### 1

#### To deny property rights is impossible – non-contradiction proves

Dominiak 17

Łukasz Dominiak (Associate Professor at Nicolaus Copernicus University in Poland; he holds a PhD and habilitation in political philosophy and is a Fellow of the Mises Institute). “Libertarianism and Original Appropriation.” Historia i Polityka, 29/2017: 22. Pp. 43-56. JDN. <https://apcz.umk.pl/HiP/article/view/HiP.2017.026/13714>

In this last paragraph we would like to focus on what we claim is the best justification for the first possession theory of **original appropriation** and what are the ramifications of both this theory and its justification. We suggest that the ultimate justification of this theory is not usually evoked avoidance of conflicts – although it is a necessary consequence of the justification we are going to present here – but **a necessary condition of rationality of a conceptual system** (it is good to remember that rights have form of deontic propositions and therefore they also form a conceptual or theoretical system). Let us present a sketch of our argument.

For a conceptual system to be rational it is necessary to be non-contradictory (Popper, 2002). Nothing that violates the law of non-contradiction can be true, justified or for that matter rational (Łukasiewicz, 1987, 1988). In a system of rationally justified rights – so-called natural rights – existence of contrary rights and duties, let alone contradictory ones is ex definitione off limits since contrary rights violate the law of non-contradiction. As Steiner puts it with reference to rights as such, although his argument seems to work impeccably only with natural rights, “mutual consistency – or compossibility – of all the rights in a proposed set of rights is at least a necessary condition of that set being possible one. A set of rights being a possible set is, I take it, itself a necessary condition of the plausibility of whatever principle of justice generates that set. Any justice principle that delivers a set of rights yielding contradictory judgements about the permissibility of a particular action either is unrealizable or (what comes to the same thing) must be modified to be realizable” (1994). Hence, systems of rights in which there are contradictory or contrary rights is off limits insofar as its rational justification is concerned. Basically, such a system can never be rationally justified. It is obvious on the other hand that one of the most important and direct ramifications of a system of non-contradictory rights is avoidance of conflicts. It is the case be-cause for a person who abides by the norms of such a system it is impossible to find himself in the situation of conflicting rights or duties. So, on our account it is not so much that property rights are justified functionally or teleologically as being conducive to conflict avoidance as that their function of conflict avoidance is a logical consequence of their fundamental vindication as rational (non-contradictory) allocations of individual jurisdictions (Barnett, 2004) or spheres of freedom (Steiner, 1994).Now the question is: What set of rights can be a set of non-contradictory rights? Following Steiner we can say that rights predicate about human action. Because each action-token always takes place in a specific time and space, it can be given an exhaustive description in extensional terms of its spatio-temporal components. We can therefore say that two action-tokens are incompossible when they share at least one physical component; on the other hand, action-tokens are com-possible when they do not have any physical components in common. Now, rights that “oblige” people to perform two or more action-tokens that share at least one physical component are perforce contradictory rights – they “oblige” people to do what is incompossible to do; whereas rights which oblige people to perform action-tokens that do not have common components are non-contradictory rights. How to make sure that rights never become contradictory? It is necessary and sufficient to construe of rights as rights to **exclusive control of physical components** of actions, i.e. As rights to possess tangible things. If physical components of actions are unequivocally distributed amongst people, if each and every physical component is unambiguously and exclusively assigned to one and only one person, then there can never be rights to action-tokens that share physical components with each other and therefore there can never be rights that oblige people to perform incompossible action-tokens (Steiner, 1994). As Steiner points out, “a set of categorically compossible domains, constituted by a set of property rights, is one in which each person’s rights are demarcated in such a way as to be mutually exclusive of every other person’s rights... we will interpret this to mean that no two persons simultaneously have rights to one and the same physical thing” (1994).

