

MAN AND MATTER: HOW THE FORMER GAINS OWNERSHIP OF THE LATTER

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1. Acquisition of Property

WHAT IS THE CONCEPTUAL BASIS OF PROPERTY RIGHTS IN LAND, and how can such rights be justified ethically? This question is of immense philosophical importance, since property in land is a fundamental part of any society, land being the ground we walk and live on. Yet, there is no generally acceptable philosophical explanation as to *how* property in land is rightfully acquired and therefore why certain areas should be considered someone's rightful property.

The most famous and influential of land property acquisition theories is probably the theory of Locke, as formulated in *Two Treatises of Government*. This theory is based on the axiom of an originally unowned world¹, which

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¹ According to Locke the world is "given [...] to Men in common" by God. But the implication of this commonality is that, even though "no body has originally a private Dominion," there "must [...] be a means *to appropriate* [parts of the world] some way or other before they can be of any use" (1988:286). Thus, every man is given a common *right*

can be acquired through being the first to mix one's labor with the unowned matter (cf. Waldron, 1988:177; Olivecrona, 1974). It does not however provide a clear chain of arguments for a) why the earth is originally unowned, b) why property rights are acquired for previously unowned matter through mixing property with non-property (i.e. work with matter), and c) how much work is necessary to acquire property rights.

Also, Locke's theory contains an ambiguously formulated restraint in claiming that there should always be "enough and as good" land left (Locke, 1988:288), for others to acquire, when ownership has been earned. As Nozick (1974:175-176) shows, this means in fact that there can be no property acquired at all, since each acquisition of property is part of a trend toward a situation where there is *not* "enough and as good" left².

There are many philosophers who to some extent disagree with Locke. John Stuart Mill (1999:26, 37-38; cf. Macpherson, 1977:52-53) agrees that the foundation of property is production, but draws the conclusion that land, since it must be originally unowned, *cannot* become property. The theory of George (1979) identifies property in land as a legal entity only, and claims that land rent (increased value not directly caused by the labor of the owner) is a product of society and thus should be redistributed to society through taxation. Still others, such as Proudhon (see e.g. 1994:57), claim that property in land is possible only through direct possession and thus limited to what each individual can *use*.

As we can see then there is much disagreement on what property in land philosophically is or isn't, and how it can be justly acquired—if at all³. The popular view of property in land seems to, at least to some degree, follow Lockean property theory, but that is of course subject to interpretation. In this study we look into the philosophical complex of problems, and focus on the philosophical derivation of property in land from self-ownership as a starting point. It is thus the purpose of this study to

to appropriate parts of the world as private property; commonality therefore implies the world is *unowned* (cf. section 3).

² The Lockean proviso is subject to interpretation. Another view, that "enough and as good" is available through trade rather than original appropriation, is argued for by Schmidtz (1990).

³ Cf. Carson (2004:196-238), who argues it is not possible to choose between the positions on first principles; instead, one needs to adopt a utilitarian view to conclude which theory is "correct."

analyze *how* property in (or ownership of) land can be justified from a characterization of self-ownership.

2. Objectivity in Normative Science

Normative reasoning generally tries to establish conceptions of what is right and wrong. It is thus an ethical logic attempting to establish what *should* be (cf. Rothbard, 1997:70), and therefore normative analysis is commonly deemed “non-scientific”⁴. Some conversely claim that science is *never* value-free (cf. Rothbard, 1997:19-23), which means there is no fundamental difference between normative and empirical science. Also, it is claimed that a rational or objective ethic is possible (see Snell, 1988; Sprigge, 1991; cf. Rasmussen, 1992:4), meaning it should be possible to scientifically discover whether a normative conception is true, i.e. if a moral position is *right* or *wrong* (cf. Malnes, 1997:91).

2.1 Problems of Communication

Part of the problem of normative science is its reliance on communicating ideas and values. Communication is troublesome due to the fact that it necessarily takes place between people in order for it to be understood, and therefore is subject to interpretation. Also, a message typically includes a number of elements that are vital to understanding, but which are never or seldom explicitly expressed. The message communicated is thus the expressed data (logos) *including* the situation in which it is expressed: at least the person who communicates the message (ethos) and the communicator’s perception of the person who receives the message (pathos) may need to be considered (Ramírez, 2003:59). The expressed message must consequently be formulated so as to provide clues as to what is implicit in the communication process, meaning the explicit data need to reflect the communicator’s perception of ethos and pathos as well as additional contextual factors.

Communicating a philosophical and value-based message is especially troublesome, since it necessarily includes terms and elements rather diffuse,

⁴ Max Weber proscribed a scientific view characterized by *Wertfreiheit*, where objective science should not make value judgments (being subjective by nature). Political science must thus be unscientific, since political objects “exist only in the realm of human opinion” (Jaffa, 1960:259) and therefore are based on individual and collective value judgments.

making the message all the more dependent on its interpretation and thus on its implicit content. Dealing with values and assessments demands carefully defining and stipulating terms and concepts in order to avoid logical and interpretive fallacies. Imported assumptions and understandings could possibly be in error or cause misconceptions. Here, a complex of problems arises from the fact that the defining process must include other terms (cf. Wittgenstein, 1972:10e; Wittgenstein, 2001), meaning the ambiguities and limitations of language become evident.

Such a predicament cannot be entirely overcome since it is inherent in the *modus operandi* of communication. But a message can to a certain extent be “disambiguated” through consciously striving to avoid ambiguities or implicit connotations. Conscious attempts to reduce the risk of using arguments and reasoning reflecting the values, considerations, or bias of the author could make possible communicating a message “stripped” from preconceived notions and understandings, and thus the risk of misconceptions may be kept to a minimum.

In part, a message can be clarified, and misconceptions avoided, through explicitly stating the sender’s fundamental points of departure. For a philosophical and normative “message” expressed in a scientific study, such information should include basic standpoints on value theory and knowledge theory, as well as assumptions and presuppositions, and methodological constraints and implications.

2.2 Value Theoretical Perspectives

In this study the ethical is not interpreted as something necessarily arbitrary or groundless, but something derived from reality through reason; a person acts according to his perception of reality, his values, and the identified alternative courses of action. Values in such an ethics are conditional rather than intrinsic⁵, because they necessitate the use of reason to make choices and draw conclusions about reality; they necessitate a subject identifying them through a conscious act of evaluation. Also, values are not subjective since they are derived from and based on reality as it is; they are in this sense *objective*⁶ (Peikoff, 1991:248; cf. Cunningham, 1973:7-12). The study

⁵ Intrinsic here means “that things have value in themselves” (Mises, 1990:59), of which man can learn without having to use a cognitive method (cf. Peikoff, 1991:245-246), rather than being valued as ends or in their own right (cf. Vedung, 1982:192).

⁶ Morality is here the identification of values as constructive or destructive rather than right or wrong: “the good is [...] *an evaluation* of the facts of reality by man’s

of such “objective” ethics must not itself be evaluative, and could consequently be considered scientific in the sense that the object studied is directly derived from reality.

But *why* should values be considered existing and objective? Because nihilism must be false since values are derived from reality⁷. Emotivism⁸ must also be false since it is necessary for the subject to use reason in order to identify those values. It is true that individuals consciously try to match emotions to the nature of the circumstance (Malnes, 1997:99-100; Peikoff, 1991:159-163), but this should be viewed from the fact that even emotional outbursts are based on the understanding of a *real* situation (Malnes, 1997:99). Values are not subjective or relative—they are identifications of objects or actions that either advance man’s life or threaten it, the former being constructive or moral and the latter destructive or “immoral” (Peikoff, 1989; cf. Wreen, 1998). Since both constructive and destructive values exist, morality must be “a code of values accepted by choice” (Rand, 1959:940)—principles that define how to sustain human life (Copleston, 1955:204-205; Peikoff, 1991:214). In other words, “the good” is a form of recognition of reality and what is *true*, meaning values are a type of facts (cf. Durkheim, 1938:18; 1953:63).

The methodological point of departure is thus here *praxeological*⁹ in that it studies the individual man acting to achieve goals rather than collective abstractions, and it is *objective* in the sense that what is studied is a number of “fixed” values (cf. Malnes, 1997:96) derived from reality through reason.

2.3 *Studying the Normative*

consciousness according to a rational standard of value. [...] [*The good is an aspect of reality in relation to man*—[...] it must be discovered, not invented, by man.” (Rand, 1967:22)

⁷ Here values are identified through the evaluation of facts of reality using reason. They are in this sense *real*.

⁸ Emotivism is the view that values are *feelings* (Malnes, 1997:94; cf. Peikoff, 1991:160-161), which is contrary to the reason-based evaluation of facts of reality.

⁹ The praxeological method for the social sciences is based on a number of axioms: that individual human beings exist, that they *act* rather than move, that they order their values and ends in a hierarchy, and that they have technological knowledge to achieve their goals. (Rothbard, 1997: 32; cf. Mises, 1996; Rothbard, 2004)

We have already established that values are derived from reality through the use of reason, meaning what is “good” is a conception of values that are *constructive* in the sense that they advance man’s life. Such values are reasons for the individual to act (or not), meaning the reasons must be true regardless of how they are interpreted in terms of good and bad. But the true nature of the reasons, i.e. whether they are truly good or bad, may be lost in the interpretation process. Making a decision on whether to act is based on both the circumstance and one’s condition; the decision-making process includes deciding on whether to give justificatory weight to one’s desires or rely solely on the objective situation. The distinctiveness of man’s personality and desires may blur his conception of reality resulting in him acting on “wrong” information. He must therefore examine the truthfulness of what is conceived in order to sort out or revise untrue or erroneous desires and reasons (Malnes, 1997:104; Nagel, 2001:208-209).

