

## From Libertarianism to Egalitarianism

### 1. Introduction

In 1989, a "radical" member of the newly elected city council of what was then Leningrad announced that it was necessary to move "from [Communism], through socialism, to Reaganism."<sup>1</sup> One may doubt that the former Soviet Union embodied either communism or socialism in the sense that Marx, for example, envisioned these ideals.<sup>2</sup> Be that as it may, I urge here that at least with respect to one popular defense of libertarianism, the logic of the argument impels us in the other direction. Acceptance of a certain claim about the basis of natural property rights supports not libertarianism but a strong form of egalitarianism. The rights claim in question is a labor theory of property entitlement of the sort advocated by Locke and Nozick, and used to argue for libertarianism. The basis of this claim is the self-ownership principle, on which I focus.

I argue that far from supporting libertarianism, self-ownership is a premise in an argument for egalitarianism. This egalitarianism is plausibly regarded as an interpretation of the needs principle, "to each according to her needs," that Marx would inscribe on the banner of Communist society. The argument, briefly, is that the labor theory of property entitlements (call it the "labor theory" for short) does not give us any right to the resources we need to employ our labor, but if we suppose there is such a right the resulting principle is one of distribution according to need. In my case, the argument is *ad hominem*. I do not accept natural rights talk. But I argue that if one does accept the labor theory as a natural right on the basis of self-ownership, egalitarianism rather than libertarianism results. More precisely, I argue that the best way the

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libertarian has to get from self-ownership to the labor theory invokes the needs principle and thus leads to egalitarianism.

My argument, which I believe to be novel, is presented in section 7. A number of people have argued that self-ownership cannot support libertarian property rights. What is new here is my argument that on the most plausible defense of the labor theory available to the libertarian, self-ownership supports egalitarianism.<sup>3</sup> It's not just that the libertarian can't get where she wants to go with her chosen resources, but that use of those resources tends to lead just where she doesn't want to go. Before setting the case out, however, we must survey the territory by way of showing that the standard ways of reaching libertarianism from self-ownership fail. These arguments will be more familiar,<sup>4</sup> but they are necessary to show that the libertarian faces the choice I maintain she does: no property rights, or egalitarian ones. The challenge to the libertarian is to ground the labor theory in self-ownership without invoking the Needs principle, and this will prove quite difficult. I will not attempt to show that there is no good argument for libertarianism, for example, a utilitarian argument or a different natural rights argument. But I will show that the popular argument under consideration turns, in a startlingly Hegelian manner, into its opposite.

## 2. Libertarianism and Self-Ownership

Libertarianism may be understood as a pair of theses about distributive justice. It says that

- (1) permissible inequalities of wealth and income are limited only by the condition that acquisition of wealth and income violate no one's natural property rights (libertarian justice), and
- (2) natural property rights are acquired either by (a) producing something by one's labor with resources to which no one else has a prior claim (the labor theory) or by (b) voluntary transfer of something in which the transferor has property rights (voluntary transfer).

Something like this position, here expressed in a somewhat idealized form, is maintained by Locke and by many contemporary

libertarians, including Narveson, Machan, Lomasky, Nozick, Hospers, Rothbard, Hayek, and others.<sup>5</sup>

With regard to (1), the libertarian principle of justice allows dramatic inequalities of wealth and income, even to the point of allowing many or most people to be consigned to absolute destitution. As against utilitarianism, inequalities need not be justified by their contribution to maximizing average or total utility or well-being; inequalities are permitted even if they reduce social well-being. As against some hypothetical social contract theories, such as Rawls's,<sup>6</sup> inequalities need not be justified by their contribution, roughly, to the well-being of the least well off, that is, by reciprocity. Inequalities are permitted even if they do not help or even if they actually hurt the least well off, that is, even if redistribution would materially or otherwise benefit the least well off. The only restriction is that inequalities must come about in a way that respects other's property rights, as discussed below. Inequalities may not arise through violations of property rights of others. Libertarianism forbids only inequalities due to force, fraud, or chicanery.

To put the idea dramatically: if I own (have a right to) the factory where you work, libertarianism says I may fire you, contractual obligations permitting. You have no right to a job or a wage. If I own the bank that holds your mortgage, I may, having fired you, foreclose on your house if you do not make your payments, and turn you out in the street. You have no right to the house if you cannot pay for it. That you are reduced to homelessness and utter poverty is unfortunate, but no injustice has been done. I have not, in a libertarian sense, harmed you, that is, violated your rights. If, however, I forcibly take your last ragged shirt (which you bought when you had a job), I have committed theft. I have violated your property rights, and that is unjust and impermissible.

Of course libertarians do not think that instituting libertarian justice would result, as a matter of empirical fact, in the absolute impoverishment of a great many people; on the contrary, they often suppose that the likely result would be a cornucopia of wealth due to the unleashing of entrepreneurial talent. I doubt it, but we need not dispute the issue here. My point is just that libertarianism, logically speaking, has the consequences I have described. That is,

man" (33).<sup>9</sup> If on the other hand I leave enough and as good, my use of the resources is unobjectionable. For the moment I will treat the proviso as a necessary condition of a right in the fruit of my labor and not as a basis of a right in that fruit or a claim to the resources I need to produce such fruit. In section 6 I discuss whether it can be a basis for such a right or claim. So the Lockean proviso is

(3) I have a right in the fruit of my labor *only if* my appropriation of the unproduced resources on which I work leaves enough and as good for others.

The precise interpretation of the proviso is disputed. I will take (3) to mean that unless there is enough and as good of unacquired resources left for others when I appropriate such resources then I am not entitled to the fruit of my labor, but not that I am entitled to that fruit in virtue of leaving enough and as good. No such proviso applies, libertarians generally think, to voluntary transfer of property in which I have a right. Such transfer may be to someone's prejudice and still be legitimate. I shall return to this question.

Why should I have a right in or to<sup>10</sup> the fruits of my labor? The idea motivating the labor theory is often put in terms of self-ownership. Locke says, "Every man has a property in his own person. . . . The labor of his body and the work of his hands. . . are properly his" (27). Wheeler offers a good defense of the claim.<sup>12</sup> My talents and character are my own property, whatever else is. For Nozick self-ownership allows me the right to sell (or even give) myself into slavery.<sup>13</sup> For other libertarians my talents and character are inalienable; I can, as it were, rent them, but I cannot sell them or give them away. Moreover, no one may take them from me in the sense of putting them to use without my consent: that would be forced labor, a violation of property rights, and a species of theft. So the self-ownership principle is

(4) I own my labor, that is, I have property rights to my talents and character.

But the fruits of my labor are just the result of the exercise of my talents and character. This idea is sometimes expressed by Locke's queer expression that I "mix" my labor with its object (27). We

such impoverishment and inequality is permitted whether or not it actually would occur as a result of instituting libertarian justice.