Because the nature of possession is such that it is impossible for two or more people to possess the same thing at the same time – although it seems possible for two or more people to simultaneously mix their labour with the same thing (e.g. when two people chase the same wild animal) – then **assigning rights to** people who took **first possession** of a thing, who are first-comers, perforce avoids non-contradictoriness of rights and conflicts between people since the dawn of time. For it is always and from the very beginning clear who has title to which physical resource as well as which resources are still up for appropriating and which are not so available. As Hans-Hermann Hoppe writes, “with regard to the purpose of conflict avoidance, **no alternative to private property and original appropriation exists.** In the absence of prestabilized harmony among actors, conflict can only be prevented if all goods are always in the private ownership of specific individuals and it is always clear who owns what and who does not. Also, conflicts can only be avoided from the beginning of mankind if private property is acquired by acts of original appropriation (instead of by mere declarations or words of latecomers)” (2012). It is **by definition inconceivable** for more than one person to be in a position in which it is physically possible to deal with a thing at will to the exclusion of others. Neither is it conceivable for more than one person to simultaneously come to such a position. Thus, taking first possession of scarce resources as basis of title and as principle of justice in original appropriation guarantees non-contradictoriness of rights and avoidance of conflicts since the dawn of time.

#### Viewing others as ends in themselves is a prerequisite for moral value – coercion treats others as a mere means for one’s own purposes.

Korsgaard ’83 (Christine M., “Two Distinctions in Goodness,” The Philosophical Review Vol. 92, No. 2 (Apr., 1983), pp. 169-195, JSTOR) OS

The argument shows how Kant's idea of justification works. It can be read as a kind of regress upon the conditions, starting from an important assumption. The assumption is that when a rational being makes a choice or undertakes an action, he or she supposes the object to be good, and its pursuit to be justified. At least, if there is a categorical imperative there must be objectively good ends, for then there are necessary actions and so necessary ends (G 45-46/427-428 and Doctrine of Virtue 43-44/384-385). In order for there to be any objectively good ends, however, there must be something that is unconditionally good and so can serve as a sufficient condition of their goodness. Kant considers what this might be: it cannot be an object of inclination, for those have only a conditional worth, "for if the inclinations and the needs founded on them did not exist, their object would be without worth" (G 46/428). It cannot be the inclinations themselves because a rational being would rather be free from them. Nor can it be external things, which serve only as means. So, Kant asserts, the unconditionally valuable thing must be "humanity" or "rational nature," which he defines as "the power set to an end" (G 56/437 and DV 51/392). Kant explains that regarding your existence as a rational being as an end in itself is a "subjective principle of human action." By this I understand him to mean that we must regard ourselves as capable of conferring value upon the objects of our choice, the ends that we set, because we must regard our ends as good. But since "every other rational being thinks of his existence by the same rational ground which holds also for myself' (G 47/429), we must regard others as capable of conferring value by reason of their rational choices and so also as ends in themselves. Treating another as an end in itself thus involves making that person's ends as far as possible your own (G 49/430). The ends that are chosen by any rational being, possessed of the humanity or rational nature that is fully realized in a good will, take on the status of objective goods. They are not intrinsically valuable, but they are objectively valuable in the sense that every rational being has a reason to promote or realize them. For this reason it is our duty to promote the happiness of others-the ends that they choose-and, in general, to make the highest good our end.

#### Prefer on argumentation ethics – the act of engaging in discourse presupposes it

Mises Institute, "A Primer on Hoppe's Argumentation Ethics,", <https://mises.org/wire/primer-hoppes-argumentation-ethics> JS

I demonstrate that only the libertarian private property ethic can be justified argumentatively, because it is the praxeological presupposition of argumentation as such; and that any deviating, nonlibertarian ethical proposal can be shown to be in violation of this demonstrated preference. Such a proposal can be made, of course, but its propositional content would contradict the ethic for which one demonstrated a preference by virtue of one’s own act of proposition-making, i.e., by the act of engaging in argumentation as such. For instance, one can say “people are and always shall be indifferent towards doing things,” but this proposition would be belied by the very act of proposition-making, which in fact would demonstrate subjective preference (of saying this rather than saying something else or not saying anything at all). Likewise, nonlibertarian ethical proposals are falsified by the reality of actually proposing them.

To reach this conclusion and to properly understand its importance and logical force, two insights are essential.

