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Rozprawa doktorska

**Austro-libertarian theory of voluntariness: presuppositions, problems, and consequences [Austro-libertariańska teoria dobrowolności: presupozycje, problemy i konsekwencje].**

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**Tytuł rozprawy:** Austro-libertariańska teoria dobrowolności: presupozycje, problemy i konsekwencje

## Autoreferat

### Wstęp

Na wstępie należy zaznaczyć, że przedmiotem badań niniejszej rozprawy jest libertarianizm, który stanowi doktrynę polityczną. Zauważmy, że to, co czyni libertarianizm doktryną polityczną (a nie na przykład zwykłą teorią moralną) jest fakt, że aspiracją libertarianizmu jest określenie zbioru sytuacji, w których użycie przemocy byłoby uzasadnione. A zatem libertarianizm nie zajmuje się jedynie moralnie zasadnymi roszczeniami. Ambicje owej doktryny są wyższe. Zajmuje się ona bowiem roszczeniami, który powinny być również prawnie egzekwowalne. Dlatego też libertarianizm należy uznać za doktrynę *strictae* polityczną, a nie jedynie moralną.<sup>1</sup>

Jako doktryna polityczna libertarianizm zajmuje też stanowisko w kwestii tego, czy instytucja państwa jest uzasadniona. Libertarianie różnych proveniencji na tak postawione pytanie na ogół odpowiadają negatywnie (patrz m.in. Nozick, 1974; Rothbard, 2006). Mówiąc nieco precyzyjniej, obaj autorzy podzielają tzw. domniemanie wolności jednostki (*presumption of liberty*). Dlatego też to właśnie instytucja państwa wymaga uzasadnienia. Anarchizm Rothbarda (2006) uznaje jakąkolwiek formę państwa za nieuzasadnioną. Z kolei minarchizm Nozicka (1974) dopuszcza istnienie pewnych instytucji przypominających instytucje państwowe pod warunkiem, że te wyłonią się w sposób „niepokalany” (patrz Rothbard, 2002), czyli taki, który zakłada poszanowanie praw jednostkowych.

Tym, co dodatkowo wskazuje na to, że libertarianizm jest doktryną polityczną jest fakt, że libertariańskie zasady sprawiedliwości pozwalają zarysować kontury sprawiedliwego *reżimu politycznego*. Mówiąc nieco dokładniej, to z rzeczonych zasad możemy do pewnego stopnia wydedukować kształt bezpaństwowego (albo minarchistycznego) ładu politycznego.<sup>2</sup> Omówmy teraz pokrótce rzeczony zasady sprawiedliwości.

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<sup>1</sup> Rozróżnienie pomiędzy normami prawnymi a moralnymi wyjaśnione jest w m.in. Ossowska (1960); Johnson (1975); Kramer (2024).

<sup>2</sup> Jak już wspomnieliśmy, libertarianie o różnych przekonaniach mają różne przewidywania co do kroków, poprzez które wyłoni się sprawiedliwy system polityczny. Na przykład, według Nozicka (1974) ludzie zrobią jakiś użytek z przysługującej im wolności jurdycznej (*liberty*), a ponieważ wykorzystywanie swej wolności zachowuje sprawiedliwość (dystrybucji zasobów), pewien sprawiedliwy system wyłoni się z konieczności. Z kolei według

Główną normatywną zasadą libertarianizmu jest tzw. zasada autowłasności.<sup>3</sup> Jeśli abstrahować od pewnych umów (jak też od przestępstw czy deliktów), to każdej osobie przysługuje tzw. prawo autowłasności. Ponadto, libertarianizm rozpoznaje prawo własności do zasobów zewnętrznych.<sup>4</sup> W skrócie, jeśli zajdą pewne naturalne fakty, osoba może nabyć prawo własności do dotychczas niezawłaszczonego zasobu. Co równie istotne, libertarianizm również rozpoznaje zasadę dobrowolnego transferu (tytułu własności). Zasada ta polega na tym, że o ile *A* jest właścicielem zasobu *x*, a *B* jest właścicielem zasobu *y*, to każdy z nich posiada wolność (jurydyczną) wymiany handlowej. Wskutek tejże prawo własności do *x* może znaleźć się w rękach *B*, a prawo własności do *y* w rękach *A*. Innymi słowy, to właśnie zasada dobrowolnego transferu wyjaśnia redystrybucję uprawnień.

