

CAUSE NO CONFLICT

KRIS BORER^{*}

PROPERTY MIGHT BE DEFINED as something over which an individual should have exclusive control. For example, suppose you have some string and it is your property. It follows that you should be the one to decide whether you use it to tie up some boxes or your neighbor uses it to hang a painting. These two actions are incompatible, and the owner, for whatever reason, has the authority to determine what happens. Yet, as Rothbard points out, an individual should not always have exclusive control over an object:¹

If A walks on or puts an object on B's land, then B cannot use the space A or his object has taken up. An invasion by a tangible mass is a per se interference with someone else's property and therefore illegal.

In contrast, consider the case of radio waves, which is a crossing of other people's boundaries that is invisible and insensible in every way to the property owner. We are all bombarded by radio waves that cross our properties without our knowledge or consent. Are they invasive and should they therefore be illegal, now that we have scientific devices to detect such waves? Are we then to outlaw all radio transmission? And if not, why not?

The reason why not is that these boundary crossings do not interfere with anyone's exclusive possession, use or enjoyment of their property. They are invisible, cannot be detected by man's

^{*}Kris Borer (1@krisborer.com) is an engineer in Philadelphia. Thanks to Serenity Wang for helpful discussion.

CITE THIS ARTICLE AS: Kris Borer, "Cause No Conflict," *Libertarian Papers* 2, 40 (2010). ONLINE AT: libertarianpapers.org. THIS ARTICLE IS subject to a Creative Commons Attribution 3.0 License (creativecommons.org/licenses). Published by the Ludwig von Mises Institute.

¹Murray N. Rothbard (1982b). "Law, Property Rights and Air Pollution." *Cato Journal* 2(1) (Spring), 55–99.

senses, and do no harm. They are therefore not really invasions of property, for we must refine our concept of invasion to mean not just boundary crossing, but boundary crossings that in some way interfere with the owner's use or enjoyment of this property.

In other words, an individual does not necessarily have the authority to control all uses of an object, but only those uses that interfere with his own actions. Consider another scenario that Rothbard relates:²

If A is causing pollution of B's air, and this can be proven beyond a reasonable doubt, then this is aggression and it should be enjoined and damages paid in accordance with strict liability, unless A had been there first and had already been polluting the air before B's property was developed. For example, if a factory owned by A polluted originally unused property, up to a certain amount of pollutant X, then A can be said to have homesteaded a pollution easement of a certain degree and type.

In the first case, B is enjoying unpolluted land, so A cannot begin to pollute without interfering with B's action. In the second case, A is justified in polluting, but cannot prevent B from choosing a compatible action: living in filth. Moving onto the polluted land does not interfere with A's action.

So, given the definition of property above, it is not accurate to say that an object is an individual's property if there are uses of that object which others should be free to pursue without his consent.

Property, then, does not correspond with physical objects but rather with uses of them, i.e., actions. However, this does not include all actions that an individual takes. Due to scarcity, certain actions are mutually exclusive. It is impossible for two individuals to exercise exclusive control over incompatible actions. In this case, a conflict resolution system is needed to determine which actions are proper.

Therefore, property is an individual's proper action. This does not require a new definition of property, but merely an understanding that property is not delineated by the boundaries of physical objects. The objects commonly referred to as property are simply means of an individual's proper action. While this may change little in practice, it might help clarify how the libertarian property system works, as follows.

²Ibid.

I. Definitions

If property is an individual's proper action, then certain important terms can be defined precisely. For example, a property right is simply the authority to deny an action that is mutually exclusive with a property.³

Similarly, conflict is when individuals take mutually exclusive actions, i.e., conflict occurs when actions interfere with each other.⁴ A conflict resolution system must deny all, or all but one, of such incompatible actions.

The initiation of conflict is termed aggression, and those who do so are called aggressors.⁵ The libertarian conflict resolution system resolves conflicts by denying any action that causes conflict.⁶ This is called the non-aggression principle (NAP).

The conflict resolution system that utilizes the NAP is called the private property system (PPS).⁷ Of course, it might be argued that the PPS is not the only choice for a conflict resolution system. Yet, argument is to avoid conflict, so perhaps it should not be surprising that any argument implies that the choice has already been made.⁸

³Murray N. Rothbard, *The Ethics of Liberty* (1998), p. 100:

[T]he very concept of "rights" is a "negative" one, demarcating the areas of a person's action that no man may properly interfere with.