In this situation of decision-making man needs to decide what he ought to do, meaning he needs to figure out what is the *right* course of action (if any). The “ought” can only be found through the use of practical reason—by separating the objective from the subjective, i.e. the observable facts and derived values from what are non-facts and non-true. What is happening is that “[o]ne is trying to decide what, given the inner and outer circumstances, *one should do*—and that means not just what *I* should do but what *this person* should do. The same answer should be given to that question by anyone to whom the data are presented, whether or not he is in your circumstances and shares your desires” (Nagel, 2001:110). Identification of what “ought to be” can thus be objective if, and only if, what is dependent on the specific person can be disregarded (Malnes, 1997:105).

We can therefore conclude that objectivity in normative science can be discovered “by stepping outside of ourselves and constructing and comparing alternatives” through which “we can reach a new motivational condition” (Nagel, 1989:140). From the point of view of this new condition of “detached self-observation” (cf. Nagel, 2001:112) we can make *considered* judgments (cf. Rawls, 2001:29-30), i.e. judgments made at the peak of our capacity of judgment and exonerated from personal bias, and therefore non-affected by distorting influences. Objectivity in a normative statement can thus be identified through entering a Rawlsian “original position”¹⁰ (Rawls, 2001:14-18; Rawls, 1973:17-22).

¹⁰ The original position’s characteristic feature is the “veil of ignorance” (Rawls, 1993:24-25), where particular features and circumstances which can distort judgment have been removed.

The idea that the original position makes possible “objective” judgments is similar to the method of Descartes¹¹ (cf. Descartes, 1985). The latter aims to “give us the unimpeachable guarantee of truth” through increasing “the ‘natural light of reason’ within ourselves” (Beck, 1952:17; cf. Strauss, 1961:144-145); disposing of personal bias means entering a state of “pure” reason. It is therefore the capability to use reason that is the key to making objective judgments and thus establishing the objective normative (cf. Rawls, 2001:29).

2.4 Nature of Reasoning

Philosophically speaking, one may state that there are only two ways man can learn of truths: they are either “known directly and of themselves” or can only become known “through the medium of other truths” (Mill, 1950:8). Truths of the first kind are self-evident facts such as existence, which cannot be denied rationally, and facts directly observed through the senses¹².

The other kind necessarily has to be grounded on a truth of the first kind, meaning it has to be established, i.e. determined or concluded, through reasoning from the premise. Truths of this kind are thus inferred from axioms¹³ and are as true as the axiom itself if reasoned according to the rules of logic, which make “explicit the structure of methods and assumptions employed in the search for reliable knowledge in all fields of inquiry” (Nagel, 1956:ix).

Logic is concerned with what is true and how we can know whether something is true. It is a structured way of formalizing arguments and proofs in terms of symbols representing propositions and logical connectives, based

¹¹ Descartes did however distinguish between “the faculty by which our intellect intuitively and knows things and the faculty by which it makes affirmative or negative judgments” (Descartes, 1985:45), a distinction which is implicitly discarded as irrelevant in section 0.

¹² One may argue that it is not a directly known fact that “this thing looks brown”; it is an *interpretation* of reality. But the interpretation is necessarily based on axioms such as “what I see exists.”

¹³ “[A] proposition rises to the status of an *axiom* when he who denies it may be shown to be using it in the very course of the supposed refutation” (Rothbard, 1998:32). The characteristic of an axiom is that “if a man cannot affirm a proposition without employing its negation, he is not only caught in an inextricable self-contradiction; *he is conceding to the negation the status of an axiom*” (Rothbard, 1979:8).

on a set of rules assumed to be self-evident. Logic is a structure or system for reasoning, itself based on apparent axioms such as the Aristotelian “Principle of Non-Contradiction” (cf. Politis, 2004:122-126; Yates, 2002).

Even though logic can be seen as the “science of science” (Mill, 1950:12) it should not be considered a method for reasoning; it is not a guide showing “how” to reason, but distinguishes the valid elements of one’s reasoning from the ones which are not. Logic is therefore “the common judge and arbiter of all particular investigations. It does not undertake to *find* evidence, but to determine whether it *has been* found” (Mill, 1950:11; emphasis added).

To summarize, reasoning is the method for generating knowledge about reality through logically deriving new [dimensions of] knowledge from self-evident premises. It is the formulation of an argument, a statement or a set of statements, offered as support for another statement—of which the supporting statement is the true premise or reason and the supported statement the claim or conclusion (Vedung, 1982:95; cf. Jenkin, 1955:15-16). Normative science could thus be defined as logical reasoning to find the *objective reasons*¹⁴ for x , where the reasons in effect are the identification of real constructive or deconstructive values.

2.5 Implications

This study is fundamentally normative in that it is philosophical and thus has the structure of an argument. It seeks to find a reasonable justification for landed property through the logical derivation of argument from a characterization of self-ownership. The function of this characterization is here the same as the premises discussed in section 0: it seeks to support the ownership claim through granting it legitimacy through logical reasoning from a point of factual or argumentative truth. It differs, however, somewhat from the discussion above in that the premise is not a self-evident axiom. Instead, it is itself a statement, which is argued for from established scientific facts about the nature of man.

The argument consists essentially of three parts, each of them being an indispensable part of the totality of the argument. The characterization of self-ownership is the premise, which is based on an argument emanating from both the physical facts and values of what characterizes man. The

¹⁴ Cf. to Davidson’s discussion on the *reason* for someone to do something (Davidson, 1963).

reasoning then strives to infer and thus justify ownership of land; landed property with salient features supported by the characterization of self-ownership is the conclusion.

The nature of this study is thus a philosophical or normative argument which aims to show *how* landed property can be justified. It is normative in that it argues from the point of view of a general hypothesis that landed property *is* justified. The purpose is thus to validate the “ought” through proving the justifiability of a theoretical normative-constructive dimension. In focusing the theoretical structure of constructive aspects of ownership the argument brings about certain salient features of landed property that *can* be justified by self-ownership. The nature of landed property in this study is thus unreservedly contingent on the inference from self-ownership and does not necessarily correspond to the conventional perception of property rights in political philosophy. It need however, to some extent, be based on the common understanding of ownership as just-control rights (cf. Brenkert, 1998:48; Hoppe 2004:6-7).

In a sense, this study implicitly aims to test the hypothesis that landed property is a constructed value, the features of such property however, being unknown. The explicit method of reasoning is still the use of logic to infer true conclusions from a true premise: a logical-deductive method (Jenkin, 1955:15-18). The validity of a properly inferred conclusion using this method is totally dependent on the validity in its initial premise. The main problem to the logical-deductive method thus lies in this dependence rather than the method used to infer conclusions (Jenkin, 1955:16). This implies that the proper way to criticize a study of this type is to find irregularities, inconsistencies, contradictions or unrealistic assumptions in its premise. (The assumption here is of course that the conclusion is properly inferred, i.e. argued strictly according to the rules of logic.)

As we have seen, the truthfulness of the premise is vital to the argument. If it can be proven to be false, the argument cannot establish a true conclusion—even if it is argued strictly according to the rules of logic¹⁵. If all attempts to falsify the premise fail, it must be considered true, or at least *corroborated* (Popper, 2002a:273-276; cf. Oldroyd, 1986:306-309). The validity of the conclusion should then, if inferred properly, be established. Thus, in a logical-deductive study only the truthfulness of the premise and the

¹⁵ It is of course *possible* that a false premise and bad reasoning may lead to a true conclusion. But when so, the result is an irregularity—the argument cannot establish this truthfulness.

compliance to the rules of logic in the reasoning are subject to falsification. The conclusion may appear unintuitive or even unreasonable (perhaps absurd), but that does not essentially compromise the validity of the study—rather, it directs attention to the possibility of overlooked inaccuracies in the premise or the reasoning emanating from it.

Criticism directed towards the conclusions of a logical-deductive study can be based on a moral appraisal of its *consequences*, but the implications of conclusions may not have anything to do with causally induced states of affairs. Also, criticism aimed at the conclusions of a study could also be interpreted as an implicit critique of an assumption that what is logically deduced from a true statement is also morally right¹⁶ (cf. Jenkin, 1955:17). Deeming a proper conclusion immoral must however be considered unscientific unless the logical chain itself or its premise is proven invalid. Unless it is claimed that logic as a method is itself invalid, a study based on the logical-deductive method can be falsified only in a) the truthfulness of its premise, and b) the logic in the reasoning.

So what can be proven through such a discussion, where the argument's three parts can only be criticized or falsified if the parts are inherently inconsistent? The argument is an attempt to show how landed property can be sufficiently justified by self-ownership, and in what sense it can exist given a certain characterization of self-ownership. The purpose of the argument is this: to provide a logical rationale for landed property given self-ownership.

3. Self-Ownership

As we have seen, it is fundamentally difficult to objectively define concepts and terms in communication (section 0). This difficulty of defining terms is yet more obvious in compound words such as self-ownership. Compounds can inherit meaning from the simple words individually or in combination, or have a distinct meaning different from the respective comprising terms (cf. Semenza, 2000:221-223). The meaning of a compound can thus be sought in each of its comprising words, the logical composition of the words, or another meaning having evolved through its traditional use or cultural particularities (cf. Weatherby, 1939:413).

