

# The natural right to slack

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## Abstract

The most influential justification of individual property rights is the *Propertarian Argument*. It is the idea that the institution of private property renders everyone better off, and crucially, even the worst-off members of society. A recent critique of the *Argument* is that it relies on an anthropologically false hypothesis – the idea, following Thomas Hobbes, that life in the state of nature is one of widespread scarcity and violence to which property rights are a solution. The present article seeks to reformulate this *Anthropological Objection* in a way that more directly addresses Hobbes' original argument. It then shows that private property is justified to the extent that it allows anyone to reclaim their free time.

**Keywords:** Thomas Hobbes; Hobbesian Hypothesis; Social Contract; State of Nature; UBI.

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One of the dominant philosophical justifications of individual property rights claims that they materially benefit *everyone* in the societies where they exist, including those who are the worst off. Call this idea the *Lockean Proviso*. This justification itself is based on the empirical hypothesis that the absence of property rights – the state of nature – *is worse for everyone* and that the *Proviso* is indeed fulfilled. Call this *The Hobbesian Hypothesis*. Call the entire demonstration the *Propertarian Argument*.

This justification has recently attracted a new strand of criticism, heralded by Karl Widerquist and Grant McCall (Widerquist, 2010; Widerquist and McCall, 2015, 2017, 2021). They have noticed something that has long gone unnoticed – the entire argument is sound IFF the underlying *Hypothesis* is empirically true. However, assuming that the state of nature is akin to the stateless and foraging indigenous societies observed by modern and contemporary anthropologists, then it is indeed false and based solely on the colonial prejudices of early modern European thinkers. According to anthropological evidence then, not *everyone* is better off under regimes of private property than under the state of nature (Widerquist and McCall, 2017, chap. 10). Call this the *Anthropological Objection*.

The present article will address two issues that I perceive with their formulation of it. The first is that it has nothing to say to someone who accepts the idea that the existence of property rights *does* benefit everyone. There is indeed a very strong all-things-considered judgement, that they do not quite defeat, that the *Lockean Proviso* is indeed fulfilled. And even if that judgement is but ethnocentric prejudice, it is widespread indeed, and the *Anthropological Objection* will be all the more convincing if formulated in a way that is immune to it.

The second problem is that the *Hobbesian Hypothesis* as considered by Widerquist and McCall is not, in fact, very Hobbesian. They seem to misunderstand why the Hobbesian state of nature is bad and they misunderstand why and how this badness justifies leaving it. This misunderstanding makes their argument weaker because it misstates which empirical claims the *Hobbesian Hypothesis* relies on, and thus what the *Anthropological Objection* must falsify. It also creates confusion on what exactly they are criticising. While they focus on justifications of the state, Thomas Hobbes primarily justified property rights, the state being only necessary to enforce them.

The present article will address these two issues by reformulating the *Anthropological Objection* in a way that addresses more directly Hobbes' original version of the *Hobbesian Hypothesis*. Furthermore, by setting aside the issue of material benefits, it will allow the *Anthropological Objection* to defeat the *Propertarian Argument* even if private property rights make everyone better off.

The plan is as follows. Part I details the *Propertarian Argument*, the *Anthropological Objection* and the *Hobbesian Hypothesis*. It offers a reformulation of the three of them along the lines outlined above.

Part II argues that Widerquist and McCall's version of the *Argument* has missed something essential: Hobbes' version of the *Hypothesis* is based on the idea that the absence of individual property rights in the state of nature renders cooperation impossible. This leads to widespread scarcity, which in turn justifies violence as the dominant strategy in individual interactions. Violence is in that sense the natural *mode of management* of the scarcity of material resources when property rights do not exist. What property rights do, or so shall I argue, is to change this mode of management to cooperation, to be understood as productive work. Property is thus not justified because of the material benefits it brings, but because it is irrational to refuse

that change. It is this idea, rather than a comparison of the level of material welfare favourable to property, that the *Anthropological Objection* ought to criticise.

Part III, IV, and V follow Widerquist and McCall's method and criticise the reformulated version of the *Propertarian Argument* by confronting it with the *Anthropological Objection*.<sup>1</sup> Cooperation is possible in the state of nature and leads not to scarcity but rather to relative abundance. This is due to collective property rights that allow all individuals to cater to their basic needs. Their main implication is an individual right to work less than what is common in societies with individual private property.

Part VI assesses the *Propertarian Argument* and shows how it is rendered unsound because what was, for Hobbes, a rational imperative, becomes a simple trade-off. The creation of property rights is therefore shown to be unjustified, and a 'natural right to slack' is put forward to conceptualise the injustice stemming from that absence of justification.

Part VII offers several practical recommendations on how individual property rights could be provided with a new justification by allowing claims to one's natural right to slack. It can be achieved, I argue, by separating the obtention of material benefits from the provision of working time through an Unconditional Basic Income.

## **I. The *Anthropological Objection***

The *Propertarian Argument* goes as follows (Widerquist and McCall, 2017, p. 77):

### Propertarian Argument

- P1. Private Property is justified if it benefits everyone,
- P2. Private Property *does* benefit everyone,
- C. Private Property is justified.

I keep Widerquist and McCall's formulation of each premise for now, although my understanding of each differs significantly from theirs. The point of this part is to explain these differences.

P1. is the *Lockean Proviso*. The formulation discussed by Widerquist and McCall goes as follows (Widerquist and McCall, 2017, p. 4):

an institution (such as the state or the property rights system) can justly be imposed on people providing everyone living under its authority is better off than they could reasonably expect to be in a society without such authority.

In other words, institutions in society B are justified over institutions in society A if every inhabitant in B enjoys *greater material benefits*. The *Proviso* appeared arguably for the first time in the works of John Locke (Locke, 1988, chap. 5). It remains an open philosophical question whether it indeed manages to justify property rights (Nieswandt, 2019; Olsen, 2019), but it nevertheless has had a lasting influence on modern and contemporary philosophy.

