## NC

Respecting property rights is a precondition of argumentation.

**Hoppe 2** writes[[1]](#footnote-1)

Moreover, secondly and positively it follows from the a priori of argumentation that **everything** that must be **presupposed in** the course of an **argumentation** — as the logical and praxeological precondition of argumentation — **cannot** in turn **be** argumentatively **disputed** as regards its validity **without** becoming thereby entangled in an internal (performative) **contradiction.** Now, propositional exchanges are not made up of free-floating propositions, but rather constitute a specific human activity. **Argumentation** between Crusoe and Friday **requires that both** possess, and mutually **recognize** each other as possessing, **exclusive control over their** respective **bodies** (their brain, vocal chords, etc.) as well as the standing room occupied by their bodies. **No one could propose anything** and expect the other party to convince himself of the validity of this proposition or else deny it and propose something else, **unless his and his opponent's** right to exclusive **control over their** respective **bodies** and standing rooms **were** already **presupposed** and assumed as valid. In fact, it is precisely this mutual recognition of the proponent's as well as the opponent's property in his own body and standing room which constitutes the characteristicum specificum of all propositional disputes: that while one may not agree regarding the validity of some specific proposition one can agree nonetheless on the fact that one disagrees. Moreover, this right to property in one's own body and its standing room must be considered a priori (or indisputably) justified by proponent and opponent alike. For anyone who wanted to claim any proposition as valid vis-à-vis an opponent would already have to presuppose his and his opponent's exclusive control over their respective body and standing room simply in order to say "I claim such and such to be true, and I challenge you to prove me wrong." [So much for John Rawls' claim, in his celebrated Theory of Justice, that we cannot but "acknowledge as the first principle of justice one requiring an equal distribution (of all resources)," and his comment that "this principle is so obvious that we would expect it to occur to anyone immediately." What I have demonstrated here is that any egalitarian ethic such as this proposed by Rawls is not only not obvious but must be regarded instead as absurd, i.e., as self-contradictory nonsense. For if Rawls were right and all resources were indeed equally distributed, then he literally would have no leg to stand on and support him in proposing the very nonsense that he does pronounce.] **Further**more, **it would be** equally **impossible to** engage in **argu**mentation and rely on the propositional force of one's arguments, **if one were not allowed to own** (exclusively control) **other** scarce **means** (besides one's body and its standing room). For **if one did not have such a right**, then **we would** all immediately **perish** and the problem of justifying rules — as well as any other human problem — simply would not exist. Hence, by virtue of the fact of being alive, **property rights** to other things **must be presupposed** as valid, too. No one who is alive could possibly argue otherwise. And **if a person were not permitted to acquire property** in these goods and spaces **by** means of an act of **original appropriation**, i.e., by establishing an objective (intersubjectively ascertainable) link between himself and a particular good and/or space prior to anyone else, but if, instead, property in such goods or spaces were granted to late-comers, **then no one would be permitted to** ever begin using **any good unless he had** previously **secured** such late-comers **consent**. Yet how can a late-comer consent to the actions of an early-comer? Moreover, **every late-comer would** in turn **need the consent of other** still **later-comers, and so on.** That is, neither we, nor our forefathers or our progeny would have been or will be able to survive if one were to follow this rule. However, in order for any person — past, present, or future — to argue anything it must be obviously possible to survive then and now; and in order to do just this property rights cannot be conceived of as being timeless and unspecific with respect to the number of persons concerned. Rather, property rights must necessarily be conceived of as originating by acting at definite points in time and space for definite individuals. Otherwise it would be impossible for anyone to ever say anything at a definite point in time and space and for someone else to be able to reply. Simply **saying**, then, that **the first-user-first-owner rule of** the ethics of private **property** can be ignored or **is unjustified, implies** a performative **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 space.

Thus the standard is consistency with a right to individual property.