¹⁶ A conclusion, deduced from a true statement, need not have anything to do with the common conception of morality.

The compound *self-ownership* could thus be defined using at least two methods, where one is to define the individual simple words *self* and *ownership* and seek a logical explanation to how the values can be combined to create a new and meaningful distinct meaning. The other would be to find the meaning of the compound through its use in the philosophical discourse.

Using the first method we would need to find objective or universal definitions to the simple words in order to define the compound. Of the two terms, ownership is fairly straightforwardly defined lexically as “the state, relation, or fact of being an owner,” where owning is defined as “to have or hold as property,” or “to have power over” (Merriam-Webster dictionary). In the philosophical discourse, ownership of an item x is usually defined as “to have the *right* to determine the disposition/use of x as [the owner] sees fit—[the owner] has a veto over anyone else’s use of it” (Narveson, 1998:7) or “to have the rights to sell, use, control, manage or even destroy what one owns” (Brenkert 1998:50; cf. Jedenheim-Edling, 2003:31-51). The ownership right to an object is thus not limited to direct physical possession, but the object must be considered “mine” even if it for a moment is not directly in my control. Nor is ownership of an object limited to the property *right*, one has to “both own it and [be] able to have it physically in [one’s] power” (Williams, 1977:32). Ownership is “the mode of having something external to myself as my own” (Kant, 1965:51), a sense of justified control of the object, its properties, use, and placement.

Even though there may be tensions within the discussion as to what constitutes ownership, concerning to what extent the right can be justified, the fundamental meaning of ownership is in essence undisputed. This is quite the opposite of the situation in the discourse on what comprises the *self*—and how it is valued.

3.1 *The Self: a Ghost in a Machine?*

In Plato’s dialogue the *Phaidon*, Socrates claims a philosopher must seek death in order to see the truth; real truth cannot be obtained through the senses. To see the eternal truth one must see with the soul, since truth exists only in beautiful forms in a world which is endless and unchanging. It is thus very different from the physical world’s defective and faulty matter, which is ever striving to reach the perfection of the forms—but can at best get “close.” Man is consequently but a part in matter’s evolution toward perfection, and therefore cannot seek knowledge of the truth in this world.

This dualism is also a fundamental part also in the Aristotelian theory of the world, which is divided into the sub-lunar sphere (equivalent to Plato’s world of matter) and the ether (perfection) beyond the moon. Such dualism is

still a common view in religion¹⁷ and Western society. In philosophy it is often referred to as the “mind-brain problem,” the separation of personality, identity, and the soul—the metaphysical self—from the functions and operations of the physical brain (cf. Beck, 1952:22-30).

The crux of the mind-brain problem is what constitutes consciousness (Nagel, 1974:435), i.e. the fundamental difference between the metaphysical and physical, of being *for* itself (separate from the body) and being *in* itself (inseparable from body). In the former, a non-physical consciousness brings about introspection, rationality, and evaluation processes, while it is the lack of such consciousness that makes the latter “simply” matter. This dualism leaves only two positions of principle possible in the analysis of man and what constitutes his self: he is either mind *or* body¹⁸, using the terms in the same sense as above.

Analyzing the possibility of mind as a metaphysical existence not bound to a physical existence or limited by laws of nature raises problems, since it cannot be studied in accordance with accepted criteria for science (cf. Popper, 1965:33-39; Popper, 2002a)¹⁹. Instead, such “supernatural” existences are deemed non-scientific (Popper, 1972), or *religion* rather than science (cf. Draper, 1927; Russell, 1997; White, 1993). This approach does however offer an explanation for the mind-body dichotomy. It proposes a rather platonic dualist view in which the body (matter) is ruled or managed by an unworldly spirit (form): an idealistic metaphysical view of the self as an agent in a physical body—a ghost in the machine (cf. Castell, 1965).

¹⁷ Cf. the Christian conception of worldly and heavenly existence, and the body-soul dichotomy.

¹⁸ The example not may be thoroughly intuitive. Consider, for instance, the dichotomy freedom-rule, where rule means another person is restricting one’s actions and freedom is the absence of rule. Hence, either one is in a state of total freedom, where one’s choices are *not* restricted by someone else, or one is restricted to *some* degree. It should be obvious that 99.9 % freedom and 0.1 % rule is still necessarily simply *rule*, since rule is the imposing negation of freedom.

¹⁹ “A theory which is not refutable by any conceivable event is non-scientific. Irrefutability is not a virtue of a theory (as people often think) but a vice” (Popper, 1965:36). (Popper later introduced a concept for intellectually respectable, however not falsifiable, studies: *criticizability* (Popper, 2002b:22).) Compare the definition of “scientific” with Popper’s own dualist world view (Popper, 1972:153-190; Popper, 1984:36-50).

A physicalist view (cf. Broad, 2000; Stoljar, 2001) is much more appealing from a scientific point of view, since it makes possible the scientific study of man and social reality according to the standards of science set forth by Karl Popper. This view is all the more scientific when considering e.g. Charles Darwin's theory of evolution²⁰.

This rather deterministic view²¹ of the world does, however, have to prove the origin and [physical] structure of consciousness²², in a non-spiritual sense, which evidently exists²³. It therefore incorporates what one might call a "diet" version of the mind-body problem, where causality in its most complex form generates life and consciousness. But how?

Nagel formulates a theory of consciousness as the subjective character of experience. It is the compounded individual [subjective] experience that generates identity, meaning "an organism has conscious mental states if, and only if, there is something that it is like to *be* that organism—something it is like *for* the organism" (Nagel, 1974:436). It is not possible to understand the situation of another being in full, simply because one cannot have *the very same* experience. Mises makes the same point when claiming that man is "a product of the whole history of the universe" and that "[a]ll his actions are the inevitable result of his individuality as shaped by all that preceded" (Mises, 1962:57)²⁴.

²⁰ It is claimed life is originally a product of nature (matter) and all species a product of natural selection through the "struggle for survival" (Darwin, 1995). Darwin explicitly stated that "[m]an still bears in his bodily frame the indelible stamp of his lowly origin" (1882:619).

²¹ It is deterministic (foreseeable) in that changes are strictly causal according to the laws of nature, and thus a change or movement requires some other change or movement to be its cause.

²² The concept of consciousness is here used in the sense of a being's ability of self-identification, decision-making, and reflection.

²³ The existence of consciousness as ability of identifying one's "self" as separate from the external world and the basis for reflection is self-evident. Consciousness is the base from which it must be refuted; one has to use one's consciousness to claim the non-existence of consciousness.

²⁴ This is in essence a rebuttal of the existentialist view that existence precedes identity and the Platonic view that identity (form) precedes existence. It is in essence a rather Kantian synthesis of Cartesian rationalism and Humean empiricism. According to this view existence (the empirical) and identity (the rational) cannot exist one dependent

As we can see, the directly congregated experience and all that which is inherited effectuates *consciousness*, which provides a tool for evaluating one's experience in order to avoid future mistakes. Thus, man *learns* and creates conceptual knowledge, which is crucial to his survival (Rand, 1989:21; Rothbard, 1998:31-32). All man's conscious responses are directed by his understanding of the particular circumstances of time and place (Mises, 1962:47), meaning he is using this conceptual knowledge in order to maximize the outcome of the situation. His "[u]nderstanding presupposes and implies the logical structure of the human mind with all the a priori categories" (Mises, 1962:47). The function, or the logical structure, of consciousness is however not automatic: man explicitly has to choose to rely on it—or simply disregard it. It is nevertheless vital to his survival that he chooses to use his perception and understanding of the external world when choosing between incompatible ends (Mises, 1962:57; Thomas, 2003).

What is commonly referred to as "free will" is here based on this fundamental choice to rely on one's subjective experience and the understanding of the world it effectuates. It is this ability to consciously direct attention to certain problems or activities (Thomas, 2003) that distinguishes man from other species: man's "consciousness is *volitional*" (Rand, 1989:21). The self can thus be seen as "the faculty that perceives reality, forms judgments, chooses values" (Rand, 1985:50). As we can see, consciousness is not a "ghost in a machine," and what constitutes self is not a spiritually characterized agent—a devout existence causing personality, character, person, and identity²⁵.

In essence, consciousness is rather a vital bodily function guiding and controlling its actions in accordance with its accumulated and conceptualized experience—lived and inherited (cf. Foucault, 1991:195; Jenkins, 2005:8). Consciousness is not a product of but *is* physical processes in the body, and therefore it cannot be separated from the physical body. The conclusion we may draw from this is that mind-matter (or soul-body) dualism is false and therefore must be rejected. Man's self is his own perception of being, i.e. the life he lives and chooses to live.

3.2 *Self-Ownership: a Manifestation*

on the other—they are two sides of a coin and necessarily exist *together* (cf. Rand, 1961:30; Wittgenstein, 1965:17-18).

²⁵ Consciousness can make it intuitive for the creature to identify self as distinct from body.

The common view of self-ownership is based on the dualist identification of man: self and body separate, yet dependent on each other. The view of self *being* body and vice versa fundamentally changes the setting.

