
CHAPTER TEN

ON THE ULTIMATE JUSTIFICATION OF THE ETHICS OF PRIVATE PROPERTY

Ludwig von Mises, in his masterpiece *Human Action* presents and explains the entire body of economic theory as implied in, and deducible from, one's conceptual understanding of the meaning of action (plus that of a few general, explicitly introduced assumptions about the empirical reality in which action is taking place). He calls this conceptual knowledge the "axiom of action," and he demonstrates in which sense the meaning of action from which economic theory sets out, i.e., of values, ends, and means, of choice, preference, profit, loss, and cost, must be considered *a priori* knowledge: it is not derived from sense impressions but from reflection (one does not see actions, but rather interprets certain physical phenomena as actions!); and, most importantly, it can not possibly be invalidated by any experience whatsoever, because any attempt to do so would already presuppose the existence of action and an actor's understanding of the categories of action (experiencing something is, after all, itself an intentional action!).

Thus having reconstructed economics as, in the last resort, derived from an *a priori* true proposition, Mises, then, can claim to have provided an ultimate foundation of economics. He terms a so founded economics "praxeology," the logic of action, in order to emphasize the fact that its propositions can be definitely proven by virtue of the indisputable action-axiom and the equally indisputable laws of logical reasoning (such as the laws of identity and contradiction) — completely independent, that is, of any kind of empirical testing (as employed, for instance, in physics). Mises, however, although his idea of praxeology and his construction of an entire body of praxeological thought places him among the greats of the modern Western tradition of rationalism in its search for certain foundations, does not think that another claim of this tradition can be made good: the claim for certain foundations also in ethical matters. According to Mises there exists no ultimate justification for ethical propositions in the same sense as there exists one for economic propositions. Economics, to be sure, can inform us whether or not certain means are appropriate for bringing about certain ends; yet whether or not the ends can be regarded as just can neither be decided by economics nor any other science. There is no justification for choosing this rather than that end. In the last resort, what end is chosen is arbitrary

from a scientific point of view, a matter of subjective whim, incapable of any justification beyond the mere fact of simply being liked.

Many libertarians (not to speak here of non-libertarians) have followed Mises on this point. Like Mises, they have given up the idea of a rational foundation of ethics. Of course, as does he, they make as much as possible out of the economic proposition that the libertarian private property ethic produces a higher general standard of living than any other one; that most people actually prefer higher over lower standards of living; and hence that libertarianism should prove highly popular. But ultimately, as Mises certainly knew, such considerations can only convince somebody of libertarianism who has already accepted the "utilitarian" goal of general wealth maximization. For those who do not share this goal they have no compelling force at all. And thus, in the final analysis, libertarianism is based on nothing but an arbitrary act of faith (however popular).

In the following I want to outline an argument that demonstrates why this position is untenable, and how, in fact, the — essentially Lockean — private property ethic of libertarianism can be ultimately justified. In effect, this argument then supports the natural rights position of libertarianism as espoused by the other master thinker of the modern libertarian movement, Murray N. Rothbard — foremost in his *Ethics of Liberty*. Yet the argument establishing the ultimate justification of private property is different from the one typically offered by the natural rights tradition. Rather than this tradition, it is Mises, and his idea of praxeology and praxeological proofs, who provides the model.

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

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

First, it must be noted that the question of what is just or unjust — or, for that matter, the even more general one of what is a valid proposition and

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

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

Furthermore, it would be equally impossible to sustain argumentation for any length of time and rely on the propositional force of one's arguments, if one were not allowed to appropriate next to one's body other scarce means through homesteading action, i.e., by putting them to use

before somebody else does, and if such means, and the rights of exclusive control regarding them, were not defined in objective, physical terms. For if no one had the right to control anything at all except his own body, then we would all cease to exist and the problem of justifying norms — as well as all other human problems — simply would not exist. Thus, by virtue of the fact of being alive then, property rights to other things must be presupposed to be valid, too. No one who is alive could argue otherwise.

And if a person did not acquire the right of exclusive control over such goods by homesteading action, i.e., by establishing some objective link between a particular person and a particular scarce resource before anybody else had done so, but if, instead, late-comers were assumed to have ownership claims to things, 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 ever doing what one wanted to do. Neither we, our forefathers, nor our progeny could, do or will survive if one were to follow this rule. Yet in order for any person - past, present or future - to argue anything it must evidently be possible to survive then and now. And in order to do just this property rights cannot be conceived of as being "timeless" and non-specific regarding the number of people concerned. Rather, they must necessarily be thought of as originating through acting at definite points in time for specific acting individuals. Otherwise, it would be impossible for anyone to first say anything at a definite point in time and for someone else to be able to reply. Simply saying, then, that the first-user-first-owner rule of libertarianism can be ignored or is unjustified, implies a contradiction, as one's being able to say so must presuppose one's existence as an independent decision-making unit at a given point in time.