Environmental protection violates property rights. **Pilon 95** writes[[2]](#footnote-2)

As is evidenced by these hearings, and by bills that have been introduced in both houses of the 104th Congress, public **efforts** in recent years not only **to** better **protect the environment** but to provide all manner of other regulatory goods have **led** too often **to a clash with** the legitimate expectations of **property owners. As** federal, state, and local **regulations have increased** in number and scope, **property owners** have frequently **found themselves unable to use their property and** unable to recover their losses. Today, we have an immense problem across the nation **of** uncompensated regulatory **takings of private property. One result**, unfortunately, **is** an understandable **backlash against** legitimate **environmental protection.** The problem begins, therefore, with the growth of government **regulations** that **deny owners** the legitimate use of **their property.** It should end with the relief that courts might give in the form of compensation to those owners, as required by the Fifth Amendment’s Takings Clause. Unfortunately, the courts have been locked into what the Supreme Court itself has called 70-odd years of ad hoc regulatory takings jurisprudence. As a result, they give relief in only a limited range of cases. That means that property owners, both large and small, bear the full costs of the public goods the regulations bring about, when in all fairness those costs should be borne by the public that orders those goods in the first place. As the voters made clear last November in race after race, the protection of property rights is a burning issue on which they want action. The time has come for Congress to address this issue, to redress the wrongs that have been imposed on individual owners by Congress itself and by countless state and local officials. To do that, Congress needs to reexamine the vast regulatory structure it has erected—largely over the course of this century— to determine whether those regulations proceed from genuine constitutional authority and whether they are consistent with the rights of the American people to regulate their own lives. But second, and more immediately, Congress needs also to breathe new life into the Fifth Amendment’s Takings Clause, making it clear to a Court too encumbered by its past that the clause means precisely what it says when it prohibits government from taking private property for public use without just compensation.

Also, the concept of property rights necessitates the right to resource extraction because if we had no initial right to claim resources as our own, there would be no way to acquire a system of private property.

# Turns Case

## Environment (General)

Empirics confirm. Environmental regulation that restricts property rights increases ecosystem destruction. **Adler 5** writes[[3]](#footnote-3)

Political opposition and grass-roots discontent were not the only consequences of extensive environmental land-use regulation. Over time, it also became clear that at least some environmental measures were not producing environmental gains sufficient to justify the burdens they placed upon landowners. Particularly in the case of the Endangered Species Act, conservationists began to observe that the regulations squeezing landowners were creating substantial economic incentives against the conservation of endangered species.164 **If costly** environmental **regulation is the consequence of owning land that** serves as habitat for endangered species or **performs a**nother **vital ecological function, landowners are less likely to** maintain their lands in such condition, and they are even less likely to **make environmental improvements**. In economic terms, such **stewardship** actions **will entail costs to the landowner with no reasonable** expectation of **future benefits**. Sam Hamilton, former Fish and Wildlife Service administrator for the state of Texas explained this more fully: “The incentives are wrong here. If I have a rare metal on my property, its value goes up. But if a rare bird occupies the land, its value disappears.”165 In other words, **by ignoring** the **economic incentives** created by restricting private property rights, **regulations designed to help endangered species were causing environmental harm**. Insofar as private landowners are threatened with the potential loss of the productive use of their land without compensation by environmental statutes, they will have an incentive not to provide whatever environmental amenity that the federal government is seeking to protect. Economists were the first to suggest that land-use regulation could have unintended consequences.166 Their theoretical predictions were quickly confirmed on the ground.167 For example, Ben Cone was the owner of over 7,000 acres of timberland in North Carolina.168 For years Cone sought to attract wildlife to his land. Through selective logging, long rotation cycles, and understory management, Cone created habitat for many species, including wild turkey, quail, black bear, and deer. Cone’s good land stewardship also provided habitat for the endangered redcockaded woodpecker. In response, the federal government placed over 1,000 acres of his land off limits to logging. The value of his land plummeted by over 95 percent – or some $2 million. This taught Cone a lesson: He should no longer manage his land in a way that attracts red-cockaded woodpeckers if he wants to be able to use it.169 Rather than allow trees to mature for at least 75 to 80 years before cutting them, as Cone used to, he began cutting them earlier, as red-cockaded woodpeckers prefer older stands. He also began to clear other parts of his property to ensure more woodpeckers would not arrive.170 Ben Cone is not the only landowner to respond to the incentives created by regulatory takings in this manner. In California’s Central Valley, farmers plowed fallow fields to destroy potential habitat and prevent the growth of vegetation that could attract endangered species.171 In the Pacific northwest, land-use restrictions imposed to protect the northern spotted owl scared private landowners enough that they “accelerated harvest rotations in an effort to avoid the regrowth of habitat that is usable by owls,” according to the Fish & Wildlife Service.172 In the Texas Hill Country, landowners razed hundreds of acres of juniper tree stands to prevent their occupation by golden-cheeked warblers after the bird was listed as endangered.173 Bob Stallman of the Texas Farm Bureau testified in 1995 that so long as the existing regulatory strictures remain in place, his members “are not going to want to work actively and openly to promote to propagate a species as long as there is that threat of future government intervention and regulation of the use of that land.”174 Operation Stronghold founder Dayton Hyde attests from personal experience that, even for those who wish to engage in habitat conservation on their own land, “It’s just plain easier and a lot safer to sterilize the land.”175 Even endangered plants have been victim to such “scorched earth” policies, though they are not subject to the same level of regulatory protection. When the Fish & Wildlife Service proposed listing the San Diego Mesa Mint as endangered, land containing the plant was bulldozed before the listing could take effect.176 Evidence of the ESA’s perverse incentives is no longer confined to such anecdotal accounts.177 More recent **empirical research confirms that** federal **land-use controls discourage conservation** on private land. Professors **Lueck and Michael report that forest owners respond to** the likelihood of **ESA regulation by harvesting timber and reducing the age at which timber is harvested**.178 Such preemptive habitat destruction could well “cause a long-run reduction in the habitat and population” of endangered species.179 In some instances, it is likely that the economic incentives created by the Act result in the *net loss* of species habitat. That is, in some cases the ESA may be responsible for more habitat loss than habitat protection.180 **A study in *Conservation Biology***further **reports that** just as many **landowners responded to** the **listing of Preble's meadow jumping mouse by destroying potential habitat** as undertook new conservation efforts.181 It also found a majority of landowners would not allow biologists on their land to assess mouse populations out of fear that land-use restrictions would follow the discovery of a mouse on their land.182

