

REJOINDER TO WYSOCKI ON AUSTRO-LIBERTARIAN WELFARE ECONOMICS

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Abstract

Wysocki (2023) is to be congratulated for having the courage to attack head-on one of the most basic insights in all of economics, and philosophy too: that it is illegitimate to deduce an ought from an is. He sets on their heels all those who adhere to this well-established insight. However, despite his brilliance, and creativity (several of those scenarios he concocts are alone worth the full price of admission), it is my contention that he fails in his quixotic attempt. But his article is a gem in many ways, erudite, well worth reading, informative, challenging.

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Wysocki (2023)¹ speaks of, makes much of, this phrase: “the Austro-libertarian paradigm.”

It just so happens, that there is a high correlation between people who support football on the one hand and target shooting and hunting on the other. Let us stipulate that this is so, at least arguendo. Could that phenomenon then be characterized as a macho-gun football paradigm? Yes, as a shorthand device. But, still, it would be fallacious to paper over the differences between these two very different interests. There are many football fans who eschew the rifle range, and many adherents of the latter not at all interested in the former.

It makes little sense to conflate either Austrian economics and libertarianism on the one hand, nor shooting and football, since there is no intrinsic relationship in either case. It is more than a coincidence that the two pairs of interests attract similar types of people, respectively, but, still, it behooves them to make a sharp distinction within each of these papers. It is my contention that Wysocki fails to do so in the latter case..

Matters are similar with regard to Austrian economics and the libertarian political philosophy. They occupy two entirely different universes of discourse. The first of these is a school of economics. The dismal science is dedicated to examining why certain commercial phenomena occur: inflation, unemployment, poverty, wealth, etc. Its métier, its only focus, is cause and effect.

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¹ Unless otherwise specified, all mention of this author will be to this one publication of his. Further, in my quotes from this essay of his, I delete his footnotes

The second is a branch of ethics. It attempts to explain justice, an aspect of morality. It addresses the issue of what are proper laws, what should take place, not what actually does ensue. Yes, virtually all Austrian economists happen, also, to be libertarians; but very few libertarians are Austrian economists, because very few who adhere to this political philosophy are economists in the first place, and that is a necessary condition for following the praxeology of this school of thought in the social sciences.

It cannot be denied that there is indeed a correlation, and a strong one, between Austrian economics and libertarianism. But these two disciplines, just as in the previous case, are very much divorced from one another.

Then, too, there are blatant exceptions. For example, “Hans Mayer, one of Austrian School economists that is not well-known due to his infamous behavior during WWII collaborat(ed) with the Nazi regime...” (Lopez, 2019). Nazism is just about the polar opposite of libertarianism, but Mayer was an Austrian economist in good standing.

Are there any libertarians who reject Austrian economics, sometimes quite bitterly and vociferously? Here, the list is numerous. It would certainly include Gary Becker, Brian Caplan (undated, 1999), David Friedman, Milton Friedman, Sherwin Rosen (1997), Thomas Sowell, George Stigler, Gordon Tullock (1987).²

Yes, there are certain elements in praxeological economics that incline practitioners in the direction of liberty: views on monopoly, monopsony, cardinal versus ordinal utility, money. But to link them as closely as does Wysocki is an inaccurate exaggeration.

States our author: “If their economics is to be genuinely *wertfrei* (in particular, free of any underlying principles of justice), then we should naturally expect some Austrian economists to be socialists, some to be outright communists and still others classical liberals or libertarians for that matter.

But of course Austrian economists have values. But not *qua* the practice of praxeology. Some Austrians like beer and pizza. Does this destroy their *wertfreiheit*, as Wysocki is coming dangerously close to maintaining? To the extent that an Austrian economist has values in other fields of endeavor beside the commercial, such as regards pizza, all is well. But when he takes on values as an Austrian economist, not only can he no longer claim to be a praxeologist, he cannot even be a non-Austrian economist, for this discipline totally eschews normative economics in favor of the positive variety.