⁴For example, you cannot walk through a doorway at the same time as someone else. See Ludwig von Mises, *Human Action* (Scholar's Edition, 1998), XV.5 p. 273

⁵Rothbard, *The Ethics of Liberty*, p. 45:

[An] aggressor imposes his will over the natural property of another—he deprives the other man of his freedom of action and of the full exercise of his natural self-ownership.

⁶Determining whether any particular action is aggression requires understanding. If you forcibly take gold from your neighbor, it appears that you are initiating a conflict. However, if your neighbor originally stole the gold from you, then it is understood that he caused the conflict. See Mises, *Human Action*, p. 56.

⁷Various ideologies advocate private property to one extent or another. The libertarian system is distinct in that it makes no exceptions.

⁸A conflict resolution system must deny all or all but one mutually exclusive action. This leaves four options. Deny the aggressor (NAP), deny the victim, deny both, or deny neither (law of the jungle). Denying the victim leads to an absurdity, since the victim could always aggress against the aggressor, ad infinitum. Denying both leads to a contradiction when one individual wants to kill another individual, and the other wants to do anything besides being killed. Denying none is "might makes right", which is indefensible by the *a priori* of argumentation. See Hans-Hermann Hoppe, "The Ethics and Economics of Private Property," *Mises Daily* (Oct. 15, 2004).

The NAP implies that when an individual takes an action that does not create conflict, that action is his property.⁹ The PPS then delegates a property right to him, which is limited authority over actions that interfere with that property.¹⁰ The PPS does not delegate any rights for an action that causes conflict, so aggression cannot lead to a right over any set of mutually exclusive actions.

A property right is lost when the owner stops taking the action for which it was delegated. This could happen voluntarily, in which case it is called abandonment, or involuntarily if the action is no longer possible, e.g., if control of the means is lost. An individual with a property right is called an owner of the scarce means of which his property makes use.

When actions become or cease to be mutually exclusive, this process is called production.¹¹ After production, authority over various actions may be different because compatibility has changed. If action B was previously mutually exclusive with your own proper action A, then you had a right over the set of mutually exclusive actions {A, B, ...}. If they are no longer incompatible, then conflict is no longer possible and you cannot deny B based on your own action A. The reverse is true for actions that become mutually exclusive.

To stop aggression, an individual might need to take actions that are mutually exclusive with the aggressive action, i.e., the use of force. Normally, a libertarian would not be willing to use force, but the NAP permits mutually exclusive actions that are necessary to stop aggression. Such actions are defensive and do not lead to conflict because conflict has already been initiated. Any other use of force causes conflict and is not permitted, even in response to conflict.

⁹Murray N. Rothbard, *The Ethics of Liberty* (1998), Chapter 6:

Let us now return to our analysis of Crusoe's purposeful transformation of nature-given data through the understanding of natural laws. Crusoe finds virgin, unused land on the island; land, in short, unused and uncontrolled by anyone, and hence unowned... Hence, the isolated man owns what he uses and transforms; therefore, in his case there is no problem of what should be A's property as against B's. Any man's property is ipso facto what he produces, i.e., what he transforms into use by his own effort.

¹⁰See *ibid.*, Ch. 12.

¹¹For example, say you have an ax head and an ax handle. You can move the ax head in one direction and the handle in another direction. If you attach them, then you have produced an ax. Now moving the ax head in one direction is mutually exclusive with moving the handle in another direction. If you separate them, then these two actions are no longer mutually exclusive.

Transfer is when an owner relinquishes authority over some action and another individual then takes that action. To do this the owner must begin to take a different action that is not mutually exclusive with what the other person wants to do. The recipient then takes the desired action and it becomes his property.

If the owner does not abandon a proper action, then nobody can make it, or any mutually exclusive action, his property. If the recipient does not begin taking an action, it does not become his property. Therefore, the transfer of ownership occurs when each individual involved chooses to transfer ownership.¹²

Human existence is perpetual action, the use of scarce means to achieve ends. Even if an individual chooses not to move, he is still acting, substituting a less preferred future for a more preferred one. As humans are always using their bodies as means, it follows that a peaceful person has a lifelong right over his body. In other words, he is a self-owner in the libertarian system.

II. Abstraction From Physical Entities

If property is proper action, then several individuals may own the same object when there are different uses of it that are compatible.