## Biodiversity

Violating property rights turns biodiversity loss. **Adler 5** writes[[4]](#footnote-4)

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That is, in some cases the ESA may be responsible for more habitat loss than habitat protection.180 A study in Conservation Biology further reports that just as many landowners responded to the listing of Preble's meadow jumping mouse by destroying potential habitat as undertook new conservation efforts.181 It also found a majority of landowners would not allow biologists on their land to assess mouse populations out of fear that land-use restrictions would follow the discovery of a mouse on their land.182 Insofar as ESA regulation discourages private land conservation it is undermining species conservation efforts. **The majority of endangered and threatened species depend on private land for some portion of their habitat**,183 so by discouraging private land conservation, the ESA could well have a devastating impact on species conservation efforts. Indeed, these “perverse incentives” may help explain the poor environmental performance of the ESA. Enacted in 1973 to save species from the brink of extinction, the ESA has hardly been a success. In over thirty years, fewer than forty of over 1,000 species have been delisted as endangered or threatened.184 In this time more species have been delisted either because they went extinct or because they never should have been listed as endangered in the first place than have been legitimately “recovered” due to the Act.185 While some species populations appear to have improved under the ESA, there is also a widespread recognition that wildlife species are doing worst on private land. IV. RECONCILING PROPERTY AND REGULATION The unintended consequences of land-use control slowly prompted a reevaluation of the role that private ownership has to play in environmental conservation, particularly in the context of the species conservation. Over 75 percent of those species currently listed under the ESA rely upon private land for some or all of their habitat, according to the General Accounting Office.186 Because of this, “**[n]o strategy to preserve** the nation’s overall **biodiversity can** hope to **succeed without** the **willing participation of private landowners**,” observes Conservation Fund president John Turner.187 As ecologist David Wilcove observed, the “greatest challenge facing the Endangered Species Act” is how to make private landowners “become more willing participants in the national effort to save endangered species.”188 Without private cooperation, environmental conservation efforts will be futile.189

# Framework

## AT Other Rights

Property rights are a prerequisite to other rights, including the right to life.