Do physicists have values? Of course they do, they are human beings. All members of this species have values. May they have values *qua* practitioners of this discipline? Of course not. It, too, is value free. It is solely concerned with

² Evidence for some of these scholars is given by their publications. For others, this claim is based upon my personal conversations with them.

understanding and explaining physical reality. How to manufacture an atom bomb is a purely empirical enterprise. This lies within the realm of physics. Whether or not this ordinance ought to be dropped on city X, lies, entirely, outside the bounds of this discipline. Physicists, along with everyone else under the sun may have a viewpoint on this second issue, but this does not at all undermine the claim that physics, too, is value free.

Wysocki avers: “As Futerma and Block (2021, p. xvii) make clear, Austro-libertarianism is a combination of both ‘the libertarian philosophy’—the prong the authors label ‘the normative thread’ and Austrian economics, dubbed by the said authors as ‘the positive thread’”.

I have nothing against the phrase “Austro-libertarian.” It is a good shorthand to describe scholars who adopt both these positions. But that is where it ends. Wysocki, I claim, in inferring more from this convenient terminology than is justified.³ In like manner, the following short hand versions also work: “Anti-war physicist”; “pro-war physicist”; “gun toting football fan.” One should not be fooled by this convenience of language into thinking that there is a greater connection between any of these cases than there is.⁴

Next, let us consider this statement of Wysocki’s: “Any welfare economics worthy of its name hinges on some normative premise. After all, welfare economics is supposed to measure welfare and welfare must consist in some natural property or fact. And what constitutes welfare is precisely the normative question we mean. Given this, it would be unreasonable to demand that welfare economics should be free of any normativity.”

Au contraire. Rothbard (1956) is an intense examination of welfare economics. And yet there is not a smidgen, anywhere in it, or even a hint of “normativity.” This author superlatively demonstrates that it cannot be proven that government is a net benefactor to human welfare. He does so in a completely value free manner. No ethical considerations intrude into his analysis. None.

Wysocki mentions that “Austrian business cycle theory (e.g. Huerta de Soto, [1998] 2006) interestingly relies on normative considerations (viz. banks acting unrightfully lending depositors’ money).

I do not see this as a valid claim demonstrating that Austrian economics is infected with values. Yes, the libertarian can quite correctly claim that fractional reserve banking is fraudulent, and therefore criminal.⁵ The Austrian,

³ This is a positive statement of mine, not a normative one.

⁴ This is a normative (ethical) claim of mine not a positive (factual) one.

⁵ Bagus, Howden and Block, 2013; Barnett and Block, 2008; Baxendale, 2010; Block and Caplan, 2008; Block and Garschina, 1996; Davidson and Block, 2011; Hanke, 2008; Hazlitt, 1979; Hollenbeck, 2014; Hoppe, Hulsman and Block, 1998; Howden, 2013; Huerta de Soto, 2018; Hulsman, 2008; Murphy, 2010; North, 2009; Polleit, 2010; Reisman, 1996; Rothbard, 1991; Salerno, 2010

in very sharp contrast, can maintain that this sort of phenomenon leads to the Austrian business cycle.⁶ But, never the twain shall meet. One and the same person, of course, can make both statements. But if so, the first is made only as a libertarian, the second, only as a praxeologist. One and the same person can also state that dropping atom bombs on innocent people is morally problematic, and, also, that the way to manufacture this weapon is thus and such. His first claim is made as an ethicist, the second as a physicist. From this it would be improper to conclude that physics is a value-laden enterprise. But that is pretty much what this author is saying about economics. Neither claim would be valid.

