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30/2021
Political Dialogues
DOI: http://dx.doi.org/10.12775/DP.2021.013

Epistemological Foundations in the Ethical Debate Concerning Fractional Reserve Banking and Borrowing Short and Lending Long[1]

Abstract:
Various commentators have taken different approaches to the question of whether or not fractional reserve banking (FRB) and borrowing short and lending long (BSLL) are ethical banking practices. In this paper, we examine the epistemological foundations in this debate, with particular focus on FRB. We discuss this question with regard to FRB in particular, because while many authors agree that FRB is illicit, the methodology by which this conclusion is reached differs. This matters, because it is only when FRB's ethicality has been established by employing the correct epistemology is it possible to address the issue of BSLL. BSLL's legitimacy then rests on whether or not there exists a continuum, which we leave for a separate discussion.

Key words: Borrow short, lend long; banking; fractional reserves; monetary mismatching

JEL category: E32

Introduction: Background to the Debate

The debate on the ethical legitimacy of borrowing short and lending long (BSLL) was initiated by Barnett and Block (2009a, 2009b, 2011) who argued that since fractional reserve banking (FRB) is illegitimate, BSLL must also be illegitimate, because there is a logical continuum in the time dimension between demand and time deposits. The ethical position that Barnett and Block adopt in their analysis of both FRB and BSLL is that of libertarian law (or natural law), including the title transfer theory of contract

[1] We wish to thank two anonymous referees of this journal for important aid in improving this paper. The usual caveats of course apply.

(TTT), an axiomatic theory of property rights deduced from first principles. Bagus and Howden (2009, 2012a, 2012b, 2013) agree there is a continuum between demand and time deposits, and hence between FRB and BSLL, but they view the TTT as problematic, opting instead for a theory of jurisprudence based on legal precedent from Roman law. Using this methodology, they argue that while FRB is an illegitimate practice, BSLL is licit. A contrasting view is that of Davidson (2008, 2014, 2015, 2016) who agrees with Barnett and Block on the application of the TTT, but contends there is no logical continuum. Arguing for a clear disjunction in the time dimension, Davidson uses the TTT to reach the same conclusions as Bagus and Howden, but argues that their methodology is incorrect. The table below summarizes the views of all the authors.

	Methodology	**Is FRB Legitimate?**	Continuum Between FRB and BSLL?	**Is BSLL Legitimate?**
Barnett & Block	Libertarian Law (TTT)	**No**	Yes	**No**
Bagus & Howden	Legal Precedent from Roman law	**No**	Yes	**Yes**
Davidson	Libertarian Law (TTT)	**No**	No	**Yes**

As can be seen from the above, all authors agree that FRB is illegitimate, but Bagus & Howden reach this conclusion by applying legal precedent, whereas Barnett, Block and Davidson apply libertarian law and the TTT. For Barnett, Block and Davidson, the disagreements concerning BSLL stem from whether or not there is a continuum. For Bagus & Howden, the continuum issue is germane only insofar as its alleged presence requires a judicial decision to demarcate the boundary between the two kinds of bank deposits, and hence where FRB ends and BSLL begins.

In this essay, Davidson and Block join forces to argue in favor of libertarian law, and against the case for legal precedent presented by Bagus and Howden. We discuss ethics with reference to FRB,[2] because only when its ethical foundations have been established by employing the correct epistemology is it possible to address the issue of BSLL. It then becomes a case of whether or not there exists a continuum, which we leave for a separate discussion. In section 1, we present the argument for why judicial precedent is not the proper grounds for determining FRB's ethical status. In Section 2 we discuss why Bagus & Howden's methodology results in a problematical conception of the free market. This is germane, because, from an economic point of view, these authors attribute a cause of the Austrian business cycle as being FRB's introduction into the "free market." Section 3 considers TTT and its application to FRB, and in section 4, we demonstrate how libertarian law establishes FRB's illegitimacy. Section 5, examines ethical relativism and utilitarianism.

[2] For the ethical case against FRB, also see Davidson, 2008; Davidson and Block, 2011; Hülsmann, 2008.

1. Why Judicial Precedent is not the Reason Fractional Reserve Banking is Illegitimate.

Bagus and Howden's position on the ethics of FRB is that precedent originating in Roman law establishes that this banking practice is illegitimate. For example, Bagus and Howden (2009) state:

> The differences between deposit and loan contracts have evolved spontaneously under Roman law and these differences were well known to Roman legal theorists at the time... Unfortunately, Barnett and Block's lack of legal analysis also contributes to their misguided condemnation of maturity mismatching.

According to Bagus and Howden (2016):

> By applying objective legal theory to the question, we arrive at an answer that is central to the fractional reserve/100 percent reserve banking debate.

And furthermore, according to Bagus and Medina (2018):

> We will prove why analyzing the problem through the lenses of the Title Transfer Theory produces no satisfactory solution to the problem, and how judges and legal precedent would decide these cases, providing the only successful solution for the purpose.

Additionally, these authors state:

> Why is Roman Law so relevant? ...due to the exceptional circumstances in which it was generated, Roman Law can be considered the gold standard of legal precedent. It evolved from the voluntary interaction of individuals mostly independent from political influence. It was intended not as a tool to organize society from above but as a means to solve particular conflicts. Finally, for centuries since its inception, the principles of Roman Law have proven, and still prove successful in addressing many instances of conflict, regardless of their adoption by state legislation.

Thus, according to these authors, Roman Law can be considered the "gold standard." But is this not a completely subjective assessment? The precedent of outlawing FRB might well have evolved from individuals "mostly independent from political influence," but all manner of decisions, good and bad, can evolve in this way. This still does not provide an answer – certainly not an objective one – as to why Roman Law should be the standard, to the exclusion of all others. The "voluntary interaction of individuals" does not ensure ethical principles, even if it does happen to "solve particular conflicts." It might well establish a legal code, but that does not mean that such laws are licit from a moral perspective.

Present-day law which legalizes the practice is invalid, they argue, because it contradicts judicial edicts previously established over two centuries ago. The justification they provide is that the practice was outlawed under Roman law. And if it was illicit then, it must be illicit now. The Roman *depositum* ensured that all demand deposits were treated as warehouse deposits, and were fully-backed. Therefore, FRB is unethical, they claim. But why employ *this* precedent? Why not adopt the modern-day precedent that makes FRB licit? These authors offer no answer. They provide no reason and no justification. And thus we are left to speculate.