Rather than the literal Lockean version, which considered that one's property rights to natural resources are justified as long as they do not deplete them in a way that makes others worse off (Nozick, 1974; Locke, 1988), Widerquist and McCall's version places the bar higher, since property rights are justified IFF they make *everyone* better off. For example, suppose there are two territories, Syldavia and Borduria, with Syldavia being in the state of nature and Borduria being a society with property rights while having been like Syldavia in the past. In Syldavia, everyone may reasonably expect material benefits equal to an income of 5 denarii. In Borduria, there are 'losers' with a reasonably expected income of 5 denarii, and there are 'winners' with expected welfare of 10 denarii. For Locke, Borduria's institutions are *ceteris paribus* justified. Conversely, Widerquist and McCall consider that they are only if the losers reach an income of 6 denarii.

Widerquist and McCall's treatment of the *Proviso* reveals a potential problem in the way they address the propertarian argument. It puts them at risk of losing the debate on the empirical side: What if in the end, private property *does* make everyone better off? Even if they give compelling evidence that this may not be the case, it is always unfortunate to leave the

settlement of a philosophical debate to the empirical social sciences. This brings us to a variant of the *Propertarian Argument* that does not ask whether property makes everyone better off, but whether it would be *rational* to accept its institution. This variant has been originally developed by Thomas Hobbes (Hobbes, 1996, 1998) and more recently by David Gauthier (Gauthier, 1986, 1988, 2000). For reasons that will be detailed in Part II, it considers that the state of nature is characterised by what Gauthier calls ‘the problem of bargaining’ (Gauthier, 1986, chaps 5–8), that is the impossibility of agreeing on terms of cooperation.

For now, it is enough to say that this impossibility originates precisely in the absence of an accepted and enforced *Lockean Proviso*, which would ‘prohibit bettering one’s situation through interactions that worsens the situation of another’ (Gauthier, 1986, p. 205). Conversely, adopting such the *Proviso* would create the condition for cooperation by introducing a ‘rudimentary structure of rights into natural interactions. (...) Its primary role is to make possible the further structures required for the forms of social interaction, both competitive and cooperative’ (Gauthier, 1986, p. 208). This structure protects an individual right to her own body and the product of her labour, understood as the use of natural resources to satisfy her needs and wants.

So, while for Locke the *Proviso* is a principle that justifies already existing property rights ex-post, for Gauthier, it is a principle of interaction that individuals in the state of nature agree upon ex-ante, and which leads to the establishment of property rights. The distinction is subtle, but it is crucial for the rest of the article, for the *Anthropological Objection* will have to take a completely different form to address one or the other.

Furthermore, focusing on rationality rather than benefits solves the noted confusion of Widerquist and McCall’s original formulation of the *Propertarian Argument*. Indeed, once the problem of bargaining is solved and the conditions for cooperation are established, what

Gauthier calls the ‘problem of compliance’ arises (Gauthier, 1986, chap. 6). It seems irrational to accept the institution of property rights if there are no guarantee others will respect them. While Gauthier solves the problem by showing the rationality of *being disposed to comply*,<sup>2</sup> a more straightforward solution is to *force* compliance. This solution was the one originally proposed by Thomas Hobbes, for whom this role is fulfilled by the state that is established once humankind leaves the state of nature (Gauthier, 1988).<sup>3</sup>

Hobbes’ version of the contractarian argument, which will concern us here, therefore goes into two steps:

- Cooperation is impossible in the state of nature
- The state maintains the conditions for cooperation.

Note that if the existence of the state is a sufficient condition for solving the problem of compliance, it is not a *necessary* one in the sense that other solutions could provide the same effect (Gauthier, 1988, p. 74). Still, Hobbes justifies *both* property rights and, by implication, the state’s sovereign power. Hence, when the present article writes ‘property rights’, it will be always assumed that the qualifier ‘and the state that enforces them’ follows. Coming back to Widerquist and McCall’s version of the *Propertarian* Argument, *P1. Private Property is justified if it benefits everyone* shall be understood, following Hobbes and Gauthier, as *P1. Private Property is justified if its institution is rational*.

We move now to the second premise of the *Propertarian Argument*. P2 is the *Hobbesian Hypothesis*. The *Hobbesian Hypothesis* is the empirical claim that the *Lockean Proviso* is indeed true, and its truth determines the soundness, or lack thereof, of the *Propertarian Argument* (that C follows from P2). Its name comes from Hobbes’ bleak depiction of the state of nature as one where ‘every man is enemy to every man’ and life is ‘solitary, poor, nasty, brutish, and short’ (Hobbes, 1996, p. 84). The *Hypothesis*, in the formulation that interests us,

postulates that since cooperation is indeed impossible in the state of nature, accepting individual property rights is rational, and rejecting them is irrational. *P2. Private Property does benefit everyone* reads *P2. It is rational to accept Private Property*. Hence, the Hobbesian version of the *Propertarian Argument* that interests runs as follows:

Propertarian Argument

- P1. Private Property is justified if its institution is rational,
- P2. It is rational to accept Private Property,
- C. Private Property is justified.

Now, the *Anthropological Objection* is that the *Propertarian Argument* is unsound because the *Hobbesian Hypothesis* is false. To falsify its original version, that is the one based on material benefits, the only thing Widerquist and McCall had to show was that on several measures, from happiness to universal satisfaction of basic needs and finishing on social life, and according to most anthropological and archaeological evidence, it is not true that *everyone* in societies with private property is better off than in the state of nature. However, to falsify the version of the *Propertarian Argument* based on the rationality of the institution of private property, the *Anthropological Objection* ought to show that according to most anthropological and archaeological evidence, cooperation is possible in a state of nature devoid of property rights and that it can therefore be rational to reject them. Now that this clarificatory work is done, I now turn to why cooperation is impossible in the state of nature.