Given this, libertarianism appears quite unattractive to many writers.<sup>7</sup> We would need some very strong reasons to adopt it in the face of these consequences. Even if the consequences did not come about were libertarian justice implemented, that libertarianism permits them in principle is a grave concern. Here libertarianism faces the sort of problem many have thought fatal for utilitarianism, namely that it would license some people suffering appalling misery and degradation for the benefit of others, or at least while others thrive. I do not argue here that the problem is fatal for libertarianism, although I think that it is, but just that this is why a strong reason is required to outweigh these consequences.

The basic reason for adopting libertarian justice despite these possible consequences is stated in the intuitively plausible natural rights principle (2), the core of which, (2a), the labor theory, has a powerful grip on many people. The idea is that I am entitled to the fruit of the exercise of my talents and character (of my labor, for short) as long as no one else has a prior claim on that fruit. If I am a talented potter and have a character that is diligent and disciplined in the development of my talents, I have a right in the pots I produce—as long as no one else has a prior claim—and, by (2b), the voluntary transfer principle, to any wealth or income deriving from their sale, as long as that involves only voluntary transactions. But the only basis for a prior claim appears to be that the fruits of my labor are due to someone else's (involuntary) labor, that is, that they are not really, or solely, the fruits of my own labor or of voluntary cooperation. No principles of utility or reciprocity constrain the libertarian acquisition of property, and the only principle that constrains its transfer is that transfer must be voluntary.

An important qualification to this theory is that, according to many libertarians, legitimate property acquisition is constrained by the Lockean proviso that in the initial acquisition of resources for the exercise of my labor I must leave "enough and as good" for others. The idea seems to be that such property acquisition must not harm anyone or, as Locke puts it, be "any prejudice to any other

will be disappointed if we subject pots to spectroscopic analysis to locate embodied labor along with clay, but we can avoid odd metaphysics (or perhaps metachemistry) by putting the point in causal terms, as a matter of production.

The claim to a right to anything other than my labor, such as its fruits, is supposed to follow in this way. If something is the product of my labor and no one else has a prior claim to it in virtue of its being (really or also) the product of her (involuntary) labor, then the property rights that I have in it are transmitted through the causal relation of producing that thing to the thing itself. I therefore own what I alone produce. This means that others are enjoined from interfering in my use of it—libertarian rights are relations among persons, not between persons and things. By (2b), voluntary transfer, I also own what I am voluntarily given either as a gift or in exchange (including the labor of others), as long as it is transferred to me by someone who is entitled to it.

The idea can be refined in various ways. One may add principles of rectification whereby I can retain a right in or to property acquired in ways that violated the rights of others as long as the others are compensated for such violations in ways that are acceptable to them.<sup>14</sup> Some further work needs to be done to sort out what rights individuals have to products that are the result of collective activity carried out in a way that makes it hard to determine individual labor contributions. But the basic idea, as I have set it forth, is deeply attractive—for some, sufficiently so that they will swallow the distasteful consequences described above. The *modus tollens* traveled by liberals and socialists, who say that if the view has these consequences it must be wrong, becomes for libertarians a *modus ponens*: since these consequences (or their possibility) follow from a view that is so appealing, they must be accepted.

### 3. The Problem of Initial Acquisition

I myself accept the *modus tollens*, but I offer a different argument here. It turns on questions about the legitimacy of initial acquisition of the resources on which I labor, even supposing that self-owner-

ship holds. We may contrast my approach with Rawls's, who argues that self-ownership is false.<sup>15</sup> He thinks that I have no right to anything that is the result of processes or conditions for which I am not responsible. I therefore have no right to my talents or character, which are due, exhaustively, to genetics and environment. Talents and character are on the same footing with regard to creating property rights, he holds, as race or gender. If we say this, we will reject the libertarian argument and seek other principles of distributive justice, perhaps ones that avoid the distasteful consequences of the libertarian principle of justice. The Rawlsian claim is highly controversial. The general principle backing it has the consequence that there are no natural rights independent of social agreement and arrangements. I agree with the claim and the rejection of natural rights, but do not defend these further here, in part because there is no hope of convincing the libertarian. My strategy is rather to offer an *ad hominem* argument to show that libertarianism is self-subverting if it is defended on the grounds of self-ownership.

So I concede self-ownership for the sake of argument, and show, first, that even this fails to establish (1), libertarian justice or (2a), the labor theory, the basic libertarian claim about the source of property rights, and, second, that on an attractive and plausible response to my objection, self-ownership commits us to egalitarianism. Since I regard these principles and any natural rights claims as false, I do not think that this is a good argument for egalitarianism. But it is a good argument against libertarianism, at least the sort based on (2) and (4).

Suppose we say that I have property rights to my talents and character. Does this give me property rights to the fruits of their exercise, that is, in the product of my labor? It does not, for the following reasons. First, in order to produce any fruits at all, I must have resources on and with which to work. Second, to produce any fruits of the sort that require cooperation, I require a division of labor that permits me to produce what I do. With regard to resources, Wilt Chamberlain (Nozick's example) would not have been a great basketball player, whatever his talents and character, had he had no basketballs to dribble and shoot or courts to practice upon. With regard to the division of labor, Chamberlain would

have been no sort of star at all had no one passed him a ball to shoot.

But the fact that he owns his labor gives him no claim on the resources on which to employ it nor any right to the division of labor in virtue of which he can employ it. That he needs these resources and this division of labor to exercise his talents and character in a way that produces fruits—in his case, great basketball—gives him no right to them, or so a libertarian will say. After all, he did not produce the basketballs and courts by his own labor; at least by the labor theory, he would have such a claim only if he had. And if he cannot claim the resources, he is not entitled to the fruits that can be produced only by their use. Even if no one else is entitled to these resources, Chamberlain is not entitled to them merely in virtue of needing them. Likewise with the division of labor that enables him to play: not only did Chamberlain not produce it by his efforts, but a division of labor is not the sort of thing in which one can have a property right. Self-ownership gives me a right to my labor alone, not to what I need to employ it, or to the fruits resulting from its employment on resources in a division of labor. Because of this, the causal relation of production does not transmit my rights to my labor to its products, which involve resources I did not produce and the production of which may require a division of labor.

#### 4. Voluntary Transfer

Three sorts of reply are possible. It will be said, first, that voluntary transfer gives Chamberlain a basis for a different sort of claim to the necessary resources and division of labor. Others may have voluntarily agreed to transfer to him the resources he needs by sale or gifts of basketballs and courts or by granting permission for their use. Others, namely his teammates, may have voluntarily agreed to pass him the ball, creating if not a right to the division of labor, at least an unobjectionable use of it. He does not force them to pass him the ball.