How do we know that Roman jurisprudence got it right? The Romans might well have been correct – indeed, they *were* in this case, but they lacked a fundamental underlying principle to support the judgment of these jurists; in other words, without an objective determination of what makes something legitimate or not, we cannot know that Roman law, or any other legal judgment for that matter, is valid. Indeed, one could argue that present-day banking practices which permit FRB, though more recent, have now endured longer than those of the Ancients, and therefore present-day law should be considered legitimate. The dilemma is created because judicial precedent is not epistemologically objective. Rather, it determines the law by whatever happens to be customary, and Bagus and Howden have chosen the customary practice they prefer. In other words, their assessment of FRB's legitimacy in this matter is subjective, not to say arbitrary and capricious.

This viewpoint is an instance of what philosophers call legal positivism.[3] Whatever

[3] According to an anonymous referee, our description of Bagus and Howden's position as "legal positivism" is unjustified, because we "miss the fact that there are many natural law positions, some of a harder nature than others." However, from our point of view, there are no "softer" or "harder" positions on libertarian natural law. As we discuss in detail in a later section, there is only one standard, because the natural law (as we take it to mean) is rationally deduced from first principles by employing a process of formal logic. This means that its propositions are absolutely true and logically valid, and therefore do not admit of alternative solutions. Moreover, the laws so-derived are logically consistent with one another, and reflect an absolute standard of morality. In contrast, law derived from legal precedent, because it originates with custom and past practice, does not of necessity deduce its principles apodictically, and has no necessary connection with an absolute set of ethics. Furthermore, we can assume that much of Roman Law originated with judges, or was enacted by some deliberative body at an earlier point in time, without relying on any foundational, axiomatic principles. This notion that the law is socially constructed, and disconnected from any absolute moral standard, is precisely the definition of legal positivism. It is also the position that Bagus et al take. Whether or not these authors have natural-law leanings or embrace a soft form of libertarianism is beside the point. Any intermediary position is simply legal-positivism "light," but still legal positivism. In contrast to libertarian natural law, it is this positivi¬stic view that allows for softer or harder positions. Because this kind of law, whether of the harder or softer variety, does not adhere to any absolute moral standards, its supporters necessarily embrace a form of moral relativism. If this were not the case, they could not in good conscience approve of their favored legal system. This referee also chides us for missing the "subtle argument" made by Bagus et al that because early Roman Law was established in a "free market" of legal decisions, it must necessarily have made law that was good and ethical. In response, we have to take issue with the notion that a "free market" of legal decisions can even exist, let alone produce good law. The term "free market" properly applies

the legislature, or, in this case, the judiciary, determines is fair, legitimate, licit, proper. Under this philosophy, it is not even erroneous to question the findings of this deliberative body, it is akin to meaningless. That is, one may not even ask, upon pain of self-contradiction: "The judicial precedent is X, but is X correct?" That would not only be wrong, it would be self-contradictory. But judges do not bring down law from Mount Olympus; they are merely flesh and blood creatures like the rest of us. They, too, can err. For example, for many years, slavery was the law of the land. There were all sorts of judicial "precedents" attesting to the validity of this curious institution. Similarly, in India, suttee, the practice of throwing a widow on the funeral pyre of her deceased husband, was fully supported by the courts. Yet, it would be difficult to support either institution, merely because there were numerous precedents in their favor. It cannot of course be maintained that FRB is in the same league as either suttee or slavery. Yet, the principle applies: just because duly appointed or elected judges make a ruling, it does not necessarily follow that their findings were proper.[4]

Now it might well be the case that under certain circumstances, judicial decisions are licit, and consistent with the free market. Indeed, the prohibition of fractional reserves implied in the Roman *depositum* clearly is correct, and accords with the unhampered economy. This is probably the case, because at least in the private law arena, Roman judges tended to "find" the law as opposed to making positive law. For example, Rothbard quoting Bruno Leoni states:

> The Roman jurist was a sort of scientist; the objects of his research were the solutions to cases that citizens submitted to him for study, just as industrialists might today submit to a physicist or to an engineer a technical problem concerning their plants or their production. Hence, private Roman law was something to be described or to be discovered, not something to be enacted—a world of things that were there, forming part of the common heritage of all Roman citizens. Nobody enacted that law; nobody could change it by any exercise of his personal will…. This is the long-run concept or, if you prefer, the Roman concept, of the certainty of the law.

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to economic exchanges, in which actors are free from aggression and violence, as proscribed by law. It cannot be applied to the law itself, to refer to a political or legal "market" in which actors are free to choose the kind of law they want. For this is not a free market at all; rather, it is a free-for-all, perhaps one in which the law bubbles up from below or is established by the majority or by fiat. To say that the law derived in this way can produce ethical standards is to put the cart before the horse. On the contrary, it is only on the basis of a legitimate set of moral standards that good laws can be generated, which then codify the allowable actions that constitute the free market. If there can be any doubt about this, it was, after all, the "free market" of early Roman law that permitted the most egregious violations of the free market proper; namely, slavery. But, second, even if this alleged "free market" serendipitously arrives at an ethical solution, as it did in the case of FRB, so what? The point we attempt to drive home in this paper is that it is this methodology, and its epistemological foundations, that we disagree with. This has very significant consequences, as we outline further.

[4] For a critique of logical positivism, see Barnett, 1978; D'Amico and Block, 2007; Groudine, 1980; Hoppe, 1998, 2015; Napolitano, 2011; Rothbard, 1982, 178; Simpson, 1987

In most cases of private law, therefore, we can assume that Roman judges "found" or "discovered" the natural libertarian law, precisely because over the prior centuries the citizenry had established a moral code that seemed natural and just. But it is also true that Roman jurists made decisions clearly *not* in accordance with libertarian law. These decisions might well have been "rational" insofar as they adhered to a technical process, and "objective" inasmuch as they sought out the established norms of the day, but since no one had fully elucidated *how* these norms came to be, or whether or not they were consistent with one another, it does not follow that the norms themselves were rational or objectively moral. Would we say today, for example, that the practice of slavery was just? Or the throwing of Christians to the lions was moral? It was only much later that a rational and objective foundation for moral norms was fully explicated. Thus, the ultimate justification for FRB's abolition does *not* lie with judges. Rather, it is based upon the axiomatic principle of non-aggression and property rights, which took many centuries after the Romans to establish fully. It is this that forms the basis for all legitimate ethical and legal pronouncements. And it is only a happy coincidence that in case of the *depositum*, the Romans came to the right and just conclusion.