But Wysocki is by no means finished furnishing examples in this vein. He now asserts: “Furthermore, Austrian definition of inflation (e.g. Hülsmann, 2008) also characteristically presupposes governmental violence, and is hence also normatively tinted (viz. being rights-based).” Governments engage in all sorts of violence, some of it justified from the libertarian perspective, some not. When a policeman stops a rape or murder, he must often employ violence. But this is defensive, and thus from a libertarian point of view, justified.⁷ However, to say that the cop used force in such cases is merely descriptive, a mere empirical claim, devoid of any evaluation. It is the same with inflation. Yes, the state is often responsible for this state of affairs. That is a positive claim. That it should not do so is a normative one, and, again, we are now involved in two separate universes of discourse. Just because one and the same person makes both assertions, gives us no warrant to conflate these very different insights.

What are we to make of this statement of our author’s: “Eventually, Rothbard ([1962] 2009, p. lvi) himself conceived of exchanges as inseparable from the notion of property rights, while claiming that ‘[e]xchange cannot be adequately analyzed until property rights are fully defined’”. My assessment is that is a true statement in the positive realm. Exchange is a mutually agreed upon alteration of property rights, and if we are unclear on exactly what property rights are, then, to that extent, our analysis is likely to be wanting. Does this mean that Rothbard conflates the normative and the positive? Hardly.

Our author avers the following: “Austrian economics might simply take the libertarian theory of justice as a given and then proceed with purely positive considerations, while spelling out logical consequences of the former. But then again, the most sensitive spot of Austro-libertarianism is Austrian welfare economics.” In effect, if I read him correctly, he is acknowledging that there is a vast gap between fact and value amongst the studies of Austro libertarian economists, but that this chasm disappears when it comes to welfare economics.

⁶ Barnett and Block, 2012; Garrison, 2001; Hayek, 1931; Mises, 1912, 1949; Rothbard, 1963; Woods, 2009

⁷ The fact that his salary is financed via compulsory taxation is an entirely different matter.

He continues in this vein: "... there are unproblematic (and even necessary) value statements in economics (e.g. what welfare consists in, without which welfare economics cannot even get off the ground)."

Whereupon Wysocki throws down the gauntlet strongly: "Without doubt, welfare economics is at the bottom a normative enterprise. What-ever positive apparatus it might possibly resort to, it must ultimately rest on some normative premise. That is, for any welfare economics to even get off the ground, there should be an attempt made to identify some fact or property that makes the economic actor or society better off or worse off.... Since the present essay is mainly preoccupied with both justice and welfare as they are understood within the Austro-libertarian framework, it is crucial to ask how the two actually relate to one another. Specifically, the question is: do libertarian principles of justice assign rights independently of welfare considerations or are the former a function of the latter?"

The usual example put forth vis a vis this issue is the following. We all know that free enterprise is the last best hope for the prosperity of mankind.⁸ But suppose, just suppose, *arguendo*, that matters were entirely the opposite. That is, socialism, not capitalism, created wealth par excellence, and free enterprise, not central planning, led to poverty. What then? Should we then eschew our support for the free market system out of concern for human welfare? The best answer to this challenge is to reject its premise not as unlikely, but as literally impossible. It is akin to a square circle or asking if God can create a rock so big that he could not pick it up.⁹

Why so? This is due to the fact that free enterprise consists of nothing more, nothing less, than voluntary trade. As praxeology teaches us, all such "capitalist acts between consenting adults" (Nozick, 1974, p. 163) are necessarily beneficial in the *ex ante* sense. True, the plans of mice and men often go astray, and as Wysocki brilliantly illustrates, this will not lead to prosperity if someone drinks poisoned water, intending to quench his thirst. However, under socialism, only some few interactions meet this criterion.¹⁰ As for the rest of the commercial interaction taking place in this system, they cannot even meet this low bar.¹¹

Let us now attempt to respond more directly to this important challenge placed before us by this keen philosopher, Wysocki: "do libertarian principles

⁸ Austrian economists, at least, full well know this. Here, they are distinct from their non-Austrian economic brethren. The latter subscribe to the notion of "market failure." The former do not. See on this ()

⁹ It is also akin to asking someone if he has stopped beating his wife yet?

