

**EFFECTIVE SELF-OWNERSHIP AND PROPERTY SCHEMES: COMMENT ON  
G.A. COHEN**Christian Torsell\* and Walter E. Block<sup>‡</sup>**Abstract**

Cohen (1995) argues that effective self-ownership is no better realized under a scheme of private property in extra-personal resources than under a collectivist property scheme. He concedes that if all non-human resources are jointly owned, then no one can meaningfully exercise self-ownership, since even the most essential human functions require the use of extra-bodily goods and therefore could not be carried out without the permission of the entire community. However, he objects that the propertyless proletariat under a libertarian property scheme is in the same dismal position with respect to effective self-ownership. He must sell his labor to a capitalist (or entreat his charity) to use any good outside his own body. Therefore, private property in physical resources fails to promote effective, or consequential, self-ownership better than joint-ownership alternatives. We argue that Cohen's argument fails because it does not consider the comparative ease with which persons under these two schemes are able to make use of resources outside their bodies. When this factor is considered, it is revealed that those living under private-property schemes are in a better position to make use of extra-bodily goods than they would be under a joint ownership system of the kind Cohen describes, other things equal. Therefore, a libertarian scheme of private world ownership better promotes consequential self-ownership than its collectivistic alternative. This paper proceeds in three steps. First, the principle of self-ownership is defined and located within libertarian thought. In this section, we recount Rothbard's argument for self-ownership. Second, we examine Locke's and Rothbard's similar accounts of how self-ownership grounds property claims in resources. Narveson's argument that a general right to liberty entails the right to acquire private property by initial acquisition is also discussed. Finally, we consider and ultimately reject Cohen's argument that a scheme of private ownership (that is, private ownership of land and capital goods, as well as first-order goods not in current use) fares no better with regard to effective, or consequential, self-ownership than does a scheme of joint ownership in such goods.

**Keywords:** Property Rights; Joint Ownership; Libertarianism**JEL Classification:** K3

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### *Esquemas de propiedad y autopropiedad efectiva: Un comentario sobre G.A. Cohen*

#### **Resumen**

Cohen (1995) argumenta que la autopropiedad efectiva no se da bien bajo un esquema de propiedad privada sobre los recursos extracorporales, sino más bien bajo uno de propiedad colectiva. Reconoce que, si todos los recursos no humanos son de propiedad conjunta, nadie puede ejercer significativamente la autopropiedad, ya que incluso las funciones humanas más esenciales requieren el uso de bienes extracorporales y, por lo tanto, no podrían llevarse a cabo sin el permiso de la comunidad entera. Sin embargo, objeta que el proletariado sin propiedad bajo un esquema de propiedad libertaria se encuentra en la misma posición sombría con respecto a la efectiva autopropiedad. Debe vender su trabajo a un capitalista (o apelar a su caridad) para usar cualquier bien fuera de su propio cuerpo. Por lo tanto, la propiedad privada sobre los recursos físicos no promueve la propiedad efectiva, o consecuente, mejor que las alternativas de propiedad conjunta. Argumentamos que el enfoque de Cohen falla porque no considera la facilidad comparativa con la que las personas bajo estos dos esquemas pueden hacer uso de los recursos fuera de sus cuerpos. Cuando se considera este factor, se revela que aquellos que viven bajo esquemas de propiedad privada están en una mejor posición para hacer uso de bienes extracorporales de lo que estarían bajo un sistema de propiedad conjunta del tipo que Cohen describe, *ceteris paribus*. Por lo tanto, un esquema libertario de propiedad privada promueve mejor la autopropiedad que su alternativa colectivista. Este trabajo procede en tres pasos. Primero, se define el principio de autopropiedad y se ubica dentro del pensamiento libertario. En esta sección, evocamos el argumento de Rothbard sobre la autopropiedad. En segundo lugar, examinamos los argumentos de Locke y Rothbard sobre cómo la autopropiedad fundamenta los reclamos de propiedad sobre los recursos. También se discute el argumento de Narveson de que un derecho general a la libertad implica el derecho a la adquisición inicial como base de la propiedad privada. Finalmente, consideramos y, en última instancia, rechazamos el argumento de Cohen de que un esquema de propiedad privada (es decir, propiedad privada de la tierra y bienes de capital, así como bienes de primer orden que no están en uso actual) no funciona mejor, con respecto a la autopropiedad efectiva o consecuente que un esquema de propiedad conjunta sobre tales bienes.