Łatwo zauważyć, że konkretny kształt bezpieczeństwa (albo minarchistycznego) ładu politycznego może wyłonić się jako funkcja rekurencyjnego zastosowania trzech wyżej wymienionych zasad.<sup>5</sup> Zilustrujmy rekurencyjne stosowanie libertariańskich zasad sprawiedliwości prostym przykładem. Osoby *A* i *B* rodzą się autowłaścicielami. To oznacza, że *A* posiada prawo własności do swego ciała, a *B* do swego. Następnie między *A* i *B* może dojść do dobrowolnego transferu tytułów własności. Zastosujmy teraz zasadę dobrowolnego transferu tytułu własności. *A* zrzeka się prawa własności do swego ciała na rzecz *B* w zamian za wynagrodzenie ze strony *B*. Tym samym *A* zostaje pracownikiem *B*. W taki oto sposób przez długofalowe rekurencyjne zastosowanie libertariańskich zasad sprawiedliwości wyłoni się pewien sprawiedliwy system *polityczny*.

Ogólnie rzecz biorąc, badania w ramach teorii libertariańskich częstokroć polegają na wyobrażaniu sobie, jak pewne instytucje działałyby w ładzie bezpieczeństwa. Dlatego też śmiało można stwierdzić, że libertariańskie pierwsze zasady sprawiedliwości posiadają pewną moc predykcijną. Przewidują one bowiem, jakiego rodzaju ład *polityczny* lub instytucjonalny jest z nimi spójny. Dla przykładu, w libertarianizmie na ogół przyjmuje się, że w ładzie bezpieczeństwa nie byłoby miejsca na prawa własności intelektualnej. Z tego z kolei wynika, że w wolnym społeczeństwie prawo autorskie nie byłoby egzekwowalne. To z kolei stanowi czysto *polityczną* deklarację: pewne roszczenia nie byłyby egzekwowane poprzez zinstytucjonalizowane użycie przemocy. To w tym sensie libertariańskie zasady sprawiedliwości przewidują, które systemy polityczne są z nimi spójne, a które nie są. Podobnie rzeczono zasady pozwalają nam określić, jakie instytucje mogą sprawiedliwie (poprzez rekurencyjne zastosowanie owych zasad) wyłonić się w wolnym społeczeństwie, a które nie mogą. Wierzmy, że powyższa ekspozycja przekonująco zarysowuje *polityczny* charakter libertarianizmu.

Omówmy teraz, co w szczególności stanowi przedmiot badań niniejszej dysertacji. Tematycznym rdzeniem tej rozprawy jest austro-libertariańskie rozumienie dobrowolności. To właśnie to pojęcie niniejsza rozprawa poddaje krytycznej analizie. Jak już wspomnieliśmy, to

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Hayeka (1960), reżim polityczny wyłoni się spontanicznie w procesie ewolucyjnym. Chociaż istnieją pewne głosy, jakoby Hayekowski spontaniczny ład nie był z konieczności libertariański, panuje nieomal powszechna zgoda co do tego, że jednak byłyby on taki (patrz Benzecry, 2024).

<sup>3</sup> Analizę prawa do własnego ciała oraz rzekomo aksjomatycznego charakteru tegoż przedstawia Dominiak (2016).

<sup>4</sup> W dalszej części tekstu przybliżymy naturę rzeczonych uprawnień oraz wymienimy (naturalne) fakty, na których uprawnienia te superwenują.

<sup>5</sup> Niniejsza dysertacja abstrahuje od zasady restytucji, która to też charakteryzuje libertarianizm.

właśnie poprzez dobrowolne działania (oraz poprzez dobrowolne transfery w szczególności) kształtuje się sprawiedliwy ład polityczny. Dlatego tak istotne jest przeanalizowanie tego, co stanowi dobrowolną wymianę. Stawką bowiem jest określenie tego, co może być uznane za sprawiedliwy system polityczny. Innymi słowy, według libertarian dobrowolne działania (między innymi) określają zakres sprawiedliwych systemów politycznych. To z tego powodu zbadanie natury dobrowolności jest istotne. Ponadto, libertariańska idea dobrowolnego działania niesie za sobą pewne presupozycje oraz logiczne konsekwencje. Te również zostaną przeanalizowane w niniejszej rozprawie.

