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Resisting the lure of the Freeman movement

Donal Ó Drisceoil

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Summary

This has been a very brief overview of the Freeman movement that has tried to capture with broad strokes its nature and possible responses. There is room for much more work, including a more in-depth analysis of the various flaws in the approach to the law. The greatest danger however is allowing a movement to develop within anarchist circles that ignores the principle of mutual aid and implicitly promotes private ownership of resources, that by granting absolute right to individuals gives them the ability to ignore their responsibilities to the wider community and ecology that sustains them. In more traditional terms, the movement is one all about negative freedoms, ignoring positive freedom as a concept.

It should be said that many of the criticisms of the Freeman movement are symptomatic of a wider problem within anarchism – its troubled relationship with the dominant ideology of liberalism and patriarchy which we absorb from the moment we are born.

The allure of the Freeman movement is very real, and this should be acknowledged because, in part, there is a potential within it. It would be a shame if all the ideas it has managed to uncover were lost. The problem with the Freeman movement is that it needs a political depth to it; in some ways it does not go far enough, in others it goes in the wrong direction altogether.

In talking to people involved, I get the impression that they are excited by the space to challenge the status quo that it gives them. This is, for the most part, a good thing, but anarchists need to be challenging them in turn on all their other assumptions, to point out that it is not an end-in-itself, that community, land-ownership and language are just as important issues, that resisting the state through challenging its laws is only part of the wider struggle.

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a problem not just of the Freeman movement but something to be found in many anarchist groups that have failed to step up and recognise how patriarchal power is repeated in our everyday actions. For those that have come to 'us' through the Freeman Movement, there is even less awareness of these issues.

For instance, there is much emphasis within the Irish form of the movement (albeit not replicated in the UK) on Section 41.1 of the Irish constitution:

“The State recognises the Family as the natural primary and fundamental unit group of Society, and as a moral institution possessing inalienable and imprescriptible rights, antecedent and superior to all positive law.

The State, therefore, guarantees to protect the Family in its constitution and authority, as the necessary basis of social order and as indispensable to the welfare of the Nation and the State.”

What is outlined in the Irish constitution and adopted widely by the Freeman movement is a very traditional view of the family. The danger of this narrative around the family has been the subject of much criticism from feminist and queer movements. An anarchist critique of this should be fairly obvious, not just of the conservatism, but the emphasis on the family as opposed to the community. Given its attitudes to land ownership, the Freeman movement will struggle to address this concept.

The intermingling of the Freeman Movement and anarchist movements thus has the potential to undo much work that within the anarchist movement around patriarchal behaviour.

c) Libertarian or Libertarian Communism

One definition of anarchism is libertarian communism. It is useful to return to this as it points out probably the single biggest difference in the ideologies. The Freeman movement is all about the primacy of the individual (or at a push, the family). While some Freemen might espouse mutual aid, this is secondary, left to the individuals to decide, rather than being a central principle. Libertarianism puts the individual at the heart of its political analysis, rather than the community or collective. This puts it close to the political ideology of capitalism and the liberal state which seeks an atomised public in which the only arbitrator of values is the state or market. Anarchism rejects this approach through its analysis of power.

The emphasis on personal ownership and absolute right over land owned is also dangerous. It grants too much power to the individual to do as they want without any concern for the consequences. While many of those espousing the philosophy on the left will have an environmental bent, there are no mechanisms within Freeman ideology to stop those who own land from exploiting it or abusing it. There is nothing to prevent someone from drilling for oil or extracting all the water from an aquifer, because there is no way of challenging their right to do so, without appealing to a greater authority... such as the state.

d) The Freemen as a Patriarchal Movement

It is unclear why so much of the language and approach of the Freeman Movement remains patriarchal in nature. For example, the focus on the family in the Irish texts, and of a Judaeo-Christian concept of 'God' betrays this inherent conservatism.

I would suggest that this comes from the libertarian focus on the individual rather than social relationships in general,

The last few years have seen a significant growth in the Freeman of the Land movement. Increasingly, its voice is being heard at environmental and other anarchist based protests and events, from the various UK climate camps to Rosspport Solidarity Camp.

Nebulous in its nature, its promise of ways of claiming back power from the state is clearly seductive. Indeed, on a superficial level, it even looks quite like anarchism in action. The aims of the Freeman movement is to use a particular interpretation of the legal system against the government in the name of gaining back freedoms and advantages.

Its mixture of family, moral conservatism and individualism has given it the appearance of an apolitical movement that can easily hook up with both the left and right. So while you can find the Freemen at protests camps, where its apparent anti-government stance will fall on fertile ground, you can just as easily find them being supported by right-wing groups with racist agendas, whose critique of government is more it does not represent their own jaundiced views.

