

Property Rights, Economic Inequalities, and International Obligations

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I. Two Conceptions of Justice

Few moral concepts have inspired as much fervent praise and angry condemnation as the concept of property rights. Perhaps this is especially true in the United States and other relatively young countries, where many people can trace their ancestry back to landless immigrants who arrived with nothing, labored through lifetimes and generations to acquire property rights in land, and who often fought fiercely to defend those rights. Many people consequently feel that their own labor and the labor of their ancestors entitles them to what they now own, and that any effort to take their property from them, or to limit their right to do as they wish with what they rightfully own, must be excessive interference at least, or at worst, oppression and tyranny.

It is not difficult to understand how people come to feel this way. Property rights are closely related to our general right to liberty, the precious right to live our lives as we please without interference, at least where our choices don't harm others. Property rights are necessary for the existence of an economic market that makes mutually advantageous economic activity possible, and which is perhaps the most efficient institution possible for the production and distribution of goods and services. The notion that labor creates entitlement is as ancient as it is elemental, and it has seemed to many that there is something deeply natural about it. Wherever laborers have been forced to work without gaining any entitlement to the fruits of their labor, they have bitterly resented the injustice of their situation, and often have risen up to try to abolish the institutions they come to regard as the source of this injustice. This conception of justice, which focuses on property rights and the relationship between labor and entitlement, might be called "propertarianism."

It is clear that property rights are important from the moral point of view – at least their importance will not be questioned in my discussion here. But we may still ask what weight these rights have when they come in conflict with other morally significant considerations. For there is another conception of justice that may be just as universal and just as deeply

embedded in our understandings and judgments. Jean-Jacques Rousseau expressed the core of this second conception well when he wrote:

It is obviously contrary to the law of nature, however it may be defined, for a child to command an old man, for an imbecile to lead a wise man, and for a handful of people to gorge themselves on superfluities while the starving multitude lacks necessities. (Rousseau, 1992, pp. 868–9)

Even if we have doubts about Rousseau's claim that enormous disparity in wealth is "contrary to the law of nature" we may well share with Rousseau, and with many others throughout history, the sense that there is something seriously wrong in a world that contains both crawling destitution and extravagant overabundance. Rousseau put this notion in terms of the value of equality: this second conception of justice, egalitarianism, holds that societies are unjust if they are characterized by vast inequality in wealth or well-being.

These two conceptions of justice, propertarianism and egalitarianism, both have deep roots in philosophical traditions worldwide. Each of these conceptions of justice has been attributed to "nature": Rousseau believed that extreme inequalities violate laws of nature, while John Locke argued that labor-based property rights are natural rights. More interestingly, these conceptions of justice may not simply be artifacts of our culture, or dependent on the peculiarities of one philosophical tradition, for variations on these conceptions have been articulated by thoughtful people from different unrelated philosophical traditions, and people from widely different cultural backgrounds have found them attractive. They may not be "natural" in the sense that some have thought: rules assigning labor-based property rights, or proscribing radical inequalities may not be discoverable laws of nature in the way that laws of physics are laws of nature. But it may be that common properties of human beings, and common features of the human condition lead people to develop notions of property and equality, and to regard these notions as normative. In this sense, commitment to these conceptions of justice may be "natural."

But to say that these conceptions of justice may be natural in this sense is not necessarily an endorsement of them. It may be "natural" in this same sense, for people to become bitter and spiteful under certain circumstances, but that would not justify us in regarding bitterness and spite as moral virtues. People may have a "natural" propensity to be deceived by certain fallacious lines of reasoning, but such reasoning is nonetheless fallacious. A similar problem plagues these two "natural" conceptions of justice: unfortunately, they seem to be incompatible with one another. Over time, inequalities will emerge wherever private property rights are respected, since different people will labor differently, and (perhaps more importantly) different people will inherit different goods. Since it takes wealth to create wealth, these inequalities are likely to increase until the point is reached at which some are extravagantly wealthy while others are impoverished.