And lastly, acting and proposition-making would also be impossible, if the things acquired through homesteading were not defined in objective, physical terms (and if, correspondingly, aggression were not defined as an invasion of the physical integrity of another person's property), but, instead, in terms of subjective values and evaluations. For while every person can have control over whether or not his actions cause the physical integrity of something to change, control over whether or not one's actions affect the value of someone's property rests with other people and their evaluations. One would have to interrogate and come to an agreement with the entire world population to make sure that one's planned actions would not change another person's evaluations regarding his property. And surely, everyone would be long dead before this was accomplished. Moreover, the idea that property values should be protected is argumentatively indefensible: For even in order to argue so, it must be presupposed that actions must be allowed prior to any actual agreement, because if they were not one could not even make this proposition. Yet if one can, then this is only possible because of

objective 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 respect to one's system of values and evaluations.

By being alive and formulating any proposition, then, one demonstrates that any ethic except the libertarian private property ethic is invalid. Because if this were not so and late-comers were supposed to have legitimate claims to things or things owned were defined in subjective terms, no one could possibly survive as a physically independent decision-making unit at any given point in time, and hence no one could ever raise any validity claiming proposition whatsoever.

This concludes my *a priori* justification of the private property ethic. A few comments regarding a topic already touched upon earlier, the relationship of this "praxeological" proof of libertarianism to the utilitarian and to the natural rights position, shall complete the discussion.

As regards the utilitarian position, the proof contains its ultimate refutation. It demonstrates that simply in order to propose the utilitarian position, exclusive rights of control over one's body and one's homesteaded goods already must be presupposed as valid. And, more specifically, as regards the consequentialist aspect of libertarianism, the proof shows its praxeological impossibility: the assignment of rights of exclusive control cannot be dependent on the — "beneficial" or whatever else — outcome of certain things; one could never act and propose anything, unless private property rights existed already prior to any later outcome. A consequentialist ethic is a praxeological absurdity. Any ethic must, instead, be "aprioristic" or "instantaneous," in order to make it possible that one can act here and now proposing this or that, rather than having to suspend acting and wait until later. Nobody advocating a wait-for-the-outcome ethic could be around anymore to say anything if he were to take his own advice seriously. And to the extent that utilitarian proponents are still around, then, they demonstrate through their actions that their consequentialist doctrine is, and must be, regarded as false. Acting and proposition-making requires private property rights now, and cannot wait for them to be assigned only later.

As regards the natural rights position, the praxeological proof, generally supportive as it is of the former's position concerning the possibility of a rational ethic and in full agreement also with the conclusions reached within this tradition (specifically, by M. N. Rothbard), has at least two distinctive advantages. For one thing, it has been a common quarrel with the natural rights position, even on the part of otherwise sympathetic observers, that the concept of human nature is far too diffuse to allow the derivation of a determinate set of rules of conduct. The praxeological approach solves this problem by recognizing that it is not the wider concept of human nature, but the narrower one of propositional exchanges and

argumentation, which must serve as the starting point in deriving an ethic; moreover, that there exists an a priori justification for this choice insofar as the problem of true and false, or of right and wrong, does not arise outside and apart from propositional exchanges and no one, then, could possibly challenge such starting point without contradiction; and finally, that it is argumentation which requires the recognition of private property, and that an argumentative challenge of the validity of the private property ethic thus is praxeologically impossible.

Secondly, there is the logical gap between "is-" and "ought-statements" which natural rights proponents, at least according to wide-spread opinion, have failed to successfully bridge — except for advancing some general critical remarks regarding the ultimate validity of the fact-value dichotomy. Here the praxeological proof of libertarianism has the advantage of offering a completely value-free justification of private property. It remains entirely in the realm of is-statements, and nowhere tries to derive an ought from an is. The structure of the argument is this: a) justification is propositional justification - a priori true is-statement; b) argumentation presupposes property in one's body and the homesteading principle — a priori true is-statement; and c) then, no deviation from this ethic can be argumentatively justified — a priori true is-statement. And the proof also offers a key to an understanding of the nature of the fact-value dichotomy: Ought-statements cannot be derived from is-statements. They belong to different logical realms. It can also be recognized, however, that one cannot even state that there are facts and values if there were no propositional exchanges, and that this practice of propositional exchanges then, in turn, presupposes the acceptance of the private property ethic as valid. Cognition and truth-seeking as such, that is to say, have a normative foundation. And the normative foundation on which cognition and truth rest is the recognition of private property rights.