## **II. Violence as the management of scarcity**

For Thomas Hobbes, property rights render cooperation possible and hence solve the scarcity that characterises the state of nature. Without them, scarcity is dealt with violence. Let us start by restating Hobbes' reasons to view the state of nature with such pessimism. Gregory Kavka's reconstruction of the *Hobbesian Hypothesis* comes in handy to break it apart:<sup>4</sup>

Hobbesian Hypothesis

- P2.1. Natural Equality
- P2.2. Conflicting Desires

- P2.3. Forward-Lookers
- P2.4. Advantage of Anticipation
- P2.5. Limited Altruism
- P2.C. Natural life is ‘solitary, poor, nasty, brutish, and short’.

P2.1 conveys the idea that in the state of nature, no one is sufficiently strong as to be invulnerable to everyone else, and no one is so weak as not to be a danger to others, especially as a member of a coalition (Hobbes, 1996, p. 82). P2.3, P2.4, and P2.5 are all plausible psychological assumptions Hobbes makes respectively about humans, their rationality, strategic behaviour and self-interest.

P2.2 is the premise that supports the entire argument. Their equality makes both Cain and Abel insecure and their cooperation irrational (*from equality diffidence*) and because of this, they both hold what Hobbes calls a ‘right to everything’ to ensure their self-preservation (Hobbes, 1996, pp. 85–87):

no propriety, no dominion, no mine and thine distinct; but only that to be every man's, that he can get; and for so long, as he can keep it.

and later:

it followeth, that in such a condition, every man has a *right to everything*; even to one another's body (*emphasis mine*).

Since both have this right, they both have a strong incentive to minimise waste and to take any resource necessary for their preservation – Cain will have an incentive to appropriate an unowned widget to ensure his self-preservation, knowing that if he does not, Abel will do it. Hence, scarcity stems from the ‘right to everything’ grounded in the impossibility of cooperation. Scarcity is therefore less a feature of objective reality – there is only one widget, and both want it – but from that in the state of nature, both Cain and Abel have a *right* to the widget. Conflict will thus arise (*from diffidence war*), in Hobbes’ words (Hobbes, 1996, p. 83):

And therefore, if any two men desire the same thing, which nevertheless they cannot both enjoy, they become enemies; and in the way to their end, (which is principally their own conservation, and sometimes their delectation only,) endeavour to destroy, or subdue one another.

In such a context, violence is Cain and Abel's dominant strategy to take the widget, in the sense that it will be optimal for both regardless of what the other will choose to do. The right to use violence and its rationality as a course of action follow from the 'right to everything'. Violence is therefore the mode of management of the scarcity stemming from insecurity. Since again, P2.1 obtains – Cain is stronger, but Abel is faster – along with the other premises, then P2.C will follow, and Cain and Abel's lives shall indeed be 'solitary, poor, nasty, brutish,' and for one of them – 'short'.

Let me now decompose P2.2 in the light of the explanation I have just provided:

Hobbesian Hypothesis

P2.2 Conflicting Desires

P2.2.1. Impossibility of cooperation

P2.2.2. Individual natural 'right to everything'

P2.2.3. Scarcity

P2.2.C. Conflicts and violence emerge

P2.3. ... *etc.*

Hobbes' solution to the 'incommodities' of the state of nature is well known. Humans rationally decide to follow the three laws of nature dictated by their reason. The first law is to seek peace, the second to abandon their right to everything through the institution of a commonwealth and the third to keep the covenants (i.e., agreements of exchange) they make (Hobbes, 1996, chaps 14–17).<sup>5</sup> In other words, they leave the state of nature by establishing individual property rights which will enshrine their collective abandonment of the right to everything. The *Proviso* they will reach (as explained in Part I), thus 'converts the unlimited liberties of Hobbesian nature into exclusive rights and duties' (Gauthier, 1986, p. 209).

Cooperation hence takes the form of market exchanges: 'rights provide the starting point for, and not the outcome of, agreement. They are what each person brings to the bargaining table, not what she takes from it. Markets and cooperative practices presuppose individual rights' (Gauthier, 1986, p. 222). So, when the widget is privatised by, say, Cain, but Abel still

wants it, Abel needs to give Cain something he wants in exchange.

The establishment of property rights has thus an important implication: the apparition of wage labour. If Abel is property-less, the ‘something’ he ought to give Cain is his labour time. Labour time is what those without property need to provide against a share of any privatised resources. Hobbes indeed notices (1996, p. 114):

The only way to erect such a common power, as may be able to defend them from the invasion of foreigners, and the injuries of one another, and thereby to secure them in such sort, *as that by their own industry, and by the fruits of the earth, they may nourish themselves and live contentedly*; is, to confer all their power and strength upon one man, or upon one assembly of men, that may reduce all their wills, by plurality of voices, unto one will (*emphasis mine*).

Continuing further (Hobbes, 1996, p. 163):

For the matter of this nutriment, consisting in animals, vegetals, and minerals, God hath freely laid them before us, in or near to the face of the earth; so as there needeth no more but the labour, and industry of receiving them. Insomuch as plenty dependeth (next to God's favour) merely on the labour and industry of men.

Productive work – Cain and Abel’s *own industry* – is, therefore, a consequence of the instauration of individual property rights and the abandonment of the Hobbesian natural ‘right to everything’.

Consider now this extended version of the *Propertarian Argument* with the *Hobbesian Hypothesis* (P2) unpacked:

#### Propertarian Argument

P1. Private Property is justified if its institution is rational,

P2. It is rational to accept Private Property,

    P2.1 Natural Equality

    P2.2 Conflicting Desires

        P2.2.1. Impossibility of cooperation

        P2.2.2 Individual natural ‘right to everything’

        P2.2.3 Scarcity

        P2.2.C. *Conflicts and violence emerge*

    P2.3. Forward-Lookers

    P2.4 Advantage of Anticipation

    P2.5 Limited Altruism

    P2.C. Natural life is ‘solitary, poor, nasty, brutish, and short’.

