A Theory of Socialism and Capitalism

Economics, Politics, and Ethics

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About the Author

Hans-Hermann Hoppe was born on September 2, 1949, in Peine, West Germany. He attended the Universitatet des Saarlandes, Saarbruecken, the Goethe-Universitaet, Frankfurt/M, and the University of Michigan, Ann Arbor, for studies in Philosophy, Sociology, History, and Economics. He earned his Ph.D. (Philosophy, 1974) and his "Habilitation" (Sociology and Economics, 1981), both from the Goethe-Universitaet, Frankfurt/M.

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Chapter 7
The Ethical Justification of Capitalism and Why Socialism Is Morally Indefensible

The last four chapters have provided systematic reasons and empirical evidence for the thesis that socialism as a social system that is not thoroughly based on the "natural theory of property" (the first-use-first-own rule) which characterizes capitalism must necessarily be, and in fact is, an inferior system with respect to the production of wealth and the average standard of living. This may satisfy the person who believes that economic wealth and living standards are the most important criteria in judging a society—and

there can be no doubt that for many, one's standard of living is a matter of utmost importance—and because of this it is certainly necessary to keep all of the above economic reasoning in mind. Yet there are people who do not attach much importance to economic wealth and who rank other values even higher—happily, one might say, for socialism, because it can thus quietly forget its original claim of being able to bring more prosperity to mankind, and instead resort to the altogether different but even more inspiring claim that whereas socialism might not be the key to prosperity, it would mean justice, fairness, and morality (all terms used synonymously here). And it can argue that a trade-off between efficiency and justice, an exchange of "less wealth" for "more justice" is justified, since justice and fairness, are fundamentally more valuable than economic wealth.

This claim will be examined in some detail in this chapter. In so doing, two separate but related claims will be analyzed: (1) the claim made in par ticular by socialists of the Marxist and the social-democratic camp, and to a lesser degree also by the conservatives, that a *principled* case in favor of **[p. 128]** socialism can be made because of the moral value of its principles and, mutatis mutandis, that capitalism cannot be defended morally; and (2) the claim of empiricist socialism that normative statements ("should" or "ought" statements)—since they neither solely relate to facts, nor simply state a verbal definition, and thus are neither empirical nor analytical statements—are not really statements at all, at least not statements that one could call "cognitive" in the widest of all senses, but rather mere "verbal expressions" used to express or arouse feelings (such as 'Wow" or "grrrrr").[1]

The second, empiricist or, as its position applied to the field of morals is called, "emotivist" claim will be dealt with first, as in a way it is more far-reaching.[2] The emotivist position is derived by accepting the central empiricist-positivist claim that the dichotomous distinction between empirical and analytical statements is of an all-inclusive nature; that is, that any statement whatsoever must be empirical or analytical and never can be both. This position, it will be seen, turns out to be self-defeating on closer inspection, just as empiricism in general turned out to be self-defeating.[3] If emotivism is a valid position, then its basic proposition regarding normative statements must itself be analytical or empirical, or else it must be an ex pression of emotions. If it is taken to be analytical, then it is mere verbal quibble, saying nothing about anything real, but rather only defining one sound by another, and emotivism would thus be a void doctrine. If, instead, it is empirical, then the doctrine would not carry any weight, as its central proposition could well be wrong. In any case, right or wrong, it would only be a proposition stating a historical fact, i.e., how certain expressions have been used in the past, which in itself would not provide any reason what soever why this would have to be the case in the future, too, and hence why one should or rather should not look for normative statements that are more than expressions of emotions in that they are meant to be justifiable. And the emotivist doctrine would also lose all its weight if it adopted the third alternative **[p. 129]** and declared its central tenet itself a "wow" statement, too. For if this were the case, then it would not contain any reason why one should re late to and interpret certain statements in certain ways, and so if one's own instincts or feelings did not happen to coincide with somebody else's "wowing," there would be nothing that could stop one from following one's own feelings instead. Just as a normative statement would be no more than the barking of a dog, so the emotivist position then is no more than a bark ing comment on barking.

On the other hand, if the central statement of empiricism-emotivism, i.e., that normative statements have no cognitive meaning but are simply expres sions of feelings, is itself regarded as a meaningful statement communicat ing that one should conceive of all statements that are not analytical or empirical as mere expressive symbols, then the emotivist position becomes outrightly contradictory. This position must then assume, at least implicitly, that certain insights, i.e., those relating to normative statements, cannot simply be understood and meaningful, but can also be given justification as statements with specific meanings. Hence, one

must conclude that emotivism falters, because if it were true, then it could not even say and mean what it says—it simply would not exist as a position that could be dis cussed and evaluated with regard to its validity. But if it is a meaningful position which can be discussed, then this fact belies its very own basic premise. Moreover, the fact that it is indeed such a meaningful position, it should be noted, cannot even be disputed, as one cannot communicate and argue that one cannot communicate and argue. Rather, it must be presupposed of *any* intellectual position, that it is meaningful and can be argued with regard to its cognitive value, simply because it is presented in a language and communicated. To argue otherwise would already implicitly admit its validity. One is forced, then, to accept a rationalist approach towards ethics for the very same reason that one was forced to adopt a rationalist instead **[p. 130]** of an empiricist epistemology.[4] Yet with emotivism so rebuffed, I am still far away, or so it seems, from my set goal, which I share with the Marxist and conservative socialists, of demonstrating that a principled case in favor of or against socialism or capitalism can be made. What I have reached so far is the conclusion that the question of whether or not normative statements are cognitive ones is itself a cognitive problem. However, it still seems to be a far cry from there to the proof that actual norm proposals can indeed be shown to be either valid or invalid.

