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## Do we have Private Property in the USA?

posted by [Debt Prison](#) on Friday, December 14th 2007 under: [Politics](#) Tags: [eminent](#), [private property](#), [u.s.](#)

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What is private property and what rights come with it? I find it interesting that this subject is never discussed by politicians. From Democrats to Republicans, the issue of private property and the rights of ownership are seldom mentioned. However, the interpretation of private property is probably the single most important judgment a society administers in determining its destiny. All Laws revolve around a society's perception of the rights to private property.

The ownership of private property is a Natural Right. That is, a human has the right to claim ownership over his own body and the products that he has justly acquired. A person justly acquires products by developing them from one's own property or from purchases using market commodities. For example, if I am building a house I can cut the timber from my own land for the beams and studs, or I can work to gain cash, and then purchase the beams and studs. Another human or group of humans does not have the right to claim dominion over your body or your property. And yet in every corner of this world, humans must conform to authority from individuals and governments - as their Natural Rights to private property are violated.

### **Do we own our bodies?**



The answer to this question is not as simple as it would seem. If you walked down the street, asking pedestrians "Do you believe that you own your body?" I wonder what they would say. Most would probably respond "Certainly," not giving it a second thought. Women would probably mention that since we have *Roe vs. Wade* that "Yes, I own my body." But what about a follow up question such as "Well then, is it legal for you to do anything you want with your body?" At this point it would become clear that the definition of ownership is challenged. Certainly in every country there are

laws governing what a person can and cannot do with their body. Even in situations where the committed act does not infringe on the liberties or property rights of others, there are laws governing us.

#### *Can we sell our bodies?*

Stripping is a form of selling your body. It is legal in most if not all states. So it doesn't violate any laws if you receive money while stripping - since you own your body this seems like a reasonable scenario. But say that I want to get paid for having sex with another person. At this point the law steps in (Nevada excluded) and arrests you for violating State Law. Supporters of prostitution laws say that prostitution causes a whole range of vile and decrepit behavior. I would much rather see these issues repressed through social pressures within families and communities than Laws designed to enforce a particular group's view of moral behavior.

The reason such a law is brought into question is because the committed act (prostitution)

is legal as long as one doesn't receive payment. How does adding a monetary fee redefine an action to be more or less moral? It shouldn't be the role of government to enforce moral behavior - *so long as said behavior doesn't violate another persons Natural Rights to liberty and property*. This is no off the cuff suggestion on my part. Because the logical follow up questions are "Where does it stop?" and "Who gets to decide the definition of moral behavior?"

### *Can we sell our organs?*

Since we own our bodies then certainly it's legal for me to sell my extra Kidney. Once again, we have an example of a law which makes a committed act illegal only if a monetary transaction takes place. So the Doctor, Nurses, and Anesthesiologists all make money from the operation of inserting a donated Kidney into the body of a sick patient. Everyone is allowed to make money except the Donor. Again the supporters of this Law would site vile and decrepit outcomes as a consequence of allowing the Poor to use their organs to generate cash. So an organ can be donated so long as it's a gift - because to sell it would violate the moral code of a particular group and violate *their* authority they possess over you.

Laws such as these serve little purpose except to keep law enforcement officers distracted from violent criminals. And of course these laws help to keep our Lawyers wallets fat. If you want to help Lawyers just keep passing more and more Laws. The United States has more Laws governing its people than any country in the world. And not surprisingly, we have the highest percentage of citizens in jail of any country in the world. And not surprisingly we have the [highest percentage of Lawyers per capita](#) in the world.

### *Can we put whatever we want into our bodies?*

The U.S. Government allows its citizens to put approved drugs into their bodies so long as they have adhered to the legal path to obtainment. If you seek drugs through means not regulated by your government then they arrest you. Since I own my body, why can't I put what I want into it? If this body is my property, what right does another person or groups have over it? Certainly other individuals and groups have the right to defend themselves and their property. But, in what way does my use of marijuana infringe on their rights? Obviously it doesn't. These Laws are legislated to empower a particular group over the actions of others - and to protect the "legal" pharmaceutical trade in the United States. Interestingly enough these Laws pertain to possession, not use. The action of smoking marijuana is not a crime, possession is the crime, these substances are "banned".