With Kant's definition of property as something necessarily external to self (Kant, 1965:51), it follows that one's body or self cannot be one's property: we *are* the self. Hence the conclusion that "[m]an cannot own himself" (Cohen, 1995:212; cf. Attas, 2000:11-15; Brenkert, 1998:50-52), which corresponds with Kant's explicit rejection of self-ownership: "someone can be his own master (*sui iuris*) but cannot be the owner of himself (*sui dominus*) (cannot dispose of himself as he pleases)" (Kant, 1996:56). But Kant's statement should not be interpreted literally: self-ownership as the exclusive right to self is generally supported by Kant's theoretical framework and more specifically by the Categorical Imperative (Taylor, 2004; cf. Cohen, 1995:211-213; Kant, 1996:31).

The meaning of self-ownership according to the first method in section 2 is thus to have a sense of justified control of one's being (consciousness and body), its properties, use, and placement. Let us now investigate whether this lexical meaning of self-ownership is tantamount to the definition used in the philosophical discourse, i.e. if there is a generally accepted meaning of self-ownership, both etymologically and philosophically applied.

3.2.1 Self-Ownership in the Philosophical Discourse

Self-ownership is used quite homogeneously in the philosophical discourse, with most authors using their own version of, or simply referring to, Locke's definition stating that, "every Man has Property in his own Person. This no Body has any Right to but himself" (1988:287; cf. Nozick, 1974:171-172). Even though Locke's self-ownership definition is rather ambiguous²⁶ it is usually interpreted to mean an individual's natural right to control his self, i.e. sovereignty and autonomy of the individual (cf. Waldron, 1988:398; Rothbard, 1998:31). It is used extensively as an axiom or argument in philosophical discussions because of its intrinsic attractiveness and intuitive force (Christman, 1991:28; Lloyd Thomas, 1988:9; cf. Rothbard, 1979:8). Only a few regard self-ownership unsatisfactory as a philosophical argument; most writers either assume self-ownership as their own argu-

²⁶ Waldron (1988:178) discusses Locke's use of "person" claiming it means "personal identity," which is quite distinct from both "man" and "body."

ment²⁷, or try to undermine its relevance or moral vigor²⁸ in order to find support for their own points of view.

Even though the essence of self-ownership, a “full liberal ownership”²⁹ (Fried, 2004:75) of one’s mind and body, is generally recognized, the extent and implications of that ownership may sometimes differ greatly. It is obvious that the extent of self-ownership in the philosophical discourse is not easily settled; it is not a perfectly clear statement with natural, self-evident boundaries.

Most would agree with Nordin (1992:22) that self-ownership implies the right to think and act freely as long as that does not violate other people’s equal rights (cf. Christman, 1991:28). Others find this very definition problematic, claiming such an atomistic view of man is fundamentally erroneous—man’s self and his abilities are, at least to some extent, shaped by society. Our actions are not only a product of the self, but are normally guided or caused by our moral understanding of the effects of our actions, which is originally formed collectively. We are thus dependent on society for our existence—what we *are*—meaning a radical interpretation of self-ownership is both unproductive and divorced from reality. The major question about the notion of self-ownership is not if one has a right to one’s self or not, but in the extensions or limits of that right: the distinction between what is *me* and what is *mine* (cf. Attas, 2000), and whether the distinction is important³⁰.

In making this distinction important, and through claiming the right to *me* but not to *mine*, the apparent individualist nature of self-ownership is

²⁷ E.g., libertarians use self-ownership as an argument for unrestricted private property, while Marxists use it to prove the worker’s natural right to the fruit of his labor.

²⁸ Cohen (1995:68; emphasis added) consciously describes self-ownership using words with a negative ring to it, as a state where “each person possesses over himself, as a matter of moral right, all those rights that a *slaveholder* has over a complete *chattel slave* as a matter of legal right, and he is entitled, morally speaking, to dispose over himself in the way such a *slaveholder* is entitled, legally speaking, to dispose over his *slave*.”

²⁹ Full liberal ownership means to control something free of coercive interference (cf. Rothbard, 1997:280; Waldron, 1988:398).

³⁰ Fried (2004:67), Kant (1991:72) and Nozick (1974:171-172) claim self-ownership implies a natural right to property. In contrast, Attas (2000:15, 19) and Christman (1991:39) claim it does *not* imply rights to external objects. Cohen (1995) merges these views in claiming every self-owner’s equal right to (joint) property.

compromised. In effect, such a distinction conveys that the person has a right to self, but not necessarily to his thoughts, abilities or actions—even less any material outcome of his achievements. Despite the commonly held view that self-ownership must include property rights to objects external to self, some maintain self-ownership is unwarrantedly circumscribed by *any* private property rights (cf. Jedenheim-Edling, 2003; Cohen, 1995). The result of this reasoning is an egalitarian self-ownership ideal, in which the values commonly advocated as parts of the concept are inverted: society or the collective is ascribed greater value than the individual³¹. Thus, the distinction undermines the Kantian imperative to consider each man “never simply as a means, but always at the same time as an end”³² (Kant, 1991:91; cf. Pufendorf, 1991:61-62).

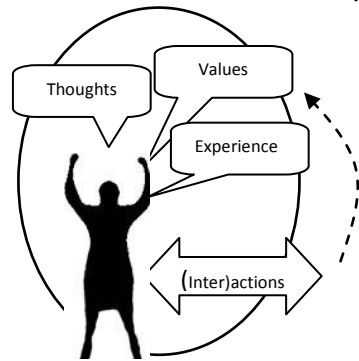


Figure 1 Man as *being*

This egalitarian self-ownership definition may seem innately contradictory in advocating self-ownership or sovereignty while simultaneously excluding the actions of the self-owner and eradicating the effects of actions. The individual self-owner is consequently impeded in his self-ownership (Narveson, 1998; O’Keeffe, 1992; cf. Brenkert, 1998), which raises the question *why* self-ownership is vindicated. On the other hand, it can be argued that private property is too a severe impediment to exercising self-ownership since it means both a) a right to use an object, and b) a right to exclude others from such use (Nordin, 1992:23; Pufendorf, 1991:85; cf. Nozick 1974:171, 282).

3.2.2 *A Synthesis: The Composition of Self*

³¹ This distinction between individual and collective is rather problematic when taking power structures and other political implications into account. Politically, the distinction is commonly referred to as that which is private vs. public (cf. Bexell, 2005:43-52).

³² This is generally interpreted as individuals’ negative rights (cf. Nozick, 1974:30-31). Cohen (1995:239) does however claim it should include concern toward each individual, and others, like Raz (1986:145-48), claim it could also include forcing people to comply with “moral duties.”

We have already shown that man's self is no "ghost in a machine"; instead, the self is the conscious *being* of the individual. It encompasses what Locke refers to as his "person," i.e. his conscious state of mind, his thoughts, values, and identity, as well as his physical body and its properties. The complexity of the physical processes making up his conscious being may be beyond our current and collective knowledge and apprehension, but we can to a rather great degree of certainty establish that there is nothing mysterious in man's being.

This notion of "self" brings greater clarity and argumentative potency to the concept of self-ownership, yet causes some confusion. The new concept is clearer because there is no ambiguity caused by a mind-body duality. The interactions and relationship between a metaphysical and thus nonphysical "self" and the physical machine it occupies need not be investigated or defined. The need to discuss what constitutes this mystic self and where it comes from is wiped out; we need not investigate whether it is a divine existence, an everlasting "life spirit," or the soul of the universe. We need not tread the grey area between science and religion.

Also, there is less room for discrepancy in different interpretations of self, and that which is derived from it. As we have seen, writers strongly disagree on the extent and meaning of self-ownership in the dualist sense; the problems arising from the dualist standpoint are many and profound. They should all be avoided through accepting the inclusive, undivided self. The term self-ownership in this new meaning is on the other hand somewhat confusing, especially considering the Kantian definition of ownership. A less confusing term would be simply *being*³³, since no distinction can be made between body and self.

The advantages of abolishing the dualist notion are many. To begin with, the many problems arising from dividing man into two unequal parts in interaction are avoided. Also, the natural boundaries of being are more easily recognized when identifying man as an entirety: the concept becomes inherently *inclusive* rather than *exclusive*. Accordingly, all dimensions of what constitutes man are here necessarily recognized as his being; his physical body as well as "metaphysical" entities arising from the physical processes in his brain—such as experiences, knowledge, values, thoughts, and ideas. Furthermore, his actions must be considered part of his self, since they are caused by his awareness of the situation, i.e. the conscious will to achieve

³³ We will continue to use the established term *self-ownership*, but in its new meaning, since "being" has a number of uses and meanings and therefore is also ambiguous.

certain values, the identification of possible courses of action to achieve those values, and how to use the functions of body and intellect in order to achieve them (Peikoff, 1991:55-60; cf. Copleston, 1955:204-205).

Let us now look into why this concept is naturally and obviously inclusive through challenging each of the aspects or characteristics of man: the physical body; his experience and knowledge; ideas and values; and actions.

The body. As is shown in section 0 the body is the material foundation from which consciousness and being arise through the accumulation of, and learning processes tightly coupled with, subjective experience. It is therefore self-evident that removing the full body means removing all that which makes up someone's being. This is also true when considering the dualist view of self-ownership—the physical body is required for any identification of being³⁴.

The body as the physical framework of life does, however, not imply the full natural body is required. Someone disfigured through events in life, or born physically disabled, is not less of a man. The same is true where someone's bodily functions have been improved through the use of technology, e.g. through implanted pacemakers or transplanted organs. It can therefore be concluded that the body as a physical framework is necessary, while individual parts not of essential importance to the functions of conscious being are not. A mutilated man is still a man.