¹⁰ Members of the socialist paradise are legally allowed to own their underwear, toothbrushes and other such personal items, this does not apply to any of the means of production.

¹¹ Mises (1922) demonstrates not merely the unlikelihood, but the utter impossibility of rational economic central planning.

of justice assign rights independently of welfare considerations". The obvious answer is yes. What are these principles? In my view, there are three. First, the non-aggression principle. According to the NAP, it is a crime to engage in, or threaten the use of physical force against innocent people.¹² Violence may be used in defense, or by agreement, such as in the case of boxing or sado-masochistic arrangements. Second, private property rights are based on initial homesteading (Hoppe, 1993), and secondarily upon all voluntary interactions such as buying, selling, renting, investing, lending, borrowing, gift-giving. Third, free association. No one should be compelled to associate with anyone else against his will (Block, 2010).

What is the relationship of all of this with "welfare considerations?" Obviously, what we have here is a blueprint for human happiness. If and to the extent these three rules are followed, prosperity and well-being are sure to follow. However. Suppose that the all-powerful and very nasty Martians beam down a message to us relatively weak humans that if we follow these strictures they will blow up our entire planet, just as they did for the previous fifth planet, which now consists of the Asteroid Belt. We now have a rather sharp deviation between libertarian principles and prosperity, even survival.¹³

The radical, logically consistent libertarian will respond: "Death before dishonor." "Full speed ahead and damn the torpedos."¹⁴ "Let those Martians take their threats and shove them." On the other hand, the utilitarian libertarians would eschew any such reasoning, violate their own principles, and submit to Martian demands. How any of this bridges the unbridgeable gap between fact and value, between positive and normative economics, is unclear.

No truer words were ever said on this matter than those of our author: "...as Hausman and McPherson (2006, p. 172) put it: 'The philosophical libertarian's commitment to liberty is in principle independent of any welfare consequences. But libertarians would like it to be the case that protecting freedom also makes people better-off'. Indeed, in libertarian theories of justice, the just distribution of (property) rights does not appeal to welfare considerations at all. Rather, a just distribution of rights is explained by the so-called entitlement theory (Nozick, [1974] 1999), which provides two sorts of principles of justice of interest to us: (1) justice in original appropriation and (2) justice in transfer. Neither of them ties the distribution of rights to welfare." But this vitiates against his own thesis.

¹² Block, 2017, 2023; Rothbard, 1973, 1982

¹³ They will not allow any human beings to emigrate to their planet.

¹⁴ The Talmud demands such a reaction on the part of observant Jews. The Nazis told the leaders of Jewish towns: "Give us one Jew. Anyone you want. Even the worst one, who does not follow the 613 commandments. We will kill him. Otherwise, we will slaughter everyone in this village." The Jews who followed the strict letter of the law refused.

Here is a crucially important statement of our author's: "...no exchanges could even count as welfare-enhancing or welfare-diminishing unless they were just in the first place."

Why do I place such weight on this short statement? It is because if it were but true, his controversial and courageous thesis would be valid. That is, if so, Wysocki would have proven the unprovenable, squared the logical circle. Then, there would be no gap between Austrian or indeed any type of economics on the one hand, and ethics on the other. Alas for his initiative, it is not true. For example, A steals \$100 from B. That is unjust, a paradigm case of injustice. Whereupon A goes to the store and purchases \$100 worth of groceries. This too is unjust, in that A should, instead, repay B from whom he had stolen the funds. Nevertheless, it is extremely difficult to deny the conclusion that A's deal with C is mutually beneficial at the very least *ex ante*, and in all probability, *ex post* as well. Both A and C have gained in welfare from this unjust exchange. A, because he values the foodstuffs more than his ill-gotten, \$100, and the grocer too, since he places greater importance on the stolen money he receives from A than upon his wares that he must surrender in this sale.