**Palabras clave:** Derechos de propiedad; Copropiedad; Libertarismo

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### 1. Self-ownership and libertarianism

The principle of self-ownership is a cornerstone of libertarian thought. It asserts that every person has an exclusive, absolute right to control his own body (sometimes the phrase “body and powers” is used). Among libertarians, this principle is often taken as grounds for objections to various uses of government power. One famous example is Nozick’s comparison of taxation of earnings from labor with forced labor (Nozick, 1974, p. 169). Since forcibly taking a worker’s earnings from labor violates his right of self-ownership in much the same way that forced labor does, it falls outside of the realm of what a government may legitimately do. In *Power and Market*, Rothbard extends this sort of argument to cover all forms of taxation (Rothbard, 1978, p. 26-7).

Several arguments in favor of the principle have been proposed. Rothbard (1978) argues for self-ownership on the grounds that all the alternatives to it are unacceptable. He writes, “Consider...the consequences of denying each man the right to own his own person. There are then only two alternatives: either (1) a certain class of people, A, have the right to own another class, B; or (2) everyone has the right to own his own equal quotal share of everyone else” (Rothbard, 1978, p. 34). If we accept (1), then we are committed to the view that only persons in class A have the rights that are possessed simply in virtue of being human. But we have stipulated that members of both A and B are, in fact human. (1) thus “contradicts itself in denying natural human rights to one set of humans” (Rothbard, 1978, p. 34). Alternative (2) fares no better. It is simply impracticable for billions of people to exercise their tiny, equal shares in everyone else. Any action could only be taken after approval from every other person had been secured. Under this joint ownership scheme, one of two possibilities would come to pass: everyone would starve, or one class would be appointed as a middleman “representing” the ownership shares of all the others and exercising all control from one centralized group. In the second case, (2) would resolve into (1). Self-ownership, then, is the only option on the table that is neither contradictory nor impossible in practice.

The principle also has the virtue of explaining and justifying our moral intuitions about crimes such as rape, slavery, and violent assault. We intuitively recognize these actions as morally bad. But the wrongness of each of them cannot be explained without something like self-ownership as the basis for them. Without the element of coercion, i.e. one’s body being used against one’s will, they would simply be consensual sex, voluntary employment, and boxing or wrestling. None of *these* is intuitively seen to be intrinsically bad. Importantly, there is no essential behavioral difference between the immoral versions of these actions and their morally neutral (perhaps sometimes good) counterparts. Sexual behavior may be rough, employment conditions may be bad, and boxing matches may be bloody without being classified as morally objectionable in the way that their non-voluntary counterparts necessarily are<sup>1</sup>. Likewise, slavery would still be wrong even if the slave’s work were easy

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<sup>1</sup> Block (2008) constitutes perhaps the most sustained and radical expression of the view that what is vice when carried out coercively may be virtue when performed voluntarily.

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and his working conditions favorable.<sup>2</sup> Why is this so? Enter self-ownership. Slavery is wrong because the slave is not choosing how his body is used. Decisions about how his labor is employed are made and coercively enforced by a second party. Had he freely consented to take orders from his master, he would be in ultimate control of his body (he could have chosen not to enter into a labor contract with his master, or with anyone else) and would not be a slave.<sup>3</sup> Analogous stories could be told about the cases of rape and other kinds of physical assault. In each case, the wrongness inheres in a violation of the victim's self-ownership.