Consider the following analogy. Little Johnny is about to stick a screwdriver into an electrical outlet. On seeing this, his mother cries out, "No!" When little Johnny asks why not, his mother replies "Because I said so." Now this might be a reason enough for little Johnny to do as he is told. But of course the real reason he should refrain from this action is that the outlet is connected to a 110 volt supply, the screwdriver is made of metal, and poking it into the electrical socket would have very bad consequences for little Johnny. Of course, his mother is absolutely correct in her admonition, but this does not mean that everything she tells him to do throughout his life is necessarily going to be good for him, even though she, we stipulate, has his best interests at heart. Being human, and judgements being subjective, she might err. Her assessments might be wrong. In a similar vein, judges may sometimes be correct in their decisions, as in the case of the Roman depositum. But not everything they rule need be so, unless they do so from an *objective* foundation. It is the libertarian law that makes FRB illicit, and not the judges' rulings, just as it is the possibility of electrocution that makes Johnny's action dangerous, and not his mother's pronouncement. Moreover, unlike Johnny's mother, judges, being government officials and part of a criminal enterprise, very often do *not* have the best interests of the citizenry at heart. And therefore, it is all the more likely they will rule in a manner inconsistent with the objective moral code that we call the libertarian law; in other words, they will rule against the non-aggression principle and the free market.

In sum, judicial decisions do not *originate* legitimate moral norms. They may accord with such practices, but they do not establish them. The propositions of libertarian law are the only means to do so, for the simple reason they are a priori, rational, and objectively true.

We shall discuss further the theory behind libertarian law, and the moral issue, in

Sections 4 and 5, but before we do so, we need to consider Bagus and Howden's position on FRB *qua* economists. Now, it is clear they view FRB as an intervention into the free market. However, because their view of FRB's illegitimacy is not objectively grounded, freedom itself becomes a subjective value judgment, which, as we shall see in the next section, becomes problematical for some of the terms they employ in describing Austrian business cycle theory. Indeed, one cannot argue that a system of law derived from judicial precedent is legitimate, and then claim to know the nature of a free market. Only objective libertarian law, grounded in property rights, properly comprehends freedom. If Bagus and Howden refuse to be moral absolutists; if they refuse to recognize natural law, and prefer to adhere to a form of moral relativism, so be it. But they cannot then claim to know, in objective terms, what a free market means or implies.

2. Ethics, Economics, and the Free Market

Bagus and Howden contend that judicial precedent from Roman Law should decide whether or not FRB and BSLL are legitimate. Bagus dismisses libertarian or natural law, in general, and the title transfer theory in particular, as being incapable of solving this ethical problem. He does so, because he rejects the possibility of employing a priori deductive processes to find objective solutions to ethical dilemmas. For example, Bagus and Medina (2018) state:

> The nature of the different contracts, established by legal doctrines and precedents of historical importance, such as Roman Law, are the best guidelines judges have to solve this and many other practical problems when an a priori solution attainable by mere deduction is lacking.
>
> The judge needs a solution, because he does not have a ready-made ruling deductible from first principles... there is no a priori answer...
>
> Title Transfer Theory, while attempting to produce a priori solutions to legal problems, over--rationalizes and over-complicates the matter, ultimately failing.

But Bagus and Howden are economists of the Austrian School. Thus, they accept the notion, at least in principle, that absolutely true propositions which have relevance to the real world can be obtained from self-evident axioms, and that the truth-value of such propositions do not require empirical evidence. In Kantian terms, they do not reject the possibility of a priori synthetic truths.[5]

[5] Hoppe (1995) supplies some pithy examples: "Whenever two people A and B engage in a voluntary exchange, they must both expect to profit from it. And they must have reverse preference orders for the goods and services exchanged so that A values what he receives from B more highly than what he gives to him, and B must evaluate the same things the other way around. Or consider this: Whenever an exchange is not voluntary but coerced, one party profits at the expense of the other. Or the law of marginal utility: Whenever

Economics starts with the axiom of action – the proposition that human beings act, and that this fact is self-evidently true, because anyone who denies its truth contradicts himself in the very act of denial. From this foundational premise, and a few subsidiary propositions, all the laws of economics can be deduced. These laws are neither empirical nor tautological, yet they are absolutely true and apply to the real world. They are formally valid and completely objective; they do not rely on any subjective judgements. As Austrian economists *qua* economists, Bagus and Howden necessarily subscribe to this epistemology. But they adamantly reject the notion that absolutely true propositions can apply to ethics.

Qua ethicists, Bagus and Howden claim that FRB is illegitimate. But the problem is they provide no clear explanation as to why Roman law should apply. So perhaps, without explicitly saying so, the real reason they view FRB as illicit is because, as Austrian economists, they know that FRB has deleterious effects when it is introduced into the free market; in other words, because it is the cause of the Austrian business cycle.[6] Perhaps this is the underlying reason why they believe FRB should be considered illegitimate; Roman law simply provides the justification.

Certainly, both authors subscribe to ABCT. For example, they maintain that FRB causes malinvestment by lowering the rate of interest below that which would otherwise exist given the existing social time preference. And that this is an artificially low rate that misleads entrepreneurs into investing in projects of a longer term, which causes discoordination throughout the production structure, and ultimately leads to the business cycle. For example, Bagus (2010) states that a consequence of FRB is "interest rates are artificially reduced under the level they would have been in a free market" and "malinvestments are committed." This would seem to imply that Bagus and Howden believe a free market can only exist when FRB is absent. But what exactly do these authors mean by a "free" market? And, from an economic point of view, what is it about FRB that makes the market unfree?

Austrian economists claim to be value-free, because they do not advocate or prescribe policy solutions to economic problems. Rather, they posit a hypothetical initial equilibrium, and then deduce the endogenous data that follow from a specific external event. Thus, the theorems of Austrian economics are of the type, if A occurs, then B will

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the supply of a good increases by one additional unit, provided each unit is regarded as of equal serviceability by a person, the value attached to this unit must decrease. For this additional unit can only be employed as a means for the attainment of a goal that is considered less valuable than the least valued goal satisfied by a unit of such good if the supply were one unit shorter. Or take the Ricardian law of association: Of two producers, if A is more productive in the production of two types of goods than is B, they can still engage in a mutually beneficial division of labor. This is because overall physical productivity is higher if A specializes in producing one good which he can produce most efficiently, rather than both A and B producing both goods separately and autonomously."

[6] See on this Huerta de Soto, 2001; Block and Garschina,1996; Barnett and Block, 2009D; Shostak, 2017A, 2017B

logically follow, *ceteris paribus*. ("A" being the exogenous event introduced into the initial equilibrium, and "B" being the ensuing pattern of internal data that result, assuming no further changes to the external data.) However, Austrian economists do *not* say that B definitely will follow, the reason being that in the real world other exogenous variables might intervene. And they do *not* say, we need to do X to prevent B from happening. In this regard, the Austrian school is value-free. But Austrians also frequently employ terms like "free market," "intervention," "malinvestment," and "artificial," etc. So what do Bagus & Howden mean by these phrases *qua* economists – i.e. as value-free terms – as opposed to their statements qua ethicists?