It is easy to see how this applies to instances more salient to the distasteful consequences of libertarianism. Capitalists may have a

right to the resources they need to exercise their commercial talents and abstemious characters,<sup>16</sup> although they did not produce those resources themselves, in virtue of voluntary transfer. If they purchase the resources from others, who themselves produced the resources in virtue of a voluntary division of labor whereby workers agree to exercise their labor on the resources in exchange for wages, the purchasers acquire property rights to what they buy. Vast inequalities and great suffering resulting from such capitalistic activities can therefore arise unobjectionably from a libertarian point of view.

One kind of reply, which I shall not press here, is that unlike the Chamberlain case, the capitalist case does involve force because workers are coerced to work,<sup>17</sup> so voluntary transfer is not satisfied.<sup>18</sup> But defending this would take us too far into the nature of coercion and the justification (or lack of it) of the wage contract. I waive the issue of coercion, thus granting voluntary transfer, and make the different point about initial acquisition.

Here we come to the crux of the argument. Note, first, that the others from whom I have consent to use resources must themselves have a right to those resources if their consent is to transfer to me a right to the resources. If we are to avoid an infinite regress of transfers, some other people must have legitimately acquired the resources which they transfer without having themselves acquired those resources by any transfer. Call these others the original producers. Ultimately, the ground of my right to the resources I need but did not produce must be that I obtain through voluntary transfer resources that each original producer produced by her labor alone, or produced using the labor of others only with their consent that its fruit will accrue to the original producer. However, and this is the point, in order to produce anything, each original producer herself requires resources she did not herself (or with the voluntary cooperation of others) produce. But since these producers are original, they cannot have obtained those resources by voluntary transfer. They must somehow acquire resources which are common or unowned. And thus the problem of initial acquisition looms large. On what grounds is this initial acquisition legitimate?

### 5. Permission without Entitlement

So the appeal to voluntary transfer takes us back to whether anyone has a right to the resources she needs to exercise her talents and character merely in virtue of having those talents and that character, given that she did not produce those resources in the first place. This leads to the second reply, which turns on the labor theory. It will be said that I do not need a right in or to resources I did not produce as long as I violate no one's rights by taking them. If they belong to no one—if they are just there, produced by nature—I have no right to them, but if I wrong or harm no one by appropriating them, I have a (Hohfeldian) permission to do so. Since the resources belong to no one, I violate no individual's rights in appropriating them, and if I respect the Lockean proviso and leave enough and as good for others, I harm no one by appropriating them. If I do take the resources and produce things with them by labor upon them, the process of production transmits my self-ownership rights to my labor to the products, which are therefore my property.

But this will not do. Granted that I do have a permission to use such resources, so does everyone else. Why should my use of the resources abrogate their permission to use the resources? Others have no right to my labor, so if I make a pot and you take and use it as a pot, or in other ways make use of features of it that are due to my labor, you have arguably taken that to which you have no right. But if you take it to use the clay of which it is composed, you have taken only what you have as much permission as I to appropriate. By the labor theory, no one has any right to common or unowned resources not previously appropriated by anyone, and the permission anyone has to use such resources is nonexclusive.

The libertarian might say that you cannot take the resources incorporated in my products without taking my labor, the result of the exercise of my talents and character. This too is no help. Do I come to own the sea, Nozick asks, if I spill into it a can of tomato juice that I own, or have I rather dissipated my juice?<sup>19</sup> The juice is mine if I can get it out, but that's my problem, and likewise with the labor embodied in my products. Just because I cannot get the labor out of what you have a permission to use does not mean that

you do not have that permission, as long as you do not use the results of my labor.

Locke is aware of the problem. He argues that 90% or 99% of the "value" of "the products of the earth useful to the life of man" are "the effects of labor"; this is why "the property of labor should be able to overbalance the community of land" (40). This does not follow. Others may not be entitled to the "value," however determined, of improvements due to my labor. But that does not give me a right to the value I did not add, that is, the resources I start with, and others do not lose their permission simply because I used mine. That I do not harm others if I leave enough and as good is irrelevant; in the same sense, others do not harm me materially if they take some of my property that I do not need (and may not even notice the lack of), leaving enough and as good for me. If they do that, they nonetheless violate my rights. But if I appropriate as private property resources I did not produce or acquire by voluntary transfer, I violate the permission others have to use them.

Nozick considers Locke's move, then rejects it because "no workable or coherent value-added property scheme has yet been devised." But that is not a reason to deny others their permission. It is a reason to reject the labor theory as a basis for property rights. "Why isn't mixing what I own with what I don't own a way of losing what I own rather than gaining what I don't?" asks Nozick,<sup>20</sup> then quickly changes the subject after the brusque dismissal of value-added theories. Precisely: since I may not deny others their permission, if I cannot determine and separate my own contribution from the pre-existing resources or the value I do not produce, I have lost what I own. Thus we stand with Rousseau: "The fruits of the earth belong to all and the earth to no one."<sup>21</sup> And the way is open to non-libertarian distributions—perhaps, though not necessarily, egalitarian ones—of the earth's resources and the fruit of our labor upon them.

### 6. The Lockean Proviso

Perhaps the Lockean Proviso might help the libertarian here: thus

the third reply. The libertarian might try to defend the legitimacy of initial acquisition of unproduced resources by arguing, with Lomasky, that acquisitive behavior itself is an essential step in the justification of property rights.<sup>22</sup> When an original producer exercises her permission and appropriates such resources on which to labor, others simply lose their permission to use them. It is the acquisitive activity of laboring upon the resources in pursuit of her ends that makes them hers. As long as she respects the Lockean proviso and leaves enough and as good for others, they can have no complaint. Kantian respect for my ends requires others to honor my appropriation simply because I make it, as long as I show a similar respect for the ends of others by honoring the proviso. Thus there exists no gap in the argument to be filled, no problem of initial acquisition at all. Initial acquisition, the libertarian might say, is the solution, not the problem.

But this solves the problem by begging the question. All have a permission to use common or ownerless resources and the question the libertarian must answer is why the exercise of that permission by one original producer abrogates the permission of others. The reply under consideration amounts to an assertion that it just *does*. Such an assertion will not persuade even a mild skeptic, as Locke, for one, is well aware: that is why he insists on the value added by labor as a basis for "overbalancing the community of [common resources]."<sup>23</sup> Adding value does not help, as we have seen. But something must be adduced to explain the abrogation of permission in the value the original producer initially appropriates. Simply appropriating it won't do the trick.

Suppose, though, that we read the Lockean proviso as a sufficient rather than merely a necessary condition for a right to the resources acquired in initial appropriation, replacing (3) with

(5) I have a right in or to the fruit of my labor if my appropriation of the resources on which I work leaves enough and as good for others.