As I will hopefully show, the Freeman agenda is already falling into the sort of bastardized political thinking that gave rise to the likes of anarcho-nationalism. If anything, what it is, is individualist libertarianism, and as such acceptance of this movement needs to be challenged by anarchists.

Origins

The 'Freemen'¹ are a movement in the sense that they have a set of ideas that are promoted and followed in a way that amounts to a belief system. Their origins can be traced to the US based Redemption movement, which has since developed into the Sovereign Citizens movement². As such, it is rooted in

¹ We shall call them Freemen or Freeman Movement interchangeably.

² en.wikipedia.org

right-wing, white supremacist groups, whose anti-government stance is variously based on anti-Semitism, anti-tax and appeals to Thomas Jefferson's quote that "the government which governs best is the government that governs least." Much of the justification for their stance, in the US, comes from conspiracy theories of all kinds, many of which allege Jewish control of government and corporations or secret plots to alienate rights. Those who have been following the Tea Party movement will recognise many of the same sentiments. For more information on its origins see the report by the Southern Law Centre.³

As the Freeman movement evolved, both in the US and as it crossed the Atlantic, these origins have been somewhat forgotten in many places. For instance, the biggest set of followers of the movement in the US is drawn from poor African Americans. However, it is clear that much of the ideological baggage of its origins remains in the texts and attitudes of those pushing this movement's agenda. In particular it has preserved an evangelical Christian world-view with a patriarchal outlook. Often this is focused around the 'inviolability' of the family. Other materials focus on the "tyrannical nanny state"⁴, a phrase more commonly associated with right-wing commentators.

Crossing the Atlantic

Given the emphasis on legal rights, the movement's basic ideas have successfully made the jump to the UK and Eire, both of whose legal systems are grounded in the same Anglo-Saxon model as the US. However, in doing so, it has shed a little of its baggage and adapted to the different conditions. It has also resulted in the underlying ideology becoming even more obscured, allowing it more traction among the left wing, albeit it

³ www.splcenter.org

⁴ www.tpuc.org

the autonomy of communities to create it themselves according to their needs, and not on control of territory and hierarchies, or requiring the enforcement of states. 'Law' should be a conscious creation of rules the community agrees to and can change. The only authority to appeal to is the authority of the individuals coming together to create their own community, something perpetually renewable and ever changing.

b) Property Rights

Private property is another key concept underlying the Freeman movement, replicating a key foundation of the modern state. Much of the Anglo-Saxon legal model is based on property rights – encapsulated in the saying "an Englishman's home is his castle". It is also part of the foundations of the modern capitalist system, a number of studies showing how the modern state developed to protect the rights over property that capitalism required. The Freeman movement does not challenge this.

Using property in its narrower sense, the Freeman movement is quick to assert the right to private property, whether land or 'the house' (identified interchangeably with the home). It does not question how this land was acquired or its distribution. It does not matter in the Freeman ideology whether this land is more than is needed by a family or individual – absolute entitlement to it is what matters. All this assumes that the right to own land is a given, when in fact these concepts of ownership have been shaped by capitalism and the modern state.

This is antithetical to anarchist theory, where land and property are resources to be held in trust by the community. If there is to be a head-on clash between the movements it is likely to be found here.

that is, survival of the fittest and all the dubious patriarchal baggage that comes with that phrase.

The other problem with ‘common law’ or ‘natural law’ are that they are purely reflections of the dominant ideology, in the same way that ‘common sense’ often is. What we accept in day to day life is the unacknowledged effect of liberal ideology — so commonplace it is effectively invisible (just as motorways are the banal structures of modern capitalism). Again, the anarchist challenges the various assumptions of modern society and seeks to uncover the hidden oppressions; the Freeman movement has no such tools to carry out this analysis and so far is simply repeating them. This is further enforced by the focus on individualist politics.

‘Common law’ is a term used inconsistently across the texts. For some it is interchangeable with ‘natural law’; for others it refers to the legal system. What the latter ignores is that these did not simply appear but are the creations of government (whether of kings or the modern state) and their legal appointees, the judiciary, and in turn are based on property rights and norms of behaviour that are imposed by elites, with all their inherent biases. The confusion is further compounded because to get around this some Freemen try to rely on the older legal systems, such as, in Ireland, the Brehon law system which existed prior to the English conquest.⁸

Ultimately, it is an appeal to history and the structures it has created over time. It looks backwards rather than forwards to the re-shaping of society that anarchism desires. As anarchists we want to change the basis of social relationships according to our needs in the here and now, not look to the ossified past.