How should we regard inequalities that "naturally" arise in institutions that respect property rights? Those who regard equality as overwhelmingly important are likely to say "so much the worse for property rights." Here is Rousseau's reaction:

The first person who, having enclosed a plot of land, took it into his head to say "this is mine" and found people simple enough to believe him, was the true founder of civil society. What crimes, wars, murders, what miseries and horrors would the human race have been spared, had someone pulled up the stakes, filled in the ditch and cried out to his fellow men: "Do not listen to this impostor. You are lost if you forget that the fruits of the earth belong to all and the earth to no one!" (Rousseau, 1992, p. 877)

Without private property, individual people could not amass wealth, and without rich people, the great pernicious disparities whose existence Rousseau lamented could not come into existence. But those who take property rights seriously have found Rousseau's account excessively simplistic and one-sided. Voltaire wrote in the margin of Rousseau's essay, beside the passage quoted above: "What! He who has planted, sown, fenced in, has no right to the fruit of his labor!" And commenting on Rousseau's stake-pulling, ditch-filling savior of humankind, he scribbled "What! That unjust man, that thief, would have been the benefactor of mankind! That is the philosophy of the beggar who would like the rich to be robbed by the poor!" (Havens, 1966, p. 15). Like many readers, Voltaire regarded Rousseau's attack on the institution of private property outrageous, since it severed the link between labor and ownership. People have a right to things when they invest their labor into them. And if it is wrong to violate people's rights, then it is wrong to take from people what they rightfully own, even if this is the only way to gain equality. But even appreciation of Voltaire's argument may not undermine our sense that Rousseau was right to argue that something has gone deeply wrong when some are destitute and others have much more than they need. What is to be done if we can satisfy our sense that "radical inequality is unjust" only at the expense of our conviction that it is unjust to deprive people of property they rightfully hold?

The conflict between these alternative conceptions of justice has been the source of what may be the most vigorous disputes in political philosophy. Some writers simply start with one or the other conception, and expand it into a fully articulated theory of justice, without trying to account for the intuitions behind the alternative conception. Thus Robert Nozick (1974) starts with the intuitive appeal of individual rights and property rights in particular, while others like G. A. Cohen (1989) begin with the intuitive appeal of egalitarianism, and the moral repugnance of radical inequalities. In this paper, I hope to outline a middle way between these conflicting alternatives. I will argue that we can develop an account of justice that incorporates what each of these views gets right. The resultant view gives special weight to individual rights and property claims, but also preserves Rousseau's sense that some kinds of economic inequalities are incompatible with justice.

II. Property, Labor, and Entitlement

When an individual has a property right, she has a claim to do many different things. Ordinary property rights include the right to exclude others from using what one owns, the right to give away what one owns, and other prerogatives, claims, and powers. To understand these rights properly, we need to understand how people might initially acquire them. In this interest, it will be valuable to consider the most famous account of the creation and evolution of property rights as articulated by John Locke in his *Second Treatise of Government*.

Locke began with the assumption that individual persons have private property rights in their bodies and their labor. The earth and all its fruits, however, he viewed as the common property of all. So for Locke, a philosophical account of property rights must show how individuals could gain *private* property rights in what previously was held in common. According to Locke, it is necessity that justifies such exclusive appropriation:

He that is nourished by the Acorns he picked up under an Oak, or the Apples he gathered from the trees in the wood has certainly appropriated them to himself. . . . And will any one say he

had no right to those Acorns or Apples he thus appropriated, because he had not the consent of all Mankind to make them his? . . . If such consent as that was necessary, Man would have starved, notwithstanding the Plenty God had given him. . . . The Grass my Horse has bit, the Turfs my Servant has cut; and the Ore I Have digg'd in any place where I have a right to them in common with others, become my *Property* without the assignation or consent of anybody. (Locke, 1963, pp. 329–30)

Private ownership is gained, according to Locke, when we mix our labor with resources that are initially held in common. By mixing what we own (our labor) with what we do not (Locke's acorns and apples), we come to have private property rights in those resources:

Whatsoever then [a person] removes out of the State that Nature hath provided, and left it in, he hath mixed his *Labour* with, and joyned it to something that is his own, and thereby makes it his *Property*. It being by him removed from the common state Nature placed it in, hath by this *labour* something annexed to it, that excludes the common right of other men. For this *Labour* being the unquestionable Property of the Labourer, no Man but he can have a right to what that is once joyned to, at least where there is enough, and as good left in common for others. (Locke, 1963, p. 329)

On Locke's view, Voltaire's gardener, who has planted, sown, and fenced in a garden, has property rights in the fruits of his labor as long as his activities do not unreasonably limit the opportunities of others: he must simply be careful to leave them "enough and as good" as he has himself appropriated.