Ujmując rzecz nieco bardziej technicznie, można powiedzieć, że niniejsza rozprawa bada (1) rozmaite logiczne konsekwencje implikowane przez libertariańskie pojęcie dobrowolności; (2) presupozycje (czy to metafizyczne, czy moralne) idei dobrowolnego wyboru, tak jak się go rozumie w austro-libertarianizmie; (3) problemy implikowane przez to, co pojęcia dobrowolności logicznie pociąga oraz przez to, co ono presuponuje. Po pierwsze, niniejsza rozprawa w szczególności odkrywa, że libertariańska koncepcja dobrowolności jest zmoralizowana w tym sensie, że pojęcie dobrowolności zakłada pojęcie uprawnień (*rights-based*). Innymi słowy, pojęcie dobrowolnego działania, tak jak jest ono używane przez austro-libertarian, presuponuje libertariańskie prawa jednostkowe. Ta konkretna presupozycja ma ważne konsekwencje logiczne. Na przykład, zauważamy, że zmoralizowana koncepcja dobrowolności (oraz przymusu) nie jest spójna z austriackim metodologicznym postulatem wolności od wartościowań (*Wertfreiheit*). Ponadto, przyjęcie zmoralizowanego pojęcia dobrowolności w austriackiej ekonomii dobrobytu rozstrzyga kwestię w założeniu, jeśli chodzi o efektywność wolnego rynku. Poza tym, pojęcie to błędnie przewiduje, że wszystkie wymiany dokonane wskutek szantażu powinny zostać zalegalizowane. Dodatkowo, zauważamy, że austriacy przyjmują libertariańską (w metafizycznym, a nie politycznym sensie) koncepcję wolnej woli, co z kolei wydaje się niespójne z Rothbardowską ideą porządkowych skal wartości. Ostatecznie odnotowujemy, że austriacy (Block w szczególności) przyjmują taką ideę wyboru, która logicznie zobowiązuje ich do przyjęcia behawioryzmu, która to doktryna jest z kolei nie do pogodzenia z charakterystycznie austriackim subiektywizmem.

Zanim jednak skupimy się na owych logicznych konsekwencjach, presupozycjach oraz problemach implikowanych przez zmoralizowane pojęcie dobrowolności, warto by zauważyć, że austriacka koncepcja dobrowolności (w kontekście dobrowolnej wymiany) jest szczególnym przypadkiem dobrowolnego działania, tak jak jest ono rozumiane w libertarianizmie. Omówmy zatem teraz ideę dobrowolnego działania według libertarianizmu. Każdy podmiot działający wybiera z tzw. zbioru możliwości (*opportunity set*). Według Nozicka (1974: 262), to, czy działanie danego podmiotu jest dobrowolne jest funkcją jednej zmiennej: wszystko zależy od tego, czy zbiór możliwości rzeczono podmiotu został ograniczony prawnie (*legitimately*) bądź bezprawnie przez dowolnie wybrany inny podmiot działający *P*. Nietrudno zauważyć, że pojęcie bezprawnego bądź prawnego ograniczenia zbioru możliwości podmiotu działającego *A* jest normatywnie nacechowane. Mówiąc nieco dokładniej, rzeczono pojęcie presuponuje istnienie libertariańskich uprawnień jednostkowych. A zatem, jeśli dowolnie wybrany podmiot *P* działa w taki sposób, że zbiór możliwości podmiotu *A* jest ograniczony w ten sposób, że co najmniej jedno uprawnienie (rozpoznane przez libertarian) *A* zostanie z konieczności pogwałcone, wtedy działanie po stronie *A* wskutek rzeczono ograniczenia będzie ocenione

przez austro-libertarian jako *niedobrowolne*. Z drugiej strony, jeśli *P* poprzez akt mowy albo wskutek pewnego niewerbalnego zachowania, ogranicza zbiór możliwości *A* w takim sposób, że żadne libertariańskie prawo jednostkowe przysługujące *A* nie zostanie pogwałcone, wtedy działanie *A* będące reakcją na rzezone ograniczenie zostałyby uznane za *dobrowolne*.<sup>6</sup> Powyższa teoria z kolei rodzi pytanie o kształt libertariańskich praw jednostkowych.<sup>7</sup>

Teraz należy przede wszystkim zauważyć, że punktem wyjścia dla dobrowolnego transferu tytułu własności pomiędzy stronami transakcji jest ich prawo autowłasności (*self-ownership*). Prawo to jest prawem własności do swego ciała. Jednocześnie sądzi się, że jest ono uprawnieniem negatywnym *in rem*. Innymi słowy, jeśli jakikolwiek podmiot *a* cieszy się prawem autowłasności, wtedy każdy inny podmiot zobowiązany jest do nieingerowania w sposób, w który ten pierwszy robi użytek ze swego uprawnienia. Owo uprawnienie superweniuje<sup>8</sup> na naturalnym (i.e. nienormatywnym) fakcie posiadania własnego ciała. Ponadto, prawo własności do zasobów zewnętrznych superweniuje na dwóch naturalnych faktach (i.e. na mieszanii własnej pracy z rzadkim zasobem oraz na wzięciu zasobu w pierwotne posiadanie).<sup>9</sup> To uprawnienie jest również negatywne i jednocześnie *in rem*. Oczywiście prawa własności mogą być redystrybuowane wskutek dobrowolnych wymian. Również wskutek dobrowolnie zawartej umowy jedna ze stron teź może zrzec się pewnych Hohfeldowskich<sup>10</sup> wolności i tym samym przyjąć na siebie pozytywne zobowiązania (co sprawiłoby jednocześnie, że druga strona umowy zyskałaby pozytywne uprawnienie). Na przykład, *A* może zgodzić się namalować *B* obraz za pewną sumę pieniędzy. Obietnica ta sprawiłaby że m.in. jedna ze stron przyjąłaby na siebie pozytywne zobowiązanie namalowania obrazu. Tak czy inaczej, należy pamiętać, że pozytywne zobowiązania pierwszego rzędu w libertarianizmie powstają jedynie na skutek dobrowolnie zawartych umów.