Hence, what constitutes man is his natural, physical composition, give or take what is voluntarily (and involuntarily) added or stripped. The key word here is *voluntary*, since the being himself chooses his purpose (see below) and also what is his being; involuntary changes to his physical composition necessarily restrict his being in whatever sense he recognizes it and is therefore an infringement. He need not accept such a change to his being, even though he could.

Experience and knowledge. The experience accumulated, inherited and lived, and the evaluation of that data in order to operate his body effectively, are part of his being as naturally as the physical composition of the body. Excluding the lived experience from that which constitutes his body would mean that either the physical development of his body or the experience gained from using his senses are deemed unnaturally arising from his being,

³⁴ It should be noted that a nonphysical self in some theories may be able to exist without a body, but it would not be observable—it would be “invisible” or a “ghost.”

i.e. restricting his right to the physical body (which we substantiated above). Excluding the inherited experience necessarily disqualifies any physical developments undertaken from birth (or from conception), and means in effect, prohibition of a being's reliance on genetic components.

As we can see, the exclusion of experience from that which constitutes being or self compromises the right to the physical body and therefore to life itself. It is hence absurd to claim right to body but not to experience and the evaluation of experience through physical processes in the brain; one's physical and metaphysical "selves" are two sides of a coin (or rather: the same thing) and cannot be separated.

Ideas and values. Arising from the experience and knowledge, in combination with impressions of the world gained through the senses, are ideas and values guiding the evaluation of facts and in the end directing man's actions. Ideas arise and values are formed through the use of experience, in concert with impressions of the external world through the senses and the choice to focus one's consciousness. They are thus products of the logical structure of man's mind and arise through the person's individuality, i.e. as a result of his body's physical composition, its processes, and accumulated experience. They are not facts mirroring reality, but are rather internally formulated, or externally imposed but consciously and voluntarily accepted, for the purpose of guiding interpretations of self and the external, as well as one's actions.

Since ideas and values are products of man's personality they must be considered part of his being. Excluding ideas and values from what is his self means excluding what essentially makes him an individual: the distinct characteristics of an own person. Also, it means limiting the right of his being to what are simply perceptions of facts in external reality; whatever is internally identified, believed, and valued is excluded. The collection, but not assessment or use, of facts and perceptions would be part of his being, while the internally generated appreciation of self, factual beliefs, and morality would not. The distinction would be between the person and his individuality, i.e. between his composition and characteristics. Self-ownership as being must therefore include the values identified, formulated, and treasured by the individual.

Actions. Ideas, values and beliefs serve as guides directing actions and supporting conclusions and evaluations of facts. Such conclusions are the basis from which man, through focusing his consciousness, chooses in what way to act in order to achieve those values (cf. Fuerle, 2003:26-34). Values suggest how to act; acting is therefore in essence the extension of man's morality (cf. Branden, 1969:55), and should be considered the effect of the

experience, knowledge, ideas and values of the individual being. Without the prospect to act there would be no conveying of morality or values.

Also, excluding man's actions from his being or self would mean separating the purpose or cause from its effect. Acting is the result of a conscious choice: considering consequences of alternative courses of action in light of values and moral issues. It is thus in a sense the innermost expression of being. Acting is the result of contemplating the facts perceived through the senses and one's experience and the norms and goals directed by one's values. An act is the direct result of one's motivational powers.

Separating action from motives means disqualifying man as a moral agent, i.e. stripping the act from its moral implications (both deontological and teleological). As a consequence, man cannot be held responsible for his actions, and ethics becomes both irrelevant and useless.

From this we conclude that the inclusiveness of this concept of self-ownership is necessary, stripping the idea of being from its parts is like peeling an onion: for each layer being peeled off, a substantial part of what the onion is, is lost; the core of the concept lies in its "layers." Removing an individual's actions from his self-ownership means crippling the entirety of his being, and another "layer" is exposed. Or rather, the "parts" of being are mutually dependent and constitutive, meaning they cannot be separated without consequences. Man is an utterly complex being in both "body" and "mind."

In essence, man's being is a process bound to his physical constitution causing actions striving for the achievement of identified values, via consciousness through reflective experience. Man is thus a whole rather than a creation divisible into a number of autonomous or functionally separate parts. To sum up, man is his *being* and naturally benefits from the right to self through the constant conscious constitution of this self. Man's being either is or isn't— self-ownership as being is a holistic view of man.

3.2.3 *From Being to Right*

The holistic view of man necessarily brings about an atomistic view of society, especially considering our point of departure in praxeology. Man being indivisible means the individual is the constituent and natural starting point for a discussion of what society ought to be, i.e. what inter-personal ethics ought to be practiced on both the specific and general levels. The structure of society must adhere to the perception of man as being.

Maintaining the view of man as a conscious and rational being implies that he has unlimited accountability for whatever action he takes, but it also

necessitates his right³⁵ to self. After all, the individual is sovereign in his being and therefore responsible for exercising this sovereignty; the actions taken are unavoidably results of his conscious choice. This implies a general equality between men in that they enjoy equal rights to self, since his right to self does not extend into the realm of others. They are equally sovereign, meaning they must be equally bound not to interfere with or violate the right of others to their being. The right to being should therefore be interpreted as a trump (cf. Dworkin, 1978): as close to *absolute* as possible without infringing on man's sovereignty³⁶.

Self-ownership as being implies that man is not property but rather a "rights-bearer." He is the bearer of any natural rights to his self, meaning "it is man's right to do whatever he wishes with his person" (Rothbard, 1998:24), and not to be restricted in exercising this right. This right, derived from the facts of nature, must thus be inalienable (cf. Barnett, 1986) in the sense that it "cannot be taken away and cannot be transferred" (Dolhenty, 2005; cf. Adler, 2005). Accordingly, man cannot become a slave (which would mean to transfer his right to being to another), since his full being cannot be transferred. But it is possible to sell (transfer rights to) his labor eternally (cf. Kant, 1996).

3.3 Consequences and Considerations

As we have seen, the holistic concept of being is different from, yet bears great similarity to, the dualist concept of self-ownership. The structure of self-ownership is fundamentally different, but the resulting sovereignty of the individual in a classical liberal sense is strikingly similar. The difference in the concept's constitution does however have consequences; while several important problems are automatically solved, a number of questions arise that need to be settled. Also, we have yet to discover what this new concept of self-ownership implies concerning the nature of ownership of land.

³⁵ A right is here "the idea that people have certain key interests [...] which they are not to be required to sacrifice, and which therefore may not be overridden, for the sake of the collective welfare or other goals of their society" (Waldron, 1988:13; cf. Jedenheim-Edling, 2003:11-30).

³⁶ An absolute right means it "cannot be overridden in any circumstances, so that it can never be justifiably infringed and it must be fulfilled without any exceptions" (Gewirth, 1982:92). But this does, when taken literally, violate the right itself since it restricts the free exercising of the right (e.g. the voluntary restriction of the right through contract).

3.3.1 *Values and Veracity: Pitfalls and Hume's Law*

Section 0 shows that this study is both normative and constructive in character. The basic assumption is that ownership of land *is* justified, from which it seeks to support the normative through reasoning from self-ownership as being towards *a type of* ownership of land. The constructive aspect of the study is in the fact that the nature of ownership in its conclusion depends on what can be inferred. The conclusion provides a structure for landed property which is a) normative because it is inferred from self-ownership, but b) constructive in description. This argument is thus not a common attempt to justify the normative, but rather to show its “constructive value.”

This normative-constructive character of the argument raises the question of whether *Hume's Law* (Hume, 2000:178, 302, 537-538; Salwén, 2003), which states that it is not possible to logically infer a value-sentence from a set of premises which contain only fact-sentences or statements of facts (cf. Bergström, 1990:18-22), is applicable. Since it has already been established that reasoning in essence is normative, it follows that a Humean problem may be found in the nature of the premise, i.e. the concept of being.

It is clearly stated in sections 0-0 that the basis for self-ownership is the fact of man's physical composition and the “metaphysical” features it gives rise to. It should therefore seem that the normative conclusion is inferred from a primarily factual premise, and thus that Hume's Law is both applicable and violated. But let us not jump to conclusions.

The Humean presumption is problematic in strictly dividing the normative and the empirical, without allowing them to interact or be interconnected. To Hume, a normative statement must be inferred from other normative statements; consequently, there should be an original statement from which others are inferred. The problem concerns what makes up this original statement if it is not based on the empirical; the inherent reductionism suggests the normative is meaningless unless based on that which evidently exists (Samuelsson, 1988a; Samuelsson, 1988b; cf. Hull, 1997; Rand, 1990). It seems there is a fundamental flaw to the Humean maxim unless there is a way to factually verify the original normative.

The value-theoretical standpoint argued for in section 0 offers a solution to this problem through considering values objective rather than intrinsic or subjective. The factual basis for values constructs a bridge between the empirical and the normative; it thus questions or attempts to dissolve the claimed difference in the scientific study of the empirical and the normative. Not only is the complex of problems arising from Hume's maxim avoided, but the authority and perhaps accuracy of the “law” is undermined.

3.3.2 Reasoning as Science

It has now been established that there is no perceptible conflict between how the concept of being is drawn up and what methodological standards prescribe for normative science. It can therefore be concluded that the result of this study should be true if the premise is also true; what is inferred follows logically. But truthfulness does not necessarily mean a study is “good science.” There are other requirements, in addition to the methodological ones stated above, to which a scientific study should adhere, regarding how it is conducted and presented.