The imaginary construction used as the starting point in ABCT, into which FRB is introduced, is a hypothetical intertemporal equilibrium. Can we call this a free market? Not necessarily. There is nothing contained in the concept of an intertemporal equilibrium that necessarily implies an unhampered economy. Equilibria can occur under many different circumstances, and freedom does not necessarily equate to equilibrium. We cannot simply assume that the initial starting conditions of ABCT are a "free market" on the grounds that the endogenous data are fully resolved to the time preferences of savers and borrowers. Why should we not say, for example, that the market is free only when there is *not* such an equilibrium; for example, when there *is* FRB? Indeed, one could even make the case that in a democracy, "we" are the government, and so therefore whatever the government does, the people want. By implication, this means that any attempt to restrict what the government does would *inhibit* freedom; and therefore a free market necessitates government action.

Clearly, most Austrian economists would balk at this suggestion. But on what grounds can one object to the claim that FRB operations are not representative of a free market? Perhaps the answer might be that in the case of ABCT one can infer that the hypothetical intertemporal equilibrium described above represents a free market, because of the deduced negative consequences of FRB. In other words, by showing that FRB artificially lowers the rate of interest and causes malinvestment, we can, by implication, infer that a free market must exist *without* FRB, ceteris paribus. But this utilitarian argument puts the cart before the horse in a question begging exercise. It assumes we know what "artificial" and "malinvestment" mean without knowing what freedom means. However, the terms "artificial" and "malinvestment" can only be defined in *contradistinction* to freedom, and only once we have established what freedom itself means. In general, we cannot determine the nature of a free market merely by the absence of an intervention, unless we know what an intervention really involves; and we cannot know what an intervention involves unless we know and understand the true nature of a free market. Suppose, for example, the generally-accepted view is that FRB is not an intervention in the free market; i.e., that its inclusion is consistent with the operation of an unhampered economy. In this case, it could be argued there is nothing "artificial" about the interest rate. Moreover even though the economist believes he can show that social welfare is

reduced as a final consequence of FRB, his opponent can simply disagree; he might say something like, this is the price we pay for "freedom;" in which case one can hardly label the investment pattern as "*mal*investment."

Consider another case: minimum wage laws. Again, most Austrians would say that minimum wage laws are an intervention into the market, because they cause unemployment, ceteris paribus. But why is it an intervention on these grounds? A moral relativist, such as a socialist, might say minimum wage laws are perfectly legitimate. He might argue they actually *increase* freedom, on the grounds that working people obtain a living wage. Moreover, he might say that it is irrelevant for the economist to show it causes additional unemployment, because the unemployed can be supported by the dole; and the dole can be increased by raising taxes on the rich. The economist who happens to be a utilitarian might respond, "This is clearly an intervention, because social welfare is reduced overall!" To which the socialist replies, "No it's not! Your position is subjective. *I* think it represents an *increase* in social welfare."

A free market cannot be defined on utilitarian grounds, because, as we shall discuss further in a later section, utilitarian evaluations are always subjective. Thus, we cannot argue that a free market exists under X on the grounds that social welfare is enhanced when X exists. Nor can we say that Y is anti-freedom or interventionist on the grounds that social welfare is diminished under Y. An intervention, such as FRB, cannot be defined by reduced social welfare, any more than the absence of FRB implies a free market on the basis of increased social welfare. The problem is that without an objective definition of the free market, the consequences of any alleged intervention on purely utilitarian grounds are completely subjective themselves.

Neither judicial precedent nor utilitarian arguments can provide an objective definition of the term "free market." And without such a definition, words such as "artificial," and "malinvestment," have no objective meaning either. It is the purpose of the next section to demonstrate that only a libertarian theory of property – in particular the TTT – can provide a proper definition of the free market, and it can do so, only because it uses the same kind of methodology employed by Austrian economics; in other words, because its propositions are rationally deduced, objective, a priori, and absolutely true. And only when we have defined freedom and unfreedom in this way can we say that under a system of FRB, the interest rate is "artificially" lowered, and that "malinvestment," and "discoordination" must follow. Indeed, only when we know what it means to be free, can we define the actions which represent violent intervention in the market in general, and why these actions must necessarily cause discoordination as something that must *logically* follow, ceteris paribus, rather than simply associating them with an ensuing catalogue of events that are empirically observed. We consider the TTT below.

3. Title Transfer Theory and Fractional Reserve Banking

The title-transfer theory (TTT) encompasses all interpersonal contractual exchanges of economic goods that involve the transfer of property rights or "titles" to ownership. To "own" an economic good means the exclusive right to control, use, or dispose of that good as the owner sees fit. And "title-transfer" means the transfer of this right in an exchange. Exchanges can be broadly classified into two fundamental types: 1) Unconditional (one--way) exchanges, such as gifts and bequests; and 2) Conditional (bi-directional) exchanges where a title is transferred upon the fulfillment of some obligation by the transferee to the transferor. The simplest such obligation is the contemporaneous title-transfer of a good in two directions; e.g. barter. But other examples include labor services, loan repayments, the provision of insurance, winnings under a gambling contract, and penalties associated with performance bonds. Failure to fulfill any contractual obligation by the transferee in an exchange implies default and thus the theft of property, in which case the transferor has a legitimate claim to seize any other property of the transferee to make good on the claim, or employ other such means for restitution.

Since, by definition, ownership of property is exclusive, it is clear that titles can only be acquired and held by one entity at any given time.[7] Failure to observe this simple rule creates a duplicate title, which results in conflict,[8] because there is no single clear owner. A duplicate title is a contradiction, for it says that entity "A" has the exclusive right to control a certain property, and entity "B" also has this same exclusive right with respect to the same property at the same time. This is a violation of the laws of logic, and of the natural or libertarian law.[9]

It is important to distinguish between ownership and mere possession. If a title holder transfers property to another person without transferring the title, or any element of the title, for safekeeping – a contract known as a bailment – then he temporarily gives up the possession of the property, but under no circumstances does he relinquish any aspect of its ownership. Thus, he still retains the exclusive right to control, use, or dispose of the property himself at any time of his choosing.[10] Failure by the bailee to respect the

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[7] Titles can be held jointly by more than one person at any given time; e.g. by a company, a group of associates or friends, a married couple, etc. In this case the joint owners act as one. But titles cannot be held by more than one entity at a given time.

[8] In the view of Hoppe (1993), which we fully endorse, the pre-eminent purpose of property rights is to *avoid* conflict. Private property rights are only needed in the first place for this reason. If there were no scarcity, we could all have everything, everything that we wanted, there could be no conflict, and, thus, no need for property rights.