C. Private Property is justified.

The *Hobbesian Hypothesis* (P2), when unpacked and proven true by P2.C, confirms the *Lockean Proviso* (P1), hence validating the *Propertarian Argument* by making C follows all the premises. It shows that in conditions of P2.2, average humans (of equal capacity, forward-looking, anticipating, limited altruists following P2.1, P2.3, P,2.4 and P2.5), would rationally abandon their right to all things rather than a natural life that is ‘solitary, poor, nasty, brutish, and short’. Furthermore, P2.C – from which C follows – is true if and only if P2.2.C. is true. The latter is therefore the keystone of the entire argument and is thus emphasised.

### **III. The right to everything in foraging societies**

To falsify the *Propertarian Argument*, premise *P2.2.C Conflict and violence emerge* must be proven wrong. This is what the *Anthropological Objection*, presented in the next three parts, will do. It is false that cooperation is impossible in the state of nature, that scarcity leads to conflicting desires, that this scarcity is caused by the impossibility of cooperation, and that it is managed through violence.

To show this, we need to take an overview of anthropological accounts on the economics of hunter-gatherers’ societies, which tend to paint a different picture than the one exposed by the *Hobbesian Hypothesis*. Since Widerquist and McCall have already established that point, however,<sup>6</sup> the present part will solely focus on the elements that are relevant to the Hobbesian formulation of the *Propertarian Argument*: hunter-gatherers’ societies are characterised by extensive cooperation and are not characterised by scarcity and conflicting desires. This cooperation takes the form of an organisation of economic activities through channels that are simply different from the individual property rights justified by the *Propertarian Argument*, and which lead to a revaluation of the type of rights that exist in the state of nature. Hobbes and Gauthier’s mistake was to assume that ‘cooperative practice’ necessarily means ‘markets’.

The following are the ‘core features that characterize relations of production among

foragers' (Leacock and Lee, 1982, pp. 8–9),

- Collective ownership of the means of production – the land and its resources – by a band, horde, or camp.
- The right of reciprocal access to resources of others through marriage, ties, visiting, and coproduction. The necessity of obtaining formal permission to use the land of others in a crisis situation does not imply 'ownership' in the sense of being able to withhold access; granting permission often takes the form of hosts telling guests to help themselves.
- Little emphasis on accumulation.
- Total sharing or generalized reciprocity within the camp as well as with others who come to visit or to seek help if food shortages exist in their terrain.
- Access of all to the 'forces of production'. Virtually everyone possesses the skills for making essential tools.
- Individual 'ownership' of tools. However, tools are easily lent and borrowed, and the fact that people generally possess the resources and skills necessary for replacing them means that such ownership does not divide haves from have-nots as it does in class societies.

The distribution of production in hunter-gatherers' societies is not made based on an exchange of tradable property rights but rather through sharing, compliance being enforced by growing social obligations, peer pressure, and symbolic sanctions. Property rights themselves are understood collectively, as a social relation rather than a relation between an individual to an object. On the individual level, a property right corresponds more to what could be called a rent, that is the entitlement to a share of the productive output. Capital goods themselves, be it land or tools, however, are open to all for use, in the words of the pioneer of economic anthropology Marshall Sahlins (1972, p. 92):

It is an "ownership" more inclusive than exclusive, and more political than economic: a derived claim on the product and productive means in virtue of an inscribed superiority over the producers.

If Sahlins considered sharing a form of reciprocal gift-giving (Sahlins, 1972, chaps 4–6), more recent works distinguish it from the sort of exchanges that occur in either reciprocal gift exchanges or market economies (Widlök, 2017). Nurit Bird-David has in turn proposed a culturalist perspective that takes into account hunter-gatherers' own perspective on their relationship with their environment, which they see as 'giving' (Bird-David, 1990, p. 189):

their economic system is characterized by modes of distribution and property relations that are constructed in terms of giving, as within a family, rather than in terms of reciprocity, as between kin.

This creates a relationship between their own economic system and a nature that their perceive as a parent, or to say it in different words (Bird-David, 1992, p. 30):

We can say that their world – according to the metaphorical template carried by the image of sharing – is a cosmic system of sharing which embraces both human-to-human and nature-to-human sharing.

Other explanations for the widespread reality of sharing are more economically prosaic: given ‘the unpredictable availability of resources (e.g. hunted animals) and lack of storage’, sharing may also be a ‘rational strategy, a sort of risk management bonding together the members of the group in a form of exchange and reciprocal relationships’ (Lavi and Friesem, 2019, p. 2, see also Wiessner, 1982; Bettinger, Garvey and Tushingham, 2015, pp. 152–154). Sharing in societies whose nutrition mostly depends on hunting big prey may also have a positive impact on individual nutrition (Kaplan and Hill, 1985). It however does not have to be only a rational strategy but is also an important part of the maintenance of good social relations between individuals (Sillander, 2019). Regardless of whether sharing is a self-interest reciprocal exchange or something else, the fact that it allows cooperation in the absence of individual property rights is consensual: ‘Ethnographers have long since singled out the practice of sharing as having a significant role in the lives of hunting and gathering communities around the world’ (Lavi and Friesem, 2019, p. 2).

For Hobbes, the impossibility of cooperation leads to scarcity. But since cooperation is possible in the state of nature – through sharing – it is actually characterised, in Sahlins’ words, as being one of ‘a kind of material plenty’ (Sahlins, 1972, chaps 1–3).<sup>7</sup> Far from being one bad hunt away from starvation, hunter-gatherers in fact easily satisfy their biological needs. If Sahlins probably exaggerated, a consistent feature of the hunter-gatherer’s worldview is how much they trust their ‘giving’ environment’s capacity to cater to their needs (Bird-David, 1992).

There are more pessimistic views on hunter-gatherer societies. Some reports tell that malnutrition, especially among children is quite common. In the studies of the Ache populations in Paraguay, Kim Hill and Magdalena Hurtado for instance reject two myths – the Hobbesian Hypothesis of the natural life as being ‘solitary, poor, nasty, brutish, and short’, but also Sahlins’ overly positive depiction of the state of nature (Hill and Hurtado, 1996, p. 151):

Neither view is accurate, but romantic notions about the ease of primitive life are probably furthest from the truth and reflect the greatest lack of understanding about the difficulties of life in the past. Mortality, health, and growth data are objective measures of the many hardships of life in traditional societies and do not support romantic assertions that native populations enjoyed exceptionally good health before contact exposed them to modern health hazards.