Powyższy zarys już daje nam pewne wskazówki co do tego, jak dobrowolne działanie (wraz z dobrowolną wymianą jako szczególnym przypadkiem tegoż) jest rozumiana w austro-libertarianizmie. Ponadto, jak już zdążyliśmy zauważyć, pojęcie dobrowolnego działania presuponuje istnienie uprawnień jednostkowych. Mówiąc nieco dokładniej, austro-libertariańska teoria dobrowolności zakłada istnienie uprawnień jednostkowych, których dystrybucja byłaby spójna z libertariańską teorią sprawiedliwości, której to zarys przedstawiliśmy powyżej.

Widzimy teraz, że przedmiotem niniejszej rozprawy są m.in. rozmaite logiczne konsekwencje wynikające z przyjęcia zmoralizowanego (*rights-based*) pojęcia dobrowolności

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<sup>6</sup> Zauważmy, że to, że zdarzenia naturalne czynią nasze reakcje dobrowolnymi wynika trywialnie z formuły Nozicka. Ostatecznie przecież zdarzenia naturalne z definicji wykluczają ludzką interwencję. A zatem presupozycja formuły Nozicka nie byłaby spełniona: nie byłoby nikogo, kto bezprawnie ograniczyłby zbiór możliwości osoby *A*.

<sup>7</sup> W tej z konieczności krótkiej ekspozycji libertariańskich uprawnień skupimy się na tzw. uprawnieniach pierwszego rzędu, co automatycznie eliminuje np. obowiązki restytucyjne wynikłe z niewywiązania się z odpowiednich zobowiązań pierwszego rzędu.

<sup>8</sup> Idea superweniencji jest wyłożona m.in. w Hare (1952); Kim (2010); Harrison (2013).

<sup>9</sup> Rzezone dwa fakty (naturalne), na których superweniuje prawo własności do rzadkich zasobów zewnętrznych omawia e.g. Dominiak (2017).

<sup>10</sup> Analityczne wyjaśnienie fundamentalnych relacji jurydycznych znajduje się w m.in. Hohfeld (1913); Kramer (2002); Hurd and Moore (2018); McBride (2021).

oraz ich ocena w świetle tego, co wiemy skądinąd. To z kolei sprawia, że rozumowanie w niniejszej dysertacji częstokroć przybiera formę *modus tollens*. Na przykład, jeśli zmoralizowane rozumienie dobrowolności prowadzi do takich logicznych konsekwencji, które przeczą już dobrze uzasadnionym sądom w obrębie austro-libertarianizmu, to najpewniej należy zrewidować właśnie zmoralizowane pojęcie dobrowolności. Podobnie argumentujemy, że jeżeli to rozumienie dobrowolnej wymiany charakteryzujące austriacką ekonomię dobrobytu przesądza w założeniu kwestię efektywności wolnego rynku, to znowu należy uznać, że to zmoralizowana koncepcja dobrowolności (i.e. presuponująca libertariańską teorię dystrybucji uprawnień) jest wadliwa.<sup>11</sup> Zanim zagłębimy się w konkretne problemy powstałe na skutek przyjęcia zmoralizowanej koncepcji dobrowolności, wykażmy tematyczną oraz metodologiczną spójność niniejszej dysertacji.