Fortunately, this impression is wrong and there is already much more won here than might be suspected. The above argument shows us that any truth claim—the claim connected with any proposition that it is true, objec tive, or valid (all terms used synonymously here)—is and must be raised and decided upon in the course of an argumentation. And since it cannot be disputed that this is so (one cannot communicate and argue that one cannot communicate and argue), and it must be assumed that everyone knows what it means to claim something to be true (one cannot deny this statement without claiming its negation to be true), this has been aptly called "the apriori of communication and argumentation."[5]

Now, arguing never just consists of free-floating propositions claiming to be true. Rather, argumentation is always an activity, too. But given that truth claims are raised and decided upon in argumentation and that ar gumentation, aside from whatever is said in its course, is a practical affair, it follows that intersubjectively meaningful norms must exist—precisely those which make some action an argumentation—which have special cognitive status in that they are the practical preconditions of objectivity and truth.

Hence, one reaches the conclusion that norms must indeed be assumed to be justifiable as valid. It is simply impossible to argue otherwise, because the ability to argue so would in fact presuppose the validity of those **[p. 131]** norms which underlie any argumentation whatsoever.[6] The answer, then, to the question of which ends can or cannot be justified is to be derived from the concept of argumentation. And with this, the peculiar role of reason in determining the contents of ethics is given a precise description, too. In contrast to the role of reason in establishing empirical laws of nature, reason can claim to yield results in determining moral laws which can be shown to be valid a priori. It only makes explicit what is already implied in the concept of argumentation itself; and in analyzing any actual norm proposal, its task is merely confined to analyzing whether or not it is logically consistent with the very ethics which the proponent must presuppose as valid insofar as he is able to make his proposal at all.[7]

But what is the ethics implied in argumentation whose validity cannot be disputed, as disputing it would implicitly have to presuppose it? Quite commonly it has been observed that argumentation implies that a proposi tion claims *universal* acceptability, or, should it be a norm proposal, that it is "universalizable." Applied to norm proposals, this is the idea, as formu lated in the Golden Rule of ethics or in the Kantian Categorical Imperative, that only those norms can be justified that can be formulated as general principles which are valid for everyone without exception.[8] Indeed, as ar gumentation implies that everyone who can understand an argument must in principle be able to be convinced of it simply because of its argumenta tive

force, the universalization principle of ethics can now be understood and explained as grounded in the wider "apriori of communication and ar gumentation." Yet the universalization principle only provides a purely for mal criterion for morality. To be sure, checked against this criterion all proposals for valid norms which would specify different rules for different classes of people could be shown to have no legitimate claim of being universally acceptable as fair norms, unless the distinction between different classes of people were such that it implied no discrimination, but could instead **[p. 132]** be accepted as founded in the nature of things again by everyone. But while some norms might not pass the test of universalization, if enough attention were paid to their formulation, the most ridiculous norms, and what is of course even more relevant, even openly incompatible norms could easily and equally well pass it. For example, "everybody must get drunk on Sundays or be fined" or "anyone who drinks alcohol will be punished" are both rules that do not allow discrimination among groups of people and thus could both claim to satisfy the condition of universalization.

Clearly then, the universalization principle alone would not provide one with any positive set of norms that could be demonstrated to be justified. However, there are other positive norms implied in argumentation aside from the universalization principle. In order to recognize them, it is only necessary to call three interrelated facts to attention. First, that argumenta tion is not only a cognitive but also a practical affair. Second, that argumen tation, as a form of action, implies the use of the scarce resource of one's body. And third, that argumentation is a conflict-free way of interacting. Not in the sense that there is always agreement on the things said, but in the sense that as long as argumentation is in progress it is always possible to agree at least on the fact that there is disagreement about the validity of what has been said. And this is to say nothing else than that a mutual recognition of each person's exclusive control over his own body must be presupposed as long as there is argumentation (note again, that it is impossible to deny this and claim this denial to be true without implicitly having to admit its truth).

Hence, one would have to conclude that the norm implied in argumen tation is that everybody has the right of exclusive control over his own body as his instrument of action and cognition. Only if there is at least an implicit recognition of each individual's property right in his own body can argumentation take place.[9] Only as long as this right is recognized is it possible for **[p. 133]** someone to agree to what has been said in an argument and hence can what has been said be validated, or is it possible to say "no" and to agree only on the fact that there is disagreement. Indeed, anyone who would try to justify any norm would already have to presuppose the property right in his body as a valid norm, simply in order to say, "This is what I claim to be true and objective." Any person who would try to dispute the property right in his own body would become caught up in a contradiction, as arguing in this way and claiming his argument to be true, would already implicitly accept precisely this norm as being valid.