Hill and Hurtado precisely reject the culturalist perspective used by Bird-David above as ignoring objective measures monitoring population growths, health and mortality levels, which depict a negative picture of the state of nature. If they notice that most of the Ache can reasonably expect to live until their 60s’ if they pass childhood, and that ‘the number of calories consumed is certainly sufficient, and produces a healthy robust population that maintains a high activity profile’ (Hill *et al.*, 1984, p. 133), they also show that they enjoy significantly lower levels of mortality rates since they moved to reservations, thus dispelling ‘any romantic notions about life in the forest being somehow easier or more attractive’ (Hill and Hurtado, 1996, p. 194).

Hill and al.’s work is one of the reasons I think the *Anthropological Objection* is a rather weak one when it is based on material benefits alone, for they seem to point out that the *Lockean Proviso* as formulated by Widerquist and McCall is indeed fulfilled by the institution of individual property rights. However, for Hobbes, the scarcity of the state of nature does not designate a situation wherein needs cannot be adequately satisfied, but one wherein individuals’ rights to everything clash, thus preventing cooperation. So *even if* Hill and al.’s work is right, their ethnographic work still counts *against* the Hobbesian Hypothesis as formulated in Part II.

The important point is that the state of nature is one where cooperation is possible because of the institution of sharing, which entails what shall be called, to stay with Hobbes, a ‘*collective right to everything*’. Hence, not only cooperation is possible in the state of nature, but that cooperation is organised in a way that limits scarcity.

#### **IV. Dominant strategy within a collective right to everything**

Part II has established that the dominant strategy in a state of nature characterised by an individual right to everything is violence. What is the dominant strategy in a state of nature characterised by a collective right to everything? The answer is *waste*. There are two possible versions of this proposition, a strong and a weak one. This part first presents an overview of the economics of hunter-gatherers’ societies before outlying both, laying the ground for the final formulation of the *Anthropological Objection* in the next one.

There are two models to explain hunter-gatherers’ economic behaviour, understood as the production of food through hunting, foraging, cooking and all related activities. The first model is the ‘limited needs’ one. It considers that ‘their needs were limited while their means, offered by nature, were infinite (not limited) relative to their needs’ (Svizzero and Tisdell, 2015, pp. 17–18). This has led Marshall Sahlins to hyperbolically call the state of nature ‘the original affluent society’, so long as affluence is the satisfaction of needs (Sahlins, 1972, chaps 3–4). The result is that food production remains well below its full potential measured in the population it could sustain. Cultivation and forest gardening techniques – predominately some version of slash and burn – could support a much more extensive population than the small groups counted by ethnographic reports. Likewise, hunter-gatherers seem to let significant quantities of game run free instead of bothering to hunt it down, since an economy based on sharing does not really encourage them to accumulate resources above what they can consume (Bird-David, 1992, p. 31). They also have little incentive to adopt alternative modes of food

production such as agriculture. A quote, from a member of a !Kung people is often used to illustrate this point: ‘Why should we plant, when there are so many mongongos in the world?’ (Lee, 1979, p. 204) – mongongos nuts being their staple food.

This ‘limited needs’ postulate has however been criticised for failing to account for the observed behaviour of hunter-gatherers (Hawkes *et al.*, 1985). The model indeed predicts that hunters would spend less time hunting on good days when game is abundant, and more time on bad days, when it is rare. Indeed, the more supplies there are, the faster the threshold of limited needs is met. With some discrepancies, however, the available evidence tends to point to the opposite behaviour (Hawkes *et al.*, 1985, pp. 8–10). Hunters seem to hunt more on good days, and less on bad days, stopping the hunt when returns are too low, and not when some hypothetical measure of ‘limited needs’ is met. This ‘fitness maximising behaviour’ is, should it be noted, what one could expect from a rational economic agent.

If production is low and material resources remain underused, then the same goes for labour. The prejudice that hunter-gatherers had to work all day to get enough food and were liberated from this toil by the transition to agriculture is false (Cashdan, 1989, p. 26). Hunter-gatherers work less, on average, than people living under a sedentary regime of property rights (see for a detailed discussion Widerquist and McCall, 2017, pp. 184–187).

There is however a great deal of variation when it comes to exact figures. Sahlins straight out depicts the Stone Age worker as an inveterate slacker, who barely works enough, or rather, works only, to cover her basic needs (1972, p.14):

A good case can be made that hunters and gatherers work less than we do; and rather than a continuous travail, the food quest is intermittent, leisure abundant, and there is a greater amount of sleep in the daytime per capita per year than in any other condition of society.

He then estimates that three to four hours of work per diem seems to be the maximum most people are ready to accept (Sahlins, 1972, p. 27-34). Such a figure corresponds to what

has been observed within the !Kung and Hadzas people in Southern Africa: ‘Although there were not so many natural endowments in their environment, two to three hours of daily work were enough to satisfy their basic needs’ (Svizzero and Tisdell, 2015, p. 18), a figure previously quoted by Browdley Lee (Lee, 1979, p. 256).