Centralnym zagadnieniem podejmowanym w naszej rozprawie jest **normatywna idea dobrowolności**, tak jak jest ona rozumiana w libertarianizmie. Rozdział 1, zatytułowany „Moralized presuppositions of the libertarian theory of voluntariness [Zmoralizowane presupozycje libertariańskiej teorii dobrowolności]” oraz zawierający **artykuł 1** (i.e. Megger, Dawid, I. Wysocki. (2023) “Coercion, Voluntary Exchange, and the Austrian School of Economics,” *Synthese* 201, 8.) oraz **artykuł 2** (i.e. Wysocki, Igor. (2024). “Blackmail, Unproductive Exchanges, Fraud and the Libertarian Theory of Voluntariness,” *Polish Political Science Review* 12(1): 76–93.), rozpoznaje dwa główne problemy związane z rzeczoną zmoralizowaną koncepcją dobrowolnego działania. Pokazujemy, że skoro austriacka szkoła ekonomii (do której również będziemy odnosić się skrótowcem “ASE”) ze swoim postulatem wolności od wartościowań (*Wertfreiheit*) zmuszona jest logicznie do przyjęcia deskryptywnej idei (nie)dobrowolnej wymiany oraz przymusu i skoro przymus jest wystarczającym warunkiem tego, aby dana wymiana okazała się niedobrowolna, to ASE jest również logicznie zobowiązana do przyjęcia deskryptywnej idei przymusu. W trakcie opracowywania pożądanej deskryptywnej teorii przymusu, posilkujemy się teorią aktów mowy (a w szczególności pragmatyczną teorią ostrzeżeń, gróźb i ofert). Ponadto, jako punkt wyjścia służy nam teoria przymusu Lamonda (1996). Teoria to już jest praktycznie całkowicie wolna od normatywnych presupozycji. Ostatecznie rozwijamy niewartościującą teorię przymusu, która spójna jest z metodologicznymi deklaracjami austriaków.

Ponadto, w omawianym rozdziale wskazujemy kolejną rację, dlaczego zmoralizowane pojęcie dobrowolności powinno zostać zrewidowane. Twierdzimy bowiem, że libertariańska koncepcja dobrowolności wymaga poprawek w świetle pewnych odkryć co do natury *niektórych* propozycji szantażu. Nasze rozumowanie przebiega następująco: libertarianie obstają przy zakazie oszustw. Wymiany wskutek oszustw nie są dobrowolnie zawarte. Jednak libertarianie są za legalizacją wszelkich wymian zachodzących na skutek szantażu, co wynika z przyjmowanej przez nich zmoralizowanej koncepcji dobrowolności, która to koncepcja interpretuje dobrowolne działania jako wymagające jedynie braku przymusu (albo też braku groźby z konieczności zapowiadającej pogwałcenie co najmniej jednego z uprawnień odbiorcy groźby). Dlatego też twierdzimy, że libertarianie powinni przyjąć silniejszą koncepcję

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<sup>11</sup> To w tym sensie metoda (czy też epistemologia) przyjęta na potrzeby niniejszej dysertacji jest charakterystyczna dla *koherencjonizmu*.

dobrowolności, tj. taką która poza wymaganiem braku przymusu również wymagałaby braku ignorancji po stronie podmiotu działającego.

Następnym zagadnieniem, podjętym w rozdziale 2, zatytułowanym “Metaphysical Underpinnings of a Free Choice in ASE [Metafizyczne podstawy wolnego wyboru w ASE]” i zawierającym **artykuł 3** (i.e. Wysocki, Igor, Ł. Dominiak. (2021). “Dismantling Rothbard’s *Mantle of Science?*”, in *Austrian economics 150 years after Carl Menger, 10th International Conference The Austrian School in the 21st century*, Federico N. Fernández, Barbara Kolm, Victoria Schmid (eds.), Wien: Friedrich A. von Hayek Institut, 439–452.) oraz **artykuł 4** (i.e. Wysocki, Igor, Łukasz Dominiak. (2024a). “Austrian Economics and Compatibilist Freedom”, *Journal for the General Philosophy of Science* 55: 113–136.), są metafizyczne presupozycje dobrowolnego wyboru. Rzeczone zagadnienie o tyle wiąże się z centralnym zagadnieniem naszej dysertacji, o ile dobrowolny wybór presuponuje wolny wybór (*free choice*). Wolny wybór to taki, który jest spowodowany wolną wolą podmiotu działającego. Omawiany rozdział podejmuje następujące pytanie: do przyjęcia którego rodzaju koncepcji wolnej woli (libertariańskiej czy kompatybilistycznej) logicznie zmuszony jest austro-libertarianizm? Punktem wyjścia dla naszych rozważań jest Rothbardowska wersja austriackiej ekonomii, która to wersja odwołuje się do porządkowych skal wartości manifestujących się w ludzkim działaniu. Skoro według Rothbarda – wskutek perfekcyjnej harmonii pomiędzy działaniami, a skalami wartości kierującymi nimi – nie ma logicznie miejsca na wybór suboptymalnej opcji na skali wartości, Rothbardowska wersja ASE musi odrzucić wyznawany przez siebie metafizyczny libertarianizm. To bowiem libertariańska wolność pozwala na zachowanie się inaczej przy wszystkim innym równym – w szczególności przy tej samej skali wartości. Ponadto, pokazujemy, że przyjęcie determinizmu i tym samym optowanie za kompatybilistyczną koncepcją wolnej woli nie stanowi zagrożenia dla zjawiska ludzkiego działania. Dlatego też można sensownie mówić o np. perswazji, wyborze czy deliberacji nawet jeśli uznamy doktrynę determinizmu za prawdziwą.