Thus it can be stated that whenever a person claims that some statement can be justified, he at least implicitly assumes the following norm to be justified: "Nobody has the right to uninvitedly aggress against the body of any other person and thus delimit or restrict anyone's control over his own body." This rule is implied in the concept of justification as argumentative justification. Justifying *means* justifying without having to rely on coercion. In fact, if one formulates the opposite of this rule, i.e., "everybody has the right to uninvitedly aggress against other people" (a rule, by the way, that would pass the formal test of the universalization principle!), then it is easy to see that this rule is not, and never could be, defended in argumentation. To do so would in fact have to presuppose the validity of precisely its opposite, i.e., the aforementioned principle of nonaggression.

With this justification of a property norm regarding a person's body it may seem that not much is won, as conflicts over bodies, for whose pos sible avoidance the nonaggression principle formulates a universally justifi able solution, make up only a small portion of all possible conflicts. However, this impression is not correct. To be sure, people do not live on air and love alone. They need a smaller or greater number of other

things as well, simply to survive—and of course only he who survives can sustain an argumentation, let alone lead a comfortable life. With respect to all of **[p. 134]** these other things norms are needed, too, as it could come to conflicting evaluations regarding their use. But in fact, any other norm must be logi cally compatible with the nonaggression principle in order to be justified it self, and, mutatis mutandis, every norm that could be shown to be incompatible with this principle would have to be considered invalid. In ad dition, as the things with respect to which norms have to be formulated are scarce goods—just as a person's body is a scarce good—and as it is only necessary to formulate norms at all because goods are *scarce* and not be cause they are *particular kinds* of scarce goods, the specifications of the nonaggression principle, conceived of as a special property norm referring to a specific kind of good, must in fact already contain those of a *genera/* theory of property.

I will first state this general theory of property as a set of rules applicable to *all* goods with the purpose of helping one to avoid *all* possible conflicts by means of *uniform* principles, and will then demonstrate how this general theory is implied in the nonaggression principle. Since according to the nonaggression principle a person can do with his body whatever he wants as long as he does not thereby aggress against another person's body, that person could also make use of other scarce means, just as one makes use of one's own body, provided these other things have not already been ap propriated by someone else but are still in a natural, unowned state. As soon as scarce resources are visibly appropriated—as soon as someone "mixes his labor," as John Locke phrased it,[10] with them and there are objective traces of this—then property, i.e., the right of exclusive control, can only be acquired by a contractual transfer of property titles from a previous to a later owner, and any attempt to unilaterally delimit this exclusive control of previous owners or any unsolicited transformation of the physical characteristics of the scarce means in question is, in strict analogy with ag gressions against other people's bodies, an unjustifiable action.[11] **[p. 135]**

The compatibility of this principle with that of nonaggression can be demonstrated by means of an argumentum a contrario. First, it should be noted that if no one had the right to acquire and control anything except his own body (a rule that would pass the formal universalization test), then we would all cease to exist and the problem of the justification of normative statements (or, for that matter, any other problem that is of concern in this treatise) simply would not exist. The existence of this problem is only pos sible because we are alive, and our existence is due to the fact that we do not, indeed *cannot*, accept a norm outlawing property in other scarce goods next and in addition to that of one's physical body. Hence, the right to ac quire such goods must be assumed to exist. Now, if this is so, and if one does not have the right to acquire such rights of exclusive control over un used, nature-given things through one's own work, i.e., by doing something with things with which no one else had ever done anything before, and if other people *had* the right to disregard one's ownership claim with respect to such things which they had not worked on or put to some particular use before, then this would only be possible if one could acquire property titles not through labor, i.e., by establishing some objective, intersubjectively controllable link between a particular person and a particular scarce resource, but simply by verbal declaration; by decree.[12] However, acquiring property titles through declaration is incompatible with the above justified nonaggression principle regarding bodies. For one thing, if one could Indeed appropriate property by decree, then this would imply that it would also be possible for one to simply declare another person's body to be one's own. Yet this, clearly enough, would conflict with the ruling of the nonaggression principle which makes a sharp distinction between one's own body and the body of another person. And this distinction can only be made in such a clear-cut and unambiguous way because for bodies, as for anything else, the separation between "mine" and "yours" is not based on verbal declarations **[p. 136]** but on action. (Incidentally, a decision between rival declarative claims could not be made unless there were some *objective* criterion other than declaration.) The separation is based on the observation that some par ticular scarce resource had in fact—for everyone to see and verify, as objective indicators for this would

exist—been made an expression or materialization of one's own will, or, as the case may be, of someone else's will. Moreover, and more importantly, to say that property is acquired not through action but through a declaration involves an open practical *contradiction*, because nobody could say and declare so unless in spite of what was actually said his right of exclusive control over his body as his own in strument of saying *anything* was *in fact* already presupposed.

It has now been demonstrated that the right of original appropriation through actions is compatible with and implied in the nonaggression principle as the logically necessary presupposition of argumentation. Indirectly, of course, it has also been demonstrated that any rule specifying different rights, such as a socialist property theory, cannot be justified. Before entering a more detailed analysis, though, of *why* any socialist ethic is indefensible—a discussion which should throw some additional light on the importance of some of the stipulations of the "natural," capitalist theory of property—a few remarks about what is or is not implied by classifying these latter norms as justified seem to be in order.

