



Self-Ownership, Taxation, and Democracy

by Steven B. Garrison

In a new book available from Public Interest Institute titled *POLITICS, TAXATION, AND THE RULE OF LAW*, Eric Mack, Professor of Philosophy at Tulane University in New Orleans, writes in the second chapter about the natural law rights individuals have over their own freedoms and how these rights helped form the basis for current Constitutional law.

Professor Mack divides the chapter into five sections, with each section progressively building upon the last. The first section is titled, “The Constitutional Perspective, Natural Law, and John Locke.” In this first section Professor Mack explains what natural law is as defined by the late seventeenth century philosopher John Locke, and how he will present a “Lockean account of individual rights, including property rights, and explain how this philosophical understanding of rights implies a constitutional perspective that radically limits the lawful conduct of the state and its minions.”

The second section is titled “Natural Rights and the Right of Self-Ownership.” In this section Professor Mack explains, “Natural rights theorists like Locke hold that each person’s rational goal is the achievement of his own happiness and the crucial ingredient and condition of that happiness, which is his self-preservation.” This right to pursue one’s own self-preservation and happiness extends to everyone, which also means that each person is restricted from infringing upon those same rights of another. This restriction and the management of this restriction form the moral basis for government power.

These same laws governing personal freedoms also extend to property rights. Professor Mack explains first, that it is impossible to own as property another person. Second, that each person must recognize the same right to own property exists for others as does for him or herself. Third, the moral code that exists to direct “each individual to achieve his happiness and self-preservation must also direct individuals to abide by constraints on how they pursue those ends.” Because of these three Lockean rules the Lockean natural law theorist holds that the most basic natural law is the right of self-ownership.

The third section, titled “Property Rights,” deals with how this right of self-ownership transfers to objects and possessions. Professor Mack explains that “individual rights in extra-personal objects arise through individuals exercising their rights of self-ownership. Since, as self-owners, individuals each have rights to their own labor and they do not abandon these rights when they invest that labor in the objects that they transform through that labor, they acquire rights to those transformed objects.”

The fourth section of the chapter is titled, “The Role of Government and the Status of Taxation.” In this section Professor Mack describes the role of government in protecting the rights of individuals and property. “The state is, above all else, a wielder of force. Indeed, the state is the institution within a given territory that claims to have the final say about when force will be used and is fairly successful at enforcing this claim to have the final say.”

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But in order to protect these rights, the state must have resources at its disposal. This raises the issue of how the state can acquire the resources it needs to carry out its duties without violating the very rights it is trying to protect.

One common answer is that we have all entered into a social contract with the state to provide these services, and hence are obligated to render to the state the resources it needs. However, this explanation does not stand to scrutiny when the definition of a contract is examined. A contract is an arrangement that is entered into voluntarily. Of course, the definition of the contract could be altered such that tacit approval of the contract is given simply by not fleeing the country. However, if this is done, then the same approval must be given to totalitarian states and their egregious actions when the people of those states likewise do not flee, or cannot flee. This obviously means the idea of a social contract will not work.

Another option would be fee for services, where citizens would literally pay a bill for the protective services rendered by the government. But of course, it cannot be guaranteed that all would pay. There would likely be so many free loaders, that the government wouldn't have the resources it needs to protect individual rights. This would be self-defeating to the natural-law right of self-ownership, because individual rights wouldn't be protected. Therefore, there needs to be an exception such that when the population cannot be completely trusted to pay for the protective services of the government, it is permissible for the government to require resources of its population strictly for the purpose of protecting individual rights.

The last section of the chapter is titled, "Rights, Constitutional Constraints, and Democracy." This section deals with how this right of the government to tax its population should be handled. Professor Mack points out that at least a majority of a population should have the final voice; it is even better to require a super-majority to authorize a tax structure. This requirement for a super-majority requires greater participation by the voting populace, and greater agreement, thus giving a better assurance to the tax structure's overall fairness. While this super-majority cannot guarantee universal fairness or acceptability, Professor Mack makes clear that, "it might come as close to a guarantee as one can reasonably expect when one attempts to apply to the real world the insights about moral rights, property rights, and the limits of legitimate government that are found in philosophical reflection."

This Institute Brief is one in a series on the chapters of a recently-published book, POLITICS, TAXATION, AND THE RULE OF LAW, edited by Dr. Don Racheter, President of Public Interest Institute, and Dr. Richard Wagner, Economics Professor at George Mason University and Chairman of the Institute's Academic Advisory Board. POLITICS, TAXATION, AND THE RULE OF LAW looks at the balance between providing government with the power to operate while preserving and protecting our rights of person and property.

The author of this chapter of POLITICS, TAXATION, AND THE RULE OF LAW is Eric Mack, Professor of Philosophy at Tulane University in New Orleans.

This summary of Professor Mack's chapter was written by Steven B. Garrison, a Research Analyst with Public Interest Institute.

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