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Copyfarleft: A Response to Stefan Meretz

ByDmytri Kleiner

Thank you to Stefan Meretz for taking the time to engage at length with my essay, "Copyfarleft, Copyjustright and the Iron Law of Copyright Earnings." [http://www.metamute.org/en/copyfarleft_a_critique]

The main argument advanced in the essay is that artists can not earn a living from exclusivity of "intellectual property" and that that neither copyleft licenses like the GPL, nor "copyjustright" frameworks such as the creative commons, can help.

The only thing, I believe can help, is workers' self organisation, an approach that is popular among socialists from anarchist, especially syndicalist, tendencies, and is also supported by those who promote "Market Socialism" and "Economic Democracy."

Unfortunately, Stefan doesn't really engage in any of the arguments made in my essay directly, he is not for instance arguing that either copyleft, copyright or copyjustright does create the possibility for artists to make a living, therefore from my point of view we seem to be in agreement on the main claims of the essay. In fact, I could not find a single argument in the entire "critique" that disputes my contention that only a minute elite group of artists can make a living from intellectual property, which is the point of the essay.

Instead of disputing my claims regarding the economic relations of creative production, Stefan's "critique" seems bizarrely directed at me personally, at proving that I don't "understand" or "am not interested in" certain aspects of theory, claims which are repeated throughout the entire critique, and often extraneous to the point being addressed.

Unsurprisingly by "understand" he means agree with certain self-congratulating and dogmatic tendencies that have long attempted to refute anarchist beliefs, and when he says my use of certain terminology is "wrong", what he means is that I am using a heterodox economic language, instead of some orthodox language he appears to normatively regard as "correct."

Oddly, some of his claims of my "lack of understanding" include such common knowledge such as the distinction between use-value and exchange-value ("value" and "price"), a distinction I actually employ clearly in the essay, and also the basic distinction of labour from labour-power ("work" and "work-force"), which he raises without any reference to where my text is ambiguous that would make his claim applicable to something I actually argue. In other words, both these aspects of his critique are non sequiturs.

And finally, Stefan's main issue is my endorsement of workers' self organization as a form of workers' struggle, as is typical of many orthodox marxists, he claims that his views are categorically correct, and the views of libertarian socialism are categorically wrong, confused, "bourgeois" or "pre-Marxian."

In establishing my "not understanding", Stefan argues:

There is no "natural price of labour". The author has to allege such a construct as Ricardo does, in order to explain, why there is a part, which can be held by the "property owner".

Of course this is explained in my essay, Stefan just chooses to ignore it. The fact is, as I claim, that "whatever wage increases they [workers] retain are swept away by price inflation." So long as workers sell their labour, either, by time or based on output or "piece work," and do not actually own the final product of their labour, then whatever wages they have will simply be captured by prices charged by those that do appropriate the products of labour and thus control the circulation of these products. That is, whatever portion of their wages are not already captured by location-rents on their dwellings, which would also increase in response to any general increase of wages.

This is the Iron Law.

Stefan claims that:

The workers did not get the value of their work, but the value of their work force (the wage).
The exchange of wage against work force is thoroughly just.
Economically viewed it is an exchange of equivalents.

Here Stefan appears to have lost his command of the distinction between "value" (use-value) and "price" (exchange-value). Does he mean that workers can capture the "use-value" of their labour-power ("work-force")? This would mean his claim was self-contradictory as with equal access to productive assets this by definition would be the final product of their labour ("value of their work")?

Or is Stefan rather claiming, then, that the price of labour-power is equal to its wage? Isn't that self-evident? "Wage" and "price of labour-power" are synonyms.
Isn't the question rather that is any wage less than the final product's exchange value just?

Stefan has not explained why the worker would accept anything less than the entire exchange-value of the product of their labour as a wage.

The answer, of course, is that the worker and employer do not exchange as equals, as Stefan ludicrously claims, but rather that the exchange is asymmetrical, the worker does not have access to productive assets without being granted access by an owner, and thus can not independently produce at all, and that this asymmetry is based on State granted and enforced privilege.

Marx himself understood this very well, Capitalism and wage labour could not exist before the process of "primitive accumulation," a revolution from above that enclosed common lands with State-violence and created a landless proletariat with no means of subsistence except to sell their labour and that this history was written in "letters of blood and fire", in other words, expropriation by violent force.

The idea that labour and capital exchange as equals is simply false.

In any case, this dispute is far from relevant to my article, but rather a common dispute among heterodox libertarian socialists and those that espouse authoritarian dogmas, a dispute that has gone on for well over a century, therefore I do not feel any need to further refute this in the context of Copyfarleft, rather for those interested, I recommend Kevin Carson's critique of Anti-Dühring by Freddy Engels in his excellent Studies in Mutualist Political Economy.