**Cooray 13** writes[[5]](#footnote-5)

At the time, I not only agreed with this line of reasoning - I still do - and thought it stated the case adequately. However, further study and reflection have led me to a somewhat different conclusion. Property rights are not just another human right; such a statement understates the case. They are much more fundamental than that. **Property rights are basic to all rights.** This relationship first occurred to me while studying the loss of rights in totalitarian countries. My general conclusion was that **the loss of property rights** either **preceded** or accompanied the **loss of other rights.** This was so **in Hitler's Germany**. It was so in Lenin's **and Stalin's Russia**. It has also been the case in other totalitarian countries. It is possible that some property rights could be retained while other rights, such as freedom of speech, freedom of press, freedom of religion, freedom of association and so on, would be severely curtailed or taken away. But it is now inconceivable to me that other rights could be maintained when property rights were gone. This suggests to me that there is a causal connection between property and other rights. The historical connection can be seen not only in countries where rights have been lost but also in countries where they were being established. For example, in England in the seventeenth and eighteenth centuries, real property was being made private and personal. At the same time, there was a movement for substantial freedom of religion. In the wake of the establishment of these came the protection of other rights. 8.2 Freedom Is Indivisible To my knowledge, no general theory has been propounded on the connection between property and other rights. True, the position has been often stated, sometimes accompanied by proofs or arguments, that freedom is indivisible. The meaning of the phrase is that **you cannot pick and choose among basic liberties**; you must buy the whole package or end up with none. There have also been assertions made that rights such as freedom of press are dependent upon private property. If there is no access to a printing press, the freedom to publish is empty. Statements can be found which imply the central role of property. . . . If the roads, the railways, the banks, the insurance offices, the great joint stock companies, the universities, and the public charities, were all of them branches of the government; if, in addition, the municipal corporations and local boards, with all that now devolves on them, became departments of the central administration; if the employees of all these different enterprises were appointed and paid by the government, and looked to the government for every rise in life; not all the freedom of the press and popular constitution of the legislature would make this country free otherwise than in name. John Stuart Mill, On Liberty, in Utilitarianism, Liberty and Representative Government (London, 1910) pp 112-13. While Mill here entangled the matter with distribution of power among governments, it is reasonably clear that private property is a key factor in his position. 8.3 Natural Rights In general though, little attention has been paid to the relationship among rights. The Founders of the United States tended to equate them, trace them to the same source, and worked to establish those they recognised as important rights. They were particularly concerned with those that government has been given to invading and violating. For example, Thomas Jefferson said: "There are rights which it is useless to surrender to the government and which governments have yet always been found to invade. These are the rights of thinking and publishing our thoughts by speaking or writing; the right of free commerce; the right to personal freedom" E Dumbauld, (ed) The Political Writings of Thomas Jefferson (New York, 1955) p 57. They relied upon a received theory rather than propounding new ones. They commonly referred to those rights which they accepted as natural rights. They were understood to be a gift of God, implanted in the nature of things. As Alexander Hamilton put it, "the Deity, from the relations we stand in to Himself and to each other, has constituted an eternal and immutable law...Upon this law depend the natural rights of mankind ..." R B Morris, (ed) Alexander Hamilton and the Founding of the Nation (New York, 1957) p 9. There were those who held that these rights were altered when man entered into society. The Founders did not concur in this view. Jefferson said that "the idea is unfounded that on entering into society we give up any natural right". Dumbauld, (ed) 'The Political Writings of Thomas Jefferson' op cit p 55. Hamilton declared that "Civil liberty is only natural liberty modified and secured by the sanctions of civil society". R B Morris, (ed) Alexander Hamilton and Founding of the Nation op cit, p 13. What are these natural rights? John Adams stated it this way in the Massachusetts Declaration of Rights: All men are born free and independent, and have certain natural, essential, and unalienable rights, among which may be reckoned the right of enjoying and defending their lives and liberties; that of acquiring, possessing, and protecting property; in fine, that of seeking and obtaining their safety and happiness. G A Peek, Jr, (ed) 'The Political Writings of John Adams '(New York, 1954) p 96 Jefferson said: "I believe .. . that a right to property is founded in our natural wants, in the means with which we are endowed to satisfy these wants, and the right to what we acquire by those means without violating the similar rights of other sensible beings; that no one has a right to obstruct another exercising his faculties innocently for the relief of sensibilities made a part of his nature . . . " E Dumbauld (ed) 'The Political writings of Thomas Jefferson' op cit p 49. The United States Constitution along with the first ten amendments, and state constitutions of the time, provide a more complete list of what were reckoned to be the most essential rights, or the ones most likely to be interfered with. Certainly, the right to property was reckoned to be essential, as the above statements show, but the dependence of other rights on it was not made clear or elaborated. 