

# Family, Property and Inheritance: *Institutions for Civilization and their Enemies*

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**Abstract:** *In the history of ideas, few institutions are as important or are as closely related as Family, Property, and Inheritance, for the establishment and function of an ordered society. About them, many perspectives have been taken by legal and political thinkers and philosophers on both the traditional Catholic and libertarian schools and their contemporary variants, which coincidentally agree that all of them are products of a perennial order, in most cases of a spontaneous origin that manifests itself within Natural Law, and as such, must be protected by positive legislation, although its relation is always understood as one of logic and not one of institutions. On the other hand, an opposing and hostile perspective on Family, Property, and Inheritance is promoted by revolutionary Marxism, revealing that, at least on its negation, there is a universal outlook on the mutual need of these three institutions to subsist as part of the social order, and particularly, as legal institutions, which uses, and formal aspects are protected by legislation to be applied in a particular community. By exploring these stances, as well as the proper definitions of Civilization, and order, one may understand the meaning of family, private property, and inheritance, as well as their legal conceptions in the history of ideas, and the way they are universally opposed by the Marxist schools of thought, based on their own revolutionary ends.*

**Keywords:** *Family, private property, inheritance, Marxism, civilization*

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## I. Introduction

Throughout the annals of intellectual history, few institutions are as closely related nor wield as significant impact on the establishment and functioning of a well-ordered society as family, property, and inheritance, with these intertwined concepts becoming something of the foundations upon which civilizations are built and sustained.

However, most modern conceptions do not consider the intricate connection between these institutions, aside from a legal bond between and the broader political order.

In many such instances, for example, their innate significance is frequently overshadowed in favor of politically correct interpretations that cater to specific voter groups.

Moreover, most of them tend to forget this particular order only follows the whim of whoever has political power and can formally legislate on matters related to these institutions, most of the time rejecting their timeless meaning.

Now, over the course of history, various legal scholars, political thinkers, and philosophers have grappled with the multifaceted nature of these institutions.

The most prevalent of them, at least on both the traditional Catholic and libertarian schools of thought and as well as their contemporary variants, is that all these institutions are products, reflections of a perennial and organic order, that manifests itself with Natural Law.

As such, must be protected by positive legislation as a safeguard these institutions, although their relationship is fundamentally to be understood as one of logic and not one of institutions.

In stark contrast to this perspective on Family, Property, and Inheritance, there is one that sums a general hostile view on all three and is the

one promoted by the revolutionary tenets of Marxism, advocating for sweeping rejection of them.

This negation, in paradoxically Hegelian manner, reveals a universal recognition on the mutual need and interdependence of these three institutions in upholding and subsist as part of the fabric of social order, and particularly as legal institutions, whose formal aspects are protected by legislation to be applied in a particular community.

Revolutionary schools of thought such as this one are known to ardently challenge the positive foundations of these legal institutions, seeking to replace them with alternative frameworks aligned with their own ideological aims which are ultimately aligned with their destruction.

By exploring these contradictory stances, a wealth of compelling arguments to be considered emerge. These range from the proper definition of civilization itself as a concept, the proper notion of order, to the respective meanings of family, private property and inheritance, their legal conceptions across the history of ideas, and the way ideologies espoused by revolutionary schools of thought stand in opposition to these institutions, sheds light on the tensions between differing visions of society's trajectory based on their own ends.

Ultimately, the study of family, property, and inheritance is not merely an academic exercise but a vital endeavor to comprehend the essence of human societies and their intricate interplay with the ever-changing currents of law, politics and philosophy, and how their profound meanings and implications become essential in shaping the course of our collective future.

## **II. Conceptualizing Civilization, Order, and Institutions**

To embark on a comprehensive exploration of civilization and order, it is imperative to first grasp their broader definitions.

