

Ownership, Dispute Resolution, and the Constitution



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"Finding the Challenges" is an original bi-weekly column appearing every other Wednesday at Everything-Voluntary.com, by Verbal Vol. Verbal is a software engineer, college professor, corporate information officer, life long student, farmer, libertarian, literarian, student of computer science and self-ordering phenomena. Archived columns can be found [here](#). FTC-only RSS feed available [here](#).

These columns are dedicated to working out the challenges to voluntaryism. Sometimes the challenges are subtle, but analyzing them to determine a course of voluntary action is fairly straightforward. Often the answer requires just a bit more quality time with your reasoning facilities. There are on the other hand challenges that defy definition and, thus, have no bright shining path to follow.

I have spent a good portion of the time between columns discussing the issues of ownership (essential to any propertarian based philosophy), dispute resolution (is it essential?), and the role of the U. S. Constitution (what do we learn from examining its origins, purpose, and essentiality?).

I will be sharing some ideas, conclusions, recommendations, but most of all questions that require more thought and analysis than can be corralled into one writing.

Propertarian Issues and Dispute Resolution

My excellent Facebook friend, Dbudlov Johnson, is the moderator of several important Facebook groups including one titled, **Anarchism**, and another, **Voluntaryism**. I have been reading Dbud's contributions for a few years now. Last week he posted a discussion question that has had a life of its own, with contributions from some heavy hitters in the libertarian/voluntaryist/anarchist Facebook arena. Here is the question:

does anyone have or can anyone provide a concise yet accurate summary of how private property is acquired/defined/recognised & how possessions (social/communal? property) is acquired/defined/recognised & wherein they differ/conflict?

To which I responded, possession is 99 points of ownership — what other definition could possibly trump that one, and why try?

Now you have to get down to relativism. If I have possessed the thing for the last 5 seconds, and you possessed it for a lifetime before that, there is no answer to the question. We have government because one person expects the government to take his side in the above insoluble question. And when we got into dispute resolution a member of the thread wrote to the effect that government fills the role of dispute resolutionist; because of incidents where one has possession of something that another claims to own there is a dispute, and in most cases disputes demand a resolution of some kind. But isn't claiming a thing that someone else possesses an initiation of violence? Isn't it wrong to keep something so poorly that it gravitates to someone else?

If we face the reality that possession is usually moot, and only very rarely amenable to dispute resolution, don't we cut way back on the need for dispute resolution?

So it may be that one person may kill the other. The contention is that society must avoid such human costs, and does so by interposing a dispute resolution scheme – a set of rules governing disputes. But surely we cannot contend that government is a remedy to costs in human terms? Government is a way to relieve the individual from having to consider the human costs.

Opting for government or opting for government's sublimation of the human costs is the direct rejection of voluntaryism. Another writer pointed out that Kip Esquire's *Law* states that every advocate of central planning always envisions himself in the role of central planner. The same is true for centrally planned justice.

So may we suppose a minarchist approach, where we can resolve the issue in a town meeting? But this is still government. One suitor is satisfied and the other dissatisfied, or if King Solomon is the arbiter, both go home sorry that they even asked.

My answer to Dbudlov's question was that possession is the only workable definition. Although we have identified a critical problem, in that as a last resort maybe third party resolution could be a way to cool the situation when reason has left the building, but it does nothing to create peace, only to abate war. My solution (admittedly spotty) to the critical problem is that people have an inherent right to maintain as much property as they can through agreeable means, they have no right to enlist a gang of enforcers to police their maintenance (which is an entirely interpretable set of facts and suppositions). In some great percentage of cases, possession likely shows where the right lies. Why must everyone submit to, and pay for, a resolution mechanism? Why must the state's monopoly on violence be brought into the mix? Do we not already lead the world in incarcerations *per capita*?

Two things are always true of any formulation whereby one person tries to relegate his problem to someone else, 1) it will not work without voluntary agreement, and 2) it is not voluntaryism. Let me reiterate, the threat of government mandate has nothing to do with voluntaryism. In a voluntarist construction the only definition of property that works is defaulting to its current holder. Then you only have to worry about dispute resolution when a clear case to the contrary arises.

Only the individual can hold himself, his time, energy, and space. As you proceed outward it becomes increasingly impossible to permanently attach anything to the individual except by agreement. There is no way to devise a punitive, enforced situation that relies on third parties, that can replace that agreement. There is no way to devise a punitive, enforced situation that can in any way be termed voluntarist. Right now, I have a farm because I can defend it in the current situation. All the rules, statutes, agreements work just fine so far, because they have not been stressed in regard to my little farm. If they do get stressed by a change of circumstances, there is no amount of government or definitions that can help me to defend it.

My point is not that there is no potential definition. My point is that definitions only apply when they are not needed. If we can agree then that possession is 99% of it, why not agree on "legitimate" possession? Possession is a fact, legitimate possession is an opinion. Opinions cannot be resolved. I'm just saying that legitimacy (from legislation) is a wish and a prayer. It does not define ownership.

I did not disagree that brute force was costly. I just see that government *is* brute force, and that government *is not less* costly, in human terms. In every governed scenario that you draw, there is a solution in which one or both contenders lose their freedom, and a so-called neutral party makes the decision. There is no behavior in voluntaryism that requires violence against either or both parties, nor that requires the impossibility of a neutral third party. There is no methodology in voluntaryism for figuring out who is qualified to make neutral third party dispositions of property.

All third party refereeing results in distributing blame and penalty. But at least with referees, there are eyewitnesses (and still the error rate is high).

I am saying that written laws have little or no impact on whether there are people who would take by stealth, force, or deception. I am saying it is not voluntaryism to insist that such a scam does work. I'm saying that there is no definition that can guarantee agreement. I'm saying there are no qualified third parties.