Claritin D does wonders for my allergies. Wal-mart is one of the few retail stores which still carry Claritin D, that's the formula that contains pseudoephedrine. Since pseudoephedrine has become the main ingredient in crystal meth (a banned substance) Wal-mart keeps this version of [Claritin behind the counter](#). So when I need Claritin D I have to go stand in line with all the Geriatric patients, and believe me the line is usually long. Once I get to the register I pull out my State issued Drivers License. The cashier

then proceeds to type my License information in the computer and then I have to sign my name to the keypad. You don't even have to show your License when picking up prescription drugs. This is a good demonstration of the intimidation the Federal Government and Pharmaceutical Giants possesses over anyone even related to the creation of those dangerous "banned" substances. All the allergy sufferers in America get punished because someone wants to buy Sudafed to make banned drugs.

If we were allowed to do what we wanted with our bodies such Laws would no longer be necessary. To all the "banned" drug haters out there, I would like to ask you by what right do you usurp authority over my body? How would you like it if I had the coercive powers of government backing me (like in a Dictatorship) and banned the eating of meat, or perhaps banned all drugs (even the legal ones) because it violated my personal views of morality? Perhaps I believe that the killing of animals is immoral and destructive to civilized societies. Or perhaps I find any drug use immoral - believing that nature should be allowed to take its course on our bodies as God designed.

## Do we own our land?

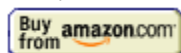


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This is another excellent question for us to ponder. I see land ownership in the U.S. as faulted because we have to pay local taxes on our land. So, one could make the argument that we are in fact renting our land from the Government. A tax on gasoline to pay for roads makes good sense. The people that use the roads more end up paying more for its maintenance, with the trucking industry paying the most per person. Likewise the trucking industry does the most physical damage to our highways, so the tax is justified. But my land is private property. In what way does the government or the public use my land? They don't.

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Land taxes are designed to establish governmental authority over your property. In essence the government (rule by the majority) owns all land - like our currency they permit us to lease it from them for our personal use. This is a violation of one's Natural Right to private property ownership. The government has the right to obtain taxes for limited purposes, but to tax private property is immoral - it gives the government a higher stake to your property than you have as an individual. If you fail to pay property taxes we all know what can happen. The local government can confiscate and sell your private property.

If we own our land and mineral rights then we should be able to access the raw ore and oil that sits beneath our property. Certainly the government would only intercede if your excavation violates another person's rights to liberty or property. But this isn't the case at all. Have you ever tried pumping oil in your back yard? Without a team of lawyers and hundreds of thousands of dollars you can't even think about it. The permits and

regulations alone would shut down a small timer like you. Basically you have to outsource the drilling to a government approved company that knows how to funnel money to the pockets of politicians. Just imagine all the taxes involved in such an endeavor. Local concerned citizens would show up, hold meetings, and use force against you to shut down this little pipe dream. Nope that raw untapped energy source lying beneath the pine straw belongs to the people (government). They allow you to make a little royalty from it - isn't that nice of them? See also, [Do you really own the mineral rights under your land?](#)

The U.S. Constitution gives the government the right to confiscate land (eminent domain) for public use (roads and right of ways) and to appropriately compensate you for your land. This is a rational and just method for handling the issue of roadways and utility grids. But lately we see that local governments are [forcing private property owners off their land](#) for an entirely different purpose. Local governments are confiscating land and selling it to private developers. The private developers build businesses or apartments - anything that generates more tax revenue for the local government than your property taxes. Through their use of force local governments violate both your Natural Rights to private property and the U.S. Constitution. Amazingly courts have sided with local government instead of individual American citizens. If private citizens would resort to using force on a regular basis to prevent such crimes and punish city councilmen - local governments would stop the pillaging. By enforcing Natural Law citizens would discover a government more cautious in its approach to private property. Clearly the minds of our countrymen have been conditioned over the decades to accept whatever injustices are forced upon them. The government can only do what we allow. Not the other way around.

