets used by the firm.
- f. The governance of the corporation, which concentrates rights to regulate in first instance in the hands of non-owners is inherently political. The owner is always part of the political / legal system of rulemaking. But with corporations, the owner is not an individual, it is an artificial legal person, potentially eternal, managed by non-owners; and no one owns corporations.

14. Those who are making use of the assets owned by corporations do not own them. They have access to them via the corporate legal system.

- a. They have possession (not ownership) of the productive assets and, as a logical consequence, they are, in connection with these assets, the dictators at the ground level of the political/legal system. They only have one additional set of restrictive rules applicable to them,

on top of those which would be applicable to an individual owner of the same assets: those set by corporate law which limit what they can do with the property owned by the corporation whose property they manage.

- b. Nowhere do corporate officers and directors have a legally enforceable duty to maximize shareholder value.
 - c. Corporate officers and directors must manage the corporate affairs in the “corporation’s interest” (the corporation being the owner of the assets and the counterparty to the contracts) which is a totally different concept allowing the taking into account of a variety of interests over the long term.
 - d. Corporate officers and directors are, however, manipulated via the ideology of “agency theory” which has no basis in the reality of the legal system but operates as a strong incentive to maximize “shareholder value”. As a consequence, the largest owners in our society are ruled in the interest of only one class of interested parties: the shareholders. This is done in the name of a property right over the corporation the shareholders do not have.
 - e. Alternatively, Friedman rejected the pursuit of any other goal by the firm/corporation because it would have turned corporate executives into “politicians”. He deemed this unacceptable in a democratic society. But even in a democratic society, as long as property rights are protected, owners are part of the legal/political system anyway. Corporate executives are inherently “politicians” and this is what needs to be faced instead of denying the reality of modern society’s organization.
 - f. Today, the other interests affected and insufficiently taken into account in the micro legal/political systems have to be preserved mostly via the higher level political systems.
15. With the globalization of the largest firms, the political/legal system is facing increased difficulties to internalize the interests insufficiently taken into account in the governance of firms.
- a. States first reacted to the growth of the corporate economy by creating massive numbers of laws protecting numerous affected interest (employees, consumers, the natural environment, etc.).
 - i. In numerous legal systems, the first reaction of courts was to cancel these laws as unacceptable restrictions to the free use of property (substantive due process in the US).

- ii. Then, in numerous jurisdictions, a very significant evolution of the legal/political system took place to adopt laws internalizing the numerous negative externalities generated by the corporate system.
- b. Globalization is affecting the ability of States to continue their internalizing function.
- c. Global firms have created for themselves the liberty to invest where they want. States (which are stuck with their territories and populations, hard and slow to improve) are put in a position in which they need to be attractive for businesses. That means offering a legal environment which is not too expensive, i.e. a legal environment which does not “excessively” internalize externalities (an activity which increases costs and therefore prices and therefore competitiveness). This phenomenon leads to a race to the bottom, unless the States create coalitions, syndicates among themselves (international organizations or treaties), to reduce this competition among themselves.
- d. Also, the ideology of “agency theory” is pushing firms to create short term shareholder value at the expense of over affected interests. A balance of the cost externalized in this manner and of the “shareholder value” created would be the real indicator of the value created (if any) by firms.
- e. It is urgent to understand that shareholders do not own corporations or firms to understand firms as micro-political systems and develop proper rules of firm governance.

16. For global firms, it is particularly important to develop our understanding of these firms as political systems which cannot be content to operate as dictatorship. Their ability to do so derives from property rights, but as part of the political system of society, these rights imply the existence of higher level political institutions to eventually address the needs of the interests insufficiently taken into account by the dictatorships. In a world without a global State, global firms have to develop government rules so that the interests affected are internalized by the governments of firms themselves.

17. An understanding of property rights as political rights, rights of decision making of first order in a political system comprising higher level

political institutions leads to an understanding of the need to constitutionalize firms understood as components of the World Power System.

- a. An understanding of property rights leads to a path through which an orderly globalization can be achieved “bottom up” by realizing that firms are legal orders, that global firms are global legal orders and that they are part of the global power system – and draw the consequences