The typical scenario mentioned in this context is where Jean Val Jean steals a loaf of bread to feed his starving son. This is unjust. Yet, our hearts cry out in favor of this theft. No man of good will wishes to contemplate a starving child. Yet, if we extrapolate from this incident, and many people walk out of bakeries without paying for what they steal, soon enough there will be no more bakeries, and everyone will starve.¹⁵

Wysocki dazzlingly offers yet another example. This one also undercuts his own thesis. A thief steals some garden furniture from a rich man who regards it as junk, but is too busy to get rid of it. This is an unjust act on the part of the robber; yet, it improves the welfare status of both the criminal and the owner.¹⁶

Speaking of undermining his own thesis, what are we to make of this statement of his: "...justice and welfare are two distinct and incommensurable goods..." It is difficult to think of a better, more pithy, more eloquent short statement of the normative positive distinction than this one. If I am interpreting it correctly, Austro-libertarianism is just a convenient abbreviation. One and the same person can of course adhere to both intellectual strands, but the gap between them cannot be bridged over.

¹⁵ Presumably, the reason the father was in such dire straits in the first place was due to some unwise and improper government intervention in the free economy such as socialism, regulationism, inflation, depression, the minimum wage law, etc.

¹⁶ Of course, in order for this example to succeed, we must stipulate that this successful theft does not have further implications, such as encouraging robbery.

My learned friend¹⁷ mentions “... a putatively happy coincidence that this kind of economy is the most productive: It so happens that the free-market economy, and the specialization and division of labor it implies, is by far the most productive form of economy known to man, and has been responsible for industrialization and for the modern economy on which civilization has been built. This is a fortunate utilitarian result of the free market...”

But is it really just a “happy coincidence?” If I admit that it is more than that, am I agreeing with Wysocki’s thesis that the is-ought distinction is invalid? No. I maintain that it is more than just an accidental co-incidence, and, also, *au contraire*, there is all the world of difference between facts and values.

Let us consider a few examples. Austrians maintain that cardinal utility, not ordinal utility is logically coherent. However, egalitarians are beloved of the former, and that is a basic element in their case for compulsory redistribution of wealth. Even worse, their argument depends upon interpersonal comparisons of utility.¹⁸ So praxeology leads in the direction of libertarianism, but does not at all invoke the invalidity of the normative positive distinction.

A similar phenomenon is Mises’ (1922) contention that central planning is necessarily irrational, since there are no free market prices that indicate relative scarcity. Again, this inclines one in the direction of free enterprise, without in the slightest requiring the rejection of the fact-value distinction. A third case: monopoly. It is impossible for it to arise in the free economy, therefore anti-trust legislation¹⁹ is intellectually incoherent. That, too, inclines one in the direction of free markets, without in the least compromising the distinction we are considering.

Once again, into breeches: “... we believe that once we disentangle the logical relations standing behind the concepts of free market, voluntariness and being beneficial, it turns out that the entire reasoning by Rothbard (1956) is an exercise in begging the question. More specifically, we maintain that the conclusion that all market exchanges are beneficial merely restates his non-definitional premise; that is, that all voluntary exchanges are beneficial.

In effect, Wysocki is accusing Rothbard of offering a tautology. But this type of statement, e.g., bachelors are unmarried men, tells us nothing about the real world. It is necessarily true, to be sure, given that is an accurate rendition of how we use language. But it tells us nothing more than just that: it gives a definition of a word, “bachelor” in this case. What Rothbard is engaged in, here, is something entirely different. He is offering a synthetic *a priori* analysis. It is equally necessarily true. But where it diverges, and sharply so, from a tautology, is that it also tells us something about the real world, something

¹⁷ And several times co-author: Block and Wysocki, 2018, 2024; Wysocki and Block, 2017, 2018A, 2018B, 2018C, 2020, 2022; Wysocki, Block and Dominiak, 2019.