Rozdział trzeci (i.e. “Normatively charged notion of voluntary exchange in Austrian welfare economics [Normatywnie nacechowane pojęcie dobrowolnej wymiany w austriackiej ekonomii dobrobytu]”), który składa się z **artykułu 5** (i.e. Wysocki, Igor, Ł. Dominiak. (2024). “Social Welfare, State Interventions, and Indeterminacy: In Defense of Rothbard,” *Zagadnienia Filozoficzne w Nauce* 76: 297–315.), **artykułu 6** (i.e. Wysocki, Igor. (2023). “Justice vis à vis Welfare: How Austrian Welfare Economics Should Fit in the Austro-Libertarian Framework”, *Economia Politica* 40: 445–467.) oraz **artykułu 7** (i.e. Wysocki, Igor, Ł. Dominiak. (2023). “How does Justice Relate to Economic Welfare? A Case against Austro-Libertarian Welfare Economics”, *Croatian Journal of Philosophy* 23(67): 51 – 67.), analizuje pojęcie dobrowolnej wymiany, tak jak jest ono rozumiane w austriackiej ekonomii dobrobytu, a szczególnie w jej Rothbardowskiej wersji. Analiza tego, co konstytuuje dobrowolną wymianę jest kluczowa, ponieważ – jak twierdzą austriacy – to tylko dobrowolne wymiany zwiększają dobrobyt społeczny (*social utility*). Artykuł 5 próbuje odeprzeć istotną krytykę wymierzoną w Rothbardowską ekonomię dobrobytu. O ile artykuł ten broni Rothbardowskiej teorii dobrobytu przeciwko konkretnym głosom krytycznym, artykuły 6 i 7 z kolei naświetlają teoretyczne problemy implikowane przez zmoralizowane pojęcie dobrowolnej wymiany, które rzeczona teoria przejmuje. Warto podkreślić, że austriacka ekonomia dobrobytu – szczególnie w jej

Rothbardowskiej wersji – jest związana z tematycznym rdzeniem niniejszej dysertacji (tzn. z normatywną ideą dobrowolnego działania) w ten sposób, że podług rozważanej właśnie teorii to właśnie dobrowolny charakter wymiany konstytuuje zarówno konieczny jak i wystarczający warunek tego, że wymiana okazuje się obopólnie korzystna. Ogólnie rzecz biorąc, rozdział 3 (a szczególnie artykuły 6 i 7) demonstrują, jakiego rodzaju problemy rodzi przyjęcie zmoralizowanej idei dobrowolnej wymiany przez austriacką ekonomię dobrobytu. Przede wszystkim pokazujemy, że pojmowanie dobrowolnej wymiany w zmoralizowany sposób, który przemycia libertariańską etykę przesądza kwestię efektywności wolnego rynku w założeniu. Niezaprzeczalnym jest to, że przesłanka jakoby wszelkie dobrowolne wymiany były obopólnie korzystne przynajmniej *ex ante* (patrz Rothbard, 2011b) jest wiarygodna. Jednak jeśli przemycimy definicyjnie libertariańską etykę praw własności do pojęcia dobrowolności, to nie sposób się dziwić, że okazuje się, że to jedynie wymiany dokonane z poszanowaniem libertariańskich praw jednostkowych zwiększają użyteczność społeczną (*social utility*). Mimo to ten manewr definicyjny nie pozwala osiągnąć niczego, albowiem wciąż można zasadnie zapytać, czy wymiany dokonujące się z poszanowaniem libertariańskich uprawnień jednocześnie są ekonomicznie efektywne. W artykule 6 sugerujemy, że produktywne wymiany w sensie Nozicka mogą służyć jako kryterium oceny tego, czy poziom użyteczności społecznej się podniósł. Ostatecznym wnioskiem rozdziału 3 (wyciągniętym w artykule 7) jest to, że sprawiedliwość oraz dobrobyt konstytują dwa logicznie odrębne ideały. Stąd też, co wydaje się interesujące, możemy wyobrazić sobie (1) wymiany sprawiedliwe, które jednocześnie zmniejszają dobrobyt społeczny oraz (2) wymiany niesprawiedliwe, które jednocześnie powiększają dobrobyt społeczny. Tak czy inaczej, w obrębie austro-libertarianizmu odnoga austriacka mogłaby badać zmiany w dobrobycie społecznym spowodowane przez wymiany zarówno sprawiedliwe jak i niesprawiedliwe. W ten oto sposób, austriacka ekonomia dobrobytu mogłaby być – co teoretycznie pożądaną – niezależną od libertariańskiej etyki.