### 2. Property rights in physical objects

Libertarian theories of property, however, do not stop with people's bodies (and powers). On this view, individuals can have property rights in extra-bodily objects and resources. That is, the same kind of right to exclusive control a person has in his body can also be possessed in other things. We own the laptops with which we are typing this paper, not just the fingers moving over the keyboard. Others should respect our exclusive rights to control these goods by abstaining from using them without our consent. It is clear that the principle of self-ownership alone does not justify these property claims. Asserting ownership over our bodies says nothing about laptops (or clothes, food, cars, houses...). Most libertarian and classical liberal thinkers maintain that self-ownership provides the ultimate foundation for property rights in goods outside of our bodies. The canonical version of this sort of view comes from John Locke (2014):

“[E]very man has a property in his own person. This nobody has any right to but himself. The labour of his body, and the work of his hands, we may say, are properly his. Whatsoever then he removes out of the state that nature hath provided, and left it in, he hath mixed his labour with, and joined to it something that is his own, and thereby makes it his property.” (2.27)

This passage opens with a statement of the principle of self-ownership. Locke concludes that, since we own our bodies, we therefore own the labor we perform with them. It follows that we are entitled to any natural, i.e. unappropriated, good or resource that we “mix our labor with,” subject to the restriction that we can only appropriate up to the point where there is no longer “enough or as good” for others. This proviso<sup>4</sup> makes Locke's theory of property

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<sup>2</sup> Says Frederick Douglass in this regard (1882): “My feelings were not the result of any marked cruelty in the treatment I received; they sprang from the consideration of my being a slave at all. It was slavery, not its mere incidents I hated. I had been cheated. I saw through the attempt to keep me in ignorance. I saw that slaveholders would have gladly made me believe that they were merely acting under the authority of God in making a slave of me and in making slaves of others, and I felt to them as to robbers and deceivers. The feeding and clothing me well could not atone for taking my liberty from me.”

<sup>3</sup> This suggests the problem of “voluntary slavery,” in which someone sells property rights in his body and powers to another person, effectively signing on as a slave for life. Legal freedom to enter into such contracts has been defended by Andersson, 2007; Block, 1979, 1999, 2001A, 2002, 2003, 2004A, 2005, 2006, 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.

<sup>4</sup> For a critique of this Lockean proviso, see Hoppe, 1993; Kinsella, 2009A; Machan, 2009; Makovi, 2015; Rothbard, 1998, 244-245. For the Blockean proviso, see Block, 1977, 1978, 1998, 2001B, 2004B, 2011, Block

acquisition less permissive than more radical modern libertarian theories of property, but it lays out the basic labor-based framework that became almost standard in those subsequent theories.

Rothbard's theory of property is one such successor of Locke's. He offers a similar account of legitimate property acquisition based on self-ownership.<sup>5</sup> He adds, however, an argument for private ownership of the world that parallels the one he offers for self-ownership. Rothbard argues that private property is the only acceptable alternative among possible candidates for schemes of ownership of extra-bodily resources. He writes, "In practice...it is obviously impossible for every person in the world to exercise effective ownership of his four-billionth portion (if the world population is, say, four billion) of every piece of the world's land surface" (Rothbard, 1978, p. 40-41). If this were the case, then no one could make any use of physical goods (especially land) without receiving permission from all other people on earth, or it would resolve into "a small oligarchy [doing] the controlling and owning". Rothbard thinks this is absurd<sup>6</sup>, demonstrating that private property in external resources is the only reasonable solution.

Narveson (2001) arrives at the same conclusion from a different premise. He maintains that once we accept a general right to liberty, we are committed to recognize the right to acquire property by initial use or acquisition. By making this claim, he thereby burdens those who reject the right to acquire property beyond oneself with the task of explaining how they justify the violation of liberty constituted by preventing acts of appropriation by Lockean homesteading. He formulates the general right to liberty (or "liberty-respecting premise") as the right of people to engage in whatever act they choose unless it can be "established that that act interferes with the liberty of others" (Narveson, 2001, 89). In other words, people ought to be allowed to behave however they please as long as they respect the liberty of others. This principle is fundamental to liberalism of all stripes. The differences between liberals who endorse strong private property rights (including libertarians) and those who do not largely comes down to a difference in what they count as liberty-restricting actions. Narveson shows that even a weak interpretation of the liberty principle common to both groups yields support for the former. He formulates this argument in response to O'Neill (1976) who points to the "fundamental problem of understanding why any rights should accrue from mixing one's labour. Why should not labouring be a way of losing one's labour,<sup>7</sup>

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and Whitehead, 2005. For a critique of the Blockean proviso, see Kinsella, 2007, 2009B. For a defense of it: Long, 2007