First, we need to begin by a broader understanding of what civilization and order means: for the former, the Merriam Webster defines it as ‘the culture characteristic of a particular time or place’ and ‘the stage of cultural development at which writing and the keeping of written records is attained’,<sup>1</sup> on the other hand, for the latter, that very dictionary describes it as ‘the

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<sup>1</sup> Merriam Webster Dictionary, 4th ed.

arrangement or sequence of objects or of events’, ‘a sequential arrangement of [...] elements’, ‘a regular or harmonious arrangement the order of nature’, ‘a sociopolitical system’ or a ‘a particular sphere or aspect of a sociopolitical system’. Additionally, it is also associated with ‘the state of peace, freedom from confused or unruly behavior, and respect for law or proper authority’.<sup>2</sup>

Indeed, as one can see, the interconnectedness of these definitions of civilization and order go by the way they can be potentially applied to the disposition and organisation of human social customs, forms and knowledge in an adequate way. In the end, a fair and just arrangement, according and echoing the classical definition of justice put forth by Roman thinker Ulpian, who asserted it is about ‘giving each one its own’.<sup>3</sup>

Given that certain elements of civilization, such as customs, knowledge and arts, have to be ordered according to the principles of fairness and justice to allow for their material, social, cultural and political development, the establishment of institutions becomes paramount. This is because there will be rules and norms to guide their application, serving as the framework for the realization of the common good—a concept eloquently articulated by John Rawls as ‘*certain general conditions that are... equally to everyone's advantage*’,<sup>4</sup> which is the quintessential goal of well-ordered society.<sup>5</sup>

In the realm of law, the concept of order takes a parallel trajectory, and its legal meaning goes in that same direction, which, according to Spanish legal scholar Manuel Ossorio, can be defined as

‘the sum of positive and valid laws under a hierarchical relation with one another that rules all of the institutions of a determined country. [...] the legal order is essential for the existence of a country as without it there would not be any social community’.<sup>6</sup>

Furthermore, it is also necessary to conceptualize the meaning and notion of what an ‘institution’ is, in order to aptly characterize entities like Family, Property, and Inheritance.

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<sup>2</sup> Merriam Webster Dictionary, 4th ed.

<sup>3</sup> As taken from the Digest of Book One of the Codex Iustinianus.

<sup>4</sup> Rawls J, A theory of justice, Harvard University Press, 1971, 302.

<sup>5</sup> Waldemar H, ‘The common good in Machiavelli’ 31(1) History of Political Thought, 2010, 57–85.

<sup>6</sup> Ossorio M (n.d.) ‘Legal order’ in Legal, Political and Social Sciences Dictionary, 1974.

As elucidated by world-famous social scholar Samuel Huntington, institutions are ‘*socially stable, valued and recurrent conduct patterns*’<sup>7</sup>, not only encompassing governing mechanisms guiding a community’s social conduct with a broader social purpose but also transcending its individual members as a social purpose.

Institutions, in that sense, extend to the creation of stable associative bodies formed from such patterns and mechanisms and the social and legal rules that establish, underpin, lead and govern these entities.

### **III. The Institutions of Family, Property, and Inheritance**

Family, Property, and Inheritance are widely known as institutions: the three of them are essentially composed of normative patterns that rule their workings and govern their functions for and within an ordered society. The three are used as mechanisms of social governance in particular contexts, the three transcend the individual persons involved with them as the subjects of their rules and usings, existing in an ethereal realm of abstract ideas, and are firmly contemplated and grounded as part of a timeless, perennial natural order, for which they can be considered to have solidified their status as full-fledged institutions.

Moreover, family, private property, and inheritance are what Austrian School economist and legal philosopher Friedrich August von Hayek eloquently refers as part of the spontaneous order, which means that they integrally

‘are part of society’s adaptation processes to the circumstances in which [that very] spontaneous order grows [...] and are selected rules that have worked well in the past and presumably will be maintained [...] to better the purpose of the existing order, whose distinguishing trait is to be a product of human action and not of human design, in which the empirical experience of generations past is summed on a body of knowledge greater than the one possessed by any individual person’.<sup>8</sup>

On the other hand, Brazilian traditionalist thinker Plinio Corrêa de Oliveira includes family and private property as organic institutions, constituting a cohesive working order, wherein the hierarchically superior

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<sup>7</sup> Huntington S, *Political order in changing societies*, Yale University Press, London, 1968, 9.