Niniejszą dysertację zamyka rozdział 4 (i.e. “Choice vis-à-vis indifference in Austrian School of Economics [Wybór a obojętność w austriackiej szkole ekonomii]”), składający się z **artykułu 8** (i.e. Wysocki, Igor. (2021b). “The Problem of Indifference and Homogeneity in Austrian Economics: Nozick’s Challenge Revisited”, *Philosophical Problems in Science* 71: 9–44.) oraz z **artykułu 9** (i.e. Wysocki, Igor. (2024b). “Rejoinder to Block on Indifference”, *Philosophical Problems in Science* 76: 459–479.). Owe dwa artykuły są tematycznie związane z centralnym zagadnieniem niniejszej dysertacji o tyle, o ile zajmują się badaniem pojęciowych podstaw wyboru jako takiego, szczególnie w kontraście do pojęcia obojętności. Zgłębianie pojęciowych fundamentów wyboru jako takiego jest bowiem *a fortiori* zgłębianiem pojęciowych podstaw *dobrowolnego wyboru*. W rozdziale 4 stwierdzamy, że aby austriacy mogli nietautologicznie sformułować prawa malejącej użyteczności krańcowej oraz uniwersalne prawo preferencji czasowej, muszą oni wprzód posiadać niezależne pojęcie tego samego dobra ekonomicznego. W omawianym rozdziale wypracowujemy to niezbędne pojęcie, wprowadzając podwójne indeksowanie (w terminach czasu) fizycznych jednostek, które podmiot działający znajduje jednakowo użytecznymi. W ten sposób możemy przyznać stosowną rolę zarówno wyborowi jak i obojętności. Zauważamy bowiem, że austriacy rzeczywiście potrzebują pojęcia obojętności, aby skonceptualizować jednostki tego samego dobra ekonomicznego. Mimo to pokazujemy, że w każdym działaniu manifestuje się też preferencja (*strict preference*). Wyobraźmy sobie teraz że kolejno wykorzystujemy jednostki

tego samego dobra ekonomicznego jako środki do realizacji naszych kolejnych celów. W tej oto sytuacji pozostajemy indyferentni wobec użycia konkretnych fizycznych jednostek (w końcu każdą z nich uznajemy za jednakowo użyteczną). Z drugiej strony jeśli chodzi o cele, to ewidentnie każda kolejna jednostka użyta jest jako środek do zaspokojenia mniej pilnej potrzeby. Dlatego też prawo malejącej użyteczności krańcowej wymaga do swego sformułowania zarówno pojęcia obojętności jak i ścisłej preferencji (*strict preference*). Krytyka Nozicka (1977) wymierzona w austriaków była poprawna, ale austriacka teoria wychodzi z niej obronną ręką. Niniejszą dysertację zamyka artykuł 9, który podejmuje zadanie dalszej obrony teorii wyboru i indyferencji (opracowanej w artykule 8) wobec zarzutu skierowanego przeciwko niej przez Blocka (2022). Spis treści niniejszej dysertacji prezentuje się następująco.

## SPIS TREŚCI

### **Rozdział 1:** Moralized presuppositions of the libertarian theory of voluntariness

**Artykuł 1:** Megger, Dawid, I. Wysocki. (2023) “Coercion, Voluntary Exchange, and the Austrian School of Economics,” *Synthese* 201, 8.

**Artykuł 2:** Wysocki, Igor. (2024a). “Blackmail, Unproductive Exchanges, Fraud and the Libertarian Theory of Voluntariness,” *Polish Political Science Review* 12(1): 76–93.

### **Rozdział 2:** Metaphysical underpinnings of a free choice in ASE

**Artykuł 3:** Wysoki Igor, Ł. Dominiak. (2021). “Dismantling Rothbard’s *Mantle of Science*?”, in *Austrian economics 150 years after Carl Menger, 10th International Conference The Austrian School in the 21st century*, Federico N. Fernández, Barbara Kolm, Victoria Schmid (eds.), Wien: Friedrich A. von Hayek Institut, 439–452.

**Artykuł 4:** Wysocki, Igor., Łukasz Dominiak. (2024a). “Austrian Economics and Compatibilist Freedom”, *Journal for the General Philosophy of Science* 55: 113–136.