¹⁸ The rich supposedly benefit from their marginal dollar far less than do the poor from theirs.

¹⁹ Unless it applies to government enterprises such as the post office

which does not at all “beg the question.” To wit, Rothbard maintains that all market activity²⁰ is mutually beneficial *ex ante*, and that the same cannot be said of our interaction with government which, to say the least, is not at all voluntary. We learn an important lesson from Rothbard that has nothing whatsoever to do with mere definitions. Wysocki’s error, here, is failure to distinguish the praxeological method, which rests on the synthetic *apriori*, from mere definitional tautologies.

But Wysocki is not having any of this. He attempts to undermine the Rothbardian syllogism with his fascinating discussion of Ohio and its nickname, the Buckeye State. According to the old chestnut aphorism, “If you strike at the king, you must kill him.”²¹ I cannot think of anyone who better fits the appellation “king of Austrian economics” other than Rothbard. Wysocki makes a valiant effort to unseat him. I give Wysocki an “A” grade for his exhibition of intellectual courage. But I cannot think that he levels a fatal blow against Rothbard in this regard. His argument stems from the claim that the person who was ignorant of the Buckeye State being a nickname for Ohio learns something from the interchange, and that this is exactly, precisely, the same as the person in the economic argument learns that the market is the concatenation of all voluntary exchanges.

But Wysocki’s criticism founders on the fact that there is a disanalogy here. Learning about the nickname is solely, only, a matter of definition. What Rothbard is pointing to is not merely definition at all. Real learning emanates from his analysis, and on two grounds. First voluntary trade is mutually beneficial *ex ante*. Second, that is what free enterprise is all about.

Take the average person, unsophisticated about the niceties of the dismal science. Does he know that “voluntary trade is mutually beneficial *ex ante*.” No, of course not. If he has attended any American university, he full well knows that voluntary trade, instead, is exploitative. The rich exploit the poor in this manner. Second, does he know that free enterprise consists of all voluntary trades? Of course not. Rather, he is of the opinion that there are numerous “market failures.” The idea that free market capitalism is beneficial is anathema.

When the person ignorant of the fact that Buckeye is the nickname for Ohio, he will reply, “Oh. I didn’t realize. Thanks for clarifying that.” What the person ignorant of the fact that all trades are mutually beneficial *ex ante* and that is what the market consists is told about that, he will say, in sharp contrast: “Don’t give me that crap. Free enterprise is exploitative. You are a fascist for denying this, a veritable Hitler; according to Marx, capitalism is just a stage leading to eventual Nirvana.” When and if he changes his mind, real substantive

²⁰ Absent fraud, which of course take a commercial interaction out of the realm of *laissez faire* capitalism

²¹ Otherwise, he will come and get you

learning about reality will have taken place that is not at all merely definitional, as in Wysocki's Ohio example.

Next on Wysocki's hit list is this: "Rothbard's second premise ("all market exchanges are voluntary exchanges") could be only contingently true instead of being a mere definition. In other words, it would remain an open question whether market exchanges are voluntary given a market-independent account of voluntariness. And hence, most crucially, Rothbard's conclusion that all market exchanges are beneficial would be also open to rebuttal."

He is now trying to improve on Rothbard (1956). I am having difficulty wrapping my mind around the notion that, in effect, some market exchanges are coercive. This is akin to asserting that some rectangles are round. One yearns to ask, if a commercial interaction is under the threat of a gun, how can it be voluntary?

Nor can I see my way to acquiesce in the concept that some market exchanges are not beneficial, in the sense of anticipations. Why, ever, would they occur did not each participant expect to gain from them? One possibility would be gift giving. A gives a gift of \$100 to B. Non-economists might be tempted to assert that B gained but A lost out from the arrangement. But a more sophisticated understanding would realize that in A's mind, he, himself, A, is better off with this money in B's hands than in his own.