Later on Stefan argues:

To solve the mystery of worldwide unequal distribution of wealth: the unequal distribution is not an result of the exchange circumstances aka "terms of trade", it is also not a question of formation of prices, no question of in/justice, not a question of global regulation, no question of politics and also no question of property it is a question of different productivity.

This is what Kevin Carson calls a "sort of variation on the fable of the ant and the grasshopper", Carson quotes Marx in rejecting this edifying myth, I will quote the same passage.

Marx writes:

In times long gone by there were two sorts of people: one, the diligent, intelligent, and, above all, frugal "elite"; the other, lazy rascals, spending their substance, and more, in riotous living.... Thus it came to pass that the former sort accumulated wealth, and the latter sort had at last nothing to sell except their own skins. And from this original sin dates the poverty of the great

majority that, despite all its labour, has up to now nothing to sell but itself, and the wealth of the few that increases constantly although they have long ceased to work. Such insipid childishness is every day preached to us in the defence of property.... In actual history it is notorious that conquest, enslavement, robbery, murder, briefly, force, play the great part. -- Capital vol. 1

Perhaps I misunderstand Stefan, and he is not making an argument that richer economic polities are richer as a result of greater productivity, and not, as Marx puts it, as a result of "conquest, enslavement, robbery, murder," etc, but if this is not his point, then it is not clear to me what is.

Stefan claims:

Presumably he would deny, that in average working time is justly payed. And he does not know the term surplus value being the value part of those products, which are produced by work force extending the value of this work force.

Here Stefan seems to again conflate price (exchange-value) and value (use-value), and labour and labour-power. For "average working time" (labour-power) to be "justly" paid (pay=price) it would need to capture the price of its product, it is the difference between the exchange value of the product and the wage that is surplus value, which refers to "exchange value", therefore price.

What Marx considered "just" was a lack of exploitation, which means that the workers should retain the full product of their labour.

Therefore, claiming that "traditional Marxism" considers wages just is simply absurd.

If the surplus value is related to the invested capital, then this is called profit. Instead of the term surplus value or profit, appropriated by the property owner from surplus value as income, the author is using the term \hat{A} »rent \hat{A} « (here I was quite uncertain of the translation of \hat{A} »rent \hat{A} «, which literally means \hat{A} »lease \hat{A} « of a flat etc.).

In my opinion, Rent is the correct term, see "Economic Rent," "Rentier Class," "Rent-seeking behaviour," etc.

"Surplus Value" simply describes that a surplus exists in production, it does not explain who's income that surplus becomes, incomes are divided into Wages, Interest and Rent.

"Profit" is an accounting term.

"Lease of a flat" is a colloquial, not economic, usage of the term rent, in actual economic fact the proceeds of the "lease of a flat" also represent wages (i.e. paying the hausmeister), interest (the building itself), and economic rent (the location), the last obviously being the most significant as any real-estate agent will tell you: "location, location, location."

While misunderstanding at first, Stefan appears to come around:

Using this result $\hat{A} \gg \text{rent} \hat{A} \ll$ can be determined more precisely: It is the payment of an effort from value created elsewhere. Because in the case of land the land itself does not create [exchange] value, but the land owner has to be payed from $\hat{A} \gg \text{elsewhere} \hat{A} \ll$ produced value, namely from the exploitation of work force in production.

What can I say, I agree 100% with what Stefan says here.

Well, despite Stefan's strange desire to attack my knowledge of basic theory, while agreeing (or at least not disputing) the basic arguments I present, we get into the core of the dispute when it comes to my Copyfarleft proposal, which most directly highlights our different points of view.

Stefan argues:

Before starting my critique below, this have to be noted: This is simply empirically wrong. The oversized number say of artists get in no way their $\hat{A} \gg \text{subsistence} \hat{A} \ll$, but they earn so few, that it is even not enough for pure physical survival.

Here Stefan proves I am empirically "wrong" by repeating my exact argument, Which is that artists //can not// earn even their subsistence from intellectual property.

He goes on:

On the other hand there is a small artist group generating extremely high amounts of money despite assigning their exploitation rights to the mediating industry.

"small group of artists" being the operative words, a group so small that you have to take the percentage to many decimal places to avoid rounding down to zero.

And even still their total earnings represent a tiny portion of the overall exchange value captured by the mediating industry.

And even still the total earnings of the media industry represent a tiny portion of the overall value of the "audience power" delivered to buyers of behavioural control, i.e, the "Consciousness Industry" that is the real

basis of economic value in media. But that is for another essay.

Stefan then claims:

There is simply no logical reference between income and reproduction costs as in case of selling work force.