Instead of being a constraint on having property rights, the proviso becomes a basis for them. So interpreted, the proviso means that if I leave enough and as good of the common or unowned resources, I do have a right to the fruit of my labor. That is, the original producer's appropriation itself does not abrogate the permission of

others, pace Lomasky, but her leaving enough and as good does abrogate their permission. As long as the proviso is honored, no one is harmed, either materially or morally (by violation of a right or a permission), and somebody benefits. Indeed, in virtue of the value added by the original producer's labor, many may benefit. What more do you want? the libertarian might ask. I consider two versions of this move.

David Gauthier presents an argument, based on the Lockean proviso, to "demonstrate a right to the effects of one's labor."<sup>24</sup> The argument is specifically meant to extend the sort of right one has in one's labor itself to the products of one's labor, "the effects of exercising one's powers."<sup>25</sup> Gauthier reads the proviso so that it prohibits "bettering one's own situation through interaction that worsens the situation of another."<sup>26</sup> He claims, first, that I do not violate the proviso if I "cultivate a plot of land, intending to consume its produce" as long as "the exercise of my powers is independent of any other person." In this case I do not "better myself through interaction" or at your expense. Even if you are made worse off because you would have otherwise cultivated the land, "this worsening is incidental to the benefit I receive." But if you seize my produce from the land, you benefit yourself as a result of my activity while harming me, and thus violate the proviso.<sup>27</sup>

Gauthier's claim is that respect for the proviso gives producers "a right in the fruits of one's labor" but not "a right to those fruits." A right in the fruits is less than exclusive possession because it neither forbids you to take the fruit of my labor as long as you compensate me "for my effort and intended use,"<sup>28</sup> nor to take "produce for which I could find me no use."<sup>29</sup> For exclusive possession, a right to the fruit of my labor, further argument is required.

But even so far the argument does not follow. Respect for the Lockean proviso does not even give me a right in the fruit of my labor. No right is established by noting that the proviso as defined is not violated if I do not worsen your situation through interaction and it is violated if I do. That tells us only what counts as respecting the proviso as Gauthier understands it. But the question is precisely whether respecting the proviso gives me a right of any sort, rather than merely being a necessary condition for having some such

right. Granted that I cannot have any right in the fruit of my labor if I violate the proviso, but given that all have a permission to use unowned or common resources, why do I have some right to that fruit if I respect the proviso?

Gauthier would reply that if you seize what I produce, then as long as I have respected the proviso in producing fruits, you take what you have no right to take because you “better yourself as a result of my activity and, furthermore worsen . . . my situation from what it would have been in [your] absence, by depriving me of the fruits of my labor.”<sup>30</sup> If you may not do that, I have a right in what I produce while respecting the proviso. A right in something derives from a permission to its use with which no one else may interfere.

But you do not better yourself at my expense, even if you take the fruit of my labor, as long as you do not prevent me from enjoying that fruit too. This may seem paradoxical, but that appearance depends on the assumption that in taking the fruit of my labor you thereby deprive me of it. Gauthier’s argument depends on the supposition that so “seizing” it is the only way that you can use the fruit of my labor. You do worsen my situation and indeed violate my permission if you seize what I produce, that is, take it and prevent me from using it. But you do neither if you take what I produce but do not interfere with my own use of it, that is, if you insist that I share what we both can use. In that case you do not deprive me of the fruits of my labor, but only deny some sort of exclusionary claim to them, that is, a right in those fruits. This claim to sharing is not based on a right: it is simply the expression of the unabrogated permission all have to use common or unowned resources. The notion of sharing will do more work below.

If we hold that you may not use the results of my labor, the improvements or changes brought about by the exercise of my talents and character, without my consent, then legitimate sharing will be restricted to the unproduced resources that the fruit of my labor incorporates. But even then these resources can be shared and must be if your permission to use them is not to be violated—without depriving me of the fruit of my labor. I can use my pot to store honey even while you use the clay of which it is composed as a doorstop.

Perhaps some resources and products intrinsically cannot be shared. Some things I destroy in use, such as the food that I eat. But even if we grant that use of resources that cannot be re-used or shared abrogates the permission others have to such private consumable resources (as we may call them) because their use necessarily involves their destruction, that will not provide the basis for a right in or to resources (and perhaps products), whether consumable or durable, which can be re-used or shared. The right in private consumable resources is a consumption right, not a property right of any sort. It is a right in all I can eat, as it were, but not to a jot more.

Gauthier would say that many uses that do not involve the actual destruction or consumption of resources preclude sharing. But this is not in general true except for the “use” that constitutes owning things in the libertarian sense of ownership, that is, having a right to, or even a right in those things. (I consider such acquisitive “uses” shortly.) I can use—read—a book without having such a right. That is how public libraries work. We share the books in them. When I take a book out of the library it does not become my private property in any sense. It is the library’s, and the public library’s property is ours collectively.

The argument from self-ownership to property rights, so far, has only gotten us to shared property rights of this sort for durable or non-privately consumable resources, to the conception of a world of shared uses modeled on the public library. Of course there are specific problems with particular uses of various kinds of things—may we write in the margins of library books?—and failing any general principle about how to resolve such conflicts, which I do not have, these must be dealt with on a case-by-case basis. Perhaps some such general principle is available, but I need not develop it here. I am not arguing that the “library” model is correct, only that it is as far as the argument will go.

Something Locke says suggests a different defense of the claim that respecting the Lockean proviso is sufficient, not merely necessary, for a right to unproduced resources. He maintains that we need individual or private appropriation of such resources if we are to enjoy the fruits of anyone’s labor or indeed to survive at all (28). Lomasky’s argument suggests a variation on this: we need



such appropriation if we are to respect the ends of others. It is reasonable to insist that such appropriation must not be to anyone's prejudice, so the original producer must leave enough and as good for others. But if the Lockean proviso is respected, the libertarian might say, that, together with the need for private appropriation to either enjoy the fruits of labor or respect the ends of others, is enough to give the original producer an exclusive claim to the resources she works upon and, with self-ownership, to (not just in) the fruit of her labor.

This reply fails, first, because it begs the question against other sorts of property rights. The argument presupposes that the only sort of individual appropriation that will permit anyone to enjoy the fruits of anyone's labor or that admits of respect for the ends of individuals is one that gives original producers the kind of property rights libertarians want us to have. These are full liberal private property rights: the rights to use my property as I will, to exclude others from it, to require my consent for its use, to transfer, exchange, or bequeath it, to receive income from it, even to destroy it if I will. We may call this set of rights libertarian rights.

