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AND EVIDENCE': A REVIEW OF
THOMAS PIKETTY

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Abstract

Thomas Piketty's *Capital and Ideology* (2020) is a major, encyclopaedic and data-driven contribution to the effort of constructing a better human civilization. This review summarises the main argument: a positive thesis that in every society, ideology feeds laws and institutions that create inequality, and inequality then bolsters ideology; a normative thesis that we need a better ideology, including 'participatory socialism', to solve our biggest challenges. The review then complements and critiques three central issues in the argument, that (1) the true concentration of economic power, the votes in the economy, is even more extreme than inequality of wealth and income, (2) the legal construction of markets, through property, contract, corporate, or human rights law, can 'pre-distribute' income and wealth to a vast extent before tax, and (3) social justice means expanding (not merely correcting or re-distributing) everyone's opportunity, creative capacity, and human potential, and helps everyone to develop their personality to the fullest. Social justice is an unparalleled force, and is still the best answer to far-right, authoritarian or other failed ideologies, which have escalated inequality and driven climate damage. Perhaps the greatest achievement of Piketty's work could be to bring economics firmly back to the values in the Universal Declaration of Human Rights.

Keywords: Capital, ideology, democracy, evidence, banks, asset managers, codetermination, economic power, social justice

JEL Codes: K10, K11, K22, K31

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1. The main argument

In *Capital and Ideology*, Thomas Piketty's positive argument is that societies use ideology to justify (often unjustified) inequality. In an ongoing cycle, inequality then feeds ideology. Ideology (which is not always based on reason and evidence) tends to be a 'range of contradictory discourses'. These discourses create a 'dominant narrative'. The narrative leads to rules. The rules bolster inequality.¹ And inequality generates more ideology.² 'We live in an era', writes Piketty, 'that wants to see itself as postideological but is in reality saturated by ideology.'³ Nineteenth century ideology 'sacralized' private property, promising 'social stability' and 'individual emancipation' if the state was laissez-faire.⁴ The Soviet Union had an ideology of state ownership under a dictatorship "of" the proletariat that revolutionised a corrupt old order.⁵ The European Union has, says Piketty, told a tale that 'free competition and free circulation of goods and capital' is enough for 'prosperity and social harmony'.⁶ Post-Soviet Russia in general, and Putin in particular, follows an ideology that seeks to 'restore Russia's greatness' based on 'hierarchy and verticality in both politics and economics', mocking 'Gorbachev's egalitarian illusions and his obsession with saving socialism', before Yeltsin and then the oligarchs took charge.⁷ China's official ideology is 'socialism with Chinese characteristics', and these 'characteristics' happily include dictators and billionaires controlling its so called National "People's" Congress.⁸ Euro-American capitalism, epitomised by Thatcher or Reagan, and leading to far-right identitarian or nativist politics, espoused a return to laissez-faire.⁹

By contrast, social democracy in the 20th century broke away from the monolith of 19th century private property, and attempted to build institutions for public property, social property, or 'temporary' property, circulating wealth by tax.¹⁰ But, says Piketty, social democratic parties have not yet answered the problems of creating fair ownership, universal education, fair tax, and a just society beyond the nation-state.¹¹ A 'just society', says Piketty, is one where 'all members' of society have 'access' to 'fundamental goods', like 'education, health, the right to vote', and can participate in 'social, cultural, economic, civil and political life'. The 'least advantaged' should be able to 'enjoy the highest possible life conditions'. That may allow some inequality, but not the extremes we see now.¹²

Piketty's normative argument is for 'participatory socialism', and he writes this should mean three main things. First, we need to extend democracy in the economy, with worker votes for company boards 'in its maximal version', for

example ‘with half the board seats in all private firms, large or small, given to workers’, and also create ‘true social ownership of capital’.¹³ There should be an overhaul of the ‘labor code and, more generally, the entire legal system’ to achieve ‘a just wage’ and ‘a more equal distribution of economic power’.¹⁴ Second, we must have a ‘system of progressive taxation of wealth’ based on ‘ability to pay’.¹⁵ As well as income tax, inheritance tax, and a progressive tax on carbon emissions, a new system of wealth tax should pay for ‘a universal capital endowment, and an ambitious social state’. This includes, among other things, universal education to enable truly equal opportunity.¹⁶ Third, we should enhance fiscal cooperation within the EU and beyond, and ensure the terms of trade are more balanced, including more developmental assistance to at least 1% of GDP.¹⁷ The ‘message’ of this book is crystal clear: we need a better ideology.¹⁸ That is an ideal of justice, founded on democracy and evidence.

2. Ideology and evidence

Capital and Ideology is an encyclopaedic, data driven, and intensely rewarding work, spanning the world’s modern history and contemporary politics. It requires some thinking, slow, not fast. Fast thinking, I suspect, is one of the main creatures on which ideology preys. This is because as behavioural economist Daniel Kahneman put it, our minds tend to have two systems of thought.¹⁹ ‘System 1’ is our snap judgement faculty, where we deploy a rule of thumb for common situations, to give quick answers, often based on prior experience or choices.²⁰ ‘System 2’ is our more slow, deliberative thinking, as we should use if we engage in a seminar, read a book, or write a review.²¹ The stories we tell ourselves as a society often set the default in our thinking, and ideology may deliberately paper over the chasms. We may think we live in ‘the land of opportunity’, when our opportunities have been worsening for four decades.²² We may say we have a ‘property-owning democracy’,²³ when most ‘owners’ are mortgaged to the hilt to a bank.²⁴ Big tech and internet media claim they ‘bring the world closer together’,²⁵ when higher internet penetration under Facebook, Google, Twitter, Tencent or VK has directly led to more fascism,²⁶ genocide,²⁷ televised executions and torture,²⁸ and an astonishing descent into hateful public discourse.

The way we defeat bad ideology – from the Soviet Stalinists to Silicon billionaires – is we patiently explain how reality works, provide evidence and data, and propose alternatives. Then we create political movements to achieve the goals. Plans are important. Details matter. Yet the most effective coalitions are built on principles that accommodate a plurality of views, telling a story

grounded in people's experience. Even if readers of *Capital and Ideology* differ on certain points, or find some chapters more appealing than others, Piketty's book contains so much revealing data, is so vast in scope, that it counts as a major contribution to the effort of constructing a better human civilization.