### **Do we own our cars?**

Again we have the subject of local and state governments demanding an annual tax on private property. Now the sales tax paid when I bought the car is understandable. But to tax me every year for a possession that I own, these practices are repulsive. Why do we have to buy a new sticker every year? To have something to prove that we paid our taxes on a piece of property we own.

I could keep going with example after example but I'll stop here. The best way for local governments to collect taxes is to implement a sales tax on all items sold. This way the people would keep the tax and government limited in size because all citizens would equally reject taxes that were too high. A sales tax is not a violation of private property. Governments are allowed to overtax by inserting taxes into places where you don't see them - like utility bills. In a [recent ABC study](#) on taxes, a person making \$60,000 per year paid 40% or \$24,000 of their yearly income in taxes! This U.S. tax paying citizen works until May just to pay for the government. Soon the government will be the Senior Partner of your earnings.

The function of this article is to point out that we have little if any rights to private property in the United States. Supposedly this is the land of the Free. It's obvious that this is no longer the case. I will agree that there was a time in our history as a nation when private property and Natural Rights as individuals made a difference (slavery excluded). This was true in part because in the absence of government individuals had to protect themselves. As the size of government grew, laws eliminating private property grew as well. A government's claim to an individual's private property is unjust. I hope that readers of this article will question their rights pertaining to property. What rights should we have versus those that we are allowed to exercise?

It is immoral for another person or group of people to claim ownership over your body and property. How could anyone else claim such a right? Certainly no one has a right to claim a higher stake to your life or property than you possess as an individual. This can only be accomplished by use of force. In government a small fraction of the population (influential elites) enforces their will through manipulation. In a Democracy the majority of citizens are convinced that various laws are needed to protect trade, morality, and security. Slowly the citizens relinquish their rights - becoming powerless and timid in the land their brave Forefathers set free.

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[From the U.S. Department of Interior](#) about mineral rights in Montana.

### **Did You Know?**

There is a good chance if you purchase property in Montana (and many other areas in the Rocky Mountain West), you may not be getting ownership of as much of the property as you think you are. An estimated 11.7 million acres of the private land in the state of Montana is split estate, meaning the surface land rights are privately owned and the subsurface mineral rights are federally owned.

### **Stock Raising Homestead Act (SRHA)**

Why do landowners find themselves in this situation? It's largely the legacy of the Stock Raising Homestead Act passed by Congress and signed into law by President Woodrow Wilson in 1916. This law allowed a settler to claim 640 acres of nonirrigable land that had been designated by the Secretary of the Interior as "stock raising" land. At a time when mineral exploration was beginning to escalate, the federal government opted to maintain the mineral rights to the land claimed under that 1916 law.



The actual language found on a SRHA patent for this mineral reservation is: “Excepting and reserving, however, to the United States all the coal and other minerals in the lands so entered and patented, together with the right to prospect for, mine, and remove the same pursuant to the provisions and limitations of the Act of December 29, 1916 (39 Stat., 862).”

### **What does “other minerals” mean?**

The term “other minerals” includes (but is not limited to): leasable minerals (oil, gas, geothermal, phosphate, sodium, and potassium), locatable minerals (gold, silver, copper, gypsum, and bentonite), and mineral materials (including sand, gravel, scoria, pumice, and stone). In 1982, the Supreme Court affirmed the SRHA mineral reservation definition and further defined it to include substances that:

1. are mineral in character,
2. are inorganic,
3. can be taken from the soil,
4. can be used for commercial purposes,
5. were not intended to be included in the surface estate,
6. have a separate value,
7. are not necessarily metalliferous, and
8. may not necessarily have a definite chemical composition.

### **What does this mean to you, as a land owner?**

- You own the surface rights on lands patented under SRHA and have the right to develop these lands in the manner set forth by the Homestead Acts, as intended by Congress. This includes developing water sources and infrastructures associated with grazing and raising forage crops.
- Available mineral resources found on these patented lands can be used for the improvement and maintenance of said lands. Generally, the owners of the surface estate where the federal government owns the mineral estate may use, without the benefit of a sales contract or permit, minimal amounts of mineral materials for their personal use within the boundaries of the surface estate.
- As the land owner, you do not have the right to sell the mineral resources from lands patented under SRHA. The mineral rights are reserved to the United States and are under the jurisdiction of the Department of the Interior and managed by the Bureau of Land Management (BLM).