But even libertarians acknowledge that the full panoply of libertarian rights is not necessary for us to enjoy the fruits of our labor or in general to respect the ends of others which require individual appropriation. As Locke tells the story, the labor theory does not give us such rights by itself; they require the introduction of money and some sort of consent, perhaps tacit or hypothetical, to the consequences of a *laissez-faire* market system (50). Gauthier's original producers acquire only restricted rights in, not (libertarian) rights to, the fruit of their labor: the stronger rights require more argument. Indeed, as libertarians remind us, we do not have libertarian rights to much of our property in the capitalist democracies. Yet Locke's premonetary individuals, Gauthier's original producers, and we ourselves can enjoy the fruit of our labor and can respect those ends of others that require individual appropriation.

What is to the point here, moreover, is that no sort of private property whatsoever is required for such enjoyment and respect. Rigorously communal property rights would for the most part satisfy these values, which do not in general require even restricted

private appropriation. Here the library looms again. If I make a pot from common or unowned clay, I can use it even if you may too, and without my say-so; even if its use is limited in various ways; and even if I may not sell it or smash it. We can share durable products and even consumable resources, such as firewood for cooking and heating, which are not intrinsically private or destroyed if one individual uses them.

Libertarian rights are indeed necessary for specifically acquisitive ends or projects, such as owning, as opposed to driving, a Jaguar or collecting, as opposed to reading, first editions of Locke's *Second Treatise*. That is why communal property rights are only for the most part sufficient for enjoyment of the fruits of our labor and respect for each other's ends or projects. But whether such acquisitive projects are legitimate is the question here and their claim to our respect cannot be presupposed without begging the question.

Doubtless the libertarian would argue that anything other than libertarian rights would produce less benefit for all because libertarian rights provide the best incentive for efficient exploitation of resources.<sup>31</sup> But even if this claim is true, the reply abandons the natural rights argument for a utilitarian or at least a broadly consequentialist one, or for a contractarian one, and either is a very different story. The natural rights which the libertarian argument from self-ownership purports to give us are rights independent of their consequences or of any social considerations, including actual or hypothetical agreements. Consequentialist arguments cannot give us absolute rights of the sort that would vindicate libertarianism in the face of the problematic consequences mentioned above. And even if the argument is contractarian—to the effect that all rational people would agree to libertarian rights because these produce in some sense the most benefit for all—we leave the territory of natural rights for that of hypothetical contract theory, which, moreover, is dangerous ground for libertarians, as Rawls shows.<sup>32</sup> The possibility of common or at any rate non-libertarian property undercuts the present natural rights argument based on our need for libertarian or lesser private property rights to enjoy the fruit of our labor or to respect the (nonacquisitive) ends of others.

The Lockean proviso defense does not support libertarian justice even if we grant, for the sake of argument, that respecting the proviso in initial acquisition gives us libertarian rights to the fruit of our labor. This is because a similar proviso cannot be avoided for transfer of property. The motivation for the Lockean proviso is that initial acquisition by an original producer must be to no one's prejudice. We may not deprive others of unowned or common resources they need to enjoy the fruits of their labor or to pursue their ends. But why should the "no-prejudice" condition fail to apply to transfer of property? If I may not harm others in initial acquisition—make them worse off materially or otherwise than they would have been otherwise—then it is plausible that I may not harm them in transfer. And if I may harm others in transfer, then I may do so in initial acquisition as well. Nothing about transferring property appears relevantly different from acquiring it.

Libertarians are uncomfortable with a transfer proviso because that would plausibly prohibit the vast inequalities they wish to license, which are arguably to the prejudice of the least well off. As Locke notes, a plausible transfer proviso would produce rough (not necessarily strict) equality of privately owned wealth, "confin[ing] every man's possession to a very moderate proportion" (36). That is why Locke argues at some length that in an economy with money that no such transfer proviso applies and extreme inequalities are legitimate. But Locke's case that to accept money in exchange for the fruits of one's labor is implicitly to waive any transfer proviso and accept libertarian justice (45-51) persuades no one.

Perhaps the Libertarian can accept transfer proviso. We might read Locke's claim that a "day-laborer in England" is better off materially than a king of the American Indians (41) as a tacit admission that there is a transfer proviso and a claim that libertarian justice satisfies it. Nozick explicitly asserts that private appropriation and unrestricted exchange leave no one worse off than she would be in their absence.<sup>33</sup> Even the worst-off person in an extremely unequal libertarian society—the English day-laborer, for instance—would be better off materially, he thinks, than he would be were there no transfer of property.

Perhaps, but it is doubtful that the day-laborer would be better off than if exchange were restricted to maintain rough equality, whether we consider either material or non-material well-being. With respect to the former, Robinson Crusoe, who lives by his own labor in a pure subsistence economy without any exchange, may well be worse off materially than the day-laborer. But whether the king of the Indians, who lives in a cooperative but relatively egalitarian economy, will "feed, lodge, and [be] clad" worse than the English-day-laborer (41), as Locke claims, is rather doubtful, at least by measures of material well-being acceptable to the Indians.

With respect to the latter, non-material well-being matters as much as material well-being. The king of the Indians enjoys an autonomy, dignity, and self-respect that the day-laborer does not. Even the poorest person in a relatively equal society has more such nonmaterial well-being than she would in a highly unequal one. Arguably this is true, too, of Robinson Crusoe, who may be poor and lonely but is at least subordinate to no one. If this is plausible, a transfer proviso would say that no transfer is legitimate (or conveys property rights) that leaves anyone worse off, materially or otherwise, than she would be in circumstances of rough equality.<sup>34</sup> The resulting principle of justice would not be libertarian.

## 7. The Needs Principle

The labor theory ran afoul of the problem of initial acquisition. If I do not have a right to resources that I need to labor, I do not have a right in or to the fruits I produce with that labor even if I do have a right to my labor itself in virtue of self-ownership. Voluntary transfer did not solve the problem because it led us to the original producers, who face the initial acquisition problem. Permission without entitlement did not help because the original producer's permission to use resources to which she is not entitled does not cancel the same permission that others have to use those very resources. The Lockean proviso failed to make appropriative behavior self-justifying or to be a basis for any sort of exclusionary rights, whether full libertarian rights "to" or lesser rights "in" the

fruits of my labor, because as long as we can share, your use of the fruits does not deprive me of them. Neither does the proviso, or its analog for transfer, admit unrestricted voluntary exchange. Things look bleak for the labor theory and libertarian justice.

We can revive the labor theory if we say that I do indeed have a right to the resources I need to exercise my talents and character, regardless of whether I produced these resources. Need appears to be the only plausible basis on which we could make such a claim, and moreover, it is the only way that I can see that the libertarian can argue from self-ownership to the labor theory. The libertarian will resist the appeal to need as a basis for a right to common or unowned resources, and rightly so from her point of view, as will become clear. Nonetheless the appeal is hard to avoid if the libertarian wishes to base the labor theory on self-ownership.