Here, no work force is sold, but contracts are concluded between legal entities

My argument is that artists as a group can capture no more than their reproduction costs.

Are the numbers in "contracts between legal entities" pulled from thin air or are they also influenced by economic considerations regarding incomes and derived from wages, interest and rent?

Stefan seems confused by a limited interpretation of labour-power ("work force"), and misses the fact that when the media industry own the media product, meaning that they exclusively control the circulation, they capture all the surplus value, regardless of the formal terms of the contract, whether it is based on time, output, whatever, since they capture all the surplus value, this leaves nothing more than reproduction costs left for the artist to capture, and no guarantee they can even capture that.

That is what I call "The Iron Law of Copyright Earnings," and this iron law is worse than the Iron Law of Wages exactly because it does not even guarantee subsistence.

Stefan now goes deeper into his critique of copyfarleft.

He claims that my complaint is:

since copyleft is only regulating usage, »property owners« can use the products.

However, the issue is not that property owners can use the products, for instance in the case of software I explain how free software production can exist within both capitalist and socialist modes, however because in the case of media properties, such as movies, music, etc, using means not simply "employing in production" as is often the case of software, but "controlling the circulation of" which means capturing the surplus value.

If commons-based artistic producers allow media institutions free access to commons media assets, then these capital financed institutions can take advantage of the great inequality in access to productive assets and crowd out commons-based producers. What's more, these media institutions neither want nor expect free access, so why should we grant it? Why not reserve the possibility to negotiate non-free access or to deny access at all depending on the interests of the commons-based producers?

Why insist that we grant free access to commons assets to groups who don't themselves engage in peer production in each and every case, even in cases, such as artistic media, where economic relationships are demonstrably different?

Now, after flirting with various trifles, trying to find technical "errors" in my position, we approach the crux of our dispute, Stefan's denouncement of heterodox views as categorically wrong simply because they vary from his chosen orthodoxy.

Stefan states:

Since the reason of this Â»unjustnessÂ« is already determinedâthe Â»propertyÂ«âthe solution suggests itself: changing of ownership structure. The workers have to own the companies themselves and rule over the means of production and exploitation.

Exactly, only mutual property can defeat private property. Or as I often do, let me quote from the preamble to the constitution from the Industrial Workers of World:

From <http://www.iww.org/culture/official/preamble.shtml>

It is the historic mission of the working class to do away with capitalism. The army of production must be organized, not only for everyday struggle with capitalists, but also to carry on production when capitalism shall have been overthrown. By organizing industrially we are forming the structure of the new society within the shell of the old.

Organizing industrially to build the new society in the shell of the old requires that we recognize that there are two different types of circulation. The endogenic circulation among peer producers, and the exogenic circulation between the p2p mesoeconomy and the mixed macroeconomy, dominated by capitalist production. And that each of these circulation paths have different economic relationships that can not be collapsed into one set of terms, such as copyleft or copyjust attempts.

So here is why Stefan disputes this reasoning:

The main fault of Dmytri Kleiner is not to distinguish between work force and work.

One, I misunderstand labour and labour power, which is false, Stefan misunderstands the implications of labor power supposing that if labour-time is not specifically the term of the employment contract that surplus value is somehow not extracted despite the fact that the employer appropriates the product and therefore controls its circulation, thus capturing whatever surplus value is available.

He continues:

I am not very familiar with the history of workers movement, but as far as I remember, it was Ferdinand Lassalle who similarly as the author demands an "undiminished proceeds of labor". This was again as far as I know deconstructed by Karl Marx in his "Critique of the Gotha".

Two, something I said reminds him of something Lassalle may have said which may have been refuted by Marx.

Umm, except for the nice combination of both the guilt by association and appeal to authority fallacies, I see nothing compelling in this point either.

Next:

All in all despite using some "left" rhetorics the author merely seems to be geared to pre-marxian and bourgeois theory of economics.

Third, "merely" implies that my "bourgeois" heterodox economics is categorically inferior, and somehow out-of-date, "pre-marxian."

This is not a logical argument, but rather simply a categorical dismissal.

I refer Stefan to the many post-Marx theorists who continue to refer to the same model of income (rent, wages, interest), and factors of production (land, labour, capital) that I employ, such as Piero Sraffa and Joan Robinson to illustrate that while he is welcome to disagree with any argument presented, there is nothing "pre" anything about it.

Now, having named a troika of fallacies a "critique," he presents his orthodox beliefs as victorious arguments:

Meretz:

Traditionally there were two ways reaching the goal of disposition of the means of production and thus of the labour results: revolution or reform.

All hail the false dilemma! Ever the favourite of dogmatic arguments. There is only revolution or reform! You are either with us or against us!