For example, consider a tree that has the following sets of mutually exclusive uses: {cut, swing 1, ...}, {cut, swing 2, ...}, {cut, shade, ...}, {pick fruit, swing 1, ...}, {cut, climb, hug, ...}. One set contains swinging from a limb, another swinging from different limb. Similarly, resting in the shade, picking fruit and climbing the trunk are each in different sets. Yet, cutting down the tree is in several of the sets.¹³

So, sets of incompatible actions may intersect, i.e., a particular action may be in multiple sets. Such an action is mutually exclusive with other actions that are not exclusive with each other. One consequence of this is that two individuals might have the authority to forbid the same particular action, deriving their right from different properties.

For example, say that the tree above is wild and you begin to swing from one of the limbs. Now, no libertarian will chop down the tree without your permission, as that is mutually exclusive with your use of the tree and

¹²More on transfer below.

¹³In this example, if someone is swinging on the first limb then you cannot pick the fruit and vice versa. However, you can pick the fruit even if the tree is cut down. When two actions are in the same set, they are incompatible. When they are in separate sets, they are compatible.

would cause conflict. On the other hand, your neighbor could swing from another limb without interfering with your use of the tree.¹⁴

A third person would now need both your permission and your neighbor's permission if he wanted to cut down the tree, but not to climb the trunk. So, it is clear that having rights over actions does not always prevent others from acquiring rights over those same actions.

Thus, rights are purely negative and do not empower an individual to unilaterally allow a particular action or use of some object. However, if your use of a physical entity is mutually exclusive with all other uses, then you must have a property right over every use of that resource and can be called the owner.

For example, say you pick a wild apple and there are no uses of the apple that your neighbor could employ without interfering with your use of the apple. You have authority over every action for which the apple is a means, and though others have rights over some actions for which the apple is a means, there are other uses for which you are the sole authority. These include any action in which the scarce means are limited to the apple, unowned resources and other means for which you are the owner, such as your body. For instance, no one could deny you from eating the apple.¹⁵

III. Production and Delegation

If property is an individual's proper action, then it is easy to determine ownership of scarce resources, even when they undergo physical changes.

For example, suppose you light a match. It is a very different object before, during and after it has burned. Production takes place continuously while it is burning. What is important is that even though the match is changing physically, and production is occurring, you are constantly using it, whatever you may define it to be at any moment. Thus, you are delegated

¹⁴If the tree were flimsy, swinging on one limb might interfere with swinging on another, and the sets would be different.

¹⁵Hoppe, "The Economics and Ethics of Private Property," p. 319:

According to the nonaggression principle a person can do with his body whatever he wants as long as he does not thereby aggress against another person's body. Thus, that person could also make use of other scarce means, just as one makes use of one's own body, provided these other things have not already been appropriated by someone else but are still in a natural unowned state.

rights over the match, the half burned match, the ashes, etc.¹⁶ On the other hand, you are not using the carbon dioxide that escapes into the atmosphere, and so you are delegated no rights over uses of it.

Similarly, if you and your neighbor mix your blue paint with his yellow paint, there is a continuity of action that follows from the initial state of having two distinct paints, to the final state of having only green paint. You are both using the green paint from the moment it begins to exist and you will both be owners of it once the process is complete.

Finally, say there is a wild bird. If you catch the bird, then you can begin using it and become an owner. If the bird begins to lay an egg, then use of the egg is mutually exclusive with use of the bird. You therefore have a right over use of the egg. Now you can begin to use the egg for some purpose and have ownership of it even after use of it is no longer mutually exclusive with use of the bird.

Of course, delegation and ownership do not require physical contact. If you lay in the shade of a tree, no libertarian will cut down that tree. Similarly, if you juggle some apples, you are clearly using them. No one would be justified in snatching one out of the air just because your body is not in contact with it.

Say you sit down to rest and put the apples next to you on the ground. You are not in contact with the apples and you are not even actively interacting with them. Yet, the case may be that you are saving them for dinner, which is certainly a use of the apples. Again, you would remain an owner.

So, ownership of a physical resource is continuous as long as an owner utilizes it as a means. Physical changes of the resource are incidental; continuity of action is what leads to continuity of ownership. Similarly, an individual's right over an action is continuous as long as he pursues an action that is mutually exclusive. This is true even if the action being pursued changes over time.