The nature of the appeal to need must be specified precisely. We can do so by seeing what goes wrong with Locke's restricted version of it. Locke asserts that individual appropriation of commonly owned resources is okay because we need it to survive (28). Locke moves too quickly from individual appropriation for the consumption necessary for survival to private property rights (29),<sup>35</sup> but even if we grant that survival needs underwrites property rather than just consumption rights in what we need to survive, this is insufficient for libertarian justice or even the labor theory, for two reasons.

What we need to survive, first, is quite limited compared to what the libertarian wants us (or some of us) to have and will not justify much in the way of inequality. Since our survival needs are all pretty much the same. We can have private property in the resources required to live without having private property in whatever we produce by our labor. If survival is the basis of property rights, such rights will not extend to things we produce which we do not need to survive.

Second and more deeply, survival needs provide no link to talents and character, so self-ownership is a fifth wheel on this part of Locke's story. My property rights to the products I produce to survive are based not on my producing them with talents and character that I own, but on the fact that I will perish without them. And my claim to the resources I need to produce those products,

on this story, has nothing to do with any talents and character I may have but derives from the fact that they are required for the products I need to survive. The links are broken on both ends.

What is needed here is a link that goes two ways. On the one hand we must connect the right I have to my labor, that is, the exercise of my talents and character, to the right I am supposed to have to what I produce by that exercise. On the other hand, we must connect my right to my labor with the resources on which I exercise it. My legitimate use of those resources must be linked to my ownership of my talents and character. If self-ownership is to ground private property in virtue of that property being the product of my labor, both ends of the process of initial acquisition must be tied to the talents and character which are indisputably mine. Call this the two-handed link. My claim is that a right to the resources I need to exercise my talents and character is the most plausible way to make this link, and indeed the only way that I can think of to do it. This is the central novel argument of the present paper.

The libertarian might object that the appeal to needs is misplaced. The labor theory requires not a claim to the resources that I need to exercise my talents and character but a claim to the resources that I use, whether or not I need them. After all, the idea of the labor theory is that what I work upon becomes mine in virtue of my working on it whether or not I need it. Appeal to needs is therefore the wrong way to provide the two-handed link. The requirement should be expressed as one for something linking self-ownership of my labor to, on the one hand, a right to the fruit of its employment, and on the other hand, to the resources I use to produce the fruits.

Note that even if this is correct, however, it is a statement of a problem and not a solution to it: the libertarian still owes us a story about why I may use resources I did not produce and may not need. If the objection stands, the libertarian is where we have left him, without support for the labor theory or libertarian justice, because the requirement for the two-handed link is still unmet.

However, the objection is based on an ambiguity in the use of "need." I do need the sources I use in labor, not necessarily because lacking them would harm me, but because without these resources I have nothing on which to work and so cannot exercise my talents

and character. We may distinguish between “harm” needs and “use” needs. It is the latter I intend, but the former to which the objection appeals; the objection just says that it may not harm me to lack things I may need to use.

In one sense of need, I need something if lacking it would harm me: with respect to the most extreme sort of harm—death—this is the sort of need Locke appeals to in his argument for survival needs, and this sense of need is what underlies the objection that the appeal to needs fails to provide the requisite link. It might not harm Wilt Chamberlain to lack basketballs or Alicia de Larrocha to lack pianos, even if they would benefit by having such things. Not all deprivation of a benefit, plausibly, is harm. To have a billion dollars would benefit me, but I am not harmed by not having it. Needs in the “harm” sense might be contrasted, perhaps, with wants, where wants are for things I would like but the lack of which would not harm me. Such needs are limited to the somewhat indeterminate sphere of what I require for well-being understood as absence of harm.

But in the sense of need intended here, I need something if I cannot exercise my capacities—specifically my talents and character—without it, even if being deprived of what I need for their exercise would not harm me. I need resources I did not produce in order to exercise my talents and character—that is, in order to use the resources in labor. If I do not have such resources, I cannot use them and any capacities I have for their use will be idle. Needs in the “use” sense are not contrasted with wants as defined and, moreover, are not limited by my well-being. I have a “use” need for anything I require to exercise my capacities whether or not I want to do so, whether or not I must have these things to avoid harm, and even if having them would harm me. Thus I need a billion dollars to exercise my (doubtless rather limited) capacities for arbitrage, although not arbitraging would not harm me—and I do not want to do it anyway. And I need Agent Orange to exercise my capacities to defoliate my neighborhood, which I also do not want to do, even though doing so would certainly harm me. Not everything that would facilitate the exercise of capacities is a “use need.” An apartment on 57th Street would make it easier for me to exercise my capacity for music appreciation at Carnegie Hall, but

since I can exercise that capacity even without the apartment I do not need it. But Alicia de Larrocha could not play a piano if she had no access to one, and thus needs a piano to employ her pianistic capacities.

Some appeal to need—not necessarily the one I suggest—is a natural move for libertarians. The Lockean proviso itself is based on such an appeal: it says that our initial acquisitions may not deprive others of things that they need, here in the “harm” sense. But libertarians appeal to use needs as well. In his treatment of initial acquisition, discussed above, Lomasky justifies “appropriative acts” as “necessary for project pursuit.”<sup>36</sup> His idea is that I have libertarian property rights to things that I make because I need those things to pursue my projects or ends, which themselves are entitled to respect on broadly Kantian grounds. We saw that this is not in general true: I may need to use things that I make to pursue my projects, but for many (most) ends, I need not own these things, that is, have libertarian rights to them, and, moreover, Lomasky begs the question if he claims that appropriative acts that respect the Lockean proviso are ipso facto legitimate. But my point here is that Lomasky’s argument for libertarian property rights in initial acquisition is based upon (use) need, for Lomasky, the need for things I require to pursue my ends.<sup>37</sup> My version of the appeal to need avoids question-begging by making the need for resources I did not produce the basis of a right to them. If Lomasky is taken as saying that I have a right to the resources I need to pursue my projects—I am sure that he would reject this reading—he would avoid begging the question, but his view would collapse for practical purposes into mine.

So let us say we have a right to the resources we need (in the use sense) for the exercise of our talents and character. That is the most direct and natural way to tie self-ownership to a right to the products of our labor via the exercise of our talents and character on the needed resources. It makes the links on both ends simply and elegantly. The resources I need to exercise my talents and character are mine because I need them to labor, and thus I can claim them in virtue of self-ownership. Given a right to them and a right to my talents and character, I have a right to what I produce. The two hands clasp the relevant rights on either side with

self-ownership in the middle, and the labor theory stands. Since I have not disputed the voluntary transfer principle, the libertarian should be happy. I have granted both parts of (2), the natural rights theory.

But this move leads to the startlingly egalitarian result. The most natural reading of the proposed new right is the needs principle:

(6) Everyone has the right to the resources she needs to exercise her talents and character.