In making this assertion, one need not claim to have derived an "ought" from an "is." In fact, one can readily subscribe to the almost generally accepted view that the gulf between "ought" and "is" is logically unbridgeable.[13] Rather, classifying the rulings of the natural theory of property in this way is a purely cognitive matter. It no more follows from the classification of the principle underlying capitalism as "fair" or "just" that one ought to act according to it, than it follows from the concept of validity or truth that one should always strive for it. To say that this principle is just also does not **[p. 137]** preclude the possibility of people proposing or even enforcing rules that are incompatible with it. As a matter of fact, with respect to norms the situation is very similar to that in other disciplines of scientific inquiry. The fact, for instance, that certain empirical statements are justified or justifiable and others are not does not imply that everyone only defends objective, valid statements. Rather, people can be wrong, even intentionally. But the distinction between objective and subjective, between true and false, does not lose any of its significance because of this. Rather, people who are wrong would have to be classified as either uninformed or intentionally lying. The case is similar with respect to norms. Of course there are many people who do not propagate or enforce norms which can be classified as valid according to the meaning of justification which I have given above. But the distinction between justifiable and nonjustifiable norms does not dissolve because of this, just as that between objective and subjective statements does not crumble because of the existence of uninformed or lying people. Rather, and accordingly, those people who would propagate and enforce such different, invalid norms would again have to be classified as uninformed or dishonest, insofar as one had explained to them and indeed made it clear that their alternative norm proposals or enforcements could not and never would be justifiable in argumentation. And there would be even more justification for doing so in the moral case than in the empirical one, since the validity of the nonaggression principle and that of the principle of original appropriation through action as its logically necessary corollary must be considered to be even more basic than any kind of valid or true statements. For what is valid or true has to be defined as that upon which everyone acting according to this principle can possibly agree. As a matter of fact, as has just been shown, at least the implicit acceptance of these rules is the necessary prerequisite to being able to live and to argue at all.[14]

Why is it, then, precisely, that socialist property theories of any kind fail **[p. 138]** to be justifiable as valid? First, it should be noted that all of the actually *practiced* versions of socialism and most of its theoretically proposed models as well would not even pass the first formal universalization test, and would fail for this fact alone! These versions all contain norms within their framework of legal rules which have the form "some people do, and some people do not." However, such rules, which specify different rights or obligations for different classes of people, have no chance of being accepted as fair by every potential participant in an argumentation for simply formal reasons. Unless the distinction made between different classes of people

happens to be such that it is acceptable to both sides as grounded in the nature of things, such rules would not be acceptable because they would imply that one group is awarded legal privileges at the expense of com plementary discriminations against another group. Some people, either those who are allowed to do something or those who are not, therefore could not agree that these were fair rules.[15] Since most kinds of socialism, as practiced or preached, have to rely on the enforcement of rules such as "some people have the obligation to pay taxes, and others have the right to consume them" or "some people know what is good for you and are allowed to help you get these alleged blessings even if you do not want them, but you are not allowed to know what is good for them and help them accordingly' or "some people have the right to determine who has too much of something and who too little, and others have the obligation to comply" or even more plainly, "the computer industry must pay to subsidize the farmers," "the employed for the unemployed," "the ones without kids for those with kids," etc., or vice versa, they all can be discarded easily as serious contenders to the claim of being part of a valid theory of norms qua property norms, because they all indicate by their very formulation that they are not universalizable.

But what is wrong with the socialist property theories if this is taken care **[p. 139]** of and there is indeed a theory formulated that contains exclusively universalizable norms of the type "nobody is allowed to" or "everybody can"? Even then—and this, more ambitiously, is what has been demonstrated indirectly above and shall be argued directly-socialism could never hope to prove its validity, no longer because of formal reasons, but because of its material specifications. Indeed, while those forms of socialism that can easily be refuted regarding their claim to moral validity on simple formal grounds can at least be practiced, the application of those more sophisticated versions that would pass the universalization test prove, for material reasons, to be fatal: even if we tried, they simply could never be put into effect.

There are two related specifications in the norms of the natural theory of property with at least one of which a socialist property theory comes into conflict. The first such specification is that according to the capitalistic ethic, aggression is defined as an invasion of the *physical* integrity of another person's property.[16] Socialism, instead, would define aggression as an invasion of the *value* or *psychic integrity* of another person's property. Conservative socialism, it should be recalled, aimed at preserving a given distribution of wealth and values, and attempted to bring those forces which could change the status quo under control by means of price controls, regulations, and behavioral controls. Clearly, in order to do so, property rights to the value of things must be assumed to be justifiable, and an in vasion of values, mutatis mutandis, must be classified as unjustifiable ag gression. Yet not only conservatism uses this idea of property and aggression. Social-democratic socialism does, too. Property rights to values must be assumed to be legitimate when social-democratic socialism allows me, for instance, to demand compensation from people whose chances or opportunities negatively affect mine. And the same is true when com pensation for committing psychological or "structural violence"—a particularly dear term in the leftist political science literature—is permitted.[17] **[p. 140]** In order to be able to ask for such compensation, what was done—affecting my opportunities, my psychic integrity, my feeling of what is owed to me—would have to be classified as an aggressive act.