Locke's initial assumptions may seem strange. What can it mean to say that individuals "own their bodies"? And how can one have property rights in something as intangible as labor? The easiest way to gain a sympathetic understanding of Locke's intent is to interpret these rights in terms of the obligations of others: a person's "property right" in her body is equivalent to the obligation that other people have not to harm her, and not to use her body without consent or permission. Most of us accept that people do have such obligations: this partly explains why assault and rape, for example, are morally reprehensible. Locke's notion that we have private property rights in our labor may initially seem more problematical. Labor is not a tangible object, and it may seem difficult to see how a person could own it. Once again, however, this notion is easier to accept if we interpret this right in terms of the moral obligations of others: My "property right in my labor" is equivalent to others' obligation not to force me to do what I do not freely choose to do. Again, most people accept the implicit moral judgment that it is morally wrong to gain others' help through threat and coercion. We need not interpret Locke's claim that *people have property rights in their own labor* to mean anything more than this. Critics of Locke often pejoratively argue that he is a "natural rights" theorist, and that his theory fails because there simply are no natural rights. But most of those who make this claim would agree that people have a moral obligation not to harm or use others, and not to gain their cooperation through coercion or threat. These obligations are all Locke needs to get his theory of property off the ground: if we do indeed have moral obligations not to harm others or to gain their cooperation through force or threat, then Locke's argument still has force.

Locke claims that there are limits on appropriation, since appropriators have an obligation not to harm or coerce others. If appropriation harms others, or seriously sets back their interests, then it cannot be justified. Locke expresses this restriction in his famous proviso, which stipulates that labor mixing creates private property rights *at least* where "enough and as good" is left for others. If appropriation unjustifiably sets back the interests of others,

then it may be necessary to compensate them for their loss before one acquires a legitimate property right in the soil one has tilled or the trees one has nurtured. If such compensation is impossible, then one may have no right to appropriate at all.

Of course, current property rights did not originate in appropriation from an unowned heath or a commons, but usually through the violent extermination and expulsion of prior claimants. There were people in America long before European settlers arrived to carve out their claims and build their homes. Americans with European ancestors may be right in thinking that their forebears labored and fought for their property, but on Locke's view, the people they fought had prior claims. Effort and labor cannot validate claims on property that is stolen from others, so if the land we "own" was stolen from the Native Americans, then our property rights will not be legitimate in Locke's sense. If these current rights deserve moral respect, it cannot be because they arose through a justifiable process. Still, by discovering the limitations of ideal property rights, we may come to a better understanding of the limitations on our own more dubious claims.

III. Limitations on Property Rights: Necessity

What limitations are there on private property rights? Contemporary Lockean theories like that of Robert Nozick sometimes seem to imply that property rights are absolute and inviolable under any circumstances whatsoever. But even Nozick recognizes that rights of ownership do not include any claim to use one's property in ways that might be harmful to others, just as Locke includes identical restrictions on the circumstances of legitimate appropriation. The same restrictions that define the moral limitations of appropriation define limitations on the structure of our property rights, and the ways in which we are justified in using what we own. If, as Locke and Nozick agree, it would be wrong to appropriate when appropriation would harm others or unjustifiably set back their interests, then rights of ownership must also be limited rights: we have no right to use what we own in ways that would unjustifiably set back the interests of others. Unsurprisingly, such limitations on property rights are deeply entrenched in our legal institutions. It is not only immoral but also illegal to use one's property in ways that harm others.

Locke himself was concerned to examine circumstances in which appropriation itself could constitute a harm to others, and his proviso that "enough and as good" must be left for others is best understood as a prohibition on such harmful appropriation. Locke bases the right to appropriate on necessity: we *need* to be able to appropriate things to our own uses, else we would "Starve amid the Plenty" of the earth. But this reliance on necessity has implications for the limitations of the rights Locke defends: if our property rights depend, in the way that Locke argues, on people's need to satisfy basic, urgent needs, then these rights must be sensitive to the urgent needs of others.