<sup>8</sup> von Hayek, *FA, Law, legislation and liberty*, 1973, 119.

institution's actions are subsidiary to support the hierarchically inferior one. Subsequently, the institution of Inheritance would arise as a direct consequence of the harmonious interplay between Family and Private Property, but this will be explained in further detail in a later section.

Within both frameworks, property is perceived and understood both as a power and as an attribution vested in the individual person, that entitles him or her to the goods and rights that a person possess and that can be defined as ‘the total control on the services that can be derived from a good’,<sup>9</sup> signifying the autonomy and authority of the property owner.

In the same fashion, family is defined to be ‘a community that is constituted for everyday life according to nature’,<sup>10</sup> and that arises from the foundational and cellular society born out of the mutual agreement of heterosexual marriage, whose purpose encompasses union, procreation, and mutual support, giving rise to offspring and sustaining the continuity of generations.

Inheritance, the final component, combines and unifies these preceding elements in what Ludwig von Mises describes as ‘a human device [...] where virtually each property owner is directly or indirectly the legal successor of the person that had previously acquired property’,<sup>11</sup> creating a logical and consequent succession order from an owner to his or her natural heir, who generally is a descendant of the said owner and has been educated and guided to possess, responsibly manage and preserve the inherited property, thus ensures the transfer and maintenance of property from present to future generations.

This basic principle, the constitution of these types of human relations with the objects of their environment, with fellow individuals, or a combination of both, establishes and solidifies their institutional category, which means they follow an ordered conduct pattern that allows for these individual relations to be guided towards and foster the material and social development of those who participate in them.

This is also why, as the family, property and inheritance are understood as institutionalized, they become inherently fair, deriving their legitimacy from the organic and spontaneous order honed through the crucible of trial and

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<sup>9</sup> von Mises L, *Human action*, 1949, 678 — <https://mises.org/library/private-property> on

<sup>10</sup> Ayuso M, *Some political reflections on the nature of marriage and family*, 2015, 949.

<sup>11</sup> von Mises L, *Human action*, 679.

error built over several lifetimes, proving through the test of time that they are the most adequate for human governance,<sup>12</sup> and mostly, since they suit the most the principles of Natural Law as a perennial order of things intrinsically born of our human nature and accessible to rational comprehension.<sup>13</sup>

## IV. The Enemies of Family, Property, and Inheritance

If family, property, and inheritance are defined as institutions, their civilizational aspect can only be explained by its opposition promoted by revolutionary thinking, and how this is a constant adopted in any aspect of their effort to abolish them by both positive, normative and coercive means, thus highlighting their crucial significance for society.

To comprehend this ideological clash fully, it is vital to define the concept of revolution itself, which in the realm of

‘physics and astronomy, refers to a complete object rotation, a 360-degree spin around an axis, a return to the point of origin. By adopting this concept to politics, to law and institutions, it means exactly the same: a revolution does not promote reforms, but a return to the state of nature.’<sup>14</sup>

In that sense, revolution both implies a regression to a primitive condition and embodies a form of accelerationism, actively pushing society backwards as it advocates a return to ignorance and irrationality. Thus, revolution also means entropy, disorder, and chaos.

Revolutionaries target the most structured and institutionalized aspects of human societies, for their revolution seeks to dismantle the very institutions that make up the ordered framework in which individuals, communities, and civilization itself develop, by promoting a return to the most basic and rudimentary ways of living and to govern society, which are always the least institutionally ordered in absence of rules and their guidance.

Delving into the civilizational aspect of family, Lew Rockwell says it represents ‘an anarchical institution [...] that doesn’t require of government act

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<sup>12</sup> von Hayek F A, *Law, legislation and liberty*, 17.