3. Capital and democracy

In this review I would like to focus on three main points, which could be useful to complement, critique and emphasise the main argument of the book. These are that (1) the inequality of economic power is even more extreme than inequality of wealth and income, (2) the legal construction of markets can go very far to pre-empt unjustified inequality, before redistributive taxation, and (3) social justice, based on universal human rights, is a creative and unparalleled force, and this must replace the ideologies persistent in economics and law.

3.1 The true concentration of economic power

The first point is that Piketty rightly emphasises the astonishing levels of concentration in income and wealth. But if we measure it, inequality of economic power, mainly through voting in the economy, is even more extreme. How power in politics works is familiar. In a democracy it starts with 'one person, one vote', 'administration is in the hands of the many, not the few',²⁹ we have standards for equal expression of voice and election spending,³⁰ and we aim for a media that encourages deliberative discourse through public reason.

By contrast, power in the economy is less familiar than it should be. Major enterprises, mostly organised in corporate form, are the centres. Corporate directors set our wages, fund retirement, pay dividends, set investment levels, choose their tax strategy, allocate resources, and affect our environment. Boards of directors, under multiple corporate laws, mainly appoint and pay themselves.³¹ Supply and demand in certain markets set outer boundaries for manoeuvre in price setting, but within those bounds, actual prices are determined by corporate, contractual and bargaining power, founded on law. In most legal systems, there are also rights for company members to vote and remove directors by a majority.³² But most members' votes are monopolised by shareholders, except to the extent that workers also have voice. It is true that 'the principle of "one share, one vote"' prevails in Europe, typically in law.³³ But in the last two decades, particularly in tech corporations like Google, Facebook, Uber, Snap, or Alibaba, founding directors have been allowed to issue masses of multiple-voting shares to themselves, or even non-voting shares to others.³⁴

‘One share, one vote’ was protected by law in the US since the Great Depression, but has now been emptied.³⁵ Despite taking money at public offerings, these founders are accountable to no investor, no worker, and no stakeholder but themselves.

Even when shares do come with equal votes, those votes are monopolised by asset managers (in countries with flat state pensions like the UK and US), or banks (in countries with income-linked state pensions, like France and Germany). The money mostly belongs to people saving for retirement. Savers in pension, life insurance and mutual funds (e.g. a 401(k)) tend to delegate funds to asset managers and banks. These firms choose what shares, bonds, or securities to buy, and also provide the ‘service’ of voting on shares. But we do not yet have clear rules to make them follow voting policies the real investors want.

Let us take just two examples. First, in the US there are 3 big asset managers: BlackRock, State Street and Vanguard. If they were combined, the ‘big 3’ would be the largest shareholder in 438 out of the Standard & Poors 500 listing of largest companies.³⁶ There are around 50 people in the corporate governance departments of these firms almost single-handedly controlling all these votes.³⁷ Worse, they follow the preferences of an even smaller group of directors of the asset manager firms. This means ‘in the near future roughly twelve individuals will have practical power over the majority of U.S. public companies.’³⁸ Second, in Germany, there are 3 big banks: Deutsche Bank, Commerzbank, and UniCredit (which controls HypoVereinsbank). There are 31 directors of these 3 banks, and in practice a smaller number who set voting priorities. Until statistics were discontinued in 2005, we know German banks controlled over 60% of all votes cast on shares in German public companies.³⁹ Now we are blindfolded when it comes to voting power data, like in the US, UK, or France, and this resembles the problems of opacity Piketty highlights for wealth data.⁴⁰ But you do not need up to date statistics to know that as Adam Smith put it, these are other people’s votes, bought with ‘other people’s money’.⁴¹ The main goal of banks and asset managers is to extract more fees, and take more from other people’s retirement. By dealing with this issue, we could raise every senior citizen’s income, and increase social security.

So, how should the monopoly on votes in the economy by asset managers and banks be undone? Piketty rightly focuses on the need to increase worker participation in corporate governance, a right that came originally from collective bargaining, and was then codified into law.⁴² This could mean, as Piketty says, increasing the proportion of worker-directors on company boards,

guaranteeing workers votes in company meetings as members (alongside shareholders),⁴³ increasing the powers of elected work councils to make management decisions,⁴⁴ and probably all three. Some form of law guaranteeing workers rights to vote for boards is now the majority practice in the EU and OECD countries, and even those behind like the UK, US, or Belgium, now have seen major political proposals to achieve this fundamental right.⁴⁵ In the US, there are now expressions of support from Kamala Harris and Barack Obama. Any Democratic state (like any EU member state) could legislate, even without the federal government.⁴⁶ A huge majority of American public opinion supports more workplace democracy: in one poll at least 53% of voters support the right of workers to elect directors on boards, including 75% of Democratic voters, and 43% of Republican voters, with very few opposed.⁴⁷ In Europe, this is way overdue, because ‘the right of workers to take part in the determination and improvement of the working conditions’ is enshrined in the European Social Charter 1996.⁴⁸ It is arguably part of the universal right ‘to take part in the government’ and to ‘take part in the conduct of public affairs’.⁴⁹ This is the 21st century suffrage movement, for democracy in our economy just as in politics, and to realise 21st century human rights.

But even a ‘maximal version’ of workplace democracy is not enough,⁵⁰ because capital also belongs to workers.⁵¹ As Piketty writes, if workers had voice through their capital, particularly organised by ‘some collective entity such as a pension fund, new dynamics might emerge.’⁵² This part is perhaps even more vital, because it is even more opaque, and less understood. In the UK and US, occupational pension funds have been larger, because the state pension is smaller.⁵³ Trade unions had long bargained for votes and joint control for who was on pension trustee boards. But as pension funds neared their peak in the 1980s, after writers spoke of *Pension Fund Socialism*,⁵⁴ a concerted attack was made on their power, including the ‘smashing and scattering’ of collective defined benefit funds into 401(k) plans or so called ‘contract’ pensions.⁵⁵ Smaller funds always needed to delegate investment services to professional asset managers, who charged more fees and took over voting. Meanwhile, banks in continental Europe acquired voting control over shares that were deposited with them by law. In Germany, the law dates from a bank cartel agreement in 1930,⁵⁶ codified by the Nazi Companies Act 1937. It was not reversed after World War Two.⁵⁷ And make no mistake: after the Nazis destroyed German democracy, murdered the unions and nationalised the labour force,⁵⁸ they wanted to rewrite corporate law to make the power of banks and boardrooms unchallengeable, so that ‘democracy in capital will vanish just as it did in politics.’⁵⁹