Vedung (1982:31-39; 123-206) tries to capture the essence of quality in normative science through stating five rules for “rational political discourse,” three of which are covered by the methodological requirements in section 0. Only rules two and three are therefore of interest here.

Rule two, the *Rule of Clarity*, aims to dispose of ambiguities and obscurity in the message communicated. Vagueness, Vedung claims, typically springs from one of three sources, which are attended to through the formulation of three statements or sub-rules:

1. claims and reasons must not be tacit and so give rise to obscurity;
2. words must not be used unclearly; and
3. the presentation should be systematically arranged so that it does not give rise to unclarity (1982:33).

From these statements a general rule for political reasoning can be extracted: the reasoning must follow a logical structure in which each argument is explicitly stated in terms interpreted (as far possible) the same way by the sender and any anticipated receiver. As we can see, this establishes a minimum of what is to be included in a normative study, but it is as important to provide a limitation to the amount of data included in the other end: a maximum. This is provided by the *Rule of Relevance*, number three in Vedung’s set of rules, which states that:

1. pronouncements should be relevant; and
2. relevant aspects of the case should be acknowledged and presented (1982:34).

The importance of this rule is obvious: if statements irrelevant to the argument are included in the study, its clarity is compromised. The same is true if arguments important to the conclusions are excluded. We need thus add a relevance criterion to our general rule, which now reads: *the reasoning must follow a logical structure in which all but irrelevant arguments are included and explicitly stated in terms interpreted (as far possible) the same way by the sender and any anticipated receiver.*

It can be concluded that there are two sides to a scientific study, one being its scientific achievement (the research) and the other being its presentation (cf. Testa, 1997). Making a competent presentation is all the more important in normative science due to its argumentative character (cf. Popper, 1992:272).

4. Implications and Property

The holistic view of self-ownership may eliminate a number of problems arising from the dualist nature of the conventional concept. It may also abrogate problems of demarcation and inference, but it nevertheless gives rise to some ambiguities and issues that need sorting out.

One of the most obvious issues is whether the concept of being supports ownership of what is external to the self. The dualist view suffers from vagueness in the relation of self to body, causing a discussion of whether the unequal distribution of qualities in body should be remedied. (This problem does not arise with a holistic concept.) Another dispute, partly arising from the egalitarian issue, is whether the world should be considered originally jointly owned (cf. Cohen, 1995:93-106) or *unowned*. This disagreement raises further problems in how to perceive ownership of non-body physical objects and whether to enforce limits on property accumulation. The issue arises from the fact that the body is considered both property and necessary for a metaphysical self.

4.1 World Ownership

If the world originally is jointly, i.e. equally, owned, meaning justly controlled, there are problems in establishing whether the resources should be divided among *all* people or among *all now living* people. If the former, one would have to identify the total number of people in the world from the beginning until end of time, and then divide the resources in equal n shares. Also, we would have to tag and control all matter in order to judge whether someone's property rights are violated; and one would have to disregard any

values being created through the use of matter (the alternative is beyond human capacity). If the latter, one faces the problem of distribution of values created by previous generations.

Another interpretation is to have equal *rights*³⁷ to the world, but without exclusive rights to any part of it. Consequently, everybody's preferences are equally valid and need to be considered in deciding on any issue. Joint ownership in effect means that resource use is subject to bargaining (cf. Jedenheim-Edling, 2003:122-123); each person thus has innate power over other people, in the sense that each man, through exercising his ownership right to the world, has the power to control the actions of others. This power means self-ownership as being is restricted.

It may be claimed that it is not the individual but the collective body of mankind that enjoys the right to the world, from which the individual may be provided use-rights. This view is troublesome since there is no collective body to distribute rights; only individuals can act, individually or collectively—but not “as one.”

Another problem with the original joint world ownership theory is the established scientific fact that the world existed before man—and that man was created in, by, and of it. The theory therefore needs to show how ownership arose no later than the exact moment man did. The question is here whether ownership is the consequence of a subject-object control relationship or *causes* it; the original joint world ownership theory necessarily claims the latter, meaning property rights are *endowed* rather than *earned*³⁸. (The same is true if the word “original” is omitted; in a joint world ownership theory, rights still have to be endowed since there is no joint action taken through which rights have been equally or commonly acquired.)

As we can see, the original joint world ownership theory is permeated by these important problems, making it intuitive to disqualify it in full. Also, adopting the originally *unowned* world theory solves a number of these issues, since there are no original claims to maintain; resource distribution is thus not (initially) a problem. Instead, ownership in itself seems somewhat problematic—where, when, and how does it arise?

³⁷ An alternative view is to have unequal rights to the world, but the effect is essentially the same.

³⁸ Endowed rights are rights “a person has simply because of what he is,” whereas earned rights arise from a “taken action to acquire those rights” (Fuerle, 2003:28). (Property rights are here assumed to be natural, not political.)

4.2 *Man and Matter: Property of Externals?*

In section 0 we concluded that man is his being, meaning he is the physical composition of body along with its processes and non-physical entities such as ideas and values, and any actions they trigger. This does not mean that he is the owner of his body, thoughts, and actions in the Kantian sense, but that he enjoys the full moral and natural *right* to his being. The holistic view of man hence does not *include* property; it instead composes the subject who *can be an owner*. But how can one be the owner of something external to self?

The question of property emanates from the fact that all men, equal in their right to being, are dependent on scarce resources to sustain their lives. This implies that each and every person's desires may not be fulfilled, since resources are scarce in space and time. They are scarce in space since a) something necessarily is where it is and cannot be in two places at the same time, and b) two distinct entities cannot be in *the same place* at the same time. Consequently, two persons cannot reside in the exact same place at the same time, and two persons cannot consume the same resource. Scarcity in place thus illustrates that it is not possible to use the same resource in different ways with similar implications at the same time—a meadow cannot at the same time be used for cultivation, pasture, and parking lot. (It can however be used concurrently for bird-watching, hiking, sun-bathing, resting, and perhaps mining, since they are not mutually exclusive.)

These examples also demonstrate the scarcity of resources in time; resources, when used, are typically changed, and whoever is to use the resource at a later point in time has to use a resource as it will then be, not as it was earlier. Matter currently constituting the body of a man may previously have been part of a fertile field and may later be part of a forest—but it can currently be used as neither. Scarcity in time shows that a meadow *can* be used for cultivation, pasture, and parking lot, but at *different times*. It also suggests that there may be costs arising from the transition between different uses of a resource: a meadow used as parking lot may need to be transformed in order to use it for cultivation or pasture.

From scarcity follows that conflicts may arise between individuals aiming to sustain, or exercise their rights to, self. The solution to such conflicts concerning the placement or use of body is easily derived from the equal right to self discussed in section 0: the freedom of one person ends where the right of another begins (cf. Bastiat, 2003:28; Mill, 1975:72). This does however give rise to a number of questions concerning non-body, i.e. the use of external resources.

To exemplify this complex of problems, imagine a piece of land which has never been trodden by any self-owning person. The place is discovered by a self-owning person, p_1 , who at a point in time, t_1 , invests time and effort into clearing and cultivating the area in order to reap the crop at time t_3 . At time t_2 self-owning person p_2 comes along seeking land to turn into an asphalted parking lot. The action taken by p_2 does not seem to violate the self-ownership of p_1 since it does not cause unwanted physical harm to his body or his freedom to act. Our notion of self-ownership requires only that no one must be hindered in acting so long as he does not forcefully cause unwanted physical change (damage) to whatever another self-owner has rights to (i.e. his self).

P_2 's action does however cause change to the expected result of p_1 's actions and therefore reduces the value of clearing and cultivating the meadow to zero. It effectively wipes out any expected benefits at t_3 and therefore also the purpose of p_1 's actions. The expected effect of p_1 's actions at time t_1 was perhaps +10, but taking p_1 's alternative courses of action into account, the actions of p_2 at time t_2 effectuate an economic loss equivalent to the value of p_1 's second best alternative, perhaps a value of +8 (implying a loss of 8 instead of a benefit of 10)³⁹.

This implies a *de facto* restriction of self-ownership, in that certain values which cannot be realized in real-time risk being ultimately dependent on the actions of others. Imagine p_1 's coming back at time t_3 to reap the crop instead finding an asphalted parking lot. Determined to achieve the desired value, he removes the asphalt in order to again use the land for farming. Then p_2 returns to use the parking lot... *ad infinitum*. The end result is that neither p_1 nor p_2 succeeds in achieving their values; the outcome is the same—*nothing*—no matter how many engage in this mutual destruction of attempted values. In this situation it is reasonable to ask which of the parties has the *right* to use the resources, and thus which ones have not.

The fact that this specific piece of land is unowned when p_1 and p_2 attempt to achieve their values implies that there is no contradicting right, i.e. a right for the land *not* to be used. It should thus be concluded that someone or everyone has the right to use it, and it seems reasonable that the right rules out any conflicts that may arise. It is rather unintuitive and destructive that

³⁹ Had p_1 known the intentions of p_2 to make a parking lot at time t_2 , he had chosen the alternative to gain +8. The +8 he could have gained is his real loss, since he could not have expected +10. (Please note, the numeric values are used for illustrating the point only.)

this deadlock situation can occur between equal self-owners in a world of unowned resources.