<sup>13</sup> Spooner L, *Natural law; or the science of justice*, 882 — <https://web.archive.org/web/20110204164214/http://lysanderspooner.org/node/59> on 9 March 2023.

<sup>14</sup> Stornaiolo S., Ugo. (July 22, 2020), *Progres de derecha*, en *Navarra Confidencial* — <https://www.navarraconfidencial.com/2020/07/22/progres-de-derecha/> on 9 March 2023.

to exist but that flows from fixed realities of human nature and refines itself with the development of sexual norms and the development of civilization',<sup>15</sup> which means it's a spontaneously ordered institution, and as such, it is aligned and answers to the needs of human nature and allows for a fair development of individuals and communities as they flourish within such organic structure.<sup>16</sup>

Traditionalist ideas particularly the work of Plínio Corrêa de Oliveira, explain why revolutionaries oppose so vehemently to family, both as an ideas and as an institution, declaring that

'revolutionary dictatorship tends to eternize itself by violating genuine rights and inserting itself in all aspects of society to destroy them, deconstructing family life, attacking genuine elites, subverting social hierarchy, feeding utopias and disordered aspirations to the masses, extinguishing social group life, and making everything and anything subject to the State: in a word, favoring the work of the Revolution. A clear example of it was Nazi Germany'.<sup>17</sup>

Corrêa de Oliveira equals genuine rights to the spontaneous order described by F.A. Hayek, of which family is part, and places them as a set of institutions that must abolished for the revolutionary end of returning to the state of nature proposed by Marx in his materialistic view of the end of history, in which communism will be imposed and no private property nor family nor civilization will be able to exist.<sup>18</sup> He insists that

'no matter how much the Revolution hates the absolutism of kings, it hates intermediate bodies even more. [...] Among the intermediate groups to be abolished, the family ranks first. Until it manages to wipe it out, the Revolution tries to lower it, mutilate it, and vilify it in every way'.<sup>19</sup>

From this perspective, it would be easy to elucidate that the revolutionaries' intentions would be thus to eternize themselves into power by undermining and subverting the legitimate rights that build up society through a complementary hierarchy of complementary institutions, ultimately destroying them so only the State, under their control, would be allowed and able to wield any form control to order social relations.

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<sup>15</sup> Rockwell L, Mises on the family 1998 — <https://mises.org/library/mises-family> 9 March 2023.

<sup>16</sup> Miguel A, Some political reflexions on the nature of marriage and family, 956.

<sup>17</sup> Corrêa de Oliveira P, Revolution and counterrevolution, 1958, 48.

<sup>18</sup> Williams H, 'The end of history in Hegel and Marx' in Burns T and Fraser I (eds) *The Hegel-Marx Connection*, 1st ed, Palgrave Macmillan, London, 2000, 207.

<sup>19</sup> Corrêa de Oliveira P, Revolution and counterrevolution, 69.



Now, this link between the revolutionary agenda and the abolition of private property becomes apparent when considering other perspectives, such as the one appearing in this quote by Ludwig von Mises (considered to be a stand-in for libertarianism): ‘the proposals to transform sexual relations have been long attached to the socialization of producer goods [...] marriage would disappear with private property... Socialism not only falsely promises economic welfare but also universal happiness in free love’.

The link thus becomes clear: the reason why revolutionary thought schools, especially marxist ones, look to abolish traditional and institutional family forms is because it is closely related to their conception on the abolition of private property, considering the very communist manifesto calls for ‘bourgeois family to disappear as a consequence of the full disappearance of its complement [private property], and for both to disappear when capital goods disappear’.<sup>20</sup>

On this, Corrêa de Oliveira, also adds that one of the goals of the revolution is ‘economic equality: nothing belongs to no one, everything belongs to the collective. It would be the suppression of private property, of each own’s right to the integrity of their own work and to the election of their professional activities’.<sup>21</sup>

At this point, one may ask how and why the destruction of the family institution affects private property, as they are only apparently connected by logics, and not on an institutional level, but inheritance answers this question. The intricate connection between family and private property becomes evident through the concept of inheritance. It facilitates the transmission of property and the succession of specific rights among blood-related individuals, all within the framework of a contract-based society, whose goal is indeed to procreate and mutually assist its members (both the married couple and family itself), and to conform an institutional community born out of the organic, spontaneous order of natural law.