Today's problem is that asset managers and banks on Wall Street, in the City of London, Frankfurt, La Défense or Milan, have preferences that conflict with the true investors in capital.⁶⁰ They routinely support escalating executive pay, when the true investors want fair pay. They do nothing about the gender pay gap, when the true investors want equality between men and women. They have continued to finance coal, oil and gas while the planet burns, and because they are still invested in fossil fuels they fail to vote to switch auto-makers or shippers to 100% clean energy. Whenever the true investors' speak, when they elect representatives, they show they want real environmental, social and governance change. An example is the UK Association of Member Nominated Trustees and its 'red-line voting' policy to instruct asset managers. Its policies on shareholder voting include setting maximum pay-ratios between CEOs and average pay for workers, requiring companies to explain a strategy for decarbonisation, and achieving gender and racial board diversity.⁶¹

Good models to advance democracy in capital are found in Switzerland, the US and UK. First, in 2013, Switzerland banned banks voting on shares unless they are following instructions from pension funds,⁶² a norm readily translatable to German, French or Italian law. In the US, the Dodd-Frank Act of 2010 §957 banned voting by broker-dealers on 'significant' issues unless following instructions,⁶³ a norm that could be extended to all unelected asset managers or banks. Second, there must be elected representation in all funds. The UK Pensions Act 2004 section 241 requires at least one-third elected or union-nominated pension trustees, and under section 243 this can be extended to one-half by the Minister.⁶⁴ Both the Bernie Sanders *Corporate Accountability and Democracy* plan, and the UK Manifesto for Labour Law project, would ensure every pension or capital fund has representatives elected by the real investors, and they control voting policy. Further, there are proposals for Sovereign Wealth Funds for workers, like 21st century Meidner plans, where the funds are transferred profits from large companies, and elected representatives would exercise votes on shares.⁶⁵ Profit-sharing is an old idea, proposed many times by conservatives, liberals and socialists alike, but never yet put into practice.⁶⁶ As well as democracy in existing pensions and capital funds, new, inclusive, democratic ownership funds would give countries more autonomy from financial markets and freedom from debt. An unofficial draft EU Economic Democracy Directive shows how all these principles can be implemented for an EU-wide system of economic democracy, based on votes at work, votes in capital, and finally votes in public services.⁶⁷

Democratising ‘public property’ is the third pillar of a reformed economy. Placing enterprises in public ownership is better than private monopolies, or oligopolies, when you have a representative government. Conservatives and liberals understood this even in 19th century Britain when telegraph and telephone lines were nationalised.⁶⁸ Yet the 20th century nationalisations often followed the ‘Morrisonian model’, after Herbert Morrison, the Labour Minister for Transport and leader of the Greater London Council, who first made London buses public from 1933. In his view, workers and consumers might be consulted, but they should have no votes because ‘experts’ had to be appointed to public boards.⁶⁹ And who appointed those experts? It turned out to be ministers, coincidentally, like Herbert Morrison. This led to one of the major problems in nationalised industry: a feeling of distance and lack of responsiveness between state-owned enterprise and the public. Unbeloved, without public voice, this is why Thatcher could so easily sell the family silver, and squander national wealth, in reckless privatisation sprees.⁷⁰

An alternative view, possibly articulated first by French trade unions in 1920,⁷¹ and by Karl Kautsky in Germany in 1924,⁷² is enterprises have three basic stakeholders: the worker, the investor, and the consumer (or the public). When markets fail, when they do not protect the public interest, we take enterprise into public ownership, and we regulate for fair prices,⁷³ good standards, licensing, or subsidies. Workers must always have voice, and a vote. Investors usually have the vote, and this is thought to be fair whether those are private investors, or the state. Where consumers can ‘vote with their feet’, because workable market conditions for competitive private enterprise exist, we rarely see consumers being guaranteed voting rights in law,⁷⁴ though consumer cooperatives do often succeed. But where market conditions are not met, and where universal rights are at stake, people who rely on services become more than just a ‘consumer’: they are a student, a patient, a passenger, a ratepayer, a viewer, a member.

There are many examples of democratising public services. Cambridge University, like many, gives voting rights in its governing body to its students as well as to a majority to its staff.⁷⁵ National Health Service foundation trusts give votes to both workers and patients, a norm inspired by Spanish hospitals.⁷⁶ The Paris water company gives votes to ratepayers in the local community.⁷⁷ German state laws ensure representation, albeit via local government, for ratepayers on boards of energy companies.⁷⁸ The BBC gives voice to its viewers and listeners and, though highly limited now,⁷⁹ this provides a building block of what a participatory media could be.⁸⁰ Wikipedia is the world’s biggest 5th website.⁸¹ It gives users the right to elect just above half its board of trustees, an example of

transnational, democratic, big-tech,⁸² and a model that could be adapted for other online network-monopolies, such as Google, Facebook, or Twitter. Stakeholder voting rights can be guaranteed even before public ownership. In a modern system of enterprise, voting rights for the citizen-as-consumer is embedded in our democratic culture. It is coming to be, and should be seen as a basic norm of our modern economic constitution.⁸³

3.2 Legal construction of markets, and tax

The second main point is that the legal construction of markets can change distribution to a vast extent, before any re-distribution by tax. As Piketty writes, the ‘level of wages and profits... depends on prevailing institutions, rules and bargaining power... as well as on taxes and regulations’.⁸⁴ Similarly, Jan Pen once wrote that income distribution reflects the corporate ‘command structure’.⁸⁵ Income accumulates into wealth and so we may summarise a general causal pattern as follows:

law -> corporate power -> income -> wealth

There are many more causes of ‘power’ in the wider sense (e.g. psychology), and other causes of extremely unequal income (e.g. lotteries) or unequal wealth (e.g. inheritance). Nevertheless, the world’s richest people all depend on taking an unjust share of riches from other people, either through corporations or nation-states. Their wealth comes from taking as much as they can from workers, investors, consumers, and the public, giving as little back as possible, and calling the difference ‘profit’. The biggest threat to democracy today, particularly evident in the US, is that politics is corrupted by money. If money can be used in elections without limits,⁸⁶ or misused in referendums without enforceable consequences,⁸⁷ if voice in the media is set by oligarch shareholders and not journalists, a different causal pattern results:

wealth -> political power -> law

This analysis differs from assumptions in some economic theory, that presumes there is a fixed thing called the ‘market’ and that ‘supply and demand’ determine prices.⁸⁸ The reality is there are infinite types of market, because markets themselves are ‘a web of social and fiscal regulations.’⁸⁹ They are built through contract, property, corporate, labour, consumer, securities, discrimination or environmental law. Different configurations of these rules all change the amount that people demand or supply, and therefore prices. The notion that law