First, it must be noted that the question of what is just or unjust — or for that matter the even more general question of what is a valid proposition and what is not — only arises insofar as I am, and others are, capable of propositional exchanges, i.e., of argumentation. The question does not arise vis-à-vis a stone or fish because they are incapable of engaging in such exchanges and of producing validity claiming propositions. Yet if this is so — and one cannot deny that it is without contradicting oneself, as one cannot argue the case that one cannot argue — then any ethical proposal as well as any other proposition must be assumed to claim that it is capable of being validated by propositional or argumentative means. (Mises, too, insofar as he formulates economic propositions, must be assumed to claim this.) In fact, in producing any proposition, overtly or as an internal thought, one demonstrates one’s preference for the willingness to rely on argumentative means in convincing oneself or others of something. There is then, trivially enough, no way of justifying anything unless it is a justification by means of propositional exchanges and arguments. However, then it must be considered the ultimate defeat for an ethical proposal if one can demonstrate that its content is logically incompatible with the proponent’s claim that its validity be ascertainable by argumentative means. To demonstrate any such incompatibility would amount to an impossibility proof, and such proof would constitute the most deadly defeat possible in the realm of intellectual inquiry.

Second, it must be noted that argumentation does not consist of free-floating propositions but is a form of action requiring the employment of scarce means; and that the means which a person demonstrates as preferring by engaging in propositional exchanges are those of private property. For one thing, no one could possibly propose anything, and no one could become convinced of any proposition by argumentative means, if a person’s right to make exclusive use of his [their] physical body were not already presupposed. It is this recognition of each other’s mutually exclusive control over one’s own body which explains the distinctive character of propositional exchanges that, while one may disagree about what has been said, it is still possible to agree at least on the fact that there is disagreement. It is also obvious that such a property right to one’s own body must be said to be justified a priori, for anyone who tried to justify any norm whatsoever would already have to presuppose the exclusive right of control over his body as a valid norm simply in order to say, “I propose such and such.” Anyone disputing such a right would become caught up in a practical contradiction since arguing so would already imply acceptance of the very norm which he was disputing.

Furthermore, it would be equally impossible to sustain argumentation for any length of time and rely on the propositional force of one’s arguments if one were not allowed to appropriate in addition to one’s body other scarce means through homesteading action (by putting them to use before somebody else does), and if such means and the rights of exclusive control regarding them were not defined in objective physical terms. For if no one had the right to control anything at all except his own body, then we would all cease to exist and the problem of justifying norms simply would not exist. Thus, by virtue of the fact of being alive, property rights to other things must be presupposed to be valid. No one who is alive could argue otherwise.

#### Thus the standard is consistency with libertarianism, or the belief in protection of property rights – that negates:

#### Space exploration only changes the location and not the nature of property claims, which makes private appropriation just.

Baca, Kurt Anderson Property Rights in Outer Space, 58 J. Air L. & Com. 1041 (1993) https://scholar.smu.edu/jalc/vol58/iss4/4 JS

The powers necessary to constitute an efficient system of property rights on Earth have been found, by deduction from first principles by political philosophers influential in the development of the Western institutions and from history and practice in the courts, to be the power to exclude, to use, and to dispose. 98 The resulting system is also inherently equitable as it benefits society as a whole and as it protects investments and expectations. This system would remain equitable so long as the initial allocation of any new resource was, and is, not based on mere usurpation of unclaimed property, but is based on investment in the property that adds to its value. 99 This system of property rights relies on the provision of powers to the holder of the property. The source of the power is ultimately in the state that enforces the liabilities of parties corresponding to the powers of owners: the liability to exclusion, the liability for interference with use, and the liability to respect contracts and to refrain from hindering disposition. °0 This implies that sovereign power is essential to any functioning system of property rights, and in the absence of a general sovereign body, sovereignty is to be found in the nation-state. How does the extension of man's activities into space and onto the celestial bodies change the basic necessities of an efficient and equitable property rights system? The movement of activities into space affects only the place of activities. The nature of those activities and of the actor remain unchanged. The nature of efficiency and equity are likewise unchanged, and the need for certain securities and guarantees to foster productive activity by man is unchanged. The same property rights system that is most beneficial on Earth will be most beneficial on the celestial bodies.