Why is this idea of protecting the value of property unjustifiable? First, while every person, at least in principle, can have full control over whether or not his actions *cause the physical* characteristics of something to change, and hence also can have full control over whether or not those actions are justifiable, control over whether or not one's actions affect the *value* of someone else's property does not rest with the acting person, but rather with other people and their subjective evaluations. Thus no one could determine ex ante if his actions would be classified as justifiable or unjustifiable. One would first have to interrogate the whole population to make sure that one's planned actions would not change another person's evaluations regarding his own property. And even then nobody could act until universal *agree ment* was reached on who is supposed to do

what with what, and at which point in time. Clearly, for all the practical problems involved, one would be long dead and nobody would argue anything any longer long before this was ever accomplished.[18] But more decisively still, the socialist position regarding property and aggression could not even be effectively *argued*, because arguing in favor of any norm, socialist or not, implies that there is conflict over the use of some scarce resource, otherwise there would simply be no need for discussion. However, in order to argue that there is a way out of such conflicts, it must be presupposed that actions must be allowed to be performed *prior* to any actual agreement or disagreement, because if they were not, one could not even argue so. Yet if one can do this—and socialism too must assume that one can, insofar as it exists as an argued intellectual position—then this is only possible because the existence of ob*jective borders* of property i.e., borders which every person can recognize as such *on his own*, without having to agree first with anyone else with **[p. 141]** respect to one's system of values and evaluations. Socialism, too, then, in spite of what it *says*, must *in fact* presuppose the existence of objective property borders, rather than of borders determined by subjective evalua tions, if only in order to have any surviving socialist who can make his moral proposals.

The socialist idea of protecting value instead of physical integrity also fails for a second, related reason. Evidently, the value of a person, for ex ample, on the labor or marriage market, can be and indeed is affected by other people's physical integrity or degree of physical integrity. Thus, if one wanted property *values* to be protected, one would have to allow *physical* aggression against people. However, it is only because of the very fact that a person's borders—that is, the borders of a person's property in his body as his domain of exclusive control with which another person is not allowed to interfere unless he wishes to become an aggressor—are physical borders (intersubjectively ascertainable, and not just subjectively fancied borders) that everyone can agree on anything independently (and, of course, agreement means agreement of independent decision-making units!). Only because the protected borders of property are objective then, i.e., fixed and recognizable as fixed prior to any conventional agreement, can there at all be argumentation, and possibly agreement, between independent decision-making units. There simply could not be anyone arguing anything unless his existence as an independent physical unit was first recognized. No one could argue in favor of a property system defining borders of property in subjective, evaluative terms—as does socialism—because simply to be able to say so presupposes that, contrary to what the theory says, one must in fact be a physically independent unit saying it.

The situation is no less dire for socialism when one turns to the second essential specification of the rulings of the natural theory of property. The basic norms of capitalism were characterized not only by the fact that **[p. 142]** property and aggression were defined in physical terms; it was of no less importance that in addition property was defined as private, individualized property and that the meaning of original appropriation, which evidently implies making a distinction between prior and later, had been specified. It is with this additional specification as well that socialism comes into conflict. Instead of recognizing the vital importance of the prior-later distinction in deciding between conflicting property claims, socialism proposes norms which in effect state that priority is irrelevant in making such a decision and that late-comers have as much of a right to ownership as first-comers. Clearly, this idea is involved when social-democratic socialism, for instance, makes the natural owners of wealth and/or their heirs pay a tax so that the unfortunate latecomers might be able to participate in its consumption. And this idea is also involved, for instance, when the owner of a natural resource is forced to reduce (or increase) its present exploitation in the interest of posterity. Both times it only makes sense to do so when it is assumed that the person accumulating wealth first, or using the natural resource first, thereby commits an aggression against some late-comers. If they have done nothing wrong, then the late-comers could have no such claim against them.[19]

What is wrong with this idea of dropping the prior-later distinction as morally irrelevant? First, if the

late-comers, i.e., those who did not in fact do something with some scarce goods, had indeed as much of a right to them as the first-comers, i.e., those who did do something with the scarce goods, then literally no one would be allowed to do anything with anything, as one would have to have all of the late-comers' consent prior to doing whatever one wanted to do. Indeed, as posterity would include one's children's children—people, that is, who come so late that one could never possibly ask them—advocating a legal system that does not make use of the prior-later distinction as part of its underlying property theory is simply absurd in **[p. 143]** that it implies advocating death but must presuppose life to advocate any thing. Neither we, our forefathers, nor our progeny could, do, or will survive and say or argue anything if one were to follow this rule. In order for any person—past, present, or future—to argue anything it must be possible to survive now. Nobody can wait and suspend acting until everyone of an indeterminate class of late-comers happens to appear and agree to what one wants to do. Rather, insofar as a person finds himself alone, he must be able to act, to use, produce, consume goods straightaway, prior to any agreement with people who are simply not around yet (and perhaps never will be). And insofar as a person finds himself in the company of others and there is conflict over how to use a given scarce resource, he must be able to resolve the problem at a definite point in time with a definite number of people instead of having to wait unspecified periods of time for unspecified numbers of people. Simply in order to survive, then, which is a prerequisite to arguing in favor of or against anything, property rights cannot be conceived of as being timeless and nonspecific regarding the number of people concerned. Rather, they must necessarily be thought of as originating through acting at definite points in time for definite acting individuals.[20]