Or, as Marx put it: "From each according to his abilities [talents and character]; to each according to his needs [for resources required for the exercise of his talents and character]."<sup>38</sup> This is the principle of the highest phase of communism.<sup>39</sup> The needs principle, as Marx notes, is not egalitarian in calling for an equal distribution of wealth and income or other resources. It does not say, with the strict egalitarian principle,

(7) Everyone has a right to exactly the same amount of wealth, income, and resources as everyone else.

This is because, since people's talents and character will differ, the resources they need for the exercise of these talents and character will differ. Chamberlain needed basketballs; Alicia de Larrocha needs pianos. Given my own lack of athletic and musical talent, I have no need for either; my own talents and character run to philosophy, so I need books, paper, and a word processor. The relevant sort of equality in this radical (as opposed to strict) egalitarianism is that each person's needs are to be respected equally.

We might qualify this to rule out the satisfaction of psychopathic needs, say, for instruments of torture required to employ a talent for inflicting unspeakable anguish on others and a sadistic disposition to do so, but this qualification will be cold comfort to the libertarian. Workers will still have a claim to what they need to exercise their normal talents and character and inequalities will be sharply restricted by such a right to equal consideration of needs.

The fullest version of the kind of egalitarianism underwritten by the needs principle is spelled out in detail by Kai Nielsen, from

whom I have borrowed the expression radical egalitarianism.<sup>40</sup> Nielsen's distributive principle with regard to property, the egalitarian principle of justice, is as follows:

(8) After provisions are made for common social (community) values, for capital overhead to preserve the society's productive capacity, allowances made for differing unmanipulated needs and preferences, and due weight is given to the just entitlements of individuals, the income and wealth (the common stock of means) is to be so divided that each person will have an equal share. The necessary burdens requisite to enhance human well-being are also to be equally shared subject, of course, to limitations by differing abilities and differing [natural] environments.

Nielsen offers a book-length case for this egalitarian principle and a second, prior principle of equal extensive liberty, both economic and political. I will not attempt to summarize his case, and indeed I am not defending it here.<sup>42</sup> My claim is just that something like the egalitarian principle of justice is the consequence of the self-ownership and the needs principle.

I will remark only on Nielsen's "allowances for the just entitlements of individuals." This is the link between the resources to which I have a right and the right I have to what I produce with them. According to radical egalitarianism, I do have such a right in virtue of the labor theory. Note two things here.

First, I have such a right only because I have a right, in virtue of needing them, to the resources I need to exercise my talents and character. The egalitarian principle of justice supplies this link, missing in libertarianism. The libertarian appeal to self-ownership gave us only permission to use the resources, which is not enough. Oddly enough, egalitarian justice can deliver the labor-based property right that libertarian justice needs—but not in a way consistent with libertarianism.

Second, my right to what I produce must not compromise anyone's lexically prior right to the resources she needs to employ her labor. Equal respect for needs comes first, because setting aside psychopathic needs, there seems to be no ground for treating some people's (use) needs as more important than others.<sup>43</sup> Thus, unlike strict egalitarianism, radical egalitarianism allows for differences in wealth and income, reflecting both differences in need and rights to the products of labor, to the fruit of the exercise of my talents

and character. But unlike libertarianism, the permissible inequalities are constrained by equal regard for unequal needs.

Can the libertarian avoid this result? Perhaps a different needs principle might do the job. Such a principle might say something like: everyone has the right to the virgin resources she needs to exercise her talents and character, where virgin resources are those not previously acquired by anyone. But when all such resources have been acquired in accord with this modified needs principle, the right idles. This would avoid the "equal regard for need" constraint on inequalities once initial acquisition is complete but allow the libertarian to use the two-handed link to self-ownership that the needs principle admits and that the libertarian requires.

This move, however, is ad hoc or question-begging. The modified principle appears to be constructed without independent motivation merely to avoid what is for the libertarian an unhappy result of the appeal to need. If need is the basis of my right to resources, why my needs should count with virgin resources but not with others is unclear. To say that the difference is that nonvirgin resources are privately owned in virtue of having been worked upon is to beg the question, which is precisely whether this is the case. So we are back with the unmodified needs principle.

## 8. Conclusion

Libertarian property rights based on self-ownership require the two-handed link connecting the products of my self-owned labor with the resources needed for their production. The needs principle provides this link, but subverts libertarian justice. Some other principle might provide the link, but I cannot think what it might be. Failing such a principle, if self-ownership is not supplemented by a needs principle, I have no right to the resources I need to exercise the talents and character I own, and so no right to the fruit of their exercise. Without such a link, the correct distributive principles for wealth and income are open. But they will not be libertarian principles, whatever they may be, since the unattractive consequences of libertarianism had to be defended by appeal to a principle powerful enough to overcome the unappealing conse-

quences of adopting libertarian justice, and that principle, self-ownership, fails to support libertarianism.

On the other hand, if self-ownership is supplemented by the needs principle, as it seems it must be if we are to have the right sort of links between the exercise of talents and character that I own and the right to the fruits of that exercise, then we do indeed get rights to the products of our labor in virtue of self-ownership. But we also get radical egalitarianism, or something like it. To escape this dilemma, the libertarian must propose some other grounds for a right to the fruits of my labor. These must preserve the connection between the talents and character I purportedly own and what I produce by their exercise, but not give me any right to the resources I need to exercise them. That will be a tall order to fill.<sup>44</sup>

## Notes

1. Quoted in Manning Marable's "Rethinking American Marxism," *Monthly Review* 42 (1991): 40.
2. Justin Schwartz, "A Future for Socialism in the USSR?" in *Communist Regimes: The Aftermath*, ed. Ralph Miliband and Leo Panitch (London: Merlin Press, 1991), pp. 67-94.
3. See, for example, Andrew Kernohan, "Capitalism and Self-Ownership," in *Capitalism*, eds. Ellen Frankel Paul, Fred Miller, Jr., and Jeffrey Paul (Oxford: Blackwell, 1989), pp. 60-76; John Christman, "Can Ownership Be Justified by Natural Rights?" *Philosophy and Public Affairs* 15 (1986): 156-77 and "Self-Ownership, Equality, and the Structure of Property Rights," *Political Theory* 19 (1991): 28-46; and G.A. Cohen, "Nozick on Appropriation," *New Left Review* 150 (1985): 85-105, and "Self-Ownership, World-Ownership, and Equality, Part II," in *Marxism and Liberalism*, eds. Ellen Frankel Paul, Fred B. Miller, Jr., Jeffrey Paul, and John Ahrens (Oxford: Blackwell, 1986), pp. 97-126. My argument is closest to Cohen's, but his is not presented as an ad hominem argument and it depends, moreover, on a premise about joint ownership which the libertarian will deny.
4. I do offer some new variations on these relatively well-known themes with regard to the Lockean proviso and other standard libertarian moves. I do not go through the literature and note where I think that I have improved on existing versions, which in some cases I do, or cite others who have given versions of the arguments, however, since my project is expounding the argument that property rights based on self-ownership requires the needs

principle rather than elaborating on these familiar arguments, which nonetheless must be reviewed to present my own case.