In this way, ownership sometimes seems to have an indefinite quality. Humans tend to metaphorically hold on to things in order to deal with the uncertainty of the future. People even collect things that they intend to never actively use, like fire extinguishers.

¹⁶Another example is the process of fermenting wine. The substance changes continuously as alcohol is produced.

Yet, how can you know if any particular resource is being used and, if so, what action is being taken? If your neighbor picks a wild apple, drops it on the ground and walks away, how can you know whether he is still using it? It requires understanding. There is always uncertainty that must be dealt with through entrepreneurship.

IV. Aggression

The implications of aggression can be determined more easily by abstracting from the physical entities involved in a conflict.

Suppose a criminal pokes your body with his finger. The PPS authorizes you to deny this interruption by whatever means necessary. So, as a libertarian you could push his finger away, but you could not normally kill him (only if it was necessary to resolve the conflict).¹⁷

If a thief steals your chicken, then you have the right to deny his use of the chicken, whatever that may be. Once his action has been stopped, you can resume use of the chicken, even if that use is different than the one for which your property right was originally delegated. If, before you stop the first thief, a second thief steals it from him, you likewise have the right to deny the second thief's use of the chicken. His use is in conflict with your use and he is causing the conflict.

If you are the owner of a stick and a thief steals it, you can deny his use of the stick and then resume using it. Even if the thief paints the stick blue with his own paint, you would still be the owner. When he paints the stick, he causes conflict and is not delegated any right over uses of the painted stick.

Even if the thief burns the stick to ashes and then uses the ashes to make soap, you would still be the owner and could appropriate the soap for your own purposes. Of course, if the thief makes the soap from your ashes and your neighbor's tallow, both you and your neighbor would be owners and would need to decide jointly what to do with it.

It is the same if a criminal steals your net and catches a fish. Everything the thief does with the net causes conflict and he will not be delegated rights for actions which use it as a means. When he catches the fish with the net,

¹⁷Rothbard, *The Ethics of Liberty*, p. 77:

How extensive is a man's right of self-defense of person and property? The basic answer must be: up to the point at which he begins to infringe on the property rights of someone else. For, in that case, his "defense" would in itself constitute a criminal invasion of the just property of some other man, which the latter could properly defend himself against.

use of the fish is mutually exclusive with use of the net and therefore you must have a right over the fish. Then, if the thief uses the fish for any purpose, even to remove it from the net, he is causing conflict. Even if the thief returns the net, you could still take the fish from him.

It is important to note that the first user of something is not necessarily the victim in any conflict. If you are standing somewhere and your neighbor absent-mindedly stumbles into you, then he is causing the conflict. However, if you purposefully hide yourself in his path so that he will collide with you, then clearly you are the aggressor, even though you were there first.¹⁸

V. Transfer

Human survival depends on gifts and exchanges. However, an individual may want to allow someone else to use an object that he owns in a specific way or for a limited period of time without giving up total control. In order to retain ownership, he must continue to use the object. In order to loan it, his use must be compatible with whatever use the other individual will be making of it.

For example, suppose you are the owner of a hammer. This means that you are using the hammer in a way that is mutually exclusive with all uses of the hammer. Now, if you want to lend your hammer to your neighbor for a day so that he can repair his house, you must take a different action so that his actions will not cause conflict.

You do not want to give up the hammer permanently, so you would not simply stop using the hammer. Your new use would be to lend it to your neighbor for a day, which is clearly compatible with your neighbor using it to repair his house until tomorrow. Now, if you go to use your hammer the next day, but your neighbor continues to use it, then he is causing conflict. Even though he was using it before you came to take it away, it is clear that he is responsible for the conflict.

Likewise, if you were to interfere with your neighbor's use of the hammer before the agreed upon time was up, you would be causing conflict. Now, it is certainly possible for you to narrow the range of actions available to your neighbor so that you can resume use of it whenever you like or any other condition. You might only allow for certain uses of the hammer, such as pounding soft materials that will not damage it.

¹⁸This can also easily happen when norms are ignored or intentionally abused.

Similarly, an exchange is a coordinated set of transfers. Each party agrees to a set of intended actions. These actions would presently lead to conflict, but each individual first adjusts his actions to facilitate the exchange. In this way, authority over various actions is transferred to each party in the exchange.