<sup>5</sup> See also the Talmudic tractate, Baba Metzia in this regard. It offers strong parallels to the Locke-Rothbard view, and was published hundreds of years before their contributions; that is, from 200CE to 500CE ([https://www.google.ca/search?q=talmud&rlz=1C1CHBF\\_enUS724US724&oq=talmud&aqs=chrome..69i57j015.2751j1j8&sourceid=chrome&ie=UTF-8](https://www.google.ca/search?q=talmud&rlz=1C1CHBF_enUS724US724&oq=talmud&aqs=chrome..69i57j015.2751j1j8&sourceid=chrome&ie=UTF-8)).

<sup>6</sup> And he is far from the only one to think this.

<sup>7</sup> Nozick, too, doubts whether throwing a can of tomato juice into the ocean garners for the owner any property rights in the latter. Instead, he avers, one simply loses one's can of tomato juice. He states: Nozick (1974, pp. 174-175): "Why does mixing one's labor with something make one the owner of it? Perhaps because one owns one's labor, and so one comes to own a previously unowned thing that becomes permeated with what one owns.

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of improving what is ‘in the common state?’” Her criticism is that the Lockean theory of acquisition of extra-personal goods does not adequately explain why mixing one’s labor with “what is in the common state” grounds a private property right in that thing rather than accomplishing something else. Narveson’s (2001) response is as elegant as it is simple:

The straightforward answer to the general question “Why does labor give one rights to the whole thing that is the product of one’s labor?” is that that is what one was doing when one exerted oneself in that way. The various things one can do with that whole thing are what the agent saw herself to be in the way of enabling herself to do: that’s what her action was all about. (p. 90)

The action of “mixing one’s labor” with a hitherto unowned resource constitutes an act of property acquisition in the same sense that the act of scanning the pages of a book with one’s eyes to take in information constitutes an act of reading. The second is identical with the first because *that is what one takes himself to be doing when he is doing it*. Therefore, if we accept that, in general, “people have the right to do what they want to do, then there is our answer to why the general principle of rights to liberty provides support for [private] ownership...unless overriding considerations about liberty intervene” (Narveson, 2001, p. 91). The general right to liberty entails the right to claim property by labor-mixing.

As a final lagniappe on this matter, we resort to Rothbard’s choices model, only now, regarding property in the physical world, not over ourselves. What are the choices? One, non-ownership of anything other than ourselves. But this would mean it would be impermissible for anyone to as much as stand on any property, much less hunt for animals or grow crops. We would all starve, and that would be the end of this philosophical problem. A second possibility is that since there are about seven billion of us now occupying the planet, we each own one seven billionth of every square inch of the earth’s surface. It is easy to see where this would lead: to lots of committee meetings, and massive starvation.<sup>8</sup> The third is government ownership of all land—in other words, the late and unlamented soviet system of collectivized farming. The less said about this option the better. We need only survey the historical record of countries describing themselves as socialist to see the failures of collective ownership. Maoist China saw the emergence of cannibalism in response to food shortages caused by attempts to collectivize agriculture. Soviet central planners led countless Russians to mass starvation. Having discarded these options, remaining is only private, individual,<sup>9</sup> ownership. And how shall this be attained?

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Ownership seeps over into the rest. But why isn’t mixing what I own with what I don’t own a way of losing what I own rather than a way of gaining what I don’t? If I own a can of tomato juice and spill it in the sea so that its molecules (made radioactive, so I can check this) mingle evenly throughout the sea, do I thereby come to own the sea, or have I foolishly dissipated my tomato juice?” See also Mancilla, 2015; Mossoff, 2002; Nozick, 1999; Rose, 1985; Schmidt, 2011. For a critique of Nozick on this point see Block and Nelson, 2015.

<sup>8</sup> This is sometimes referred to as the “tragedy of the commons.”