Furthermore, the idea of abandoning the prior-later distinction, which socialism finds so attractive, would again simply be incompatible with the nonaggression principle as the practical foundation of argumentation. To argue and possibly agree with someone (if only on the fact that there is dis agreement) means to recognize each other's prior right of exclusive control over his own body. Otherwise, it would be impossible for anyone to first say anything at a definite point in time and for someone else to then be able to reply, or vice versa, as neither the first nor the second speaker would be independent physical decisionmaking units anymore, at any time. Eliminat ing the prior-later distinction then, as socialism attempts to do, is tantamount to eliminating the possibility of arguing and reaching agreement. However, **[p. 144]** as one cannot argue that there is no possibility for discussion without the prior control of every person over his own body being recognized and accepted as fair, a late-comer ethic that does not wish to make this difference could never be agreed upon by anyone. Simply *saying* that it could implies a contradiction, as one's being able to say so would presuppose one's ex istence as an independent decision-making unit at a definite point in time.

Hence, one is forced to conclude that the socialist ethic is a complete failure. In all of its practical versions, it is no better than a rule such as "1 can hit you, but you cannot hit me," which even fails to pass the universalization test. And if it did adopt universalizable rules, which would basically amount to saying "everybody can hit everybody else," such rulings could not conceivably be said to be universally acceptable on account of their very material specification. Simply to say and argue so must presuppose a person's property right over his own body. Thus, only the first-come-first-own ethic of capitalism can be defended effectively as it is implied in argumentation. And no other ethic could be so justified, as justifying something in the course of argumentation implies presupposing the validity of precisely this ethic of the natural theory of property. **[p. 145]**

Notes

Chapter 7

1. For such a position cf. A. J. Ayer, *Language, Truth and Logic*, New York, 1950.

   On the emotivist position cf. C. L. Stevenson, *Facts and Values*, New Haven, 1963; and *Ethics and Language*, London, 1945; cf. also the instructive discussion by G. Harman, *The Nature of Morality*, New York, 1977; the classical exposition of the idea that "reason is and can be no more than the slave of the passions" is to be found in D. Hume, *Treatise on Human Nature*, (ed. Selby-Bigge), Oxford, 1970.

3. Cf. also Chapter 6 above.

4. For various "cognitivist" approaches toward ethics cf. K. Baier, *The Moral Point of View*, Ithaca, 1958; M. Singer, *Generalization in Ethics*, London, 1863; P. Lorenzen, *Normative Logic and Ethics*, Mannheim, 1969; S. Toul-min, *The Place of Reason in Ethics*, Cambridge, 1970; F. Kambartel (ed.), *Praktische Philosophie und konstruktive Wissenschaftstheorie*, Frankfurt/M., 1974; A. Gewirth, *Reason and Morality*, Chicago, 1978.

   Another cognitivist tradition is represented by various "natural rights" theorists. Cf. J. Wild, *Plato's Modern Enemies and the Theory of Natural Law*, Chicago, 1953; H. Veatch, *Rational Man. A Modern Interpretation of Aristotelian Ethics*, Bloomington, 1962; and *For An Ontology of Morals. A Critique of Contemporary Ethical Theory*, Evanston, 1968; and *Human Rights. Fact or Fancy?*, Baton Rouge, 1985; L. Strauss, *Natural Right and History*, Chicago, 1970.

5. Cf. K. O. Apel, *Transformation der Philosophie*, Vol. 2, Frankfurt/M, 1973, in particular the essay "Das Apriori der Kommunikationsgemeinschaft und die Grundlagen der Ethilk"; also J. Habermas, "Wahrheitstheorien," in: H. Fahrenbach (ed.), *Wirklichkeit und Reflexion*, Pfullingen, 1974; *Theorie des kommunikativen Handelns, Vol. 1*, Frankfurt/M, 1981, pp.44ff; and *Moralbewusstsein und kommunikatives Handeln*, Frankfurt/M., 1983.

   Note the structural resemblance of the "a priori of argumentation" to the "a priori of action," i.e., the fact, as explained in Chapter 6 above, that there is no way of disproving the statement that everyone knows what it means to act, since the attempt to disprove this statement would presuppose one's knowledge of how to perform certain activities. Indeed, the indisputability of the knowledge of the meaning of validity claims and action are intimately related. On the one hand, actions are more fundamental than argumentation **[p. 234]** with whose existence the idea of validity emerges, as argumentation is clearly only a subclass of action. On the other hand, to say what has just been said about action and argumentation and their relation to each other already requires argumentation and so in this sense—epistemologically, that is—argumentation must be considered to be more fundamental than nonargumentative action. But then, as it is epistemology, too, which reveals the insight that although it might not be *known* to be so prior to any argumentation, *in fact* the development of argumentation *presupposes* action in that validity claims can only be explicitly discussed in an argument if the persons doing so already know what it means to have knowledge implied in actions; both, the meaning of action in general and argumentation in particular, must be thought of as logically necessary interwoven strands of a priori knowledge.