For example, say you are swinging from a tree limb, and your neighbor walks up with some fruit. He says that he would like to swing on your tree limb. You indicate that you would like to eat his fruit. You both agree to trade. If all goes according to plan, then you would stop using the tree limb and he would give up the fruit. Then you could eat the fruit and he could start swinging without causing conflict.

Suppose your neighbor does not give up the fruit, but starts swinging on the tree limb anyway. Now, if you were to try to eat the fruit, there would be conflict. However, you would not be causing the conflict -- your neighbor would be the perpetrator. He would no longer be delegated rights over the fruit. On the other hand, you would be delegated a right over the fruit and would be justified in taking it by force, if necessary.

Similarly, you could offer your neighbor some money to sing a song. If he does not take the money, then no conflict occurs. If he takes the money and sings, then no conflict occurs. If he takes the money and does not sing, then he is taking an action that is incompatible with your use of the money and is causing conflict. If he sings but you do not let him take the money, then you are causing conflict. In other words, if you offer your neighbor money to sing, then the only use to which he can put the money that is compatible with your use is to take the money and sing.

VI. Coordination

When an individual knows what actions others are taking, he can avoid causing conflict while using objects that they own. Such coordinated actions do not need to be explicitly communicated ahead of time. As long as an individual knows the preferences of others, he can utilize objects that they own without violating the NAP.

The reason that preferences are important is because they correlate with the action being taking, which then defines what actions will cause conflict. If you put your apple on the ground, you might be using it as bait, trying to grow a tree, or perhaps just abandoning it. Others must speculate on your preferences to decide what actions are available to be pursued.

If you are trying to grow a tree, you might prefer your neighbor to bury the apple, i.e., your neighbor burying the apple would be compatible with

your action. If you were using it as bait, then you would not prefer him to bury it. Since the compatibility of actions is based on the preferences of the owner (demonstrated or otherwise), the only way to know what actions are available is through understanding. Observation, communication and norms all aid in this process.

If someone is about to bowl, it is clear from norms that he is using a certain amount space around him. If he were simply standing in a line, or in a crowded elevator, it would be understood that he is using less space. In the second case it would be acceptable to stand close to him, while in the first one it would cause conflict.

So, coordinating actions with others requires an individual to have empathy, or follow norms, in order to understand what others want them to do. It is an entrepreneurial function because it is not always clear from overt acts what action an individual is taking.

Conclusion

Human action is purposeful behavior, and when an individual chooses a peaceful course of action he should be able to pursue it without interruption. Each individual should have exclusive control over his own actions, so long as those actions do not interfere with the actions of others, i.e., everyone should be free.¹⁹ Therefore, property is action that does not cause conflict. A property right is not unilateral control of a physical entity, but rather a right of way over incompatible actions. It is the right to be left alone. A libertarian upholds this freedom of association without exception.

Every action is an attempt to achieve happiness. To obstruct an action is to condemn another individual to discontent, to inflict misery upon him. Aggression can vary in magnitude, from battery to petty theft, but it is always

¹⁹Rothbard, *The Ethics of Liberty*, p. 33:

We have seen that Crusoe, as in the case of any man, has freedom of will, freedom to choose the course of his life and his actions... If a man's free will to adopt ideas and values is inalienable, his freedom of action—his freedom to put these ideas into effect in the world, is not in such a fortunate condition. Again, we are not talking about the limitations on man's power inherent in the laws of his own nature and of the natures of other entities. What we are talking about now is interference with his sphere of action by other people... Suffice it to say now that, in the sense of social freedom—of freedom as absence of molestation by other persons—Crusoe is absolutely free, but that a world of more than one person requires our further investigation... we shall be interested in the term "freedom" in this social or interpersonal sense, rather than in the sense of freedom of wills.

of the same evil nature. It is death inflicted in various degrees. An individual's life is continual action and to disrupt any one of those actions derails his life in an irrevocable way. Recognizing this, a libertarian eschews aggression.

Scarcity requires humans to choose their own adventure in life. Not every book can be read. Yet, while not every person can be met and made a friend,²⁰ a libertarian respects the lives of all others and will not suppress them. Such a philosophy leads to a way of life in which human interaction is voluntary. This leaves each individual free to pursue his dream, subject only to natural law and the consent of those with whom he shares his brief time.

²⁰Except, of course, the friendship of all those who cooperate in the market.