‘interferes’ with ‘markets’ shows a total failure to grasp that there is no such thing as a pre-law, pre-social market. There is only law and the society that creates it. To sell something that is ‘mine’, I need the state-backed coercive power of enforceable property rights to show it is ‘mine’.⁹⁰ Moreover, for an enforceable contract on any terms, there is always a decision about which kind of terms society deems just, and compatible with public policy, to lend state enforcement.⁹¹ Contrary views often come down to an ideological nostalgia for a 19th century vision of property without responsibility,⁹² or contract without rights, a nostalgia for a time when owning wealth was also necessary to vote in politics.⁹³

Tax tends to differ from market regulation, since tax takes away existing rights of property, or takes a sum calculated as a percentage or fee on a transaction. While we may know that tax is the price of civilization, psychologically, taxation often triggers a sense of injustice, and many people ‘outright reject attempts to take money from the modestly well-off and even from billionaires’.⁹⁴ Many people’s sense of injustice at being taxed is real, and this probably comes from the ‘endowment effect’. This is the behavioural phenomenon that people like to hold on to things, apparently because we just like things.⁹⁵ Even if it is not a thing, but money, people who feel ‘endowed’ with something are averse to losing it, even with the offer of a higher gain. In this way, we are often individually irrational. We can of course become more rational over time through our social and political institutions.

This points to three main issues. First, if the unjust distribution of income and wealth can be prevented, it is better to do this rather than (or as well as) correcting the problem after the fact. ‘Pre-distribution’ will meet less political opposition, and the arguments can be made on their own merits: to give everyone the right to vote at work, to vote on their money, and to vote in their public services. This is an intrinsically moral imperative. Second, the most successful narratives of tax always speak in terms of paying a ‘fair’ share of tax, rather than simply taxing the rich. Sure, tax the rich more because that is fair, especially when billionaires pay lower marginal rates. But also, successful politics often means promising to cut taxes. A primary goal for social democratic parties should be cutting regressive taxes such as VAT, income tax or National Insurance – taxes on the working class – which rose while corporate tax, inheritance tax, and top bands of income tax were reduced. Third, carbon taxes have continually met overwhelming political opposition, and have not been sufficient to achieve the goal of eliminating fossil fuels. The tax proposed by Piketty at around €100 per tonne of carbon would be a very good idea, but

ideally the tax should eliminate itself, by all but ending carbon. By contrast, bans create even more moral clarity, and galvanise more political support.⁹⁶ We must ban all coal, oil and gas as fast as technologically possible,⁹⁷ because as Piketty writes, all reserves of fossil fuels ‘would be better kept in the ground to prevent global warming’.⁹⁸

3. The nature of social justice

A third main point is that social justice must replace the ideologies persistent in economics and law. ‘Social justice’ is a creative justice. It does not merely correct or distribute what is already there,⁹⁹ but its foundation is indeed the fundamental rights that Piketty highlights.¹⁰⁰ In a truly just society, human capacity expands through education, better health and sustainable prosperity. It reverses the Platonic notion that people should never change jobs and are confined to their social class for life.¹⁰¹ Social justice enables everyone to fulfil their potential. Human creativity is freed when people have voice in political and economic power, and the security and material resources to plan their lives.¹⁰² Far from a ‘mirage’,¹⁰³ social justice includes an ‘economic system’ that guarantees ‘direct available opportunity’.¹⁰⁴ If ‘justice’ at its most basic is getting what we are due, social justice is the duty we owe to each other to create a better world, to ‘lend a helping hand’ to each other, and to improve the content of our character.¹⁰⁵ This is the concept behind the second to last, oft forgotten article 29 of the Universal Declaration of Human Rights. ‘Everyone has duties to the community in which alone the free and full development of his personality is possible.’¹⁰⁶ When we create human development for everyone, that is justice and makes our society just.

As Piketty writes, ‘it is wise to be wary of abstract and general principles of social justice’, because what matters is the ‘concrete policies and institutions’.¹⁰⁷ As the labour lawyer, Bill Wedderburn, put it that means ‘hard legal analysis allied to an alternative social vision’.¹⁰⁸ The social vision of the Universal Declaration was and is the answer to fascism, the book to beat the hyper-capitalist base of the crazed, identitarian, nativist, fossil-fueled, financialised far-right, manifested in Trump, Farage, Le Pen, the AfD, Lega Nord, Putin, Modi, Bolsonaro, and the rest. The crowning achievement of the Universal Declaration was showing that while personal property is a human right (not a corporate right) it is just one among many. The other rights, which are essentially concerned with productive property,¹⁰⁹ include ‘the right to work’, ‘just and favourable remuneration’, ‘social security’, ‘holidays with pay’, ‘a standard of living adequate for the health and well-being’ of everyone ‘including food,

clothing, housing and medical care’, to education, including free university, ‘the right freely to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits.’¹¹⁰ This is the ‘Magna Carta of all’,¹¹¹ the constitution of humankind, the basis of our global polity. If we are to have ideology, let it be not one that perpetuates inequality, but one that says all ‘human beings are born free and equal in dignity and rights.’ Let the ideal be ‘Democracy and social justice.’¹¹²

4. Conclusion

If we are ‘saturated in ideology’, as Piketty writes, then economics and law are two of the main culprits. Economics often departs from its roots, when its constructs of the ‘market’ and ‘firms’ ignore labour’s unequal bargaining power, the ‘negligence and profusion’ of unaccountable corporations, and the need for public ownership and standards for essential services.¹¹³ Law often departs from reality, when its abstractions of property, contract, or corporate personhood conceal ‘the exercise of social power behind a veil of law’.¹¹⁴ The task in both fields is to develop a new understanding and grammar, coherent with history, philosophy, sociology, and anthropology, that fits the evidence and data. All successful theories must ultimately be empirically grounded.¹¹⁵ Perhaps the greatest achievement of Piketty’s work could be to bring economics firmly back to the values in the Universal Declaration of Human Rights.