[9] However, this does not rule out restrictive covenants or easements associated with a title, which grant to the easement-holder certain agreed-upon privileges that restrict some aspect of the title-holder's use of the property. In these cases, there is no duplication, because ownership is divided into specific rights of use that may be contractually transferred like any other property right.

[10] This is apart from the time stipulated in the relinquishment; for example, if A rents an apartment to B for one year, A retains ownership of it, but B has control for those twelve months

ownership rights of the title-holder (bailor) by, for example, controlling, using or disposing of the property himself, without the title-holder's knowledge or agreement, amounts to theft. If the non-title-holding bailee transfers the property to a third party, and grants this entity the right to control, use, or dispose of it itself– i.e. such that the third party, in effect, now owns it – then a duplicate property title is created out of thin air, since the original title-holder still properly retains these rights. This is called counterfeiting[11], and it violates the natural law, whether or not the original title-holder agrees to this arrangement. Duplication and counterfeiting is avoided only if the original title-holder agrees to give up all of his ownership rights in a genuine exchange contract, and explicitly transfers the original title to the new owner.

Does fractional reserve banking (FRB) violate the title transfer theory (TTT)? We claim it always does, and necessarily so. What is FRB? This is a banking system which creates new property titles out of the thin air. Since there is always, at any given time, only so much property, if FRB creates new titles, then someone else must have fewer. But this is theft.

How does this work? A comes to the bank, B, with $100 to deposit. B accepts this money, and gives A a demand deposit for this amount. B then lends out $90 of A's money of to C, since the fraction, in FRB, we are assuming, is 10%. B gives C a demand deposit of $90. There is now $190 in existence, instead of the original $100. That $90 has been created out of the thin air.

But all parties have agreed to these transactions. A, B and C all went into this with their eyes wide open. They are all sophisticated, and realize precisely what is going on. How can we object to this procedure, having claimed that all voluntary transactions are legitimate? We do so because there is something more basic than mere voluntary contract: property rights, the opposite side of the coin of the NAP. If a voluntary contract violates this foundational building block of libertarianism it is to that extent invalid. Previously, before this instance of FRB took place, A deposited $100 with B. There was only $100 of money in existence, we may suppose. Now, afterwards, there is $190 in existence. But this means that there is a conflict, and one of the very basic elements of libertarianism is that rights cannot be incompatible with one another. If there is an irreconcilability, then one, or the other, or perhaps both rights are invalid. Let us cast our eyes on this matter more narrowly. There is still only $100 in existence. But A has a right to $100 of it, B to $10 of it, and C to $90 of it. That mere $100 simply cannot stretch that far.

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[11] A debate has arisen in Austro-libertarian circles on this topic. All participants agree that counterfeiting legitimate, market based, money, such as gold certificates, should be illegal. But Block (1976, 2010C, 2010D) maintains that counterfeiting illicit money, such as government fiat currency, should be considered not only legal, but, also, positively virtuous. The following deny this contention of Block's: Murphy, 2006; Machaj, 2007; Davidson, 2010. On a related topic see Anderson, 2001. For the view that the central bank, or the Fed, is an improper counterfeiter, see North, 2013; Murphy, 2010

Let us argue by analogy. In the movie "The Producers"[12] the Zero Mostel character went around selling shares in the play "Springtime for Hitler." He would sell this old lady 50% of it, another a 75% share, a third, oh 40%, a fourth 70% a fifth 60% and so on. Obviously, there was more than a little bit of fraud going on here. The point is, there is only 100% of any given thing: money, a play, a car, whatever. X can own 50% of a car, and Y can also own 50%. The former can use it on Mondays, Wednesdays and Fridays, the latter on Tuesdays, Thursdays and Saturdays.[13] But what would it even mean for them, together, to own more than 100% of that automobile? We are now treading dangerously into the realm of contradictions in nature. Joe and Mary can "agree" that the former will sell to the latter a pink elephant. But, since this entity does not exist[14]it is an illicit contract, despite such "agreement." Matters are even worse when it comes to selling someone a square circle. Not only does this not exist, it is *impossible* for it to exist. We have now returned to FRB: it is logically impossible for the three people, A, B and C, to own more than the $100 that is available. And, yet, thanks to the magic of FRB, they have done just that.

In conclusion, the TTT is a tool that can be used to show how FRB produces duplicate property titles that violate logical laws concerning property rights. FRB is a clear contravention of the free market, because it is a fraudulent process. This is a positive value-free statement, which is objectively true. Unfortunately, because Bagus and Howden do not subscribe to the TTT – indeed, Bagus explicitly rejects it – they have no objective basis with which to define the free market qua economists; i.e. no rational method of determining whether FRB should be included or excluded in their definition of the unhampered economy. Certainly, historical precedent can provide no such foundation. The only methodology which can do so is the one we have outlined above.

Having established that FRB is incompatible with the free enterprise system, and that this conclusion is logically and objectively valid, we shall now consider the moral issue. As discussed further below, libertarian theory makes it evident that the moral objection to FRB is also rationally deducible and objective. Contra Bagus and Howden, the argument against FRB's legitimacy is not subjective and arbitrary, which the case for legal precedent necessarily implies.

4. The Libertarian View of the Free Market

Classical liberalism had no clear consensus on the relationship between ethics and economics. Political philosophy was split into two distinct camps. It was only with the advent of modern libertarian theory, as fully elucidated by Murray Rothbard, was it realized that the axiomatic-deductive process that applied to Austrian economics, and which gave

[12] https://www.youtube.com/watch?v=z51xeox0Jlg

[13] Sunday is the day of rest.

[14] We are ruling out pink painted pachyderms.

economics its absolutely true and formally valid propositions, could similarly be applied to ethics. No longer did ethics have to rely on Divine law or some ill-defined transcendental force to provide its justification, as many natural rights theorists had claimed. Nor was it subjective and conditional, as moral relativists contended. Rather, it was rational, objective, and absolute. Rothbard's great achievement was to draw together economics and ethics within the framework of a universalized philosophy, which recognized the role of property and property rights. And within this framework, the epistemology of ethics was demonstrated conclusively to be *a priori*, deductive, and objective.