<sup>9</sup> Plus voluntary amalgamations of land, through contract

### 3. Critique of Cohen

G.A. Cohen (1995) points out a serious tension between the objection Rothbard levels at joint-ownership schemes and his endorsement of the libertarian alternative<sup>10</sup>. Cohen thinks the objection cuts against libertarian private property schemes just as strongly as it does collective ownership. He agrees with the libertarian analysis, as far as it goes: “Does not joint world ownership entitle a person to prohibit another's wholly harmless use of an external resource, such as taking some water from a superabundant stream, and is it not, therefore, inconsistent with the most minimal effective self ownership (and independently indefensible to boot)?” (Cohen, 1995, p. 98). Under such a collectivist system, a person would still formally, or judicially, possess the full right to self-ownership. The problem is that, since any exercise of his right to control his body would involve using, or at least coming into contact with, extra-bodily things that he cannot make use of without permission from every other member of the relevant community, he may not do any such thing. Self-ownership is thus “rendered useless, rather as it is useless to own a corkscrew when you are forbidden access to bottles of wine,” demonstrating that joint world-ownership is “inconsistent with achieving the purpose and expected effect of self-ownership” (Cohen, 1995, p. 98).

So far, Cohen is not at odds with advocates of private property. He diverges from them, however, when he claims that private world-ownership runs into the same problem. Like joint ownership schemes, it can secure only formal self-ownership. The libertarian maintains “that the most abject proletarian...who must either sell his labour power to a capitalist or die, enjoys the relevant rights” (Cohen, 1995, p.100). If no one is violating his self-ownership by attempting to exercise control over his body against his will, then the libertarian is silent. The requirements of self-ownership are satisfied. Cohen points out that the libertarian’s criticism of joint-ownership schemes for their failure to deliver on the promise of self-ownership is contradicted by their ambivalence about the proletarian who is placed in the exact same situation under a libertarian (or capitalist, in Cohen’s terms) scheme of private property. Either residents of the collective-world-ownership society and the proletarian under private property both suffer infringements, or neither does. If the latter is the case, then mere formal self-ownership is enough, and that is “surprisingly inconsequential” (Mack, 1997, p. 519).

Cohen is right to point out that the promise of self-ownership is empty without the right to use at least some extra-bodily resources. Even if a law were written and enforced that explicitly granted each individual the exclusive right to control his body, legal self-owners could not on that basis alone exercise their right to control their bodies even in ways necessary for survival. After all, air, water, food, and even space in which to stand and move are all extra-bodily resources and therefore not directly covered by the principle of self-ownership. If all that self-ownership requires is the protection of such a law, then it does not amount to much. He is also right when he notes that neither persons living under joint world ownership

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<sup>10</sup> Cohen’s target in *Self-Ownership, Freedom, and Equality* is Nozick, not Rothbard, but that does not change anything for our purposes. Nozick and Rothbard share the view Cohen attacks here.

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nor persons totally lacking property under laissez faire capitalism can make use of such resources without first receiving at least one other person's permission.

But he fails to consider the relative difficulties of acquiring the relevant permission(s) under the two different systems of ownership. A simple thought experiment demonstrates that private property fares far better on this count since even the propertyless proletariat in a libertarian property system<sup>11</sup> would face a better chance at being able to make use of non-bodily goods than does *anyone* under a joint ownership scheme.

Imagine two communities, A and B, each comprising one hundred people. Both A and B provide their members with a legal guarantee that formal self-ownership will be respected, but their systems of property in extra-bodily goods and resources differ. A lives under a scheme of private world-ownership, while B lives under a scheme of joint world-ownership. If you are a citizen of B, then, in order to make use of anything beyond your body, you will need to receive the permission of 99 other people. By contrast, as a citizen of A, you only need permission of *one* among society's property owners to make use of external resources. In B, a single person withholding his permission vetoes your intended use of any collectively owned extra-bodily resource. In A, if a single property-owner denies you permission to use his privately owned property (whether as a gift or in exchange for labor), you can simply seek permission of any other property-holder. It is obvious that, you, a propertyless proletariat living in A, are in a better position vis-a-vis extra-bodily resource use than is *any* member of B, as long as there are at least two property owners in the community from whom you could seek permission. Unless *all* non-human property in A were owned by a single person, no individual in a system of private world ownership would have the absolute veto power over resource-use exercised by each person under a scheme of collective world ownership. Since, other things equal, it is easier to get permission from one person than from two or more, it is less difficult for a person who owns no capital (a "propertyless proletariat," per Cohen) to acquire the requisite permissions from property-owners (by appealing to their charity or offering labor services) in a private-property society which includes or more owners of capital, than it is for *anyone* in a joint-ownership society to achieve the same result. One consequence of this analysis is that the position of the "propertyless proletariat" in a private property system improves dramatically as we depart from the small-group models Cohen uses this to illustrate his point and approach the large group sizes of existing societies. When he implements his program, he will have more property owners to ask. The position of any representative individual in a joint-ownership scheme, by contrast, worsens as we move towards more realistic large-group models. He requires unanimous agreement of all other members of society to use anything outside his