In some contexts, this limitation on property rights is uncontroversial: If the only way I can save my life is to infringe your property rights, then it seems clear that I may legitimately do so. Joel Feinberg offers the following colorful example:

Suppose that you are on a back-packing trip in the mountain country when an unanticipated blizzard strikes the area with such ferocity that your life is imperiled. Fortunately, you stumble onto an unoccupied cabin, locked and boarded up for the winter, clearly somebody else's private property. You smash in a window, enter, and huddle in a corner for three days until the storm abates. During this period, you help yourself to your unknown benefactor's food supply

and burn his wooden furniture in the fireplace to keep warm. Surely you are justified in doing all these things, and yet you have infringed the clear rights of another person. (Feinberg, 1980, p. 230)

Of course it is permissible to break into a cabin if this is the only way one can preserve one's life. The owner's property right simply includes no claim against those whose needs are urgent and desperate. The notion that property rights are limited, and include no claims against the extreme necessity of others is not an especially radical suggestion, nor is it merely a matter of concern for scholars of Locke's work. In fact, we have incorporated similar restrictions on property rights in our own legal system – a system which gives a central place to the legal and moral significance of property rights. For example, ownership of one's house does not justify one, either legally or morally, in expelling unwanted guests into dangerous inclement weather (see *Depue v. Flateau*). Nor does ownership of a dock justify one in casting off the mooring lines of a boat that pulls up to avoid being destroyed in a storm (see *Ploof v. Putnam*, and *Vincent v. Lake Erie Transportation Co.*).

But recognition of other kinds of necessity will be more controversial, and has much more far-reaching implications. For the notion that our property rights are limited by the urgent needs of others also implies that these rights must give way to the needs of those who are impoverished and needy in a more standard sense. If we own more than we need, our claim to surplus property must sometimes give way to the urgent needs of others. Locke expressed this limitation clearly and elegantly:

God the Lord and Father of all has given no one of his Children such a Property, in his peculiar portion of the things of this world, but that he has given his needy Brother a right to the Surplusage of his Goods; so that it cannot be justly denyed him, when his pressing Wants call for it. And therefore no Man could ever have a just Power over the Life of another, by Right of property in Land or Possessions; since 'twould always be a Sin in any Man of Estate, to let his Brother perish for want of affording him Relief out of his Plenty. As *Justice* gives each every Man a Title to the product of his honest Industry, and the fair Acquisitions of his Ancestors descended to him; so *Charity* gives every Man a Title to so much out of another's Plenty, as will keep him from extream want, where he has no means to subsist otherwise; and a Man can no more justly make use of another's necessity, to force him to become his Vassal, by withholding that Relief God requires him to afford to the wants of his Brother, than he that has more strength can seize upon a weaker, master him to his Obedience, and with a Dagger at his Throat, offer him Death or Slavery. (Locke, 1963, pp. 205–6)

While Locke here discusses property rights in theological terms, he understands the basis of these rights in terms of labor and the terms of legitimate appropriation discussed above. Those in need, Locke argues, are *entitled* to the surplus of those who own more than they need. Their claims on this “surplusage” simply outweigh the claims of those who own it. This surplusage cannot be “justly denied” to those who are in need. According to Locke, this aspect of charity is not separate from justice, but is one aspect of justice: to be uncharitable in this sense is to be unjust. Even libertarians like Robert Nozick allow that property rights may be limited, and “violable” when their violation is necessary to “avoid catastrophic moral horror” (Nozick, 1974, pp. 29–30). But surely few moral horrors could be more catastrophic than destitution and want, with their consequent effects on the lives of those whose urgent needs are left unmet. Nozick's account of property rights thus inherits the limitations of its Lockean ancestor, and current accounts of property rights must also take these limitations into account.

The implications of these limitations are as clear as they are radical: if our property rights

in excess of what we need to live decently include no claims against the urgent needs of others, and if there are others who are in urgent need, and whom we could help by giving to them from our surplus, then we *owe* our superabundance of property to those needy people. According to Locke, those who possess surplus but who uncharitably deny the needs of others have violated the principles that justified property rights in the first place.