The *a priori* of ethics stems from the fact that every person alive has a self-evident will to stay alive, for it is a performative contradiction for any person to deny this, and then continue to live.[15] Life, then, is an objective ultimate value; indeed, any person participating in a discussion on values affirms the value of life in the process.[16] In addition, every person has a natural and independent power over his mind, which is called the will, and every individual has the ability to exercise this will over his body. The will is always free,[17] because, absent initiatory violence against him, no person is denied the freedom to choose, or to adopt ideas independently. It is true that a person may not have the power to *act* upon a choice or an idea – i.e. he may be restrained by his own physical limitations or by those imposed upon him by external forces – but his *will* to do so is undeniable.[18] Unlike animals that employ mere instinct, man's will is a product of his reason, which can command his body to act utilizing chosen means to achieve his most highly-valued ends, in furtherance of the ultimate value which is life. And given that no mind and no will can be used in the same *natural* way on another person's body, in order to achieve the desired goal, it follows that any attempt to do so by direct action against another individual's body, subverts their will, and is *un*natural.[19]

Thus, those who control or use other person's bodies without their consent are not acting in a natural way. They are anti-life. For if everyone's will were to be subverted in this manner, all human life would end. Moreover, given that life is the ultimate value, it

[15] With a very few exceptions, such as those who would rather die, but are physically prevented from doing so against their will.

[16] For a complementary justification, based on the ethics of argumentation, see also Hoppe, 1993, 2016; Kinsella, 2002, 2009, 2011; Block, 2004, 2011B

[17] For the case in favor of this claim, see Block, 2015; O'Connor, 1995, 2000; Ekstrom, 2018; Palmer, 2014; Taylor, 1966; Van Inwagen, 1983; Van Schoedlandt, et al, 2016

[18] Is it also and inalienable? This is a controversial claim, at least on the part of libertarians. For the traditional case in favor of inalienability, see: Barnett, 1986, 1988; Calabresi and Melamed, 1972; Epstein, 1985; Evers, 1977; Gordon, 1999; Kinsella, 1998-1999, 2003; Kronman, 1983; Kuflik, 1984, 1986; Long, 1994-1995; McConnell, 1984, 1996; Meyers, 1985; Radin, 1986, 1987; Reisman, 1996, pp. 455f., 634-636; Richman, 1978; Rothbard, 1998; Smith, 1996, 1997. For the viewpoint that rights, free will, are alienable, see Andersson, 2007; Block, 1969, 1979, 1999, 2001, 2002, 2003A, 2004, 2005, 2006A, 2007A, 2007B, 2009A, 2009B; Frederick, 2014; Kershnar, 2003; Lester, 2000; Mosquito, 2014, 2015; Nozick, 1974, pp. 58, 283, 331; Steiner, 1994, pp. 232; Thomson, 1990, pp. 283-84.

[19] Unless it is agreed upon by the seller of the will, maintains the authors, ibid, who take the position that rights, free will, are alienable, ibid.

follows that any moral code which prohibits such an evil action must have value in itself. And the moral code which has the most value and is the most natural is the one that is the most life-affirming. In other words, the natural moral code is one in which *no* individual has the right to control or use or destroy another person's body against their will. Thus, if ownership is defined as the *exclusive* right to control, use, alter or destroy a particular good (and a good that is owned is called property) it follows that every individual has a natural property right in his body – his body being a good, which he alone owns.

From this basic proposition, the libertarian moral code can be spun out. Since physical labor originates with the will and is produced by the body, and is thus an extension of the body, any previously unowned article in a state of nature, including any unowned land, that is procured or improved as a product of one's labor, becomes one's property. The same principle applies to existing legitimately-owned property transformed through one's labor, and to property when it is acquired from another person, voluntarily, in exchange for one's labor [20] or for one's existing property. This is also the case for property obtained from others through their voluntary donation, gift, or bequest.

All these exchanges must be voluntary, because, by definition, voluntary action is an exchange that violates no one's will. And, logically, since the only other way to acquire or control property necessarily involves force or the threat thereof directed against others – force being defined as any action imposed on another which is *in*voluntary – it follows that the *initiation* of force is illegitimate, because it defies the will and the exclusive rights of ownership described above. [21] It is an immoral exchange. From this basic principle – i.e. the non-aggression principle (NAP) – all libertarian law is deduced. Libertarian law is thus rational and objective. It is grounded in property rights and interpersonal exchange established under voluntary contract. And, most importantly, its moral and legal consequences cannot be denied, because, epistemologically, its basic tenets are derived through a process of formal logic from a self-evident and a priori foundation concerning the natural right of self-ownership.

Libertarian law is the only objectively legitimate body of law. It is *negative* law in that it prohibits every possible kind of coercion – coercion being defined as any violation of the NAP. It responds with force to any and all actions that initiate force. Of course, all laws employ force, but because libertarian law is negative law, and does not sanction the initiation of force itself, it follows that all of its laws are *objectively moral*. However, as a matter of logic, because the negative law covers every possible violation of the NAP, any additional laws created by man do indeed initiate force. They cannot do otherwise. Such laws necessarily violate the NAP, and are thus *objectively immoral*. These additional laws come under the rubric of positive law, because they grant certain people the "freedom"

[20] Non-physical labor is still a product of the will, although it could be argued that all labor is physical in some sense.

[21] The only legitimate use of force is that which is used in self-defense, or to repel or redress force initiated by another.

to *engage in* coercion in opposition to the negative law which ensures people are free *from* coercion. Government legislators are the source of positive law.[22] Legislators enact statute laws, which courts are able to put into effect because the state, through its police power, has a territorial monopoly on the use of violence.

Thus, all law created by the state – i.e. by legislators and often by judges – is positive law which logically (and therefore necessarily) enables violence and inhibits freedom. It is the state, through its enactment and enforcement of positive law, that is almost[23] exclusively responsible for creating a world that is unfree. Thus, when legislators *make* law or judges interpret the law in a way that does not merely adhere to the natural or libertarian law, they permit coercion, which tramples upon, and corrupts, the free market. Only the eradication of positive law can ensure a truly free market. This is what it means to have a free market.

For the ethicist (as opposed to the economist) the libertarian law provides an objective moral foundation with which to condemn all forms of violent intervention. This includes, in particular, those perpetrated by the State in the form of positive law. It is positive law which gives rise to regulations that permit FRB – in essence, licenses to engage in fraud. All such actions are illicit, because they violate libertarian law, which defends negative rights.[24] The fact that the violation is enshrined in long-standing government statutes gives it no special status; indeed, it makes matters worse, because unlike private criminal violations, its persistence and ubiquity make it seem normal and natural. However, contra Bagus and Howden, historical precedence from Roman Law provides no persuasive moral argument with which to denounce FRB, because this form of legal positivism relies on the same kind of subjective process that is used to condone it. Only objectively-deduced libertarian law can successfully undertake this task.