### **How do I determine the mineral ownership if I’m a land owner or mineral**

## **operator?**

Contact your local BLM office, which will be able to assist you in determining if the minerals are federally owned. A specialist will check the master title plat for both surface and mineral ownership and will also check the original land patent to determine under which Homestead Act your lands were originally patented. Some Homestead Acts only reserved certain minerals, where the SRHA reserved all minerals.

Several recent trespass cases have involved land owners who thought they owned the minerals and minerals operators with an approved operating permit or small miner exclusion statement (SMES) from the State of Montana (MT DEQ).

An approved operating permit or SMES from MT DEQ does not authorize removal of mineral materials from lands with federally owned minerals. These materials are available by purchase only from the BLM. Please contact your local BLM office for more information concerning this program.

## **What should you do if you may have or are removing and/or selling minerals that belong to the United States?**

Stop immediately. The extraction, severance, or removal of mineral materials from public lands under the jurisdiction of the Department of the Interior, except when authorized by permit or sale, is an act of trespass. Trespassers may be liable for damages to the United States and may be subject to prosecution for such unlawful acts. A trespass may be:

- An Innocent Trespass, which refers to taking of mineral materials inadvertently and in good faith under a genuinely mistaken belief of a right to so extract the mineral, or
- A Willful Trespass, which refers to a trespass done deliberately, intentionally, or willfully with knowledge that it was in violation of law.

If you are unsure or have questions, please contact your local BLM office for assistance.

## **MT/Dakotas BLM Offices and Phone Numbers**

Montana State Office Billings Field Office  
(406) 896-5004 (406) 896-5013  
Butte Field Office Dillon Field Office  
(406) 533-7600 (406) 683-2337

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## 2 Responses to “Do we have Private Property in the USA?”

1. [Suzanne](#) says:  
[January 3, 2008 at 2:07 pm](#)

You stated, “I find it interesting that this subject is never discussed by politicians. From Democrats to Republicans, the issue of private property and the rights of ownership are seldom mentioned. “, but I beg to differ. Private property rights are often addressed by Dr. Ron Paul.

2. [lethal](#) says:  
[January 3, 2008 at 3:47 pm](#)

I agree that Ron Paul believes that private property shouldn't be regulated and taxed by the government. However, in writing this article I didn't want to go into a discussion about Ron Paul. I've done that many times in other posts.

## 1 Trackbacks/Pingbacks

1. [I'm A Pundit Too | Carnival of Political Punditry - December 16, 2007](#)

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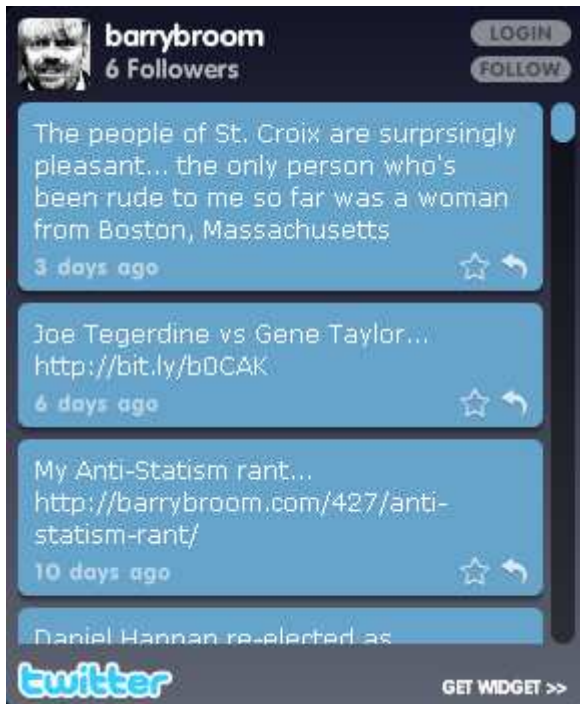
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