8.4 The Socialist Concept Of Rights It was not many decades, however, before the natural rights doctrine was challenged and began to be supplanted. The utilitarians turned away from the natural law basis of rights to justifying them by the social benefits to be derived from them. Democratic theory tacitly derived rights from the desires of the people. Socialists generally denied that there was any individual right to property, at least to productive property. Democratic socialism, which became the dominant intellectual creed of the twentieth century, not only downgraded, when it did not dismiss private property rights, but also devised a host of new rights. Many of these were in conflict with the right to private property. Perhaps, the United Nations Declaration of Human Rights is the most authoritative compendium of rights to come from the democratic socialist outlook. If it is not the most authoritative, it is surely the most complete. The Declaration runs to 29 articles, and many of these have several sub-heads, which may be thought of as distinct rights. If so, we may be entitled to something like 49 rights according to this document. The right to own property is mentioned in Article 17, but no reference is made either to the right to use it or to have the fruits from it. That is understandable within the context for many of the other rights enumerated are adverse to property rights. However, many of the rights are not only in conflict with property rights but also internally inconsistent. For example, Article 26, which deals with education, declares that "Elementary education shall be compulsory". It goes on to say, however, that "Parents have a prior right to choose the kind of education that shall be given to their children". H S Commager, (ed) 'Documents of American History II ',(New York,1962) p 553. They have the right to choose, we are left to conclude, so long as they choose to have them receive an "elementary education". This brief summary of the development of ideas about rights does not begin to suggest the significance of the changes entailed. The origin of rights had shifted from natural law to society, to people, and inevitably, to government. This development not only focussed attention on the origin of rights but also introduced ideas about what are rights. In the course of it, thinking shifted farther and farther away from any conception of the property basis of rights. It will be my contention here that this almost totally obscured the means for establishing any rights. It is necessary then, to explore the property basis of rights. A good place to begin is with a definition of right. A right is something to which one is entitled by virtue of being a [hu]man (generically). Whether it be called a natural right or a human right, it must be in accord with the nature of man and the human condition. Consistency requires too, that one man's right must not diminish the rights of others. In the final analysis, a right is what is right and derives its standing from the standard of justice. It is doubtful that a complete list of rights could be contrived, for what is right comes down ultimately to equity, to a law deeper and broader than the acts of legislatures and the precedents made by the courts. Right is a matter of principle, and like all principles, it is capable of numerous applications. With that in mind, then, the relationship between property and rights can now be explored. The property basis of individual rights has at least two dimensions. One is conceptual. The other is in the effective ability to exercise rights. Conceptually, **all rights are** either elaborations or **extensions of property rights.** For example, a person has the right to order the disposition of his bodily remains after death, by will. **The right to one's body** is an elaboration of property rights; indeed, it may be the most basic property right. A will is written to dispose of one's property. Hence, the right to order by will what disposition shall be made of the body is an extension of the process. 8.5 Property Undergirds Rights Many rights are so closely tied to property rights that they are virtually indistinguishable from them. For example, **the right** to buy and sell, or more broadly, **to trade** freely, is a property right. It is an aspect of the ownership of property. Free speech and a **free press are fundamentally property rights.** We probably do not ordinarily think of them that way because we think of them as something asserted when there is an attempt to interfere with them. Such a view treats of the exception rather than the rule, and tends to mislead us as to their character. Speaking and other forms of publication are essential and valuable means of conveying information. They are, if you will, items of commerce. That is, many people are paid and even make a living from speaking, writing, and other forms of publication. That is, others want, and will pay for, the information they have to convey. Teachers, preachers, public speakers, journalists, commentators, advertisers and so on, come readily to mind. Speech is a property right in the market; others may not reproduce it without permission and can benefit from it ordinarily only by paying the price for it. Literature is a property, vouchsafed by copyright law. The value of communication is in direct proportion to its accuracy, validity, and truthfulness. To put it negatively, an utterance obtained by compulsion, by twisting the arm, for example, has value only for a masochist. On the other hand, if one is prevented from speaking the truth as he understands it by fear of compulsion, the value of his communication is diminished thereby. Free speech and a free press are the necessary conditions for securing these property values both for speakers and for audiences. 