Libertarian law is a priori and absolutely true. Unlike legal positivism, utilitarianism, and other forms of moral relativism, which all reach subjective and arbitrary conclusions, the libertarian law stands alone in being able to demonstrate objectively and conclusively that FRB is illicit. While the TTT specifically exposes FRB as being fraudulent, and demonstrates why it violates free market principles, libertarian law exposes why this fraud, even though it is condoned by the government, is morally wrong. Thus, we have a theoretically consistent and logically valid theory of property rights which, on the one hand, objectively describes in value-free terms the nature and extent of the free market, and on the other hand, provides rationally-deduced normative statements that morally condemn all violations of laissez-faire capitalism, in particular those caused by FRB.

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[22] What about judges? Here, the analysis is more complex. If a judge finds new positive rights such as the right to food, clothing, shelter, the right not to be offended, etc., then, he, too, is guilty of the same rights violation as government legislators who stray from NAP law. On the other hand, there are gray areas. Did X steal from, murder, rape, Y? In such deliberations, judges and juries too need not be the source of positive law.

[23] Consider the private non-governmental murderer, rapist, thief, kidnapper.

[24] On the difference between positive and negative rights, see: Block, 1986, 2018; Gordon, 2004; Katz, undated; Long, 1993; Mercer, 2001; Rothbard, 1982; Selick, 2014

5. Moral Relativism, Utilitarianism, and Property Rights

The dominant ethical view today is that of moral relativism, which scoffs at the notion of any kind of objective ethic. Anything that smacks of absolutism, such as natural rights, is rejected out of hand, even viewed with derision. This kind of thinking can be traced back to the Greek sophists, most notably Protagoras – "man is the measure of all things"[25] – and Callicles who declared "justice consists in the superior ruling over and having more than the inferior."[26] In Plato's Republic, Thrasymachus (responding to Socrates) claimed that "justice is nothing else than the interest of the stronger."[27]

In the Modern era, David Hume in his appeal to emotivism was perhaps the first moral relativist. According to Hume, "Reason is, and ought only to be the slave of the passions, and can never pretend to any other office than to serve and obey them." [28] For this philosopher, matters-of-judgment were subjective, in contradistinction to objective matters-of-fact. It was Hume who outlined this dichotomy in the following statement: [29]

> In every system of morality, which I have hitherto met with, I have always remark'd, that the author proceeds for some time in the ordinary way of reasoning, and establishes the being of a God, or makes observations concerning human affairs; when of a sudden I am surpriz'd to find, that instead of the usual copulations of propositions, is, and is not, I meet with no proposition that is not connected with an ought, or an ought not.

In the 19th century, Nietzsche preached that there are no absolute truths, that truth is a matter of perspective, and that all morality is an expression of "the will to power," as exemplified in the distinction between "master morality" and "slave morality." Today, neo-Marxists and Postmodernists are the heirs of this tradition. In their view, norms are never absolute, but rather dependent on socially-constructed identities. There are no objective standards; rather, only subjective judgments that reflect one's upbringing, the environment, and the social milieu exist. For moral relativists of this ilk, there is no clear "mine and thine." Therefore, property rights are vague and ill-defined. Proudhon (1840, p. 131) went so far as to infamously claim that "property is theft."[30]

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[25] Socrates to Theodorus in Plato's Theaetetus. Translation by Benjamin Jowett. Project Gutenberg. 2008. https://www.gutenberg.org/files/1672/1672-h/1672-h.htm

[26] Callicles to Socrates in Plato's Gorgias. Translation by Benjamin Jowett. Project Gutenberg. 2008. https://www.gutenberg.org/files/1726/1726-h/1726-h.htm

[27] Thrasymachus to Socrates in Plato's The Republic. Book I. Translation by Benjamin Jowett. Project Gutenberg 2008. https://www.gutenberg.org/files/1497/1497-h/1497-h.htm

[28] (2010 [1740] Book II, Part III, Sec. III)

[29] Hume (2010 [1740] Book III, Part I, Sec. I)

[30] This is not just mere nonsense. It is, rather, "nonsense on stilts." If there were no such thing as property, there logically could not be any such thing as theft in existence. This is because what constitutes theft if the violation of property rights.

Mainstream neoclassical economists, in contrast, claim to take no position at all with respect to property rights. Because they adhere to positivism, and employ a methodology derived from the natural sciences – a kind of social physics – and because this method is a posteriori, inductive, and empirical – in other words "scientific" – any references to ethics, including notions of property rights, have to be strictly eliminated. Indeed, for orthodox economists, property rights can have no place at the table if economics is to be "value-free." Ronald Coase exemplified this approach in his infamous paper, *The Problem of Social Cost* (1960), in which he argued that the traditional method of resolving disputes, based on absolute notions of ownership, "has tended to obscure the nature of the choice that has to be made."[31]

The classic case considered by this Nobel prize-winning economist is that of a factory spewing smoke over a neighboring residential district, and the question to be resolved concerns whether or not the factory owners should be allowed to continue causing this nuisance. From the libertarian perspective, the answer is clear: Assuming the smoke is indeed a nuisance, and not merely a trifling matter, the factory owners are essentially invading (with their smoke) the property of the homeowners, and should either; 1) immediately take measures to confine the smoke to their own property; or 2) pay an agreed-upon fee to the residents, each and every last one of them, in order to obtain a contractual right to continue spewing smoke. For Coase, however, this is not what is important. Indeed, says Coase, the suggested courses of action might or might not be inappropriate, because the defining issue is not who owns what, and whether or not ownership rights are being trampled upon, but rather on what is the efficient allocation of resources based on utilitarian considerations. In other words, what is important is limiting the social cost.

According to this author, in a case where transaction costs are zero, it does not matter how property rights are allocated, because efficiency will always be the result. Thus, in the above example, if the factory owners are at fault, they will either have to install a smoke-suppression mechanism or pay compensation to the residents. And if not, either the homeowners will have to put up with the smoke, or they will have to pay the factory owners to install a smoke-limiting device. In both situations, however, the outlay of resources – in the form a smoke limiting device or compensation – will be determined by whichever option costs less, and this can be achieved through a market-based solution. The only element that changes is who pays.[32]

However, this state of affairs becomes more complicated, according to Coase, when transaction costs – such as attorney fees, the cost of determining harm, etc. – become significant. In these cases, the "rearrangements of rights" that brings about the greatest efficiency might not be undertaken if the increase in the value of production is less than

[31] Coase (1960, p. 2)

[32] Note, however, that Coase is not at all concerned with who actually has to pay.

that needed to bring it about. Suppose in the above case of the factory emitting noxious smoke, a vast number of people are affected, but compensation is ruled out in a market-based solution, because of high administrative costs involved in determining the specific damages. In this situation, the factory might be "forced" to install a smoke suppression device, even though this might not be the most efficient allocation of resources. The solution to this "problem" says Coase is regulation, whereby government agencies determine who may (or may not) do what based on social cost. If, for example, officials decide that the industry concerned is of such great importance to "society," and the cost of smoke suppression systems far too heavy a burden to pay relative to the nuisance caused, then the answer is that factories of this kind should be allowed to continue operations unimpeded. Compensation, if any, should be determined by statute, or by judges.