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<sup>11</sup> Here is another weakness in Cohen's argument: His construct of the "propertyless proletariat" does not correspond to any real person in existing capitalist societies. Even the most "propertyless" proletariat in a libertarian property system is not entirely without any physical possessions. Typically, he owns his personal clothing, shoes, maybe a bicycle, a radio, cooking utensils, etc., and can easily rent an apartment, assuming no government interferences with the market, such as rent control.

body, and he faces more potential vetoes to the reasonable and meaningful exercise of self-ownership. Therefore, Cohen's argument does not successfully show that libertarian private ownership of external goods fails to promote effective, or consequential, self-ownership any better than joint world ownership does.

Then there is the empirical argument. How do so called "propertyless proletariats" fare in countries that feature socialism, compared to free enterprise? To ask this is to answer it: the latter do far better than the former. This is shown via statistics (Gwartney, 1996) as well as by migration patterns. People in the more socialistic Central and South America endeavor mightily to enter the more capitalist United States, not the other way around. Similarly, Europeans are "voting with their feet" to stay right where they are, while those in the far more interventionist Africa and the Middle East are also "voting," but in the very opposite direction. But the evidence does not stop there. In the largely capitalist United States, the poorest members of society are far better off than the average person in many countries with less economic freedom. According to data from the U.S. Census Bureau and Department of Energy, as of 2007, 42.6% of Americans classified by the U.S. government as "poor" owned their own homes, while 73.4% owned a car or truck (Rector, 2007). It becomes increasingly hard to find a real-world analogue to Cohen's constructed "propertyless proletariat" in a modern capitalist country. But the benefits that systems of private ownership confer on the poor are not to be found only in their absolute wealth. The worse-off under capitalism are upwardly mobile. A study from Pew Charitable Trusts entitled "Pursuing the American Dream: Economic Mobility Across Generations" found that, based on comparing the incomes of parents in the 1960s and their children in the 2000s, 93% of children with parents in the twentieth percentile of income earners earned higher incomes than their parents had earned at the same age (Urahn et al., 2012, 4). If the propertyless proletarian of Cohen's story is to be found anywhere in capitalist America, it is surely at the bottom of the ladder of income earners. And yet, for the most those occupying that rung, their ability to meaningfully exercise self-ownership has expanded as they have outstripped the material well-being of their parents. Empirically, the worst-off under systems of private ownership have fared far better than many of the best-off within collectivist property schemes.

#### 4. Conclusions

We have argued that Cohen is wrong in claiming that private property societies fare no better than those with collectivist property schemes from the standpoint of effective self-ownership. In a society in which members enjoy libertarian property rights, even the propertyless proletarian is better off in terms of effective self-ownership than is *anyone* under a collectivist property scheme of the kind Cohen imagines. Whereas the latter must secure permission from every member of his society in order to make use of any resource outside his body, the former need only secure permission from one property owner. The bigger the society, the more this divergence asserts itself. In a society of a billion people, the propertyless proletarian's chances at receiving that permission are dramatically higher than in a society of four, while

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his comrade living under a collectivist scheme faces the higher burden of asking 999,999,999 before he can make use of some resource. The practical significance of this point is suggested by the fact that, empirically, persons living in societies that come closest to the libertarian ideal of private property in the modern world have enjoyed far more access to resources outside their bodies than have those in societies more closely resembling Cohen's collectivist model. We conclude that private property societies fare better than collectivist ones not only with respect to merely formal self-ownership, but also with respect to effective self-ownership.

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