Any law is an act of violence and coercion; it is imposed by others, from above. It is not the creation by consent that anarchism seeks. If there is to be ‘law’, it must be based on

⁸ See www.courts.ie While more progressive in nature than subsequent systems, it is still a very flawed system.

retains followers among those of a right-wing libertarian bias. In this article I will focus on the Irish and British variations.

The Freeman in theory

For convenience I shall cite the work of Prof. John Kersey of the Libertarian Alliance, who attempts to draw out the common principles shared by most in the movement.⁵

The common law of England and Wales is universally applicable to those people (natural persons) within that jurisdiction. A natural person is endowed with a number of inalienable, God-given rights. That natural person is referred to as a Freeman on the Land.

By contrast, civil or statute law, the majority of which is considerably more recent in origin, is not universally

applicable but instead, because of its commercial basis (in the law of the sea), rests upon a contract between two parties, the first party being the state, and the second party being the legal fiction representing a given individual.

The instrument that is held to represent a given individual entering into such a contract with the state is a birth certificate.

The validity of such a contract is questionable because the contract as represented by a birth certificate is entered into between a minor (who cannot validly contract) and the state, and because consent is therefore assumed rather than established.

It follows that if the contract is deemed void, it may be possible to separate the natural person (common law) from the legal fiction (civil law). As a result, whereas the birth certificate (as a piece of paper) is evidence of the legal fiction contracting with the state, that birth certificate is not the same as the natural person represented by the living individual.

⁵ The Freeman on the Land Movement: Grass Roots Libertarianism in Action, Prof. John Kersey, 2010.

In Ireland a key text is the Freeman Guide, which was produced for the 2011 Freeman Festival (Tir na Saor) in Cobh.⁶ It reflects much of the above concepts.

Applying an anarchist critique

a) Underlying Ideology

While most campaigns have critiques of the legal system and of rights to various degrees (depending on their political outlook), Freeman documents tend to be focused on how this can be used to the advantage of the individual. Indeed, much of the material produced by the Freeman movement covers how to challenge the government agencies, to assert rights to not pay taxes and fines, to maintain the right to private property against intrusion by the state. Much of this is based on the fact that the legal system gives words different definitions from everyday usage (for example, 'peaceful').

However, I will step back from this to look at the underlying ideology. Anarchism is about creating a society without a state. The Freeman are about resisting that state, but they do not make calls for its abolishment. It is a subtle but important difference, that gives rise to different practices. The Freeman depends on the notion of rights, a problematic concept in itself. And in doing so, ties itself tighter to the system that it opposes. This is why there is so much focus on re-interpreting the law rather than recognising that it is the concept of the law that is the problem. This is something that comes up again and again.

Laws, states and rights are all products of the Enlightenment, the era of political development over the 18th and 19th Centuries that gave us representative democracy, the modern state, nationalism and the liberal market place / capitalism. Thus, behind notions such as rights are ideological assumptions that are

⁶ freemanireland.ning.com

not necessarily in accordance with anarchism, something we should be very wary of. Laws and rights are not stand-alone creations, but reflect the dominant ideology, shaped by political and intellectual elites. There is no right that is not to be taken away, no law that cannot be changed.

Laws need states to grant, sustain and enforce them; and in turn states use them to justify their continuing existence. Rights are social constructs, not universal principles, and as such they are produced by communities. This can be done by a collective discussion or imposed by a minority who hold power. Neither rights or laws are enforceable by individuals, but require a larger authority or community to impose or validate through its principles of justice.

Where the anarchists realise that rights and laws are only valid where there has been a collective discussion and agreement with them, most other political ideologies treat them as a given, as something from the past that cannot be changed nor questioned. It is this trap of conservatism that anarchism seeks to challenge and the Freeman fall into.

The way of the Freeman is to appeal to natural or common law. Natural law is an appeal to god, or some other higher spiritual moral authority that stands above all humanity. This is one of the places where the movement betrays its origins. Anarchism does not recognise this higher authority, or that there is a natural law above all others. The morality of the anarchist is not about appealing to another authority but defining social relationships in the here and now, in solidarity and mutual aid as the situation requires, not as an imposed notion dictates.

Then there is the problem of whose 'natural law'. As JS Mill argued over a century ago⁷, it is a phrase without meaning, open to every interpretation possible, or so vague as to be useless. The Freeman Guide sums it up as harm none, yet, for others it could just as easily be the law of 'red in tooth and claw',

⁷ On Nature, J. S. Mill, 1874. Online at www.lancs.ac.uk