My debating partner seems to take it all back when he states: "... an exchange is voluntary when there is no aggression or a threat thereof on the part of either party to an exchange. And conversely, if aggression or a threat thereof occurs, then the resultant exchange is involuntary." As far as I am concerned, this merely deepens the puzzle.

Next in the batter's box is this insight from our world class philosopher:

"If one is ready to grant that these two outcomes are economically identical and that their only distinctive feature is that the payment to a blackmailer (case 1) was voluntary (due to a non-right-violating character of the blackmailer's proposal), and therefore valid, while the payment to a gunman (case 2) was involuntary (due to a right-violating character of the gunman's proposal) and therefore invalid, then one must conclude that the question of whether a given economic actor benefits or not does not (or at least not only) depend on the question whether a proposal threatens a right-violation or not."

I was very impressed by this contribution. I have myself written, often, on the distinction between blackmail and extortion.²² But I have never before seen these two distinct acts in the manner that Wysocki impresses upon me. Yes, in both cases there is a transaction. Only the blackmail fits into the market system;

²² Block, 1972, 1973, 1986, 1987, 1997, 1998, 1999A, 1999B, 1999C, 1999D, 2000A, 2000B, 2000C, 2000D; 2001A, 2001B, 2002-2003, 2005, 2009, 2023, 2025; Block and Anderson. 2001; Block and Gordon. 1985; Block and Kent, 1999; Block, Kinsella and Hoppe. 2000; Block, Kinsella and Whitehead, 2006; Block and McGee, 1999A, 1999B; Gordon and Block, 2014.

the extortion case does not since it constitutes a rights violation, a purely libertarian point. Yet, nevertheless, in both cases, compared to the status quo ante, the target of both threats gains. The blackmailee values the silence he obtains more than the money he pays for it. In like manner, the extortionee also “benefits” since he places his very life on a higher plane the money he must expend to safeguard it. But I still do not see how this undermines the positive normative distinction, the thesis of this author.

Wysocki continues with this analysis, but here he loses me entirely. He states: “... we contend that some voluntary, viz. rights-respecting, exchanges are not beneficial. And thus, our considered judgement is that regardless of the fact that in blackmail case (1) we earn the said right, it still might be as bad (in terms of welfare) as case (2), in which no right was earned at all. What is more, (1) may be ex post even worse (only as far as welfare goes),²⁸ for there still might be a plausible ex post expectation that a blackmailer might blackmail me again despite the fact I have already earned a right that he does not blackmail me ever again.”

One problem with this is that we had stipulated an honest blackmailer. One who was once bought would stay bought.²³ He was paid to keep the secret forever, and now reneges. One might as well render the extortionist dishonest: after you pay him to keep you alive he murders you anyway. In any case, with regard to the crooked blackmailer, you now have a weapon against him. You can broadcast to the world that insofar as honest blackmailing goes, your particular blackmailer is an utter failure. Why is this a weapon against him, apart from the fact that he will lose face in the honest blackmailing community? It is due to the fact that his next target will tell him to “publish and be damned.” Once word gets out about the perfidy of this blackmailer, he will find it far more difficult to ply his trade.

Next this brilliant theoretician constructs a case wherein not only is the blackmail compatible with libertarianism, but so is extortion (the latter is righting the scales of justice, since his “victim” previously shot a member of the extortionist’s family). He then states “Given all this, so constructed, 2* (i.e. legitimate gunman’s proposal) may differ from the blackmail proposal only with respect to its impact on the proposee’s welfare, as their moral character of the two proposals is now identical by assumption. And, interestingly, it might as well be the case that paying the gunman proves to be more beneficial both ex ante and ex post than paying the blackmailer. And if so, since 2* is assumed to be morally legitimate, then there is no obstacle to treat paying the legitimate gunman as better overall than paying the blackmailer. After all, with both of these proposals being presumed to be morally legitimate, it is only their

²³ That is, you could actually buy his silence, not merely rent it for a time

differential influence on the recipients' welfare that allows us to decide which of the two proposals yields a better result overall."

