



## Texas Institute for Property Rights

February 7, 2019

### Principles for Unprincipled Times

Democrats and “Progressives” are not known for their defense of property rights. Indeed, most of their proposals involve the violation of the right to property. Yet, many Texans on the political Left have recently invoked property rights in their opposition to Republicans.

For example, an editorial in the *Austin American-Statesman* called for legislators to enact “common-sense” reforms of the state’s civil asset forfeiture laws. The editorial went on to say:

Gov. Greg Abbott and many Republican lawmakers have trumpeted the cause of private property rights when it comes to annexation, fracking bans or local tree ordinances, yet they have been strangely silent on civil asset forfeiture.

We recognize the political will doesn’t exist to eliminate the practice of seizing property without a criminal conviction, despite the Texas Republican Party platform calling for precisely that. The practice remains too popular with law enforcement agencies that have legislators’ ears.<sup>1</sup>

As another example, State representative Poncho Nevarez, a Democrat, wrote that, “We should not sit idly by while Texas leaders, previously defenders of property rights, become landgrabbers in the defense of a lying carpetbagging president.”<sup>2</sup> He was responding to the Trump Administration’s use of eminent domain to build the border wall.

On the other hand, Republicans have cited property rights in their opposition to a variety of local ordinances, such as tree ordinances, plastic bag bans, and regulations of short-term rentals. For example, Gov. Gregg Abbott said, “Local governments have gone well-beyond traditional land-use zoning ordinances and are now imposing rules on private property that severely limit a landowners’ property rights. Lawmakers must act now to prevent local governments from taking private property rights away.”<sup>3</sup> Similarly, Attorney General Ken Paxton, sued the federal government over the use of eminent domain during the Obama Administration, declaring, “Washington, D.C., needs to hear loud and clear that Texas will not stand for the federal government’s infringement upon Texas land and the property rights of the people who live here.”<sup>4</sup>

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1. “Editorial: A Texas that values private property rights must rein in forfeitures,” *Austin American-Statesman*, December 24, 2018, <https://www.statesman.com/opinion/20181224/editorial-texas-that-values-private-property-rights-must-rein-in-forfeitures>, accessed January 14, 2019.

2. Poncho Nevarez, “Our Land,” *Texas Democrats*, January 10, 2019, <https://www.txdemocrats.org/blog/our-land/>, accessed January 14, 2019.

3. Gov. Gregg Abbott, “Tell Lawmakers to Stop Abuse of Property Rights!” *GreggAbbot.com*, <https://www.gregabbott.com/petition-poll/tell-lawmakers-stop-abuse-property-rights/>, accessed January 14, 2019.

4. Tom Benning, “Trump’s border wall is fine, says Texas Attorney General Ken Paxton,” *Dallas Morning News*, March 27, 2017, <https://www.dallasnews.com/news/texas-politics/2017/03/27/texas-attorney-general-backs-trumps-plan-use-eminent-domain-border-wall>, accessed January 14, 2019.

Yet, these same officials have remained silent on the issue of civil asset forfeiture or supported violations of property rights through the use of eminent domain. For example, Paxton supports the use of eminent domain to seize private property to build a wall along the border, saying, “It’s a public purpose providing safety to people not only along the border, but to the entire nation.”

What gives? Why are both Leftists and conservatives defending property rights on some occasions while advocating their violation in other situations?

This confusing mish-mash of positions on different issues isn’t a bizarre reenactment of an episode from “The Twilight Zone.” It is the logical result from the absence of principles. When principles are abandoned, politicians are left with nothing to guide them on specific issues except what they think their supporters want. As an example, Paxton defended property rights when eminent domain threatened the Republican voters of north Texas, but he defended eminent domain when it threatened Democratic voters in south Texas.

Property rights are not defended as a matter of principle by either Leftists or conservatives. Property rights are defended when they fit a politician’s or an organization’s political agenda. For both Leftists and conservatives, defending property rights is nothing more than a matter of political expediency. When they believe that it is politically popular, they will defend property rights. And they will abandon property rights when they believe that to be politically popular. The result is what we are witnessing today.