6. Methodologically, our approach exhibits a close resemblance to what A. Gewirth has described as the "dialectically necessary method" (*Reason and Morality*, Chicago, 1978, p.42-47)—a method of a priori reasoning modeled after the Kantian idea of transcendental deductions. Unfortunately, though, in his important study Gewirth chooses the wrong starting point for his analyses. He attempts to derive an ethical system not from the concept of argumentation, but from that of action. However, this surely cannot work, because from the correctly stated fact that in action an agent must, by necessity,

presuppose the existence of certain values or goods, it does not follow that such goods then are universalizable and should thus be respected by others as the agent's goods by right. (On the requirement of normative statements to be universalizable cf. the following discussion in the text.) Rather, the idea of truth, or regarding morals, of universalizable rights or goods only emerges with argumentation as a special subclass of actions but not with action as such, as is clearly revealed by the fact that Gewirth, too, is not engaged simply in action, but more specifically in argumentation when he tries to convince us of the necessary truth of his ethical system. However, with argumentation recognized as the one and only appropriate starting point for the dialectically necessary method, a capitalist (i.e., non-Gewirthian) ethic follows, as will be seen. On the faultiness of Gewirth's attempt to derive universalizable rights from the notion of action cf. also the perceptive remarks by M. MacIntyre, *After Virtue*, Notre Dame, 1981, pp.6465; J. Habermas, *Moralbewusstsein und kommunikatives Handeln*, Frankfurt/M., 1983, pp.110-111; and H. Veatch, *Human Rights*, Baton Rouge, 1985, pp. 159-160.

7. The relationship between our approach and a "natural rights" approach can now be described in some detail, too. The natural law or natural rights **[p. 235]** tradition of philosophic thought holds that universally valid norms can be discerned by means of reason as grounded in the very nature of man. It has been a common quarrel with this position, even on the part of sympathetic readers, that the concept of human nature is far "too diffuse and varied to provide a determinate set of contents of natural law" (A. Gewirth, "Law, Action, and Morality" in: *Georgetown Symposium on Ethics. Essays in Honor of H. Veatch* (ed. R. Porreco), New York, 1984, p.73). Furthermore, its description of rationality is equally ambiguous in that it does not seem to distinguish between the role of reason in establishing empirical laws of nature on the one hand, and normative laws of human conduct on the other. (Cf., for instance, the discussion in H. Veatch, *Human Rights*, Baton Rouge, 1985, p.62-67.)

   In recognizing the narrower concept of argumentation (instead of the wider one of human nature) as the necessary starting point in deriving an ethic, and in assigning to moral reasoning the status of a priori reasoning, clearly to be distinguished from the role of reason performed in empirical research, our approach not only claims to avoid these difficulties from the outset, but claims thereby to be at once more straightforward and rigorous. Still, to thus dissociate myself from the natural rights tradition is not to say that I could not agree with its critical assessment of most of contemporary ethical theory; indeed I do agree with H. Veatch's complementary refutation of all desire (teleological, utilitarian) ethics as well as all duty (deontological) ethics (see *Human Rights*, Baton Rouge, 1985, Chapter 1). Nor do I claim that it is impossible to interpret my approach as falling in a "rightly conceived" natural rights tradition after all. What I claim, though, is that the following approach is clearly out of line with what the natural rights approach has ac tually come to be, and that it owes nothing to this tradition as it stands.

8. The universalization principle figures prominently indeed among all cognitivist approaches to morals. For the classical exposition cf. I. Kant, "Grundlegung zur Metaphysik der Sitten" and "Kritik der praktischen Vernunft" in: Kant, *Werke* (ed. Weischedel), vol. IV, Wiesbaden, 1956.

9. It might be noted here that only because scarcity exists is there even a problem of formulating moral laws; insofar as goods are superabundant ("free" goods) no conflict over the use of goods is possible and no action-coordination is needed. Hence, it follows that *any* ethic, correctly conceived, must be formulated as a theory of property, i.e., a theory of the assignment of rights of exclusive control over scarce means. Because only then does it become possible to avoid otherwise inescapable and unresolvable conflict. Unfortunately, moral philosophers, in their widespread ig norance of economics, have hardly ever seen this clearly enough. Rather, **[p. 236]** like H. Veatch (*Human Rights*, Baton Rouge, 1985, p. 170), for instance, they seem to think that they can do without a precise definition of property and property rights only to then necessarily wind up in a sea of vagueness and ad-hoceries. On human rights as property rights cf. also M. N. Rothbard, *The Ethics of Liberty*, Atlantic Highlands, 1982, Chapter 15.

