

DO PROPERTY RIGHTS PRESUPPOSE SCARCITY?

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Abstract

There is a common view, dating back at least to Hume, that property rights presuppose scarcity. This paper is a critical examination of that thesis. In addition to questioning the thesis, the paper highlights the need to divorce the debate over this thesis from the debate over Intellectual Property (IP) rights (the area where it is most frequently applied). I begin by laying out the thesis' major line of defense. In brief, the argument is that (1) property rights are legitimate only when necessary, (2) necessary only to avoid injury resulting from one party's use or possession of a good over others', and (3) that such injury is possible only where there is scarcity. While I accept (1) (at least for the sake of argument), I argue that each of three prominent theories of the justification of property rights cast doubt on (2) and (3). As it turns out, at the theoretical level, there are a number of different ways of dealing with this conflict. However, I argue, no matter which theoretical path one takes, it turns out that the practical implications of the relationship between property rights and scarcity have been woefully misconstrued. Finally, I recount an independent argument for the thesis under consideration and argue that, whether or not it is successful against IP, it does not extend as an argument against ownership of non-scarce goods in general. This serves to further highlight the need to distinguish arguments for the thesis under consideration from arguments against IP.