8.6 Individual Rights Are Extensions Of Property Rights **There is** probably **no way of conceiving of individual rights other than** as either property rights or extensions **of property rights. Our right to life stems from the fact that it is our own** (and only) life. Our right to the disposal of our time stems from the fact that it is our own time. Our right to the use of our faculties stems from the fact that they are our own. Remove from them the concept of private property and the claim to them goes as well. The concept of property is not, of course, peculiar to our age. It has probably been around approximately as long as man, and even the lower animals appear to have an instinct for it, if they cannot actually conceive it. Actually, there have been many conceptions of property. Some societies have conceived of property rights in other persons, and have established slavery. Others have conceived of property rights in the services of others, and have established serfdom. Some have so dispersed property rights that hardly anyone could be said to own anything. We appear to be bent on a course in that direction today. Property rights in some societies have been assigned to various classes. It is interesting to note in all these cases that all other rights, to the extent that they were recognized, tended to be parcelled out in much the same way as property rights. This suggests to me that our conception of rights in general is tied to our conception of property. More specifically, as I have said, it suggests that our conception of individual rights is dependent upon a conception of private property. The reason for this, I believe, is that all rights are either property rights or extensions of them. It might be possible to establish what we think of as rights to private property without establishing what we have thought of as other rights. But it is greatly to be doubted that the "other rights" could be established in the absence of rights in private property. That, as I understand it, is much like saying it would be possible to lay a foundation without building a house upon it, but one could hardly expect a roof to stand without walls to hold it up. 8.7 How Rights Are Exercised There is another reason for this connection. Private property is essential to the exercise of individual rights. To turn it around, in the absence of private property, the exercise of whatever may be proclaimed as rights will be dependent upon who controls the property. This latter principle has been well illustrated in the Soviet Union in the matter of religion. The Soviet Constitution proclaims the right to the free exercise of religion. It is very nearly an empty right, however, because churches do not have the private property to facilitate its free exercise. All schools are governmentally owned and run, and religion may not be taught in them. Most seminaries were closed and much of church property confiscated in the wake of the Revolution. (The Kremlin, once the seat of Russian Orthodoxy, now houses the government.) There is a shortage both of clergymen and of church buildings. Missionary efforts are severely circumscribed. Since productive equipment cannot be privately owned, the churches are entirely dependent upon a hostile government for Bibles, musical instruments, prayer books, song books, and other religious paraphernalia. The exercise of religion is clearly a privilege, when it can be done, not a right, in the absence of private property. The same principle has been illustrated in American schools in recent years on a much smaller scale. The First Amendment to the United States Constitution declares, in part, that "Congress shall make no law respecting an establishment of religion, or 'prohibiting the free exercise' thereof. . . " (emphasis added). The Supreme Court has prohibited various religious exercises in the public schools. These prohibitions rely upon the fact (or premise) that the public schools are governmentally owned and operated. The courts have said, in effect, that we may freely exercise our religion on private property, but not on that which is governmentally owned. Its exercise in the public schools was a privilege which has now been withdrawn. But **the exercise of any right requires** the use of **property.** Without real property, there is no place to stand, sit, lie, walk, ride, or do anything. The making of a **speech requires a platform** from which to speak. The publication of **a book requires** a **printing** press, of course, but much more besides. There must be a desk at which to sit or stand, pen with which to write, paper on which to write, boxes in which to place the manuscript, printing ink and paper, a store in which to display the book, and money with which to buy it. Freedom of assembly requires for its exercise a place within which to assemble. The right to the use of one's faculties depends upon property on which to use them. It is true that property often serves a humble and unobtrusive role in the affairs of men. Frequently, it has only a subordinate part to play. Most of us would agree, I think, that the soup is more important than the pot in which it is cooked, the speech more important than the platform from which it is delivered, the sermon more important than the pulpit, the painting more important than the canvas, the words more important than the paper on which they are printed, and the man more important than the ground on which he treads. From such evaluations, we may conclude that property should be downgraded, that if there is a right to it, it should be a right made subordinate to all others. We are apt to do much more than ignore the obvious when we think in this way. The obvious is that without the container we can make no soup, without a place to stand there can be no speech, without a canvas (or other backing) there can be no painting, without the paper the words cannot be assembled, and without the ground the man has no place to walk. 8.8 Use Subordinates Property We ignore something more subtle and possibly more profound than this. We ignore the fact that it is the cook who subordinates the pot with his soup, that it is the preacher who subordinates the pulpit with his sermon, that it is the artist who subordinates the canvas with his painting, that it is the writer who subordinates the paper with his composition, and that it is the man who subordinates the ground by walking upon it. Every use by man of property is a subordination of it. When a house is built upon land the land is subordinated to that purpose. The farmer who clears, plants and tills the soil subordinates it to his purpose. From these and other considerations, including a mass of historical evidence, I conclude that government as a