

A Philosophical Reflection in Controlling the Property and Self-ownership

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Abstract: *This study aims to describe the philosophical reflection in controlling property and self-ownership. A crucial point about the concept is whether or not the non-separation between the owner and what is owned is plausible. There are differences between the way we exercise our rights to property in things and to property in persons. For instance, if we have rights to do anything with our property in things, therefore we also have rights to do anything with our property in persons, provided that there is no violation on others' rights. The results shows that in contrast, we can morally destroy our property in things if we could achieve our ends by doing it. In short, although we have rights either to destroy property in things and property in persons, we are not prone to exercise such rights on our property in persons.*

Keywords: *controlling; property; self-ownership*

I. Introduction

Self-ownership would seem to license the use of force in self-defense against the aggressive force of others; if I own myself, I surely have the right (i.e., the legitimately enforceable claim) to exclude others from subjecting me forcibly to their uses. (In Locke's words, we are not "made for one another's uses.") Likewise one can arguably use force in defense of another's self-ownership by acting as that person's agent.

But any use of force that goes beyond such defense would seem to be prohibited as a violation of the other party's self-ownership. And that in turn means that the right to use force in defense of self-ownership (one's own or another's) rules out all other enforceable claims.

So in order to justify external property rights of any kind, one has to ground them in self-ownership; which in turn means that any property rights that cannot be construed as an extension of self-ownership rights must be rejected. (This in turn is why external property rights have to be fairly stringent; they must either be grounded in a stringent foundation – self-ownership – or rejected entirely).

Given that ownership includes owners and objects, one might presumably postulate that ownership generally requires different entities. Therefore, an owner and a property are not the same though.

II. Review of Literature

There are several other conceptions of property such as collective property and common property. According to Waldron, both collective and common properties hold that all individuals are equal with regard to any resource. They are equal in the sense that "no individual stands in a specifically privileged situation with regard to any resource" (Waldron, 1990: 41). Furthermore, he defines collective property as the regime of property where collective interests of society are the main reference for how, when, and by whom that resources would be used. Under this regime, the private owner of the resources is the state,

which is supposed to devote the use of it for the sake of collective interests—though the meaning of what the collective interests are could be unclear.

Yet, according to Waldron, it is clear that collective property generally prioritizes the use of material resources for the sake of the purposes and the needs of society. Such a system is, according to him, shown in socialist countries where the major productive resources are owned by the state. In contrast, common property means the regime of property where every individual could access and use the resources, and any decision about resources should be made on the basis of fairness for all. Some properties which are managed in such a way are national reserves and parks (Waldron, 1990: 40-1).

Self-Ownership is the concept of property in one's own person, expressed as the moral or natural right of a person to have bodily integrity and be the exclusive controller of one's own body and life. Self-ownership is a central idea in several political philosophies that emphasize individualism, such as libertarianism, liberalism, and anarchism.

The concept of Self-Ownership is that persons own themselves, including their bodies, power, labor, talents, minds and so on. Therefore, we will use those words interchangeably. Such ownership is attained by individuals simply by being a person. On the one hand, it means that persons own themselves including their labours while the properties are also themselves and their labours. This concept refers to Locke's property in person. Moreover, SO means that individuals own the liberty over themselves, provided that it does not clash with others' SO. In addition, it implies that a person might be owned by others, provided that there is consent between individuals. In other words, the concept of SO permits voluntary slavery. In general, only a person can own himself. On the other hand, SO might mean nothing. But the lack or even the absence of such ownership could lead to issues such as involuntary slavery (in the context that there is no consent between individuals), the lack of autonomy (in the sense of available preferences), and merely being used as means rather than ends in our life. The exercise of such ownership should not harm others and each individual should not be used to assist others. According to Cohen, such an idea implies several things, to wit: (1) everyone is free to do anything as long as they do not harm others; (2) some harms are acceptable in the frame of market competition; and (3) if there are obscurities about SO, they do not damage the notion of SO. By having our bodies and power, we could dispose of or even damage ourselves (Cohen, 1995: 228). Therefore, SO is the ultimate attainment of liberty, as proposed by libertarians. Cohen defends the coherency of this concept.

III. Discussion

Attaching and Controlling

A crucial point about the concept is whether or not the non-separation between the owner and what is owned is plausible. Therefore, an Aristotelian objection could arise here. He conceptualizes possession (*ktēma*) as instrumental institution for life and it is literally separated from the possessor while property (*ktēsis*) is the instrument itself (Miller, 1995: 316). It follows that one could argue the libertarian conception of SO is somewhat excessive because it places possession and property as one and the same: possessing X is instrumental for X's life while the property is X himself. Therefore, there is a circular⁹ relation within it since the user and the tool are the same, to wit, the user himself or the tool itself. In contrast, the non-existence of distance between the possessor and the property is simply denied without

sufficient reasons by the libertarian concept of SO. Yet, the circularity between the user and the tool is obvious and its clarity might affect the coherency of the concept.