Higher ones are given – for aboriginal populations – by Jon Altman (Altman, 1987), with an estimation of 3.6 hours per day in productive activities, and 5.4 in unproductive ones. Bird-David provides a higher average for the !Kung and Hadzas as well – six hours per day (Bird-David, 1992, p. 26). Such low working hours are straightforwardly accounted for by the ‘limited needs’ model (Svizzero and Tisdell, 2015, p. 18):

He/she does not try to maximise his/her utility, but he/she tries to reach a pre-determined level of satisfaction. Once this threshold is reached, any additional work becomes useless – such as that required to learn how to cultivate plants or to domesticate animals’

More pessimistic perspectives establish higher averages. Based on their work with the Ache people, Hill *et al* (1985), for instance, consider that about 7 hours are spent on subsistence work per day, mostly food acquisition. However, they contest the conclusion that this would show badly on hunter-gatherers’ societies (Hill *et al.*, 1985, pp. 44–45):

There is good reason to question a measurement of so-called "leisure" time as an indicator of affluence. It is not clear that members of any society have ever had the goal of maximizing the number of hours they could sleep or do nothing during the day. Ache foragers frequently complain about having to spend time in camp on rainy days, and what may appear to be leisure time might be just as rationally labelled "boredom."

Noting also that:

Members of modern societies clearly do not seek to maximize the number of hours they can sleep during the day. Why should foragers?

What is true for labour is also true for capital. Since most goods and resources are shared, there is little incentive to develop them beyond what can be easily replaced and repaired with materials that are easily available (Bird-David, 1992, p. 31):

Not only food but also technological means are constructed as objects which are shared between the environment and people. This means that they are also regarded as items which can be appropriated from the environment, used without effecting modifications, and then returned to it, directly or via other people.

The collective right to everything also limits how much can be invested because of the nomadism it encourages: 'The land is the larder and the emphasis is on mobility and adaptability to the land rather than on accumulation' (Leacock and Lee, 1982, p. 8).

This rapid overview of the literature leads to two different understandings of the idea that the dominant strategy in the state of nature is waste. If the 'limited needs' model is correct, it means that within an economic system devoted to the satisfaction of a threshold of limited needs, the collective right to everything wastes left-over resources once that threshold is met when compared to a counterfactual where individual private property is instituted. If the 'fitness maximising behaviour' is correct, waste takes the form of an under-utilisation of labour and under-investment in capital compared with that same counterfactual. We are now in a position to formulate a version of the *Anthropological Objection* that will address the *Propertarian Argument* outlined in Parts I and II.

## **V. Formalising the *Anthropological Objection***

Parts III and IV gave an overview of the anthropological literature that renders plausible two propositions which will be crucial for the next two parts: first, cooperation is possible within the state of nature, and second, it is organised through a 'collective right to everything' that prevents the apparition of scarcity. The *Anthropological Objection*, therefore, does not invalidate Thomas Hobbes' understanding of the state of nature as one where humans have a 'right to everything'. It does however invalidate his identification of violence as the dominant strategy that followed from that right. Since social cooperation takes the form of sharing, which removes any incentive for efficiency, the dominant strategy is waste, not violence. The same goes for the resource naturally possessed by all – *time*. The collective 'natural right to

everything’ therefore has a crucial corollary – ‘a natural right to all the time’. To wit, it does not imply a right to violent self-preservation; it rather implies, when amended with the *Anthropological Objection*, a natural right to slack.

Consider now the following formalisation of the *Anthropological Objection*, formulated as a correction of the *Hobbesian Hypothesis*, with *AO* henceforth replacing *P2*:

Anthropological Objection

AO.1. Natural Equality

AO.2. Possibility of cooperation

AO.2.1. Sharing

AO.2.2. Collective ‘right to everything’

AO.2.3. ‘Right to all the time’

AO.2.C. *Waste*

AO.3. Forward-Lookers

AO.4. Advantage of Anticipation

AO.5. Limited Altruism

AO.C.: Natural life is ‘in kind of material plenty’.

The Hobbesian *P2.2.1 Impossibility of cooperation* in the original *Propertarian Argument* becomes *AO.2.1. Sharing*. *P2.2.2 Individual natural ‘right to everything’* is to be replaced by *AO.2.2. Collective ‘right to everything’*. *P2.C. Natural life is ‘solitary, poor, nasty, brutish, and short’* becomes *AO.C.: Natural life is ‘in kind of material plenty’* – to use Sahlins’ catchy phrase – even if as we saw one cannot emphasise enough the ‘kind of’. Like in the *Propertarian Argument* with *P2.2.C* and *P2.C.*, the conclusion *AO.C* is true IFF *AO.2.C. Waste* is true too. As I have argued in this part, anthropological research shows that it is, even if it can be read in two different ways, either through the limited needs or the fitness maximisation models.

Private property is therefore not the management of scarcity, but the management of slack. The division of labour it organises and the loss of access to natural resources and shared capital it institutionalises means that there is no other choice for non-owners than to work how much owners will tell them to. Private property in this way severely increases the opportunity cost of free time. Individual property rights slice the time freely enjoyed in the state of nature

and transform it into labour time, not only to meet the basic needs that in the state of nature were met with less effort and through the institution of sharing but also to meet the needs that emerge in a complex, sedentary, stratified society. Private property thus manages slack through the artificial *creation* of scarcity, as Sahlins put it (Sahlins, 1972, p. 4):

The market-industrial system institutes scarcity, in a manner completely unparalleled and to a degree nowhere else approximated. Where production and distribution are arranged through the behaviour of prices, and all livelihoods depend on getting and spending, insufficiency of material means becomes the explicit, calculable starting point of all economic activity.

Hence:

Scarcity is the judgment decreed by our economy - so also the axiom of our Economics: the application of scarce means against alternative ends to derive the most satisfaction possible under the circumstances.

The waste that follows from the collective natural right to everything is hence transformed through the alchemy of private property into the gold of the material benefits of sedentary societies. Even if his premises were false, we may therefore agree with Hobbes' conclusion, to quote him again, that once the collective right to everything is abandoned, 'plenty dependeth (next to God's favour) merely on the labour and industry of men' (Hobbes, 1996, p. 163).