So if you do not have sincere agreement with every person on this Earth, you are wasting your time and money trying to compensate for that by asking any kind of government to do it for you. If the world turns upside down, such that someone decides to take my farm, one

or both of us will be dead before the Sheriff arrives. Human costs will not have been avoided. There will be blood.

I am saying that accord arises from voluntaryism, not from some pre-hatched social scheme. Any peaceful accord must arise from genuine voluntaryism. Stable property ownership comes from people minding their own business and not intervening in other peoples' businesses.

Some may insist that legal processes are the means by which rights are established. And I counter that legal processes are the means by which the sale and purchase of these processes by power brokers arise; collusion through which the insiders bilk the bystanders who have previously accepted the custom in good faith.

Any place where you can have agreement, you can have collusion to agree in league against another. Both customs and laws are clubs with which the newcomer is thrashed. Both trade a form of human cost for another.

This decision process is precisely the same as two wolves and one sheep voting on what to have for dinner. Two can agree. Three or more can pretend to agree, with fingers crossed behind the back. Only the individual can decide how much, and which, property he can maintain, and how much care and opportunity cost he is willing to expend for its keeping. In many cases person B ends up holding the property that person A used to hold because person A got tired of guarding it.

Passing laws to resolve the other rare cases allows a tool by which 100% of cases are exposed for the taking. Yet some would insist that there is no way of avoiding systematized dispute resolution in a stable society, that you can only avoid it by being consumed and destroyed by continuous violence. That is a false dilemma. There are other ways.

I have always suspected that property is not the real problem. The real problem arises in the utter mystery that surrounds the problem of wrongful taking. I suppose that some difference lies in that one regards possession as a marginal answer, while another, like me, regards artificial officialism as a marginal answer.

Furthermore, I expect that defining property and adjudicating disputes is far from our number one problem. In primitive society, the strong will take from the weak, and in the "civilized world," the powerful will take from the weak, and the sophisticated will take from the naive.

Do you believe the meme that governments have killed 170 million people in the last century? I tend to give it some credit. For the sake of this discussion, let's cut the number in half – 85 million government-induced deaths. That is the reason I am having trouble coming to the idea that social rules cost less in human terms than would anarchy, or that

they would be more just.

The Constitution

“The constitution was brilliant, but not because it was a solid document. It was humanity’s best stab at liberty at that time, and we voluntaryists stand on the shoulders of men like Jefferson who moved the ball forward on refining a coherent ethic centered around self-ownership. I really get frustrated with ancaps who have nothing but derision for that group of men. It would be like pointing and laughing at the stupidity of Newton for not advancing quantum theory. Don’t let’s sound like the mindless antagonism of the left.” – Thomas Martin

...as quoted by Chris Lyspooner on Facebook, and this started a lively discussion. Some feel that if we would just stick to the Constitution, we would be OK, but others say the document has the same problem as a definition of legitimate ownership, ambiguity. Some say the only good part of the constitution is the Bill of Rights. And so forth, and so on. Such as, “It was humanity’s best stab at liberty at that time” is an opinion built on rhetoric. Or... the best stab at liberty would have been not to establish a state (David Shellenberger).

It may have been the best stab so far at that point in human history, but it was still central planning, thereby doomed. No government would be the best result universally (after all most of the Universe does just fine). It is surgically accurate to say “The best stab at liberty would have been not to establish a state,” but was that ever going to happen in a room full of busybodies? We are lucky they didn’t come up with something worse.

If you put an infinite number of monkeys in a room with an infinite supply of quill pens, parchment, and ink, sooner or later they will reproduce the works of Shakespeare ... but in the interim they will produce tons of gibberish and perhaps a constitution.

Of the men who attended the formulation of the Constitution, 80% were meat puppets, 16% were effectively meat puppets due to externalities like drink, drugs, disease, and wayward affairs of the heart. Two percent were anarchists, two percent were monarchists, and one of them was Alexander Hamilton. Nearly a third of them went home before voting.

I have identified the central culprit and the essential distribution, you may assign the other roles differently to other players, but the pattern is applicable to any collective.

“Hamilton presented his plan to the Convention on June 18, 1787. The

plan was perceived as a well-thought-out plan, but it was not considered, because it resembled the British system too closely.” – Wikipedia article, “Constitutional Convention (United States).”

What irony! There was not 10% divergence from any British concept in any of the proposals; the British box is the box that they could not think outside of.

Second irony, did they think they could rid themselves of Hamilton’s manipulation by voting down the staked goat he presented to them?

Third irony, Hamilton’s proposal was a clear statement of how he intended to bend whatever they produced.

Let me refer again to Kip Esquire’s Law: Every advocate of central planning always — always — envisions himself as the central planner.

Verbal Vol’s Mod: Every central planner who believes he is not a slave to his central plan is delusional.

Take this example, although Thomas Jefferson drafted the Declaration of Independence, with able assistance from Ben Franklin and John Adams, all three believed they could leave its faithful realization in the hands of Alexander Hamilton! They were delusional.

If it seems to you that they should have known better than to trust Alexander Hamilton, it certainly seems to me that they certainly had to have known that, but magical thinking won the day again, as it often does.

There you have it. Although we are blessed with reason and language, we are still stumped by what should be a simple, common understanding of life’s paramount issues. We cannot agree on what is the self, what is inalienable, how we can share in a collective, or how we can write a document that puts the people and the state in proper relationship to one another.

Maybe the problem is the word “we?” Doesn’t one still have to refer back to the only self with whom one shares everything, one’s self? Don’t we still have to reach accord with others, one accord at a time? Isn’t the collective a failed short cut?