#### There is no such thing as unjust initial acquisition – an injustice requires one whose right has been violated, which cannot be the case if a resource is unclaimed.

Feser, E. (2005). THERE IS NO SUCH THING AS AN UNJUST INITIAL ACQUISITION. Social Philosophy and Policy, 22(1), 56–80. doi:10.1017/s0265052505041038 JS

The reason there is no such thing as an unjust initial acquisition of resources is that there is no such thing as either a just or an unjust initial acquisition of resources. The concept of justice, that is to say, simply does not apply to initial acquisition. It applies only after initial acquisition has already taken place. In particular, it applies only to transfers of property (and derivatively, to the rectification of injustices in transfer). This, it seems to me, is a clear implication of the assumption (rightly) made by Nozick that external resources are initially unowned. Consider the following example. Suppose an individual A seeks to acquire some previously unowned resource R. For it to be the case that A commits an injustice in acquiring R, it would also have to be the case that there is some individual B (or perhaps a group of individuals) against whom A commits the injustice. But for B to have been wronged by A’s acquisition of R, B would have to have had a rightful claim over R, a right to R. By hypothesis, however, B did not have a right to R, because no one had a right to it—it was unowned, after all. So B was not wronged and could not have been. In fact, the very first person who could conceivably be wronged by anyone’s use of R would be, not B, but A himself, since A is the first one to own R. Such a wrong would in the nature of the case be an injustice in transfer—in unjustly taking from A what is rightfully his—not in initial acquisition. The same thing, by extension, will be true of all unowned resources: it is only after someone has initially acquired them that anyone could unjustly come to possess them, via unjust transfer. It is impossible, then, for there to be any injustices in initial acquisition.

#### That negates – space is not under ownership by any state now, which proves that acquisition cannot be unjust

### 2

#### The affirmative must prove the resolution – it’s a basic aff burden – the text of the resolution is the only stable basis for neg prep, which is key to us having the ability to engage in the first place.

#### We’ll prove their appeal to the resolution as a “moral principle” doesn’t cut it –

#### 1---Resolved indicates policy

Parcher 1 [Jeff; former debate coach at Georgetown; Feb 26, 2001; <https://web.archive.org/web/20020929065555/http://www.ndtceda.com/archives/200102/0790.html>] brett

(1) Pardon me if I turn to a source besides Bill. American Heritage Dictionary: Resolve: 1. To make a firm decision about. 2. To decide or express by formal vote. 3. To separate something into constiutent parts See Syns at \*analyze\* (emphasis in orginal) 4. Find a solution to. See Syns at \*Solve\* (emphasis in original) 5. To dispel: resolve a doubt. - n 1. Frimness of purpose; resolution. 2. A determination or decision.

(2) The very nature of the word "resolution" makes it a question. American Heritage: A course of action determined or decided on. A formal statemnt of a deciion, as by a legislature.

(3) The resolution is obviously a question. Any other conclusion is utterly inconcievable. Why? Context. The debate community empowers a topic committee to write a topic for ALTERNATE side debating. The committee is not a random group of people coming together to "reserve" themselves about some issue. There is context - they are empowered by a community to do something. In their deliberations, the topic community attempts to craft a resolution which can be ANSWERED in either direction. They focus on issues like ground and fairness because they know the resolution will serve as the basis for debate which will be resolved by determining the policy desireablility of that resolution. That's not only what they do, but it's what we REQUIRE them to do. We don't just send the topic committtee somewhere to adopt their own group resolution. It's not the end point of a resolution adopted by a body - it's the prelimanary wording of a resolution sent to others to be answered or decided upon.

(4) Further context: the word resolved is used to emphasis the fact that it's policy debate. Resolved comes from the adoption of resolutions by legislative bodies. A resolution is either adopted or it is not. It's a question before a legislative body. Should this statement be adopted or not.

#### 2---Unjust means related to law.

Black’s Law [The Law Dictionary Featuring Black's Law Dictionary Free Online Legal Dictionary 2nd Ed. No Date. <https://thelawdictionary.org/unjust/>] brett

What is UNJUST?

Contrary to right and justice, or to the enjoyment of his rights by another, or to the standards of conduct furnished by the laws.