One possible concession could be made between Aristotelian conception of ownership and Narveson's mind and body separation here. Since the owners and the properties are supposed to be at a distance, therefore the relation between person (or mind in Narveson's term) and his labour (or body in Narveson's words) is not ambiguously owning but is simply attaching in the sense that his personality binds in such a way with his body, power, endowments and so on. On the one hand, the notion of attachment seems to be applicable with the non-western philosophy which pays attention to a distinction of the soul or the self with the body. Buddhism and Hinduism, for instance, acknowledge moksha which is about the liberation of self from the phenomenal world or, in other words, the detachment of self from the body. Therefore, the notion of attachment could be used in order to criticize SO.

On the other hand, Hegel conceives that the attachment between the person and the body could be detached in such a way as he notes "I can withdraw into myself from my existence and make it external to me – I can keep particular feelings outside myself and be free even if I am in chains" (Hegel, 1991: 79). Consequently, despite the fact of how one could technically detach himself, the structure of attachment between a person and his body is plausible.

Furthermore, there are differences between the way we exercise our rights to property in things and to property in persons. For instance, if we have rights to do anything with our property in things, therefore we also have rights to do anything with our property in persons, provided that there is no violation on others' rights. However, under the Kantian regime, we are not only means but also ends in ourselves. Consequently, we cannot morally destroy our property in persons since it would handicap our efforts to achieve ends. In contrast, we can morally destroy our property in things if we could achieve our ends by doing it. In short, although we have rights either to destroy property in things and property in persons, we are not prone to exercise such rights on our property in persons.

Beside the Kantian argument, there are at least two other connected reasons for not exercising such rights on our property in persons. Firstly, there is a variety of personalities that attach to diverse bodies. For example, those who are exceedingly stingy would be more reluctant to non-contractually dispose some of their labour to assist others in various ways. But those, who are extremely generous, might be prone to donate some of their blood to Red Crescent or even their organs to hospital. It means that the notion of personality is highly important to command whether we tend to exercise such rights or not. Additionally, stingy people do not use SO (though they might say those are their bodies, bloods, organs) as their basis for rejecting other people's needs of blood or organs from them, but rather their sense of belonging 10 which could prevent them from donating some parts of their bodies. Perhaps it is only psychotic, crazy, frustrated or unstable people who tend to exercise the right to destroy or hurt themselves because of, for instance, the malfunction of their rational thought or just for their satisfaction, disappointment, imagination or otherwise.

Although some individuals have mental illnesses, they still possibly have beliefs, memories, preferences and capability to engage in limited rational thought. It reflects that they cannot completely control their attitudes not because they do not fully own it, but because their mental attributes do not work in the appropriate manner. Think about the trance, a condition where someone seems to be under the influence of magic power. According to the concept, he is still the same person who owns himself historically. In other words, if he is in a trance condition for a certain period of time, therefore his status as the self-owner of himself

could not be abolished. In contrast, the fact that he is in trance-like condition shows that he cannot control himself at that particular time, disregarding whether they pretend to do it or not. Therefore, we could draw a distinction as below:

- (1) Could I own myself without controlling myself?
- (2) Could I control myself without owning myself?

On the one hand, query (1) reflects the lack (or even absence) of control over ourselves and then it questions whether or not we could still own ourselves. On the other hand, query (2) shows the deficiency (or even absence) of ownership over ourselves and then it investigates whether or not we control ourselves. Broadly speaking, controlling someone does not necessarily require ownership status over him as reflected in the relationship between a national leader and his people. Strictly speaking, only slavery requires ownership over someone in order to control him. In other words, the notion of controlling ourselves is arguably more fundamental compared to the notion of owning, especially in the context of property in person. Thus, the existence of control is necessary for bridging the attachment between our mind and our body: the mind controls the body. In contrast, such differentiation does not work in the same way with property in things. Under property in things, we cannot generally control the use of properties without owning it or at least having some access or permission to use it.

In addition, suppose we take for granted a view which says there is no such thing as mental illness.¹² Yet, such psychological denial implies nothing to the structure of SO but it significantly supports the necessary existence of control within someone's self. At least, a person who seems to be in a condition of, for example, trance or suffering schizophrenia still has a limited dose of control over himself. In other words, the notion of structure of SO loses its compelling meaning when it is faced with severe lack of control over bodies such as in trance or schizophrenia. Under those conditions, one loses his control over his body though he might not lose his consciousness. Interestingly, Hegel distinguishes between the notion of SO and simple self-consciousness. He believes that:

“The human being, in his immediate existence [Existenz] in himself, is a natural entity, external to his concept; it is only through the development [Ausbildung] of his own body and spirit, essentially by means of his self-consciousness comprehending itself as free, that he takes possession of himself and becomes his own property as distinct from that of others. Or to put it the other way around, this taking possession of oneself consists also in translating into actuality what one is in terms of one's concept (as possibility, capacity [Vermögen], or predisposition) . By this means, what one is in concept is posited for the first time as one's own, and also as an object [Gegenstand] distinct from simple self-consciousness, and it thereby becomes capable of taking one the form of the thing [Sache]” (Hegel, 1991: 86).