## **VI. The natural right to slack**

Now that I have presented both Hobbes' version of the *Propertarian Argument* and the *Anthropological Objection*, it is time to expose how the latter falsifies the former. The *Hobbesian Hypothesis* showed that in conditions of *P2.2 conflicting desires*, average humans (forward-looking, anticipating, limited altruists of equal capacity, following the relevant premises), would rationally choose to live under individual property rights rather than a natural life that is 'solitary, poor, nasty, brutish, and short'. However, the *Hobbesian Hypothesis* is false, and should thus be replaced in the argument by the *Anthropological Objection*. Consider the *Propertarian Argument amended* with AO's premises replacing P2's:

### Propertarian Argument Amended

- P1. Private Property is justified if its institution is rational,
- P2. It is rational to accept Private Property,
  - AO.1. Natural Equality
  - AO.2. Possibility of cooperation
    - AO.2.1. Sharing
    - AO.2.2. Collective ‘right to everything’
    - AO.2.3. ‘Right to all the time’
    - AO.2.C. *Waste*
  - AO.3. Forward-Lookers
  - AO.4. Advantage of Anticipation
  - AO.5. Limited Altruism
  - AO.C.: Natural life is ‘in kind of material plenty’.
- C. Private Property is justified.

As it is obvious, the amended argument ceases to make sense. AO.C does not support the truth of premise P2., rendering the entire demonstration unsound. The conclusion C. *Private Property is justified* does not follow from the whole argument and choosing private property does not seem rational or obvious at all.

In the original Hobbesian account, humans leave the state of nature by abandoning their ‘rights to everything’, what David Gauthier called the bargaining problem. This act requires the designation of a sovereign who will create the property rights that enact that abandonment – for Gauthier, the compliance problem. In the *Propertarian Argument amended*, since the state of nature is not the bleak hell described in *Leviathan*, the rationale for such a course of action is missing. Taking this choice becomes a trade-off between waste/slack and material benefits. This does not make the *Propertarian Argument* beyond redemption but nonetheless weakens it significantly.

For, consider these two propositions:

- a) Private property is the price to pay to avoid P2.C.

This proposition reads: ‘Private property is the price to pay to avoid the conflicts and violence that make life in the state of nature solitary, poor, nasty, brutish, and short’.

- b) Private property is the price to pay to avoid AO.C.

That one reads: ‘Private Property is the price to pay to avoid the waste and slack that characterises a foraging life that still is a kind of a material plenty’.

a) is unobjectionable. *If* the natural state of humankind is violence induced by the scarcity that follows from the individual right to everything, then the only rationally acceptable institutions are the ones that eliminate it. It is an imperative that cannot be rejected, an imperative stemming from the three laws of nature Hobbes identifies as instructed and dictated by reason – seeking peace, abandoning one’s right to everything and keeping covenants. Refusing that course of action would be foolish, and the main dissenter in Hobbes is indeed called the ‘fool’ – who falsely sees his submission to the third law as opposed to his reason and interest if he can get away with it (Hobbes, 1996, pp. 86–106).<sup>8</sup> The strength of the *Propertarian Argument* in its Hobbesian formulation is that it posits the impossibility of rational dissent. However, it relies on the assumption, proved false by the *Anthropological Objection*, that scarcity and violence are indeed the problems individual property rights need to solve.

b) is also a convincing statement. It presents leaving the state of nature as a renunciation of the ‘collective right to everything’ to gain the greater material benefits that follow the establishment of individual property rights. But it is also a much weaker version, for rejecting that trade-off is a reasonable and rational position to have, one that does not contradict, to any extent, the Hobbesian three laws of nature. The deal can be taken – I, personally, would take it – but contrary to a) not *everyone* can be assumed to be ready to do so. Dissent is no longer *irrational*. Take back the example of Syldavia and Borduria mentioned in Part I. Contra Widerquist and McCall, the version of the *Propertarian Argument* I have worked with shows that ex-post benefits are out of topic. What justifies the establishment of private property is rather the assessment of the situation ex-ante, and the fact that it would be irrational to refuse to leave the Hobbesian state of nature. The *Anthropological Objection* shows that this

assessment is far from obvious. It is irrational not to consent to the institutions of private property when the alternative is a life ‘solitary, poor, nasty, brutish, and short’. It is *not* irrational to do so when the alternative is a life that is a ‘kind of material plenty’. And *that* is the problem highlighted by the *Anthropological Objection*. My version of it is therefore stronger than Widerquist and McCall’s, since not only is it closer to Hobbes, but it is orthogonal to the issue of whether private property makes everyone materially better off. This is the best and most plausible way, in my view, to understand the *Anthropological Objection*.

## **VII. Justice for slackers**

Widerquist and McCall conclude that if the *Propertarian Argument* is unsound, the way out is to actually fulfil the *Lockean Proviso* and ensure that everyone is genuinely better off in a regime of private property than in the state of nature (Widerquist and McCall, 2017, chap. 11). They consider three main ways to do this. The first is to open states’ peripheries to allow those who wish to live without the state’s authority to come back to some form of subsistence agriculture or foraging. The second is to strive toward a more egalitarian and just society. The third is to create an Unconditional Basic Income (hereafter: UBI).<sup>9</sup> This part discusses these three solutions as well, in the light of my own version of the *Anthropological Objection*.

The version of the *Propertarian Argument* I have worked with held individual property rights to be justified if it is rational to prefer to live under them rather than in the state of nature. The only way to assess this is to place everyone in front of the trade-off b) exposed in the previous part and let them see for themselves. A dissenter refusing such a trade-off would be someone who claims her ‘right to all the time’, tied to the share of material benefit covering her basic needs, as they are in the state of nature. Let us consider now how the solutions proposed by Widerquist and McCall allow such a ‘slacking dissenter’ to indeed dissent.

The first solution – opening states’ peripheries for frontier settlements – seems to be the

ideal one. It can however be dismissed for its impracticality. All emerged lands are currently under a state's flag, and the rest is either uninhabitable – the Marie Byrd Land in Antarctica, the Bir Tawil strip in north-eastern Africa as well as outer space – or the result of an unresolved border dispute – Gornja Siga on the Croatian and Serbian borders. The second solution is too vague and even if it can be fleshed out, it will not do for our purpose. Even egalitarian philosophers harbour an unsettling contempt for slackers. Most of them are indeed *luck* egalitarians, who believe that distributive equality is justified if and only if it compensates for inequality resulting from bad luck (Knight, 2013). Any inequality that would stem from exercising one's natural right to slack would therefore go uncompensated as a matter of justice.