IV. Limitations on Property Rights: Mutuality

Consider a group of people, each of whom owns a house lot that includes marshland bordering a greater lake. Suppose that there is an obligation not to destroy the marsh, since it represents a biological and ecological resource in which many other people have a crucial interest. Destruction of the marsh would unjustifiably set back that interest, and thus would constitute a harm. Each landowner might have an interest in developing his or her portion of marsh by digging a narrow channel for a boat launch and by putting up a dock. If the marsh is large enough that no individual dock would destroy it, then building one dock will not violate the obligation not to destroy the marsh. But if each owner builds a dock, the marsh will be destroyed. In such circumstances, each person can justifiably say, "My development will not destroy the marsh." But it is not the case that each of them has the right to develop, since the total system of development rights would harm others. The moral of this story is that limitations on individual property rights are sometimes determined by the overall effects of the total system of rights. Just as initial acquisition is unjustified when it would harm others, the total system of appropriation is unjustified if others are harmed by it, even if no individual act that takes place within that system is harmful.

Like many recent economists and political theorists, Locke believed that the institution of property ownership is overwhelmingly beneficial rather than harmful. This institution makes larger economic markets possible, and results in a much larger total of social surplus that would not exist in alternate institutions. A larger social surplus means that society produces more of what people want and need. But if some are unable to participate in the market, and are excluded from the enjoyment of the surplus they create, they may have a valid complaint against the system that excludes them, and their interests may be set back by the institutions themselves. In such cases, if their interests are *unjustifiably* set back, those who are excluded may have a valid claim to receive compensation from those who enjoy the benefits of these institutions.

Obviously, it matters a great deal who *owns* the social surplus that markets create. If market institutions tend to concentrate resources and wealth in the hands of a few, while others are much worse off than they would have been under alternate institutions, then those who are worse off will have no reason to love or respect property rights. The argument that overall social surplus is larger than it would have been under alternate institutions will not impress those who are excluded in this way, and they may have no good reason to respect the institution that seems to work to their disadvantage. When a society ignores people's needs, who can blame the needy if they come to regard property rights, and the legal system that enforces them, as a form of oppressive exclusion? Banquo's murderer, in *MacBeth* III. i, explains his contempt for law and right: "I am one . . . whom the vile blows and buffets of the world have so incensed that I am reckless what I do to spite the world." If our society allows people to become destitute and desperate, and ignores the fundamental needs of those who are impoverished, we cannot be surprised when those who are in need lack "proper respect" for the rights of others.

But there is more to the problem than simple recognition that the desperate and the destitute will have no reason to respect rights to private property. The appropriate response to that worry might simply be to put up strong walls to defend ourselves and our property from them. More importantly, the existence of people whose destitution and unmet need are a consequence of our institution of private property itself would call into question the moral justification of that institution, and would implicitly call into question the justification of our claims on what we purport to own. We cannot properly respond to such needs by putting up more walls and protecting what we claim as our property. When we possess more than we need while others lack basic necessities, we have a positive obligation to aid those who are in need. Such an obligation is implicit in the moral justification of our claims to private property, since the validity of our rights depends on fulfillment of this obligation.

So far we have discussed the obligation to aid others as hypothetical: we have such an obligation if there are people whose interests are unjustifiably set back by the institutions from which we benefit, and if there is some effective way we can aid them. But it can be argued that we actually do have such obligations, since our institutions harm people in just this way. Recent economic studies have conclusively shown that famine and widespread destitution are not caused by material scarcity of food or goods. Surprisingly, local food availability and production has often increased in times of famine, as it did during the Bangladesh famine of 1974. Famine stricken regions often *export* food, since those who own it can usually get a better price elsewhere, and since those who need it cannot afford to purchase it. This is well documented, for example, in the case of the Irish famines of the 1840s, and that of the Ethiopian famine of 1973. (See Drèze and Sen, pp. 27–9, and Sen, 1994, p. 63.) In such circumstances, poverty and destitution are not caused by shortage, but result from a system of property entitlements that leaves those who are in need with no right to the resources they need. Typically, famine and destitution result from failures of entitlement, not from any real shortage of food, goods, or resources. In this important sense, they are a consequence of our system of property rights.