10. Cf. J. Locke, *Two Treatises on Government* (ed. P. Laslett), Cambridge, 1970, esp. 2, 5.

11. On the nonaggression principle and the principle of original appropriation cf. also M. N. Rothbard, *For A New Liberty*, New York, 1978, Chapter 2; *and The Ethics of Liberty*, Atlantic Highlands, 1982, Chapters 6-8.

12. This, for instance, is the position taken by J. J. Rousseau, when he asks us to resist attempts to privately appropriate nature given resources by, for example, fencing them in. In his famous dictum, he says, "Beware of listening to this impostor; you are undone if you once forget that the fruits of the earth belong to us all, and the earth itself to nobody" ("Discourse upon the Origin and Foundation of Inequality among Mankind" in: J. J. Rousseau, *The Social Contract and Discourses (ed.* G. Cole), New York, 1950, p.235). However, it is only possible to argue so if it is assumed that property claims can be justified by decree. Because how else could "all" (i.e., even those who never did anything with the resources in question) or "nobody" (i.e., not even those who actually made use of it) own something—unless property claims were founded by mere decree?!

13. On the problem of the deriveability of "ought" from "is" statements cf. W. D. Hudson (ed.), *The Is-Ought Question*, London, 1969; for the view that the fact-value dichotomy is an ill-conceived idea cf. the natural rights literature cited in note 4 above.

14. Writes M. N. Rothbard in *The Ethics of Liberty*, Atlantic Highlands, 1982, p.32: "Now, *any* person participating in any sort of discussion, including one on values, is, by virtue of so participating, alive and affirming life. For if he were *really* opposed to life he would have no business in such a discussion, indeed he would have no business continuing to be alive. Hence, the *supposed* opponent of life is really affirming it in the very process of discussion, and hence the preservation and furtherance of one's life takes on the stature of an incontestable axiom." Cf. also D. Osterfeld, "the Natural Rights Debate" in: *Journal of Libertarian Studies*, VII, I, 1983, pp.106f. **[p. 237]**

15. Cf. also M. N. Rothbard, *The Ethics of Liberty*, Atlantic Highlands, 1982, p.45.

16. On the importance of the definition of aggression as physical aggression cf. also M. N. Rothbard, *The Ethics of Liberty*, Atlantic Highlands, 1982, Chapters 8-9; the same, "Law, Property Rights and Pollution," in: *Cato Journal*, Spring 1982, esp. pp. 60-63.

17. On the idea of structural violence as distinct from physical violence cf. D. Senghaas (ed.), *Imperialismus und strukturelle Gewalt*, Frankfurt/M., 1972.

    The idea of defining aggression as an invasion of property *values* also underlies the theories of justice of both J. Rawls and R. Nozick, however different these two authors may have appeared to be to many commentators. For how could he think of his so-called difference-principle—"Social and economic inequalities are to be arranged so that they are . . . reasonably expected to be to everyone's—including the least advantaged one's—ad-vantage or benefit" (J. Rawis, *A Theory of Justice*, Cambridge, 1971, pp. 60-83; see also pp.75ff)—as justified unless Rawls believes that simply by increasing his relative wealth a more fortunate person commits an aggres sion, and a less fortunate one then has a valid claim against the more fortunate person only because the former's relative position in terms of value has deteriorated?! And how could Nozick claim it to be justifiable for a "dominant protection agency" to outlaw competitors, regardless of what their actions would have been like (R. Nozick, *Anarchy, State and Utopia*, New York, 1974, pp.55f)? Or how could he believe it to be morally correct to outlaw so-called nonproductive exchanges, i.e., exchanges where one party would be better off if the other one did not exist at all, or at least had nothing to do with it (as, for instance, in the case of a blackmailee and a blackmailer), regardless of whether or not such an exchange involved physical invasion of any kind (*ibid.*, pp. 83-86), unless he thought that the right existed to have the integrity of one's property *values* (rather than its physical integrity) preserved?! For a devastating critique of Nozick's theory in particular cf. M. N. Rothbard, *The Ethics of Liberty*, Atlantic Highlands, 1982, Chapter 29; on the fallacious use of the indifference curve analysis, employed both by Rawls and Nozick, cf. the same, "Toward a Reconstruction of Utility and Welfare Economics," *Center for Libertarian Studies, Occasional Paper*

No. 3, New York, 1977.

18. Cf. also M. N. Rothbard, *The Ethics of Liberty*, Atlantic Highlands, 1982, p.46. **[p. 238]**

19. For an awkward philosophical attempt to justify a late-comer ethic cf. J. Rawls, *A Theory of Justice*, Cambridge, 1971, pp.284ff; J. Sterba, *The Demands of Justice*, Notre Dame, 1980, esp. pp.58ff, pp.137ff; On the absurdity of such an ethic cf. M. N. Rothbard, *Man, Economy and State*, Los Angeles, 1972, p.427.

20. It should be noted here, too, that only if property rights are conceptualized as private property rights originating in time, does it then become possible to make contracts. Clearly enough, contracts are agreements between enumerable physically independent units which are based on the mutual recognition of each contractor's private ownership claims to things acquired prior to the agreement, and which then concern the transfer of property titles to definite things from a specific prior to a specific later owner. No such thing as contracts could conceivably exist in the framework of a late-comer ethic! **[p. 239]**

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