The right to property means the freedom to create, attain, use, keep, trade, and dispose of material values. If one is not free to voluntarily engage in these actions, then his property rights have been violated. And this is true no matter the particular property in question, no matter the means by which his freedom is curtailed, no matter the “noble” cause used to usurp his judgment and desires regarding property. It is true whether his freedom is restrained by a robber, a local government, the state government, or the federal government.

Neither Leftists nor conservatives understand this principle. They see issues in isolation. Leftists see the use of eminent domain to build a border wall as a violation of property rights because the owner is forced to sell regardless of his own desires. But they don’t see regulations that prohibit an owner from choosing to use his property as a short-term rental as a denial of his property rights.

Similarly, Texas conservatives see tree ordinances or short-term rental regulations as a violation of property rights because they prohibit the owner from using his property as he chooses, but they support forcing other land owners to sell their property regardless of their choices.

While it is true that both Leftists and conservatives have abandoned the principle of property rights, they have embraced the same fundamental idea: it is proper and moral to force individuals to use or dispose of their property as society (government) decides.

Thus, Leftists support regulations on cutting down trees, restrictions on renting one’s home, and the redistribution of wealth. They believe that it is proper and moral to force individuals to use and dispose of their property as they—the Leftists—think proper.

Similarly, conservatives support the use of eminent domain to build a border wall or pipelines, restrictions on the sale of beer by craft brewers, and laws that prohibit auto makers from selling directly to consumers. They believe that it is proper and moral to force individuals to use and dispose of their property as they—the conservatives—think proper.

The unspoken premise is that property isn’t really privately owned, but a resource for the community, the state, or the nation to use as it chooses. Ownership means control, and if an individual can only use and dispose of material values as the community, the state, or the nation dictates, then he has neither control nor ownership. He is beholden to the group. He is a mere steward for the property to which he holds title.

When both Leftists and conservatives believe that property use and disposal is subject to the approval of the group, then property rights do not exist. The group may permit a certain range of choices, but if our choices are limited, then our freedom and rights are limited.

While both Leftists and conservatives are occasionally correct on property rights issues, their inconsistency represents a one-two punch to the right to property. On nearly any issue, one (or both) will support the violation of property rights. Neither side presents a consistent and principled stance on property rights. Neither believes that property rights are sacrosanct. And so, they support property rights today and support their violation tomorrow.

The result has been a relentless siege on the right to property for more than a century. And with virtually nobody presenting a principled defense of property rights, that siege has slowly and steadily eroded the freedom to create, attain, use, and dispose of material values.

Freedom of speech protects our right to express unpopular ideas. It protects our freedom to speak and write, even when the majority disagrees with our ideas. Property rights protect our freedom to create, use, and trade material values that may be unpopular. They protect our freedom to attain and dispose of the values that we believe will sustain and enhance our lives even when others disagree with our choices.

Freedom of speech does not protect only popular ideas. Nor do property rights protect only those uses of property that meets the approval of the public. Both protect our freedom to think for ourselves and act accordingly, so long as we respect the freedom of others to do the same.

But if principles are abandoned, then we will accept some restrictions on free speech. We will accept some controls on property. We will make exceptions to the principles of property rights. But an exception to a principle is a rejection of the principle. If property rights can be violated sometimes, then the only issue up for debate is when and for what purpose. Property rights are no longer sacrosanct.

Principles provide a clear line that cannot be morally crossed. It is immoral to steal. This is true whether the item is a pack of gum or a luxury automobile. It is true whether one steals to feed a drug habit or to feed one's children. The context does not change that fact. And this is true of every principle, including property rights.

The Texas Institute for Property Rights applauds anyone who defends property rights. But those who do so inconsistently and without principles undermine their argument and the case for the right to property. Property rights are a matter of life and death. If we care about human well-being, then we must defend the property rights of everyone, rich and poor, black and white, Democrat and Republican.



The Texas Institute for Property Rights provides analysis, training, and resources for legislators, businesses, organizations, and property owners.

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