If we find that our institutions are harmful to others, how should we respond? Rousseau is often interpreted as recommending that we should abolish property rights entirely. Surely this was Voltaire's interpretation, which explains Voltaire's outrage at Rousseau's discussion of property in the *Essay on the Origins of Inequality*. Actually Rousseau's views on the redistribution of property were fairly conservative. In other writings, Rousseau defended property rights, and argued that extensive redistribution of property was undesirable because it would be socially disruptive and would often cause more harms than it would mend. In our own situation, it is unlikely that the elimination of the institution of private property would improve the circumstances of those who currently live in poverty. It is likely that efforts to eliminate property rights, or to coercively enforce equality, would leave people much worse off than they already are. Rather than abolishing the institution, we should see to it that the institution does not work to the disadvantage of others. This can be accomplished by providing those who are excluded with what they need, and by using the superfluous wealth of our society to aid those whose needs are at risk.

V. Property Rights and the Obligation to Aid: The Central Arguments

This discussion has included two central arguments: First, I have argued that property rights are limited rights, that include no claims against the urgent needs of others. Second,

I have argued that the justification of the institution of property is contingent, and depends on our ability to ensure that that system does not work to the disadvantage of others. Recognition that the institution of property rights, as it exists in our world, has grave costs for others, should not motivate us to eliminate the institution itself, but rather to recognize and fulfill our obligation to alleviate these costs by using the surplus that this institution creates to aid and improve the lives of those who are disadvantaged. Fulfillment of this obligation is required because our property rights are limited and do not entitle us to deny sustenance to those whose needs are urgent, but also because the justification of the institution of property itself depends on our ability to ensure that this institution does not make others worse off.

If these arguments are correct, they imply a weighty obligation for most of us. They imply an obligation not to use our excess wealth for our own enjoyment, but instead to use it to alleviate the urgent needs of others, and to help those who are excluded by the market to enter it and enjoy its benefits. Our obligation does not require us to aid others to the point of marginal utility – the point at which additional aid would cause as much disadvantage as it would alleviate. We have an obligation to do what we can without sacrificing the fundamental needs of ourselves and our families, or compromising our own ability to live a full and productive life. We have an obligation to aid others when their urgent needs represent weightier moral claims than our own. We may justly provide for our own basic needs and those of our families *first*, but we fail to meet our obligations if we provide ourselves or our families with luxuries while there are others who lack basic necessities (Rachels, 1989, p. 60).

Sometimes people argue that the world is too complex, and that we have no effective means to aid the destitute and desperate. But given the existence of effective aid organizations like OXFAM and Habitat for Humanity, among many others, it is self-deceptive for us to try to argue that there is no effective way for us to provide aid for those who are in need. Rather than simply providing food for the hungry, OXFAM and other effective organizations support agricultural and economic development projects that aim to provide people and communities with the opportunities and resources they need to become self-sufficient. Aid of this sort does not create a “culture of dependency” – on the contrary, it ultimately enables those who are impoverished to take care of themselves.

VI. What Counts as “Surplus”?

It is clear that fulfillment of our obligations to others would sharply curtail our consumption of luxury goods and excess consumer goods. But how much of what we consume constitutes “surplusage of goods,” as Locke called it, or “superfluities” in the words of Rousseau? How weighty are our obligations to others, and what, in particular, do they require of us? In order to answer this question, we need an account of human needs, and an account of what it is to live a decent human life. We cannot provide such an account in this short essay, but it is clear that many of the things we own, consume, and buy constitute “surplusage” far beyond any reasonable conception of what people need in order to live well. We must determine what counts as surplus wealth from the larger perspective of the human condition worldwide, taking into account the effects that current resource consumption will have for members of future generations. Clearly it would be wrong for current generations to consume resources irresponsibly, leaving later generations unable to meet their needs, just as it would be wrong for those who are now well off to spend their excess wealth on superfluous consumption when there are so many who lack basic necessities.