mechanism cannot act to subordinate or downgrade the importance of property. Government as lawmaker is a mechanism. All direct efforts by government to place property in a subordinate place will tend to have the opposite effects. Let us take the extreme case for illustrative purposes. Suppose that government confiscates all property, or as much of it as is practical. This will magnify the importance of property rather than reduce it. 8.9 Property Insecure When Government Intervenes The reason for this should be apparent. Man**[One]'s necessity for property is** absolute; his **[one’s] survival** and all activities depend upon it. When government has control of it all, man's concern with it becomes preponderant for his access to it is no longer secure. Not only does it magnify the importance of property but also of government. Total control over all property becomes the means for total control over men. The law which disposes property in this situation also disposes men. Indeed, the wedding of property to government turns the control over things into control over men. What may start out as an effort to subordinate property ends up as the subordination of man. There are those who suppose that a government which has taken away the right to any significant private ownership of property could, nonetheless, confer a variety of individual rights upon the people. Indeed, there are many westerners who believe that the Soviet Union, for example, could confer freedom of speech, freedom of the press, and freedom of religion, say, on the people within its bounds. It could not do so and retain its control over all property. Above all, it could not establish these freedoms as rights. The most that a government could do would be to lay down rules or rights for access to property. To call such access a right, however, is a misnomer; it can at most be only a privilege, revocable at will, and available at the behest of those who have the power. In any case, in the absence of property, there are no means for contending with government. It is of little avail to have money in the bank, if the government owns the bank and can confiscate the funds of those who may choose to oppose it. 8.10 The Rules Of The System Government cannot create rights. It can recognise them. It can provide a legal system, within which rights can be defended. It can come to the aid of those whose rights are threatened. The property basis of rights indicates yet another role government can play, and it is a crucial role. Government can establish what property system will prevail among a people. It can determine who may own it, the extent to which it may be owned, whether and how it may be bequeathed, and so on. By the system it establishes for property, it will largely determine also what, if any, rights there can be who may enjoy them, and the distribution of them. For example, if it establishes a class system of property control, as there was in Medieval Europe, it can only establish rights as belonging to classes. If it establishes bureaucratic control over property, then such rights as there may be will belong mainly to the bureaucrats and politicians. There may be a natural right to the private ownership of property. I believe there is. It arises in this way. A person who uses his own materials, his energy and ingenuity, and his tools, to construct something is the rightful owner of it. It follows, too, that a person who contributes any of these elements to make some article of use owns that portion of it appropriate to his contribution. (That he may have agreed to the disposal of his interest for a consideration is but an elaboration of the principle). Nor do I doubt that the private ownership of land is the most effective means of securing their other property to owners, though the right to land does not arise naturally. My main point here, however, is somewhat different from this. It is that there is something like a natural law of relationships between property and other rights. This law has nothing to do with the relative value we may assign to various rights. Nor can it be altered by any determination of ours as to what rights should have pre-eminence. The law is not causal in nature; rather, it is consequential. That is, the law does not cause us to adopt any particular course of action, but it does determine the effects once the direction has been taken. Indeed, that is my understanding of all natural law as it applies to man. 8.11 All Rights Depend On Property The law may be stated in this way. **All rights are dependent upon property**. They are dependent upon property **for their conception,** their delineation, **and** their **exercise.** It follows from this that the system of property ownership will determine what rights can be effectively established within a society. Since a right cannot be firmly established unless it is tied to a property base, changes in the property system will tend to be reflected in the rights that can be exercised And the right of the individual to the ownership of private property is essential to the establishment of individual rights. Even those asserted rights which are in reality government privileges masquerading as rights depend on property. For example, the United Nations Declaration of Human Rights asserts that "Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing, and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age, or other lack of livelihood in circumstances beyond his control". Food, clothing, shelter, medical care, and so on are certainly property. Thus, the "rights" named depend on property for their exercise. In these cases, however, it is the property of others that is involved rather than that of the claimants. If governments establish these "rights" they must fulfil the claims by confiscating the property of those who possess it and conferring it upon the claimants. That such action is an assault upon private property there should be no doubt. That governments which simultaneously assert the right to private property and then confiscate it to fulfil other rights have adopted contrary principles there should be no doubt. Their assertions of "rights" are in conflict with each other. But my main point is that anything which is established as a right depends on property.