It is especially unreasonable considering the real effect of p_2 's actions to p_1 at time t_2 being a *de facto* restraint of p_1 's self-ownership through a) reducing or destroying the expected value and thereby effectively b) annulling or invalidating his earlier actions. As a matter of fact, p_1 attempted to achieve certain values through the use of this piece of land *prior* to any rights-claims of p_2, p_3, \dots, p_n to use the same piece of land. Thus, at time t_1 , p_1 had reason to believe he could use this unowned piece of land to achieve the value of farming unobstructed and made a conscious choice based upon the facts available. The subsequent choice of p_2 was based on essentially *different* information available, since p_1 had already started a process of farming. The considered choice of p_2 at time t_2 must presumably be based on the knowledge that claiming the piece of land for use *also* necessarily would mean the cancellation of p_1 's value-achieving process.

In order to settle whether p_2 , while making the choice, "ought to" include this information and how he "should" interpret it, we must first investigate whether the picture is actually accurate. There are essentially two aspects that need to be examined in order to establish whether p_1 has an implied right exceeding that of p_2 simply because he was "first." The one concerns how to regard the action(s) of an individual, the other how to make the distinction between possession and property.

4.2.1 *Being and Acting*

As shown in chapter 3, a person's actions are necessarily part of his being, meaning he has the exclusive right to and responsibility for them. An action is identified as "the effect of the experience, knowledge, ideas, and values of the individual being," and thus comprises of the decision to use, as well as the use of the functions of body and intellect in order to achieve values. From this follows that the action begins with the decision to act and ends at the point where the value is (or should be) achieved.

Imagine a person, p , experiencing hunger under an apple tree filled with ripe apples. The solution emanating from experiential knowledge and p 's apprehension of situational facts, is to try to grab a few apples to eat. The value, v , formulated in his mind may be to fill his stomach with the sweet apples, whereas the action, a , to achieve this value is a process comprising a number of individual tasks with sub-objectives, s_i , each comprising a number of individual operations, o_i . We can thus state that p , in order to achieve v , needs to do a , where $a = \sum o_i$ for $i = 1$ to n .

Before making the decision how and whether to act, p has to evaluate the alternatives available. He thus compares the outcome of the possible courses of action, i.e. the anticipated values, v_i , of doing a_i and the thereto related “toil and trouble” (cf. Smith, 1976:34), a_i' . At the time of choosing to attempt achieving the real value v it is thus true that $v = 0$, while $|v'| > |a'|$. The person p has at this moment reason to believe his actions a will cause $v = v'$. If this were not true, p would have no reason to choose to do a . It would be irrational, i.e. harmful to self, to invest a' without expecting to gain at least *something*, meaning he has reason to believe that $|v'| - |a'| > 0$.

This implies that the value $v = 0$ until *all* sub-objectives s_1, s_2, \dots, s_n have been successfully accomplished; only at the very end of the chain of actions can we expect $v > 0$ and perhaps $v = v'$. Consequently, a man's action to achieve a certain value is necessarily the *full process* from deciding to act in situation-time st_1 to the projected moment st_n when the value is achieved. It follows that *a self-owning person p_1 has the right not to be interfered by any other person p_i while performing an action a from time st_1 to st_n attempting to achieve value v , as long as the action a does not restrict the self-ownership, i.e. violate the rights of being, of any other person p_i .*

4.2.2 Possession or Property?

The use of non-body resources to perform action a directs attention to the problems arising from the distinction between possession and property. Since the world is originally unowned there is no reason why part of it cannot be used by a man p_1 in performing a , meaning he can gain a *de facto* use-right to the object through possessing it. While the object is in his immediate control he experiences a natural right to the use of the object, since any attempt to use it in a way interfering with this use would necessarily infringe on p_1 's self-ownership. As Kant puts it, “[i]f I am holding a thing (and so physically connected with it), someone who affects it without my consent (e.g., snatches an apple from my hand) affects and diminishes what is internally mine (my freedom)” (1991:72).

The concept of property is a right reaching beyond the scope of possession; it is an *implied* right distinctly different from the natural right enjoyed from direct physical control. While the use-right from possession is applicable to a person p_1 *while performing* the act of plowing in order to cultivate a piece of land, a property right would imply his *permanent* right, valid until voluntarily abandoned. A property right is thus “the mode of having something external to myself as my own” (Kant, 1965:51), not being dependent on use or physical control.

4.3 Natural Rights: Property as Use Prerogative

The permanent right to an object as property implies the right to an unchanging, real physical object; any change caused to the object not corresponding to the desire and explicit will of the owner is a violation of his property right. The owner is supposed to have perfect control of the object owned; it thus follows that the object being property, is owned *in its entirety* as it was when obtained as property, i.e. its physical composition and features. Property is therefore necessarily of the specific *matter* arranged in a certain way to comprise an object, and to the object as conceived by the owner⁴⁰. This view is problematic, since—as we will see—the matter and the object are not necessarily the same thing.

Imagine a person, p_1 , owning a physical object, o . Another person, p_2 , has managed to construct a “particle replacing” device, which at a distance can remove a physical particle in an object and replace it with another, essentially equivalent particle (cf. Persson, 1993:34-35; Nordin, 1994:19-20). When p_2 uses the device on object o its physical composition is forcefully changed without p_1 's consent, and thus his property right is violated. The conceivable object is intact and in the same state as before, but consists of a different set of particles. Hence, p_1 's property right to the function and use of the object has *not* been affected, while his property right to its material composition *is* violated.

Now imagine if p_2 uses the device repeatedly so that *all* the original particles of o are replaced. The result is the same: the object is for p_1 intact in both function and use, he probably never even noticed the replacement of particles, but the matter in object o is now completely different. This shows that viewing property as *both* the conceived object *and* its comprising matter is theoretically problematic.

As has already been shown, the right to use an object while possessing it must be considered consistent with our notion of self-ownership, since any interference with the object which I physically control also interferes with my being. It has also been stated that the right to a resource originates in the direct use of it as long as this does not interfere with the rights of another self-owning person. The key concept is here the *use* of an [unowned and unclaimed] physical object in order to achieve a certain value, which

⁴⁰ This can be illustrated through a thought experiment. Imagine replacing your neighbor's car with an equivalent (i.e. in all respects alike), or replace his stove with an exact replica (or a button on his coat). Is his property right violated? The intuitive answer is yes, because his right is to *that specific object*, not its use or value.

incorporates a specific *function* of the object in the value-achieving process (and thus self).

Using the “particle replacing” device on an object has no real effect on how it is used nor on its function in the value-achieving process. It is thus true that the property right of object *o* is *partly* inviolate, since the use-right, inferred from our notion of self-ownership, is non-affected. But the right to the object’s physical composition is clearly violated.

It is also unclear what the origin of this property right in matter is. As the example above shows, there is a fundamental difference in terms of ownership between the conception, use, and function of an object and its physical composition. While the use-right is *earned* through the conscious choice to use, i.e. take advantage of or change, a specific object in attempting to achieve a certain value, the property right in its matter seems *endowed*. It is hard to realize how a right to matter can be earned through “focusing one’s consciousness” to act, since achieving a value is commonly not dependent on particular matter in an external object, but is always dependent on its use and function. Consequently, our notion of self-ownership does not make it possible to include matter in what is owned. Instead, the concept of “property” would, when inferred from *being*, imply “an intention to make use of things” (Meld Shell, 1978:86). A “property right” would then be the *use-right* of an object—implying the use of certain *functions* is owned, rather than the object itself.

4.4 *Man vs. the World: Ownership Inferred*

There is still a gap between the two notions of ownership discussed: the right from possessing an object and the use-right. Theoretically, the concept of possession may encompass *any* physical object within a person’s direct control, whether intended to use for a purpose or not. Possession as the basis for rights does not however support rights to an object when it is beyond one’s control. As we have already shown, the right to an object from possession is derived from the fact that any interference with a physically connected object also interferes with the being “holding” it. The moment the person “lets go” of the object, even for only a short time, his possession is lost along with any rights arising from it. This problematic nature of possession arises due to the fact that it necessarily encompasses the full extent of the object under control rather than a function connected to its use.

A use-right to an object is fundamentally different since it denotes the right to a *specific function* of an object in the value-achieving process. It is thus derived directly from a conscious choice to act and take advantage of this function, and the right is therefore necessarily valid for the full length of the

process, i.e. until the foreseeable situation or point in time in which the value is supposedly realized. A use-right is therefore not dependent on the possession of the whole object, but rather implies an original possession of one (or some) of its functions.

As we can see, the shortcomings of possession and property as discussed earlier are neutralized by the concept of use-right. A use-right is based on the natural right to a function of an object earned by possessing it, but through claiming the function as a part of the person's value-achieving process the limits of possession are overcome. Like the concept of property a use-right is valid even when direct physical control of the object's use is temporarily lost; it may still serve as a vital function in the value-achieving process and is therefore *in its use* still active. The use-right of the function of an object is thus valid until abandoned, as in the case of property.

In the case of a person, p_1 , cultivating an unowned and unclaimed meadow in order to have food to sustain his life during the winter, the difference between possession, property, and use-right is obvious. A right based solely on possession would mean p_1 's right to the field would cease to exist the moment he returns home after having invested a full day's labor. Another person, p_2 , would then have the right to the field as long as he is able to maintain physical control of it; then a third person, p_3 , could take over the field, and so on. Consequently, it is reasonable to assume the meadow will *not* be cultivated, since no individual can possibly possess the field long enough to benefit from his invested labor. This concept of rights thus appears irrational since it offers no solution to scarcity in time, only in space.