In other words, Hegel admits that there is SO in the sense of possession on persons and such possession is actual. Besides, there is a distinction between SO and self-consciousness. Consequently, one who is in trance-like condition does not have full SO since he cannot control himself fully. Furthermore, Hegel interestingly conceives that possession of self does not always imply the existence of rights as is reflected in animals.¹⁴ Therefore SO in animals is different to SO in persons.

Secondly, there is no common consciousness among people whether or not they own themselves, but rather there is a clear and distinct consciousness that their personalities are simply attached to their bodies. Indeed, some religious individuals would say that their bodies are owned by God while some non-believers could simply deny the structure of SO if they

consider such structure of property in persons is given by supreme power. Nevertheless, Machan emphasizes that a modern libertarian atheistic interpretation of property is, on the one hand, not invoking God's establishment of private property rights while, on the other hand, still committing to such rights (Machan, 2009: 97-8). But, Machan does not explain further how such denial could be arguably made. The structure of attachment between persons and bodies might be more plausible to explain why, for instance, most people are reluctant to destroy or damage their selves. Since their personalities need to drive their body, power, labour and so on, therefore the action of destroying or disposing of ourselves would impact our bodies greatly, causing disability, or even death. In addition, their personalities might be perceived by others in terms of to what extent they exercise their bodies, powers, and labours. Such a definition cannot work in the same way with property in things.

Furthermore, say we take for granted the concept's subsequent order, to wit, owning self comes before controlling self. Accordingly, we cannot control ourselves if we do not own ourselves. Nevertheless, we need to have a look what the source of self-owning and persons are. A person cannot automatically do self-owning by simply growing up, unless he receives it from someone else or, in the Lockean sense, the supreme power that God confers on him.¹⁵

On the one hand, if X gives property in person to Y, so it means that X absolves Y from obligations. That is a structure which might exist only within a regime of slavery. In contrast, an institution like family never recognizes such transmission. Indeed, parents do not yield either personal status or SO for their children though parenting might also mean preparing children to become persons. In other words, parents raise their children until they turn into persons and, afterwards, libertarians suddenly conceptualize that persons own themselves.

Therefore, libertarians simply cut off the contingency (between not-yet-persons and persons) into time-slice account. They do not want to deal with a problem such as: how could the structure of SO embed in persons? Indeed, libertarians arbitrarily ignore who the owner of not-yet-persons is if a child is not a person yet. On the other hand, if God confers people's property in person, it consequently means that a believer of SO is supposed to also believe in God. Insofar as a believer of SO cannot explain what the source of SO is, he needs to rely on a Lockean explanation where God confers human with a property in person.

All in all, as long as Cohen's defense of the coherency of the concept does not provide adequate reason for why if there is no distance between the person and the property, how we can still control ourselves without owning ourselves. If those objections unfit the coherency of the concept, we need to presume that it is coherent in order to seek out another part of SO, to wit, its thesis and afterwards whether or not it could be interdependently used with joint world ownership.

What Cohen means by the thesis of SO is "...each person possesses over himself, as a matter of moral right..." (Cohen, 1995: 68). It means that the thesis bridges the notion of owning selves with a matter of moral right. Besides bridging, the thesis also seems to abridge those two notions especially in the sense that a matter of moral right is reduced in scope by being bound with the notion of 'owning self.' In fact, a matter of moral right contains a broader meaning such as delivering duties or not doing bad things.

According to Cohen, such a moral right is similar with a legal right which is owned by a master over his slaves. Consequently, one might dispose of his SO in the same way a master might dispose of his slaves to others. Nevertheless, a master may not order his slaves to harm others just as a non-slave person may not harm others. However, there is an exception for such

situation, viz., if and only if a slave or a non-slave person would be harmed if he does not harm others (Cohen, 1995: 68).

The notion of 'full' in the sense of SO means no single person has any certain dose of non-contractual obligations or, similarly, positive duties to others. If we have duties to others, it should be negative duties since we cannot fulfil our positive duties indiscriminately. For instance, we tend to limit our assistances to a certain range such as family, neighbor, fellow citizens, or religious brotherhoods. There are two general libertarian reasons for this. First of all, the libertarian notion of slavery, as Cohen encounters it. Secondly, as Narveson conceives, since each individual has separate life, therefore every interaction between individuals is supposed to be based on mutual benefits.

Therefore, the more appropriate way to encounter the thesis of SO is by cutting the bridge between the notion of owning self and a matter of moral right. Instead of cutting the bridge, Cohen widens his rejection by proposing another institution. Nevertheless, Cohen does nothing to explain what the structure of the bridge consist in and what the foundation for such a bridge is.

IV. Conclusion

There are differences between the way we exercise our rights to property in things and to property in persons. For instance, if we have rights to do anything with our property in things, therefore we also have rights to do anything with our property in persons, provided that there is no violation on others' rights. However, under the Kantian regime, we are not only means but also ends in ourselves. Consequently, we cannot morally destroy our property in persons since it would handicap our efforts to achieve ends. In contrast, we can morally destroy our property in things if we could achieve our ends by doing it. In short, although we have rights either to destroy property in things and property in persons, we are not prone to exercise such rights on our property in persons.

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