From this perspective, what constitutes surplus consumption? Currently we who are citizens of the relatively wealthy countries who are members of the Organization for Economic Cooperation and Development (OECD) comprise 15 percent of the world's total population, but consume 73 percent of world output (Folbre, 1995, 10.11). The extent of inequalities within developed countries like the United States makes this disparity even more striking: the wealthiest 1 percent of American citizens hold roughly 37 percent of the nation's wealth, while the top 10 percent holds roughly 68 percent (Folbre, 1995, 1.2). Americans and Europeans spend enormous amounts of money on hair coloring, sports cars, sound recordings, and stylish clothing, while there are many in the world who cannot afford an adequately nutritious diet, and have little or no access to education or medical care. It seems clear that the world we live in contains the same disparities in wealth that Rousseau found so morally repugnant. We should find these disparities repugnant as well.

It is unlikely that we will be able to achieve unanimous agreement on just where the cut-off point between requirements and superfluities should lie: there may be disagreement, for example, about whether arts and music constitute fundamental needs, or essential elements of a human life, or whether they are expendable superfluities. But it is beyond question that the lifestyles enjoyed in America and Europe include many such luxuries and superfluities. There is nothing wrong with luxury or superfluity *as such*, but in a global context in which so many people lack basic necessities, it seems clear that our claims to these resources are simply outweighed by the needs of others. For most people, fulfillment of the obligations implicit in our property rights would clearly involve significant changes in lifestyle and consumption patterns.

VII. Is Equality Valuable? Is Inequality Unjust?

These considerations bring us back to Rousseau's claims about inequality and disparity: his famous assertion that it is contrary to the law of nature for some people to "gorge themselves on superfluities" while others lack basic necessities. This is usually understood as a defense of equality, and it is certain the Rousseau took himself to be condemning inequality. But perhaps it is not inequality as such that is objectionable. Imagine an extremely wealthy society in which the worst off members are as well off as the Sultan of Brunei (currently the wealthiest person in the world, with holdings valued at about 37 billion US dollars). Suppose that this society is marked by radical inequalities: the very *best* off members of this society are so wealthy that their wealth makes the Sultan of Brunei's wealth tiny in comparison. If inequality is unjust in itself, then it would follow that this society must be seriously unjust.

But it's hard to work up much moral indignation about the situation of a person as wealthy as the Sultan of Brunei, even if he were the worst off member of a fabulously wealthy group. When even the worst off members of society are quite well off, inequalities don't seem unjust, or even significant from the moral point of view. Such considerations should lead us to conclude that it is not inequality that is morally repugnant, but the juxtaposition of crawling destitution and excessive affluence. The reason such disparities are unjust is now clear: the claims of those who have urgent unmet needs simply outweigh the claims of those who possess more than they need. What is objectionable is not inequality as such, but inequality combined with the extreme destitution and misery of those who are worst off. If everyone were adequately well off, if there were not people

whose fundamental needs are unmet, then inequality would not be a problem, so we need not eliminate inequality in our efforts to make the world more just. Besides this, the elimination of inequality is probably not possible, and would surely require unacceptable curtailment of individual liberty.

It is appropriate to note an additional limitation on the argument I have offered: from the fact that we have obligations of charity, it does not immediately follow that others have a right to force us to fulfill those obligations. The question whether or not this aspect of charity may be enforced cannot be answered by arguments that explain the contents of our obligations. (On this point, see DenUyl, 1993; and Lomasky, 1995.) But there is a strong *prima facie* case in favor of the view that such obligations may indeed be legitimately enforced, perhaps through taxation for welfare support. If the claims of the needy take precedence over the competing claims of those who are well off, then welfare taxation cannot be said to violate the property rights of the well off. And if the claims of the needy are not preempted or defeated by any other claims, then their claims constitute welfare rights. We might therefore view legitimate welfare institutions as protections for the rights of the needy and the vulnerable. (See Buchanan, 1987; and Waldron, 1986.)

When amended with appropriate qualifications, both the propertarian conception of justice and the egalitarian conception share the implication that we have an obligation to do what we can to eliminate destitution and deprivation wherever they exist, and both imply that we have a weighty obligation to provide aid to those whose needs are urgent. We can, in the end, acknowledge the moral significance of property rights without relinquishing Rousseau's insight that some kinds of inequality are unjust when they include some who "gorge themselves on superfluities" while others lack basic necessities. But the only way we can do this is by acknowledging our own weighty obligation to aid others around the world who are desperate and destitute. If we fail to fulfill this obligation, then our own property claims are empty and illegitimate.

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