Other options such as Trotskyist "entryism", DeLeonian "dual power," and Anarchist "Syndicalism" are simply not included, and thus categorically "reformist," which is especially odd as syndicalism is exactly the strategy endorsed, therefore why not avoid discussing it by simply leaving it off the "possible ways" list.

Having established only two possible ways. Stefan continues:

For me it is less interesting, whether a concept of changing of the ownership structure via a license could be named
"naive".

Stefan builds a strawman here, the point of my argument is exactly that as a result of the Iron Law of Copyright Earnings, "intellectual property" of any kind can not change the ownership structure, only peer production can.

I do not and have never presented "copyfarleft" as an ultimate goal or sole solution to anything, I have argued that to the degree that a license can be useful at all it must take into account mode of production as its basis.

It is not the license that will change the ownership structure, but workers' self-organisation, in other words the ownership structure will change when people produce and share in new ways.

The license is merely an instrument of trade that is required only due to the nature of the external economic environment. As the capitalist economy of the media industry neither wants nor expects free access to a commons of media assets, I hardly expect them to object to such a license.

After attempting to replace my argument with a strawman, Stefan continues:

It is more important to see clearly, that the author does not differ from other critics of property: He wants to change property disposition, but in no case the logic of producing goods in form of commodities operating on top of any property regime.

Here Stefan attempts to portray the objective facts of actually existing reality as simply something I "want". This is simply an irrational desire, and not logically argued choice.

Today, peer producers must engage in exchange relations to acquire material subsistence and to fund any mutual accumulation.

Both venture communism and copyfarleft employ the same logic of proposing ways that operate within the existing reality, thus making it possible to "create a new society in the shell of the old."

I want to change property relations so that economic actors can employ whatever modes of producing and sharing work for them, rather than having owners of property appropriate the product and thus control the circulation.

Personally, I favour more communal modes, but that only matters to the degree that I have a choice over the kinds of circulation and sharing I engage in. Building the possibility of choice requires the formation of mutual property, which we can only currently accomplish by engaging in exchange.

I wonder what, besides waiting for the pseudo-messianic "revolution," Stefan proposes?

Stefan continues:

Also a workers owned company has look for the marketing of their products being commodities, has to keep up in competition, has to invest, has to cooperate with partners, has to outpace competitors and can only pay the value of the work force.

Having considered the issues faced by any enterprise, his conclusion is, curiously, that profit does not exist at all!

Apparently, once a workers-owned company pays for its costs of doing business, all that is left is the reproduction costs of the workers, regardless of what the costs are or what the exchange value of the product is!

If that is the case, how do owners accumulate wealth? Why exactly do the rich, in actually existing reality, get richer?

Why does Stefan believe that owners are able to accumulate wealth by privately owning productive assets, while workers can not accumulate wealth with mutual ownership?

Having played a strange shell game and attempting to hide profit under the table, Stefan now descends into abject banality.

Such "workers owned" high tech companies as the "Telekommunisten" have always existed.

The "it hasn't happened yet, therefore it can never happen" fallacy. Many flying machines existed before any took flight. And yes, demutualization is one of many problems faced by mutual organisation, but that doesn't mean that a solution will never be found.

He goes on:

This was the goal of many people, a lot of people tried to realize this goal, and despite of so many defeats many people already want it: They will not succeed.

In other words, give up, that has been tried. A funny argument coming from somebody promoting a version of orthodox marxism, so I guess Stefan believes that people who share his wants and goals have never faced any defeats.

Now, Stefan, seems to imagine that Free Software somehow embodies liberation.

It is about a new way of producing our lives. What a production beyond the logics of exploitation can mean, is shown by the free software.

Free software, being almost entirely created by wage labour, and capturing exchange value only for owners of capital, now shows us what production can be beyond the logic of exploitation.

Stefan has now completely lost the plot of both his own arguments and mine.

The bulk of Free Software is created by employees whose wages are directly or indirectly paid by Capitalist organisation, they fund it because, like the metric system and standardized nuts and bolts, it is a common input to further production, and thus having this free-stock of information assets does not prevent them from controlling physical productive assets and the circulation of actual goods.

What is it about this Stefan thinks challenges exploitation?

Stefan closes with:

Copyleft exactly in the current form keeps free software legally grounded—nothing more, but also nothing less.

I quote this only because this statement was apparently enough for Michel Bauwens to conclude that "Stefan Meretz gives us a renewed insight into the genius of the existing copyleft/free software license"

I don't see it. Do you? Perhaps if I repeat it as a mantra often the genius and insight will one day enlighten me.

But so far, as a free software developer, I know that most of us are still punching the clock and working for the man.