But in so doing he creates problems for his thesis. First of all, this in no way undermines the fact-value distinction. Secondly, he does not hold to strict *ceteris paribus* conditions. Wysocki paints the extortionist as an honest actor: he will do precisely what he contracts to do; after he accepts payment, he will no longer plague his target. In contrast, the blackmailer will renege on his agreement.

Wysocki concludes "that voluntariness alone cannot render an exchange beneficial in a welfare-enhancing sense, everything else equal. One problem is that everything else is not equal. Another is that in the revised justified extortion case is no longer an example of a voluntary exchange. We have moved from that to one of compensation for a crime previously committed by the target of the extortion.

In the view of Wysocki, "... our overall normative framework provides that the primary good to be maximized is justice, with justice being non-tradeable for welfare."

If the choice is between someone stealing one stick of bubble gum and the world goes on as before, versus no one steals any such thing and the entire world is blown to bits by the evil omnipotent Martians, I think that most libertarians would be pro theft. I certainly would.

Our author continues: "Coming back to our sofa thought experiment, our Austro-libertarian account predicts that even though the owner of the sofa got his economic bad removed for free by the thief, this outcome is still infinitely worse on balance than any one in which rights would have been respected." "Infinitely worse" sounds like, reeks of, cardinal utility. Plain old ordinary "worse" is compatible with ordinal utility. Austrians eschew the former, embrace the latter.

Wysocki claims "that involuntary (i.e. coerced) exchanges are non-beneficial..." But that theft of lawn furniture is not an exchange; it is just theft. What of extortion. Is it an exchange? No. Not unless the word "exchange" is imbued with an entirely different meaning.

Is blackmail really an exchange? According to Nozick's (1974) notion of a "productive exchange," it really is not. Sometimes called "drop dead theory," the point here is that our arrangement with the grocer is a "real" exchange, since you pay him \$100 for foodstuffs you value at \$150.²⁴ The last thing you want is for him to drop dead, or disappear from the scene entirely, leaving you not holding the bag of groceries, but holding your \$100.

Matters are different with the blackmailer. You do indeed wish that he would go away, and bother you no more with his so-called "offer." You would

²⁴ Ditto for the merchant. He prefers, *ex ante*, your funds to his wares

be better off if that worthy had not existed. One way out of this difficulty is to realize that the offer could have come from either direction. In the usual case of blackmail, it is the blackmailer who approaches the blackmailee with his offer to trade silence for money. But, we can easily envision the opposite occurring. The blackmailee initiates the deal with the blackmailer: “Hey, shut up about this occurrence and I’ll pay you big.”

In contrast, it is extremely difficult to think of this in the case of extortion. No extortionee ever approached an extortionist and paid him to leave him alone. Rather, the target, here, wishes to completely avoid the assassin. Thus, we can distinguish blackmail from extortion based upon the issue of initiation. If not, we would fall into Wysocki’s trap, and have to admit that the only reason we regard blackmail as an exchange, but not extortion, is predicated on the libertarian notion that the latter violates rights but not the former. If so, the normative positive breach would have been bridged over, and Wysocki’s thesis would have been validated.

But this initiation business will not do. It all depends upon whether or not the extortionee feels safe. Under ordinary circumstances, he will avoid the hit man like the plague. However, consider the situation wherein the two of them are in the same room, and the murderer is about to pull the trigger. Then we can full well appreciate the scenario in which the innocent person initiates the deal: “Hey, don’t kill me; whatever you are now being paid to do so, I’ll pay you more.” So, we cannot distinguish the two events, blackmail and extortion, based upon who initiates the financial arrangement.

But we do not need to do so to ward off Wysocki’s challenge. All we need realize that in both cases, blackmail as well as extortion, the target gains. In the former, he values silence more than the money he must pay for it. In the latter, he ranks his very life more than the funds necessary to save it.

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