Notes

- ¹ T Piketty, *Capital and Ideology* (2020) Introduction, 1
- ² Piketty (2020) 3-4, uses ‘... “ideology” in a positive and constructive sense to refer to a set of a priori plausible ideas and discourses describing how society should be structured.’ cf K Marx, *The German Ideology* (1845) [Part I.A.](#)
- ³ Piketty (2020) ch 16, 961. One might add, pretending we are postideological, or neutral, may also be ideological.
- ⁴ Piketty (2020) chs 4-5, especially at 199; ch 10, 434 referring to the end of laissez-faire.
- ⁵ Piketty (2020) ch 12, 579. Also J Hamilton and S Deakin, ‘Russia’s Legal Transitions: Marxist Theory, Neoclassical Economics and the Rule of Law’ (2015) [7 Hague Journal of the Rule of Law 283](#), 288-293 on Pashukanis’ Soviet legal theory.
- ⁶ Piketty (2020) 550 and 645. But there is also another dimension to the EU, according to the Court of Justice in *Defrenne v Sabena (No 2)* (1976) [Case 43/75](#), that it ‘is not merely an economic union, but is at the same time intended, by common action, to ensure social progress and seek the constant improvement of the living and working conditions of their people’. It is still up to the EU and all citizens to choose which tradition we want.
- ⁷ Piketty (2020) ch 12, 604. See also H Balzer, ‘The Putin thesis and Russian energy policy’ (2005) [21 Post-Soviet Affairs 210](#), explaining Putin’s thesis, defended in 1997, was that Russian natural resources can be exploited to enter the world economy, and modernise its military-industrial complex. Note the dire consequences for climate damage, and Putin’s policy of denial.
- ⁸ Piketty (2020) ch 12, 624 and 634, by being dramatically overrepresented in the Standing Committee.
- ⁹ Piketty (2020) ch 11, 533-4, ch 13, 705-709 and ch 15, 855, calling this ‘neo-proprietarian’ ideology.
- ¹⁰ Piketty (2020) ch 11, 494, noting these are complements, not alternatives.
- ¹¹ Piketty (2020) ch 11, 486 and ch 12, 578

¹² Piketty (2020) ch 17, 697-8

¹³ Piketty (2020) ch 17, 972-3

¹⁴ Piketty (2020) ch 17, 1003

¹⁵ Piketty (2020) ch 17, 996, fn 68

¹⁶ Piketty (2020) ch 17, 1000-1016

¹⁷ Piketty (2020) ch 17, 1022-1024. See also J Hickel, *The Divide* (2017) ch 1, 24-32, pointing out at 27, ‘the aid budget is diminutive, almost ridiculously so, when compared to the structural losses and outward flows that the global South suffers.’

¹⁸ cf P Krugman (8 March 2020) [NY Times](#), ‘I’m not even sure what the book’s message is.’ Krugman’s past ideological highlights include the evidence-free assertion that the ‘disincentive effects of welfare state policies’ and the lack of ‘flexibility of the labor market’ cause unemployment, so job security creates a ‘tradeoff’ or following Richard Layard it apparently must be that ‘some people end up on the scrap-heap’. ‘Any tax or transfer payment distorts incentives’, asserts Krugman (but apparently property and contract laws do not). P Krugman, ‘Past and prospective causes of high unemployment’ (1994) [79\(4\) Economic Review - Federal Reserve Bank of Kansas City 23](#), 57 and 74.

¹⁹ D Kahneman, *Thinking, fast and slow* (2011)

²⁰ See also D Ariely, *The Upside of Irrationality* (2011) ch 10, on prior decisions affecting later decisions.

²¹ □ cf R Rajan (25 February 2020) [Financial Times](#), who resorts to a career-long monologue rather than basing his review on Piketty's book: 'Piketty's single-minded focus on taxation and redistribution blinkers his overall vision. [*This is wrong as Piketty focuses on labour rights and economic democracy, or questions of 'pre-distribution'.*] Tax policy cannot be the only cause of inequality (especially given evasion). [*Piketty says the opposite: the legal structure of markets also drive inequality.*] Trade, technology, winner-takes-all markets and antitrust regulation find little place in his narrative of the rise in inequality. [*Rajan must not have read chapter 12 in particular, or the book in general, which heavily concerns fair trade.*] And greater government spending cannot be the only solution...' [*Piketty's other solutions are labour rights, democratisation of the economy, and better public services, which Rajan presumably opposes too.*]

²² e.g. K Pickett and R Wilkinson, *The Spirit Level* (2009) and see the authors' blog summary: 'You're more likely to achieve the American dream if you live in Denmark' (21 August 2017) [WEForum](#).

²³ e.g. W Churchill, *Speech to the Conservative Party Conference* (5 October 1946) 'We oppose the establishment of a Socialist State... Our Conservative aim is to build a property-owning democracy'. M Thatcher, *Leader's speech, Blackpool* (1975) stating mistakenly that the 'a property-owning democracy - a goal we still pursue today' came from Anthony Eden. See further E McGaughey, 'Votes at work in Britain: shareholder monopolisation and the 'single channel'' (2018) [47\(1\) ILJ 76](#).

²⁴ cf *Pettitt v Pettitt* [1970] AC 777, 829, Lord Diplock.

²⁵ e.g. J Constine, 'Facebook changes mission statement to 'bring the world closer together'' (22 June 2017) [Tech Crunch](#). Also contrast with reality Google's slogan, 'Don't be evil'. Amazon's slogan is 'Work hard, **have fun...**' (Emphasis added.)

²⁶ T Snyder, 'Fascism is back. Blame the Internet.' (21 May 2018) [Washington Post](#), and see further *The Road to Unfreedom: Russia, Europe, America* (2018).

²⁷ 'A Genocide incited on Facebook, with posts from Myanmar's military' (6 November 2018) [NY Times](#).

²⁸ See the countless videos on Youtube, such as Saddam Hussein's execution, Colonel Gaddafi's pre-death torture, and further 'Facebook, YouTube sued over Christchurch shootings video' (26 March 2019) [BBC News](#).

²⁹ 'Pericles Funeral Oration' in Thucydides, *History of the Peloponnesian War*, translated by [B Jowett](#).