Under this schema, "rights" are determined by government officials and judges, who decide the issue based entirely upon utilitarian grounds. Indeed, says Coase; "It would therefore seem desirable that the courts should understand the economic consequences of their decisions, and should insofar as this is possible without creating too much uncertainty about the legal position itself, take these consideration into account when making their decisions."

To the libertarian this completely abrogates property rights. In the above example, each homeowner should be free to decide for himself whether or not such compensation is acceptable, based on his own evaluation rather than that of a politician or a judge. For Coase and most mainstream economists, however, the notion that any person might have an absolute right to property, and that ownership means the exclusive right to use, control, alter, sell, let, or destroy such property, regardless of the utilitarian outcome (whatever that might be), is not in their purview. As far as they are concerned, the concept of property is not within the scope of their subject. But what these economists do, perhaps not unwittingly, is to sneak ethical relativism in through the back door. Their approach is not value-free at all. Why? Because when judges decide these issues on utilitarian grounds, they do so subjectively. They substitute their own subjective assessments for those of the litigants.[33]

But is not the determination of utility simply an arithmetical problem of adding up prices and costs? Can it not be done objectively? No, the decision is always subjective,[34]

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[33] For a further critique of Coasean economics see Barnett and Block, 2005, 2007, 2009C; Block 1977, 1995, 1996, 2000, 2003B, 2006B, 2010A, 2010B, 2010E, 2011A; Block, Barnett and Callahan, 2005; Cordato, 1989, 1992a, 1992b, 1997, 1998, 2000; DiLorenzo, 2014; Fox, 2007; Hoppe, 2004; Krause, 1999; Krecke, 1996; Lewin, 1982; North, 1990, 1992, 2002; Rothbard, 1982, 1997A; Stringham, 2001; Stringham and White, 2004; Terrell, 1999.

[34] Here we are, attacking subjectivism. But is this not a foundation of Austrian economics? A synonym for this school of thought is nothing other than "subjectivism." Stated eminent Austrian economist Hayek (1979, 52): „And it is probably no exaggeration to say that every important advance in economic theory during the last hundred years was a further step in the consistent application of subjectivism." Also, see the following on this issue: Barnett, 1989; Block, 1988; Buchanan and Thirlby, 1981; Buchanan, 1969, 1979; Butos

because utilitarianism has no objective means to determine individual utility. Even less can it determine interpersonal utility. It is axiomatic that the valuations of market actors cannot be determined by the objective prices at which goods exchange. From a praxeological perspective, every actor involved in an exchange must value a good he receives subjectively *more* than the price he paid, at least *ex ante*, for the exchange to take place. In other words, in order to act, he must always assume that it involves a psychic profit. And because such psychic profits have no cardinal value – indeed, value to the individual is always subjective and ordinal, and never quantifiable – any attempt by a court to determine a property right based on utilitarian grounds merely substitutes the court's valuation for that of the owner. Indeed, a judge, in deciding what this value is, and how and when the property should be disposed of, or sold, or altered, abrogates the true and natural rights of the owner, and becomes in effect (a partial) owner himself. For what is an owner other than someone who has the right to decide subjectively, and at his sole discretion, the disposition of property? It matters not at all whether a judge's decision is based on utilitarianism, expediency, precedent, or outright bigotry. An economics that advocates policy prescriptions requiring the intervention of courts and the use of the police power is not value-free.

Therefore, neither present-day moral relativists nor neoclassical economists have a coherent position on property or property rights. But the irony is that the dismal scientists, by avoiding any mention of property at all in an effort to remain value-free and scientific, necessarily involve themselves in the very moral arguments they eschew. And while they view ethics and economics as being two separate subjects, having distinct epistemologies and employing different methodologies, as they should, their prescriptions require subjective decisions that result in the two fields of study becoming inextricably intertwined.

Thus we see that on the issue of property rights, utilitarianism provides no better a foundation than legal positivism. Both are forms of moral relativism (even though their adherents would deny it) because they arrive at decisions that rest ultimately on subjective opinion. In the case of the former, the deciding factors are enshrined in custom and precedent, and in the latter, they are based upon some alleged superior social outcome. While both these forms of moral relativism take a position on property rights that is arbitrary and capricious, they can to a certain extent coexist with neoclassical economics, inasmuch as the latter's position is to deny the very existence of such rights.

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and Koppl, 1997; Cordato, 1989; DiLorenzo, 1990; Garrison, 1985; Gunning, 1990; Kirzner, 1986; Mises, 1998; Rizzo, 1979, 1980; Rothbard, 1979, 1997B; Stringham, 2008. How, then, do the present authors, also adherents of the praxeological school (yet another synonym), reconcile our Austrian support with a critique of subjectivism? It is simple. As Austrians, we acclaim subjectivism. But, we are also libertarians, and in that context we favor objective law and reject subjectivism. There is all the world of difference between value-free economics, and value-laden libertarian theory.

Contrast this view of the role of property with that of the Austrian School. The Austrian economist cannot engage in the axiomatic-deductive process known as praxeology without a very clear understanding of the nature of property and exchange. He must know what property actually means when referring to systems and institutions such as "the free market," "violent intervention," "malinvestment," etc. He cannot have a vague notion of the nature of ownership like that of the neoclassical economist. Only an a priori, and objectively deduced theory of property, which employs the same kind of axiomatic-deductive process as praxeology itself, can give the terms the specificity required to deduce the logically valid and absolutely true economic propositions which necessarily flow from them. Any relativistic view of property in this realm renders conclusions invalid, because the frame of reference becomes either vague and imprecise or internally inconsistent, which is the death blow to praxeology.

But despite having a very clear definition of property, the Austrian School is value-free. Again, this is in contrast to neoclassical economics. Indeed, Austrian economics totally eschews the kind of advocacy in which one course of action is deemed superior to another. The praxeologist does not favor or oppose this or that moral or political position. He does not advocate. Indeed, as a value-free science, the only position for him to take that is consistent with vertfreiheit, the framework of Austrian economics, is a dignified silence.

Nevertheless, it is true that most Austrian economists, when not practicing economics, are indeed libertarians. A full discussion as to why this is so would take us too far afield from our present concerns.[35] Part of the explanation might lie in the fact that both are deductive systems. But it is more than passing curious that Bagus and Howden should endorse the view that FRB violates the "free market," and creates "malinvestment," while maintaining that its illegitimacy rests with the form of moral relativism that legal precedent encompasses.

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[35] See Woods 2013, on this.

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