Naturally, the revolutionary communist perspective, as articulated by Friedrich Engels in his work titled *The Origin of Family, Private Property and State*, rejects this established order, where

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<sup>20</sup> Marx K, and Engels F, Manifesto of the Communist Party, 1948 — <https://www.marxists.org/archive/marx/works/1848/communist-manifesto/> on 1 March 2023.

<sup>21</sup> Corrêa de Oliveira P, Revolution and counterrevolution, p. 69.

‘in most cases, man has to work his way through life to maintain his family, at least among poorer social classes. That way he gets a higher social position without any special legal privilege. For the family, he is the bourgeois, and women represent the proletariat. Family, instead of a collective tribe, had become ‘the industrial unit of society’.<sup>22</sup>

Instead, the forthcoming communist ‘revolution will reduce any care for inheritance to the minimal, changing, in part, at least, the greater part of permanent and inheritable wealth, capital goods, as social property’,<sup>23</sup> transforming this hard-earned, transmissible prosperity into socialized assets, available for everyone and no one, thus eroding the very concept of private property.

## V. Conclusion

At the core of civilization's institutional order which certainly represents development and fair work, family plays a vital role as a unity for property transmission from husband and wife to their descendants, ensuring the continuity of private property through an unbroken line of succession to further generations.

However, revolutionary schools of thought identify and fervently oppose this institutional relationship, calling for its destruction through three interconnected and complementary approaches, arguing that without family, there can be no private property, as the crucial mechanism of inheritance is eradicated, and in the absence of private property, the incentive to form and maintain families dissipates, as the reason to hereditarily transmit any property would be no more. At last, without the notion of inheritance, the family loses a fundamental purpose in the generational transmission of wealth, leading to a decline in the incentives to amass private property.

Curiously, the methods employed to dismantle these institutions align with what F.A Hayek denominated ‘legislation’, understood as ‘*the main tool for deliberate change in modern society*’,<sup>24</sup> an approach driven by a constructivist rationalism, aiming to impose a predefined vision on society, seeking to design

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<sup>22</sup> Engels F, *The origin of the family, private property and the state*, 1st ed, 1884, 40.

<sup>23</sup> Engels F, *The origin of the family, private property and the state*, 40.

<sup>24</sup> von Hayek FA, *Law, legislation and liberty*, 65.

discretionary institutions according to an irrational will to systematically subvert societal norms and civilizational foundations.<sup>25</sup>

This constructivist rationalism is applied in the form of positive laws, cunningly engineered to undermine private property in obscure ways, such as eliminating the reasons to keep it or acquire it using higher taxation, or by allowing confiscatory actions under the guise of eminent domain utilized to deplete any inheritable wealth amassed to be further inherited.

Furthermore, the assault on private property is also driven to dismantle the traditional concept of family—an institution historically rooted in heterosexual union, by targeting procreation, couple life, and mutual support, disrupting the natural order of the family and its purposeful role in facilitating the orderly and guided transmission of property to one's own descendants.

The battle over civilization's institutional order revolves around the fate of Family, Property, and Inheritance. Revolutionary thinkers have pushed to disrupt this intricate tapestry providing the theoretical basis to reason the destruction of all these institutions, and then have tried to employ legislative measures that covertly target private property, inheritance, and the very essence of Family, challenging the fabric of society itself and threatening the enduring principles that have shaped civilizations throughout history.

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<sup>26</sup> von Hayek FA, Law, legislation and liberty, 65.

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