³⁰ *R (Animal Defenders International) v Secretary of State for Culture Media and Sport* [2008] [UKHL 15](#), [47]-[48] per Baroness Hale, 'In the United Kingdom, and elsewhere in Europe, we do not want our government or its policies to be decided by the highest spenders. Our democracy is based upon more than one person one vote. It is based on the view that each person has equal value.'

³¹ e.g. UK Corporate Governance Code 2019 [prov 17](#), Companies (Model Articles) Regulations 2008, [para 23](#), 'Directors are entitled to such remuneration as the directors determine'. Delaware General Corporation Law, [§141\(h\) and \(k\)](#).

³² Companies Act 2006 [s 168](#) (50%). Aktiengesetz 1965 [§103](#) (75%). Code de commerce, [art L.225-61](#) (50%). cf EU Shareholder Rights Directive 2007/36/EC [art 6](#), which requires member states to enable shareholders with 5% of shares to make proposals, but nothing on board removal. In the US, the DGCL [§141\(k\)](#) enables companies to have 'staggered boards' where directors cannot be removed by a simple vote unless there is also 'cause', and that inevitably leads to directors litigating to keep their positions, and extremely large payouts to leave.

³³ Institutional Shareholder Services, Shearman & Sterling and European Corporate Governance Institute, *Report on the Proportionality Principle in the European Union* (12 June 2007) explaining on this point, the US is an extreme outlier.

³⁴ See D Crichton, 'Congress should demand Zuckerberg move to 'one share, one vote' (9 April 2018) [TechCrunch](#), T Townsend, 'Alphabet shareholders want more voting rights but Larry and Sergey don't want it that way' (13 June 2017) [Recode](#). E Dunkley, 'HKEX admits Alibaba forced it to rethink dual-class shares' (16 January 2018) [Financial Times](#).

³⁵ Piketty (2020) 714 and 971, and for background, E McGaughey, *Participation in Corporate Governance* (LSE PhD 2014) [ch 5\(3\)](#).

³⁶ EA Posner, FS Morton and EG Weyl, ‘Proposal to limit the anti-competitive power of institutional investors’ (2017) [81 Antitrust Law Journal 1, 2](#).

³⁷ S Krouse, D Benoit and T McGinty, ‘Meet the New Corporate Power Brokers: Passive Investors’ ([October 24, 2016](#)) Wall Street Journal

³⁸ JC Coates, ‘The Future of Corporate Governance Part I: The Problem of Twelve’ (2018) [Harvard Public Law WP No. 19-07](#) and for how we got here, see E McGaughey, ‘Democracy in America at work: the history of labor’s vote in corporate governance’ (2019) [42 Seattle University LR 697](#)

³⁹ Deutsche Bundesbank, *Statistische Sonderveröffentlichung 9* (2005) 32 and (1998) 32.

⁴⁰ Piketty (2020) ch 13, 648

⁴¹ A Smith, *The Wealth of Nations* (1776) Book V, [ch 1](#), §107. LD Brandeis, *Other People’s Money and How the Bankers Use It* (1914).

⁴² E McGaughey, ‘The Codetermination Bargains: The History of German Corporate and Labour Law’ (2016) [23\(1\) Columbia Journal of European Law 135](#) (Germany), (2018) [47\(1\) Industrial LJ 76](#) (UK) and (2019) [42 Seattle University LR 697](#) (US).

⁴³ Piketty (2020) ch 11, 510

⁴⁴ See especially I Ferreras, *Firms as political entities: Saving democracy through economic bicameralism* (2017) favouring full veto rights.

⁴⁵ In the US, the Reward Work Act ([S.2605](#)) introduced by Senator Tammy Baldwin, the Accountable Capitalism Act ([S. 3348](#)), introduced by Elizabeth Warren, and Bernie Sanders, *Corporate Accountability and Democracy* ([2019](#)). In the UK, see *The Labour Party Manifesto* ([2019](#)) 64 and *The Labour Party Manifesto* ([2017](#)) 17. In Belgium, see ETUI ([10 June 2020](#)).

⁴⁶ McGaughey (2019) [42 Seattle University LR 697](#)

⁴⁷ E Anzelotti, ‘Want Fairer Workplaces? Give Employees Seats On The Board’ (6 April 2018) [Fast Company](#), with just 9% of Democrat-leaning voters opposed, and just 31% of Republican-leaning voters opposed.

⁴⁸ European Social Charter 1996 [art 22](#). This is a social rights document of the Council of Europe.

⁴⁹ Universal Declaration of Human Rights 1948 [art 21](#). International Covenant on Civil and Political Rights 1966 [art 25\(a\)](#)

⁵⁰ Piketty (2020) 973

⁵¹ cf Abraham Lincoln, *First Annual Message* (1861) ‘Labor is prior to and independent of capital. Capital is only the fruit of labor, and could never have existed if labor had not first existed. Labor is the superior of capital, and deserves much the higher consideration’.

⁵² Piketty (2020) ch 11, 510

⁵³ Note, in turn, larger occupational pension funds lead to larger stock markets, and then more diversified share capital: E McGaughey, ‘Do corporations increase inequality’ (2016) [TLI Think! Paper 32/2016](#), chart at part 3(a). This logical view contrasts to the rather more problematic theories about minority shareholder rights leading to fewer blockholders, and more diversified shares. These miss the importance of a country’s pension system, R La Porta, F Lopez-de-Silanes, A Shleifer and RW Vishny, ‘Law and Finance’ (1998) 106 *Journal of Political Economy* 1113.

⁵⁴ PF Drucker, *The Unseen Revolution: How Pension Fund Socialism Came to America* (1976)

⁵⁵ D Webber, ‘The Real Reason the Investor Class Hates Pensions’ (5 March 2018) [NY Times](#), and see D Webber, *The Rise of the Working-Class Shareholder: Labor’s Last Best Weapon* (2018).

⁵⁶ Centralverband des deutschen Bank- und Bankiergewerbes (1930) BankA 1930-31, 116, Beschluß ‘daß die Mitglieder unseres Verbandes einander gegenüber die Verpflichtung übernehmen, an die Besitzer bei ihnen hinterlegter Aktien eine ausdrückliche Anfrage über die Art der Ausübung des Stimmrechts zu richten, wenn ihnen von einem anderen Verbandsmitglied zwei Wochen vor der Generalversammlung die Absicht einer Opposition bekanntgegeben worden war’.

⁵⁷ Aktiengesetz 1937 §114, now found in Aktiengesetz 1965 [§135\(2\)](#).