The concept of property rights to the field defuses this shortcoming, since it holds ownership as valid permanently. P_2 using or in any way affecting the field would violate the property rights of p_1 , no matter if it restricts p_1 's use in trying to obtain certain value(s). As we have seen, this view is problematic in that it requires rights to be partly earned and partly endowed—and that it implies the right to certain matter. Causing a change to such property, even if the owner's use and value of it is not changed, is a violation if not consented to.

The use-right concept is fundamentally different from possession and property rights, as well as the conventional concept of property, in that it is a fractional or dimensional ownership of objects. One physical object can according to this view have multiple functions and thus simultaneously be owned by several people. The condition is however that any subsequent use of an object does not restrict the preceding uses. A use-right to an unowned and unclaimed object, o , can thus be acquired by a person, p_1 , through claiming its use while trying to achieve a value, v_1 , through performing an

action, a_1 . At a later point in time, while a_1 is still in progress, another person, p_2 , can claim the right to use the same physical object o in order to achieve the value v_2 , as long as his actions a_2 do not restrict a_1 and thus have no noticeable impact on v_1 . It follows that a certain physical object or resource has a number of different uses, where any yet-to-be-claimed use, not restricting any of the uses currently in progress, is unexploited and unowned property.

4.5 *The Special Case: Ownership of Land*

Land enjoys a special status in the discussion on ownership and property, since it is a natural necessity: man is necessarily inseparable from his standing room (cf. Hoppe, 2004:2). The whole world being the private property of one man would thus mean everybody else's self-ownership is impaired, since they lack the right to place their bodies anywhere. (Unless we assume that they can flee into parallel universes or hover endlessly without touching ground.)

It can easily be established that snatching an apple from the hand of a person is a violation of his property (or possession) right. One cannot as easily pass judgment on acts concerning land, since land has no naturally fixed borders. Thus it cannot be possessed in the explicit and unequivocal way an apple can. Nor does the concept of land provide clear limits of how far up in the air, or down in the ground, property in land stretches. A craft hovering a few feet from the ground would probably be considered a violation by most, while an airplane passing at the height of 30,000 feet would not. Likewise, drilling a well under a neighbor's lawn would probably be a rights violation, while it is not clear whether a mine gallery at some hundred feet's depth would. Someone might suggest there is no limit in height or depth to land ownership. But this implies ownership of land is probably possible only on the one side of the planet, and that the nature and extent of one's property changes with the conceived movement of planets and stars.

Ownership as use-right solves a number of these ambiguities since land is not owned *in itself*. It consequently cannot be considered a violation of rights if there is a forceful change to the matter which does not affect the uses of land. Also, unexploited uses of land can still be claimed as long as they do not cause harm to the preceding uses, meaning a land area may have many simultaneous uses. This concept thus tends to maximize the use of resources, and thereby, from a utilitarian point of view, seems to maximize utility (cf. Bentham, 1996; Mill, 2002).

Hoppe (2004:2) states that the purpose of rights is to rule out, as far as possible, conflicts arising from the fact that they are scarce. The concept of use-rights does not only supply a framework of clearly defined rules in the realm of scarcity. It also seems to minimize waste by allowing parallel uses of resources, thereby avoiding one of the main causes of conflict (strict scarcity).

4.6 Recapitulating the Main Points

The characterization of self-ownership as being, it was claimed in Section 3, necessarily includes not only the body, but the full extent of the *being* of a person. It was consequently stated that man is a rights-bearer with the sovereign right to [his] body, experience, knowledge, ideas, and values—and any actions arising from his conscious use of the aforementioned parts of his being. (His ownership of and right to his actions suggest a moral responsibility for them, from which ethical norms may be derived.) Whatever restrictions imposed on his being are, unless they arise solely from the equal rights of other self-owning beings, violations of his natural right to self.

Section 0 primarily examines the necessary relation between man and the material world. The natural scarcity of resources in time and place is a natural cause of conflict between men acting to achieve values. The discussion tries to discover how self-ownership as being can provide a solution to (or help avoid) such conflicts in land use.

The analysis shows that self-ownership as being provides a framework to solve conflicts through establishing use-rights to externals. Such use-rights are inferred from the fact that a man's actions are necessarily part of his being, and that his undertaking to use unowned and unclaimed resources to achieve values is a natural condition for his right to exercise being.

With the world being initially unowned there is no reason to assume resources can *not* be used. Also, the use of resources such as land is vital to sustain man's life; he should hence enjoy the natural right to make use of the world to attain his ends. He thus appropriates the natural possession of a certain use of the world with the purpose of achieving a certain value. Any forceful alteration of this function imposes a restriction on his self-ownership since he has incorporated the use of the unclaimed resource in his value-achieving process. Any use not compromising his claim is, however, still appropriable, meaning a certain piece of land may be used in multiple ways by multiple people seeking to achieve multiple values.

5. Concluding Remarks

It has been concluded that since man enjoys self-ownership as being he has the right to use the unclaimed parts of the world without being restricted by his equals. Consequently, he enjoys the right to use land in order to attain his ends. What should also be true is that other men have the equal right to use the same piece of land as long as they do not restrict the previously claimed use(s). It has thus been shown how ownership (as use-right) of land is supported by the right to self.

There are, however, aspects to my reasoning which have not been thoroughly covered. It seems use-rights to land may be inferred from self-ownership as being, but can this statement be assumed true if the reasoning is taken one step further? Further studies of the relation between self-ownership as being and ownership of land should examine whether self-ownership is a *sufficient* criterion. The claim is that ownership of land follows from the premise of self-ownership, but can it also be true that it follows from nothing else? Perhaps other conditions can be imagined—except for assuming the world initially unowned—which have not been discovered in this study, and without which self-ownership as being fails to support the conclusions drawn here.

Another approach would be to ask whether self-ownership is a *necessary* criterion for the conclusions. This would turn the reasoning upside down and seek the causes of ownership of land rather than establishing whether and how it can be justified. This is interesting since it could compromise the significance of this study and possibly weaken its explanatory power. We cannot tell what the implications would be of finding other possible valid sources of ownership of land—perhaps self-ownership in itself could be undermined.

It should be noted that a philosophical argument such as this probably cannot provide conclusions that are eternally true. To capture the truth one would have to overcome the fact that man is not omniscient, and that is obviously not possible. A structured and consistent argument can however uncover, i.e. provide knowledge on, weak points in other theories and thereby perhaps contribute to the wisdom of mankind.

A potential weakness lies in how the concept of action is treated in this study, especially as pertains to what should be considered its scope or natural extent. In the analysis it is taken for granted that the “full process” of achieving a certain value, formulated internally, is the extent of one’s action and thus use-right. But is this true for any values? Perhaps values are formulated in hierarchies with one or a few all-embracing values. Some people may then formulate super values such as “world rule,” meaning any

action on the way is part of the full process of achieving it. Alternatively, values may not be fully distinguishable, formulated in a web of interconnections or embedded in each other. This would imply that the process of achieving one value necessarily means starting at least one new process of achieving another.

Also, the real implications of use-rights for society need to be examined. Perhaps realizing this new notion of ownership would completely change society as we know it. Taxation, for instance, would, except for violating self-ownership, be troublesome; a society would have to agree on what to tax—holding a use right (a “property tax”), exploiting it, or finalizing the value-achieving process? A property tax would mean the taxation of having appropriated a use-right, which in itself may have no objective value, but is only subjectively valuable for its holder. Also, use-rights could be instantaneously appropriated and abandoned, which means they would be literally impossible to control. Taxing *use* of a resource would put taxpayers in a difficult situation, since no value has been realized. Furthermore, the values achieved may have personal but not monetary value, meaning taxation of achieved values would be arbitrary. Instead, a government could choose to tax only those values which have been realized in monetary terms, i.e. in the marketplace. But it is not clear to what extent the use-right ownership approach supports trade or even ownership of values achieved. This is yet another interesting aspect that should be analyzed in further studies.

Another issue is the status of land. It is apparent that use and control of land were essential in the rural, feudal society of the time of John Locke (1632-1704), suggesting he must take Physiocratic economic theory (cf. Quesnay, 1972) into account. In the enlightened times of John Stuart Mill (1806-1873) and Henry George (1839-1897), society was still dependent on the larger part of the population working in the agrarian sector, supplying workers and industries in the cities with foodstuffs and resources.

Today, the situation is different: land seems to become increasingly unimportant. The part of the population owning farm land is ever decreasing, while farming is becoming increasingly efficient through the use of advancing technology. Also, many would today sell landed property in return for other assets, e.g. publishing rights, whereas land historically was the main (or only) source of income. Is land still a special case? As is shown in sections 0-0 there need not be a fundamental difference between ownership in x and ownership in y . Why should the nature of ownership depend on the object owned?

This question is in itself mistaken; the relationship between man and object is not an important part of ownership. A property theory trying to establish this relationship overlooks the fact that it is subject to laws of

nature. The relationship man-object is not problematic since it is only a one-way relation; the object has no will of its own. The issue of property rights is rather a relation between men, stating who should have the right to a certain object (or a certain use of the object) based on a number of criteria (one of them perhaps being the relation man-object).

The property rights theory developed in this study thus does not mainly argue for the regulation between man and a certain use of object, but rather presents a solution to the relationship between men regarding the uses of an object. The rules are here derived partly from the nature of the relation man-object as a granted fact, but do not regulate it. The importance is thus how and whether a man can appropriate a right to a certain use of an object, not in what way he may use it.

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