## AT Relativism

Argumentative ethics is axiomatic. Ignore relativism. **Hoppe 2** writes[[6]](#footnote-6)

This insight into the praxeological impossibility of "universal communism," as Rothbard referred to this proposal, brings me immediately to a second, alternative way of demonstrating the idea of original appropriation and private property as the only correct solution to the problem of social order. Whether or not **persons** have any **rights** and, if so, which ones, **can only be decided in** the course of **argumentation** (propositional exchange). **Justification** — proof, conjecture, refutation — **is argumentative** justification. Anyone who were **to deny this** proposition **would be**come involved in **a** performative **contradiction, because** his **denial would** itself **constitute** an **argument. Even a**n ethical **relativist**, then, **must accept this** first proposition, which has been accordingly referred to as **the a priori of argumentation.** From the undeniable acceptance — the axiomatic status — of this a priori of argumentation in turn two equally necessary conclusions follow. The first follows from the a priori of argumentation when there is no rational solution to the problem of conflict arising from the existence of scarcity.

1. Hans-Hermann, distinguished fellow at the Ludwig von Mises Institute and professor of economics at the University of Nevada) “Rothbardian Ethics” May 20, 2002 [↑](#footnote-ref-1)
2. Roger- Founder and director of Cato’s Center for Constitutional Studies; “Property Rights and Environmental Protection.” 6/27/95 [↑](#footnote-ref-2)
3. Jonathan Adler (Associate Professor, Case Western Reserve University School of Law). “Back to the Future of Conservation: Changing Perceptions of Property Rights & Environmental Protection.” Case Research Paper Series in Legal Studies Working Paper 05-16 July 2005 [↑](#footnote-ref-3)
4. Jonathan Adler (Associate Professor, Case Western Reserve University School of Law). “Back to the Future of Conservation: Changing Perceptions of Property Rights & Environmental Protection.” Case Research Paper Series in Legal Studies Working Paper 05-16 July 2005 [↑](#footnote-ref-4)
5. Mark, doctor of Philosophy from Unv of Cambridge; author of 14 books, 65 articles in learned academic journals and over 500 articles in popular journals and newspapers) “Freedom Of The Individual And Property Rights” Ourcivilization.com 8/16 [↑](#footnote-ref-5)
6. Hans-Hermann, distinguished fellow at the Ludwig von Mises Institute and professor of economics at the University of Nevada) “Rothbardian Ethics” May 20, 2002 [↑](#footnote-ref-6)