⁵⁸ E McGaughey, ‘The Codetermination Bargains: The History of German Corporate and Labour Law’ (2016) [23\(1\) Columbia Journal of European Law 135](#)

⁵⁹ JCD Zahn, *Wirtschaftsführertum und Vertragsethik im neuen Aktienrecht* (Berlin: De Gruyter, 1934) 93, ‘Die Demokratie des Kapitals wird ebenso verschwinden wie die politische.’ See the delusional fascist aims summarised in F Kessler, ‘Book Review: Wirtschaftsführertum und Vertragsethik im Neuen Aktienrecht’ (1935) [83 University of Pennsylvania Law Review 393](#).

⁶⁰ e.g. S Hirst, ‘Social Responsibility Resolutions (2018) 43 Journal of Corporation Law 217, 224-27 showing tables of resolutions and the voting record of support on political spending disclosure and carbon emission disclosure.

⁶¹ AMNT, *Red Line Voting* ([2016](#)). The AMNT is an organisation of elected and union pension trustees.

⁶² See the Regulation Against Excessive Pay at Listed Companies 2013, in [German](#), [French](#) and [Italian](#). This followed a Swiss People’s Initiative of 2013, winning by the second ever highest margin.

⁶³ Dodd-Frank Act of 2010 §957.

⁶⁴ Pensions Act 2004 [ss 241-243](#).

⁶⁵ The two major expressions are ‘Inclusive Ownership Funds’ in the *Labour Party Manifesto* (2019) 60, and ‘Democratic Employee Ownership Funds’ in the Bernie Sanders plan (2019). The details remain flexible: one idea is to issue shares, but it may seem better (if workers have votes in their company by right) to simply transfer profits to collective funds. See also the draft Economic Democracy Directive 2020 [art 7](#), and further the work by M Lawrence and L King, ‘Examining the Inclusive Ownership Fund’ (2019) [CommonWealth](#), and L Palladino, ‘The Potential Benefits of Employee Ownership Funds in the United States’ (2020) [ssrn.com](#).

⁶⁶ McGaughey (2018) [47\(1\) ILJ 76](#).

⁶⁷ E McGaughey, ‘A draft Economic Democracy Directive for the European Union’ (2020). I am very grateful for feedback, corrections and discussion on this from Isabelle Schömann, Sara Lafuente, Alina Hoffmann and Zane Rasnača and all those at the seminar, as reported (4 November 2019) [ETUI](#).

⁶⁸ Telegraph Act 1868 [s 4](#) and *Attorney General v Edison Telephone Co of London Ltd* (1880–81) LR 6 QBD 244, nationalising telephones through a court judgment. Even Stanley Jevons remarked of the telegraph, ‘we have neither the advantages of monopoly nor those of free competition’ and he ‘would rather see that monopoly in the hand of Government than that of a private company’. A Clinton, *Post Office workers: a trade union and social history* (Allen & Unwin, 1984) 33.

⁶⁹ H Morrison, *Socialisation and Transport: Organisation of socialised industries with the particular reference to the London passenger transport bill* (1933) [ch XI, 197](#)

⁷⁰ cf M Florio, *The Great Divestiture: Evaluating the Welfare Impact of British Privatizations, 1979-1997* (2004)

⁷¹ W Robson, ‘Nationalised Industries in Britain and France’ (1950) 44(2) *American Political Science Review* 299, 314-7, and see for example the Law of 17 May 1946, art 21, on the governing board of the Charbonnages de France (Collieries of France) requiring six representatives each for the state, consumers of coal, and employees.

⁷² K Kautsky, *The Labour Revolution* (1924) chs III and [VIII\(e\)](#)

⁷³ e.g. *Allnutt v Inglis* (1810) 12 East 527, 537, per Lord Ellenborough, ‘the general principle’ is that ‘every man may fix what price he pleases upon his own property’, but if ‘the public have a right to resort to his premises... and he have a monopoly in them... he must, as an equivalent, perform the duty attached to it on reasonable terms’. This was adopted in *Munn v Illinois*, [94 US 113](#) (1876). Also *JF Kennedy* ([15 March 1962](#)) where ‘competition is not workable and Government regulation is substituted,’ the US government would give ‘an assurance of satisfactory quality and service at fair prices.’

⁷⁴ However, one proposal for this was R Nader, J Seligman and M Green, *Taming the Corporate Giant* (1976) 125.

⁷⁵ Cambridge University Statute A.IV.1.

⁷⁶ National Health Service Act 2006 Sch 7, paras 3(1)(b) and 9 (or potential patients in the local community) and J Carvel and G Tremlett, ‘Milburn seeks hospital role model in Spain’ (6 November 2001) [Guardian](#).

⁷⁷ ‘Gouvernance’ at [eaudeparis.fr](#), and see ‘Liberté, égalité, and a glass of fizzy water?’ (31 August 2018) [WeOwnIt Blog](#).

⁷⁸ Community Ordinance North Rhine Westphalia or Gemeindeordnung Nordrhein-Westfalen 1994 [§§107-114](#)

⁷⁹ Royal Charter of the BBC (2016) [Cm 9365](#), arts 10 and 35, requiring engagement and communication with audiences and staff. This could be updated to voting rights.

⁸⁰ cf Piketty (2020) 628, exploring the proposals in J Cage, *Saving the Media* (2016)

⁸¹ This is based on Alexa rankings in November 2019. At the time of writing, in the covid-19 lockdowns, Amazon and Yahoo! had edged above Wikipedia, and Chinese websites have soared, presumably because people have accelerated online shopping and are staying at home. This made Wikipedia the 6th largest non-China site. We may expect this to reverse after covid-19.

⁸² Wikimedia Bylaws (2019) art IV, §3, incorporated under Florida Statutes, [Title 32, ch 617.0206](#). Users are simultaneously readers and editors (i.e. workers) but voting is open to anyone with an account, and who wants to be involved. Turnout is low, and depends on a group of highly active volunteers.

⁸³ E McGaughey, *Principles of Enterprise Law: the Economic Constitution and Rights* (Cambridge Uni Press 2021) forthcoming

⁸⁴ Piketty (2020) ch 12, 641

⁸⁵ J Pen, *Income Distribution* (Allen Lane 1971) 361

⁸⁶ See *Buckley v Valeo* 424 US 1 (1976) where the corruption of US politics with money began.