5. See John Locke, *The Second Treatise of Government*, ed. Thomas Peardon (Indianapolis: Bobbs Merrill, 1952); Jan Narveson, "Property Rights, Original Acquisition, and the Lockean Proviso," manuscript, 1991; Tibor Machan, *Individuals and Their Rights* (Lasalle, Illinois: Open Court, 1989); Loren Lomasky, *Persons, Rights, and the Moral Community* (Oxford: Oxford University Press, 1987); Robert Nozick, *Anarchy, State, and Utopia* (New York: Basic Books, 1974); John Hospers, *Libertarianism* (Los Angeles: Nash, 1978); Murray Nouthard, *For a New Liberty* (New York: Macmillan, 1973); F.A. Hayek, *The Constitution of Liberty* (Chicago: The University of Chicago Press, 1960).
6. *A Theory of Justice* (Cambridge: Harvard University Press, 1971).
7. For example, Peter Singer, "The Right to Be Rich or Poor," in *Reading Nozick*, ed. Jeffrey Paul (Totowa, New Jersey: Rowman and Littlefield, 1981), pp. 37-56; and Bernard Williams, "The Minimal State," in *Reading Nozick*, pp. 27-36.
8. Narveson is a notable exception. In "Property Rights, Original Acquisition, and the Lockean Proviso," he reads the proviso as saying that you may not interfere with my appropriation regardless of whether I leave enough and as good. This is tantamount to abandoning the proviso—as Narveson notes; he calls it the "redundant" reading. Narveson attempts to ground libertarian rights in the right of the first user or occupant, an argument I do not consider here since it is distinct from the sort of argument I consider, which Narveson himself rejects as an inadequate basis for libertarianism.
9. Parenthetical references are to Locke's *The Second Treatise of Government*, and follow the standard paragraph numbering.
10. The point of this somewhat awkward construction will become clear in section 6.
11. *Anarchy, State, and Utopia*, pp. 213-29.
12. Samuel Wheeler, "Natural Property Rights as Body Rights," *Nous* 16 (1980): 171-93.
13. *Anarchy, State, and Utopia*, p. 331.
14. *Anarchy, State, and Utopia*, pp. 27 and 152-53.
15. Rawls, pp. 15, 75-76, 104, and 310-15.
16. I do not equate capitalism with libertarianism. My point here is that libertarians wish to justify certain consequences of laissez-faire capitalism of the sort they advocate which many find unattractive.
17. Justin Schwartz, "What's Wrong with Exploitation?" manuscript, 1992. Also see G.A. Cohen's "The Structure of Proletarian Unfreedom," in *Analytical Marxism*, ed. John Roemer (Cambridge: Cambridge University Press, 1986), pp. 237-59.

18. Another sort of reply is Rawls's. He denies that voluntary transfers convey legitimacy on their outcomes if these violate principles of reciprocity, that is, fail to benefit the least well-off.
19. *Anarchy, State, and Utopia*, p. 175.
20. *Anarchy, State, and Utopia*, pp. 174-75.
21. *Discourse on the Origin of Inequality in Basic Political Writings*, trans. and ed., Donald A. Cress (Indianapolis: Hackett, 1987), p. 60.
22. Lomasky, pp. 130-31.
23. Unlike Rousseau, who claims that the earth is initially unowned, Locke takes the earth to be initially owned in common because God, who has a right to the earth in virtue of having made it, gave it to humankind. Unlike Cohen ("Self-Ownership, World-Ownership, and Equality, Part II" and "Nozick on Appropriation"), I do not make anything of this distinction.
24. *Morals by Agreement* (Oxford: Oxford University Press, 1986), p. 211. Gauthier is not strictly a libertarian.
25. Gauthier, p. 210.
26. Gauthier, p. 205.
27. Gauthier, p. 210.
28. Gauthier, p. 211.
29. Gauthier, p. 210.
30. Gauthier, p. 210.
31. Gauthier, p. 227.
32. I am not endorsing Rawls's two principles of justice or his derivation of them. My point is just that in view of the consequences of libertarianism there would be a lot of work to show that it would receive hypothetical consent.
33. *Anarchy, State, and Utopia*, pp. 177-82.
34. The principle would not be as strong as Rawls's difference principle, which implies that transfers must *help* the least well off. Here we say only that transfers must not *harm* anyone.
35. But not to full libertarian property rights; as noted, to get these, he invokes the bad argument from consent to the consequences of the use of money.
36. *Persons, Rights, and the Moral Community*, p. 130.
37. Machan, in *Individuals and Their Rights*, also makes an appeal to need, though one different from either Lomasky's or mine. For him, libertarian rights are based on what we need to fulfill our essential human nature, which, he argues, is selfish. Machan's appeal to need runs together use and harm needs. It would harm me not to fulfill my essential nature, he thinks, and I cannot do so without the use of private property to which I have libertarian rights.
38. "Critique of the Gollia Program," in *Karl Marx and Frederick Engels: Collected Works*, vol. 24 (New York: International Publishers, 1989), pp. 87.

39. Marx denies that it is a right as he understands the term, but set that aside. See Wood, "Marx and Equality" in *Analytical Marxism*, ed. John Roemer, pp. 283-303.
40. Nielsen's case for radical egalitarianism (in *Equality and Liberty* (Totowa, New Jersey: Rowman and Littlefield, 1985)) is motivated by a very different sort of argument from wide reflective equilibrium rather than from natural rights. Nielsen notes that this principle can apply only in circumstances of relative material abundance, which he supposes that at least in the industrialized West we have attained—thanks to capitalism.
41. *Equality and Liberty*, pp. 62-63.
42. In fact for reasons that are irrelevant here I think that any attempt to derive a uniquely correct set of principles of distributive justice will fail (see "Revolution, Relativism, and Justice," in *Against the Current*, forthcoming).
43. We might plausibly qualify this claim, as Nielsen does, by ranking survival needs and then needs in the "harm" sense before needs for things required to satisfy mere wants. The result is to make radical egalitarianism even more egalitarian.
44. Acknowledgments are due to Dan Farrell, Don Hubin, Peter King, Andrew Oldenquist, Bernard Rosen, and Jeffrey Scott for helpful discussions and comments on previous drafts. Special thanks to Jan Narveson, who offered written comments of an astounding level of detail and thoroughness.

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