The most practical solution is, therefore, the implementation of a UBI that would precisely achieve the same level of individual well-being as that was achievable under the collective right to everything, that is one that satisfies basic biological needs. A dissenter could therefore be able to refuse the trade-off between the right to slack and the benefits of individual property rights if she finds it unworthwhile. The UBI would thereby provide a 'live' test of how reasonable the deal presented by proposition b) really is.

One objection here seems obvious. A UBI justified by the natural right to slack makes worse off the people who have actually accepted to abandon it. Cain, who has accepted to abandon his 'right to all the time', has a legitimate complaint that he should not have to subsidise Abel's slack, who has reclaimed his. The answer to Cain is twofold. First, if he does not like *that* deal, he can still reclaim his own natural right to all the time. Refusing proposition b) is also open to him. Second, even if the UBI is unjust to that extent, it must be here accepted as second best. For if the *Anthropological Objection* is to be taken literally, then opening frontier territories at the marches of the states should be our most favoured solution. But since that is not possible, a small injustice – the UBI – is better than having neither open frontier

territories nor properly justified individual property rights.

Finally, justifying the UBI in such a way addresses one major objection to it – that it is an inherently wrongfully exploitative institution, for it transmits wealth from the hard-working and industrious to the slacking and the lazy.<sup>10</sup> This article’s conclusion, in substance, is that this is a feature of the scheme, not a bug. The slacking and the lazy have a natural right to slack and be lazy, and the UBI guarantees that right. The *Anthropological Objection*, therefore, provides an additional justification for the UBI by turning one of its major problems into one of its strongest points.

## **Conclusion**

The present article has the same limitations as Widerquist and McCall’s argument, in the sense that contemporary propertarian thinkers do not rely on the *Hobbesian Hypothesis* to the same extent that early modern philosophers did. The most philosophically sophisticated exploration of individual property rights, Robert Nozick’s *Anarchy, State, and Utopia* is, for instance, based on deontological limits to state’s power (Nozick, 1974). Even if he made several implied references to the *Hobbesian Hypothesis* as ‘obvious because unquestioned’ (Widerquist and McCall, 2017, p. 7), the soundness of his whole argument does not depend on it. Finally, the argument presented here will be unconvincing to anyone who believes that private property is unjust for other reasons than its trampling of a set of mostly hypothetical natural rights or just for reasons other than its capacity to obtain hypothetical rational consent.

However, defending a ‘natural right to slack’ remains worthwhile. First, it is, as I have shown, better grounded in anthropological descriptions of the closest we can get to the state of nature. If the state of nature is an empirical idea – and Widerquist and McCall’s chief merit has been to show that it is indeed one – then the only natural right of humankind is to be a slacker.

Defending such a right is also a political necessity in contemporary capitalist societies, as the hunt for welfare moochers and the undeserving poor is becoming the main basis and the sole purpose of the state's social policies *in the name* of private property. Conversely, this article uses the *Anthropological Objection* to argue that private property is justified *if and only if* it allows the existence and the relative flourishing of slackers.

## Notes

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<sup>1</sup> For further references from the anthropological literature that make a similar point, see Widerquist and McCall (2017, chaps 9–10, 2021, chaps 4–6). See also Scott's *Against the Grain* (2017).

<sup>2</sup> For a critical – but positive – review of Gauthier's account of moral contractarianism, see Campbell (1950). Note that the argument made by the present article also applies to Gauthier justification of property rights-minus-the-state. I chose to focus on Hobbes because he justifies both property rights and the state, thus covering more conceptual ground.

<sup>3</sup> The relation between the state and property rights in Thomas Hobbes is a subject of debate. A 'standard' understanding of this relation, developed by Crawford Macpherson, is that Hobbes was justifying the existence of markets, since the state enforces property rights that can be then exchanged (Macpherson, 1962). This interpretation has been criticised by Johan Olsthoorn for its misunderstanding of the concept of Hobbesian justice, which considers that property rights is whatever occurs by political fiat, and not through market exchanges (Olsthoorn, 2015, see also Gauthier, 2000, p. 108). Either way, the important point is that within a Hobbesian framework, property rights are stemming from state's power.

<sup>4</sup> Note that the present argument does not require to accept Kavka's interpretation of Hobbes (Kavka, 1983). It tries to present one that is as broad and consensual as possible, since I do not pretend to do a work of Hobbesian scholarship.

<sup>5</sup> The reasons humans would even accept to do that, especially given Hobbes' own assumptions about human psychology and rationality, is a debate that is not very relevant for this present article, so I will just pass on it, but see on this topic McNeilly (1968) and Hampton (1987). For a defence based on a game-theoretical analysis of the Hobbesian Hypothesis, see Gauthier (2000).

<sup>6</sup> Philosophers interested in further evidence for the *Anthropological Objection* than the one presented in the present article can consult Widerquist and McCall body of work on that topic, and also Widerquist reading notes on Anthropology available here: <https://works.bepress.com/widerquist/100/download/>. They were a precious resource in developing the present argument.

<sup>7</sup> Even if it is an exaggeration, I will still keep the sentence 'the state of nature is a kind of material plenty' as the conclusion of the *Anthropological Objection* because of its offer a sharp contrast with the Hobbesian 'solitary, poor, nasty, brutish and short'.

<sup>8</sup> For an analysis of the role of the fool in argument of the Leviathan, see Hoekstra (1997), Hayes (1999), Pasquino (2001).

<sup>9</sup> For Widerquist's own defence of the UBI, see Widerquist (2013).

<sup>10</sup> See on this the debate between John Rawls and Philip Van Parijs on the fate of the Malibu surfers (Van Parijs, 1991, 1997; White, 1997; Birnbaum, 2011).

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## Note on Contributor

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