⁸⁷ cf ‘Swiss court orders historic referendum re-run’ (10 April 2019) [BBC News](#), where voters were given misinformation.

⁸⁸ e.g. M Friedman, ‘The Methodology of Positive Economics’ in *Essays in Positive Economics* (1953) ch 1, 4, putting forward the evidence-free conjecture that minimum wage and other labour laws create unemployment by distorting a (fictitious) equilibrium price. On the original supply and demand charts, see F Jenkin, *The Graphic Representation of the Laws of Supply and Demand and other Essays on Political Economy* (1887) II. who explicitly said corn prices do not work like labour’s wages.

⁸⁹ Piketty (2020) 550

⁹⁰ R Hale, ‘Bargaining, Duress and Economic Liberty’ (1943) 43 *Columbia Law Review* 603

⁹¹ JS Mill, *Principles of Political Economy* (1848) Book V, [ch I, §2](#), ‘when once it is admitted that there are any engagements which for reasons of expediency the law ought not to enforce, the same question is necessarily opened with respect to all engagements.’

⁹² cf Weimar Constitution 1919 [art 153](#), Grundgesetz 1949 [art 14\(2\)](#) ‘Eigentum verpflichtet’ or ‘Property carries responsibility’.

⁹³ cf Piketty (2020) chs 3-5. This seems to be what underlies most of Friedrich von Hayek's thinking.

⁹⁴ P Mason (1 March 2020) [Guardian](#), referring to a survey of voters in ex-Labour seats after the 2019 election.

⁹⁵ D Kahneman, JL Knetsch and RH Thaler, 'Experimental Tests of the Endowment Effect and the Coase Theorem' (1990) 98(6) *Journal of Political Economy* 1325

⁹⁶ F Green, 'Anti-fossil fuel norms' (2018) [150 Climatic Change 103](#)–116

⁹⁷ See the Green Recovery Act, and explanatory notes ([v 1.1](#)) and the original released by Common Wealth ([2020](#)) with an introduction from Mat Lawrence.

⁹⁸ Piketty (2020) 654

⁹⁹ cf Aristotle, *Nicomachean Ethics*, [Book V](#), who appeared to think justice was reducible to arithmetic (for corrective or commutative justice) or geometric equations (for distributive justice).

¹⁰⁰ Piketty (2020) ch 17, 697-8. Also T Piketty, *Capital in the Twenty-First Century* (2014) 31 and 480. cf J Rawls, *A Theory of Justice* (1971) 4, 'the principles of social justice: they provide a way of assigning rights and duties in the basic institutions of society and they define the appropriate distribution of benefits and burdens of social co-operation.' The Rawlsian definition does not quite capture the importance of creating potential.

¹⁰¹ cf Plato, *The Republic*, Book IV, Part V, 139, translated by D Lee, 'the worst of evils' that 'spells destruction to our state' is 'interchange of jobs'. When each class 'does its own job and minds its own business, that is justice and makes our state just.'

¹⁰² e.g. T Paine, *The Rights of Man* (1792) Part II, ch 3, ‘There is existing in man, a mass of sense lying in a dormant state.... As it is to the advantage of society that the whole of its faculties should be employed, the construction of government ought to be such as to bring forward, by a quiet and regular operation, all that extent of capacity which never fails to appear in revolutions.’ S Webb and B Webb, *Industrial Democracy* (9th edn 1926) Part IV, ch 4, 847-849, ‘We ourselves understand by the words “Liberty” or “Freedom,” not any quantum of natural or inalienable rights, but such conditions of existence in the community as do, in practice, result in the utmost possible development of faculty in the individual human being.... When the conditions of employment are deliberately regulated so as to secure adequate food, education, and leisure to every capable citizen, the great mass of the population will, for the first time, have any real chance of expanding in friendship and family affection, and of satisfying the instinct for knowledge or beauty.’

¹⁰³ cf FA Hayek, *Law, Legislation and Liberty* (1973) vol II, ch 9. The ‘mirage’ that Hayek tries to discredit is at the foundation of international law, in the constitution of the International Labour Organisation: Versailles Treaty 1919 [part XIII](#), ‘peace can be established only if it is based upon social justice’. The failure of the other parts of the Versailles Treaty illustrated this vividly.

¹⁰⁴ AA Berle, *Power Without Property: A New Development in American Political Economy* (1959) 133, ‘the economic system shall give direct available opportunity – which is the real meaning of social justice – to all individuals. Averages and statistical aggregates are no longer enough.’

¹⁰⁵ B Spinoza, *On the Improvement of the Understanding* ([1677](#)) translated by RHM Elwes (1955) at [13]-[14]

¹⁰⁶ UDHR 1948 [art 29](#)

¹⁰⁷ Piketty (2020) 969

¹⁰⁸ KW Wedderburn, *Labour Law and Freedom* (1992) Preface.

¹⁰⁹ See AA Berle, ‘Property, Production and Revolution’ (1965) [65\(1\) Columbia Law Review 1](#)

¹¹⁰ UDHR 1948 [arts 17-27](#)

¹¹¹ E Roosevelt, *Adoption of the Declaration of Human Rights* ([9 December 1948](#)) speech delivered in Paris.

¹¹² LD Brandeis, 'The Living Law' (1916) [10 Illinois Law Review 461](#)

¹¹³ See A Smith, *The Wealth of Nations* (1776) Book I, ch 8, §12 (on labour's unequal power), Book V, [ch 1](#), §107 (on corporate accountability), Book V, [ch 1](#), §121 and Part III (on which enterprises should be publicly owned or controlled).

¹¹⁴ O Kahn-Freund, 'Hugo Sinzheimer 1875–1945' in *Labour Law and Politics in the Weimar Republic* (1981) 102, 'All these abstractions contain within them socially opposed and contradictory phenomena: property used for production and property used for consumption, agreements between equal parties and agreements between unequal parties, capitalist and worker. Through abstraction it is possible to extend legal rules, which are appropriate to the social phenomenon for which they were originally developed, to other social phenomena, thereby concealing the exercise of social power behind a veil of law.'

¹¹⁵ S Deakin, 'The Corporation as Commons: Rethinking Property Rights, Governance and Sustainability in the Business Enterprise' (2012) [37\(2\) Queen's Law Journal 339](#), building on E Ostrom, *Governing the Commons. The Evolution of Institutions for Collective Action* (1990).