### **Rozdział 3:** Normatively charged notion of voluntary exchange in Austrian welfare economics

**Artykuł 5:** Wysocki Igor, Ł. Dominiak. (2024b). “Social Welfare, State Interventions, and Indeterminacy: In Defense of Rothbard,” *Zagadnienia Filozoficzne w Nauce* 76: 297–315.

**Artykuł 6:** Wysocki, Igor. (2023). “Justice vis à vis Welfare: How Austrian Welfare Economics Should Fit in the Austro-Libertarian Framework”, *Economia Politica* 40: 445–467.

**Artykuł 7:** Wysocki Igor, Ł. Dominiak. (2023). “How does Justice Relate to Economic Welfare? A Case against Austro-Libertarian Welfare Economics” *Croatian Journal of Philosophy* 23(67): 51 – 67.

#### Rozdział 4: Choice vis-à-vis indifference in Austrian School of Economics

**Artykuł 8:** Wysocki, Igor. (2021b). “The Problem of Indifference and Homogeneity in Austrian Economics: Nozick’s Challenge Revisited”, *Zagadnienia Filozoficzne w Nauce* 71: 9–44.

**Artykuł 9:** Wysocki, Igor. (2024b). “Rejoinder to Block on Indifference”, *Zagadnienia Filozoficzne w Nauce* 76: 459–479.

Niniejsza dysertacja jest spójna nie tylko teoretycznie czy tematycznie, ale też metodologicznie. Jedną z metod charakteryzujących ją jest metoda równowagi refleksyjnej (*reflective equilibrium*), spopularyzowana przez Johna Rawlsa (1971). Dla przykładu, w rozdziale poświęconym austriackiej teorii dobrobytu (i.e. rozdział 3), pokazujemy, jak nieintuicyjne konsekwencje płyną z przyjęcia zmoralizowanej koncepcji dobrowolnej wymiany. Rzeczona zmoralizowana koncepcja przewiduje, że kupienie milczenia szantażysty jest obopólnie korzystne, podczas gdy zapłacenie poborcy podatkowemu już takie nie jest. Z kolei nasz przemyślany sąd wskazuje na to, że obie powyższe wymiany są ekonomicznie identycznie. Dlatego też mamy powód, aby odrzucić zmoralizowaną ideę dobrowolnej wymiany. Warto dodać, że metoda równowagi refleksyjnej polega na użyciu (o ile nie sprowadza się do<sup>12</sup>) eksperymentów myślowych. Te z kolei polegają na konstruowaniu czysto wyobrażonych sytuacji, które, abstrahując od wszelkich nieistotnych zmiennych, wywołują w nas pewne silne intuicje w interesującej nas dziedzinie. Stosownym przykładem z niniejszej dysertacji egzemplifikującym omawianą metodę jest porównanie płacenia szantażyście za milczenie do płacenia naszemu oprawcy, który grozi nam bezprawnym zniewoleniem, *ceteris paribus* (eksperyment myślowy, do którego odwołujemy się w artykule 1). Przy tak skonstruowanym eksperymencie myślowym wyłania się silna intuicja, jakoby obie wymiany były ekonomicznie nieodróżnialne, co z kolei podważa teorię, która przewiduje, że ekonomiczne efekty obu transakcji miałyby okazać się diametralnie różne. Innym przykładem jest eksperyment myślowy *Fridge*, który rozwijamy w artykule 7. Ten czysto wyobrażony scenariusz ma w nas wywoływać intuicję, jakoby do pomyślenia były wymiany, które zwiększają użyteczność społeczną, będąc jednocześnie niesprawiedliwymi. Ponadto, w artykule 4 odwołujemy się do kilku eksperymentów myślowych opisujących podmiot działający, którego celowe zachowania kierowane są różnymi skalami wartości w różnych światach możliwych. Te eksperymenty myślowe spełniają swą rolę o tyle, o ile abstrahują od elementów nierelevantnych, jednocześnie skupiając się wyłącznie na relacji pomiędzy zachowaniami podmiotu działającego, a skalami wartości kierującymi nimi. Krótko mówiąc, zadaniem eksperymentów myślowych jest ewokowanie pewnych intuicji, które z kolei służą do testowania interesujących nas teorii. Albo innymi słowy, to w świetle pewnych intuicji pewne teorie zostają albo dodatkowo potwierdzone, albo sfalsyfikowane. I to właśnie w tym sensie eksperymenty myślowe stanowią integralną część metody równowagi refleksyjnej. Odnotujmy też, że niniejsza rozprawa czyni użytek z Hohfeldowskiej analizy fundamentalnych pozycji jurydycznych czy też, szerzej mówiąc, z logiki deontycznej. W niniejszej dysertacji nie używamy słowa *uprawnienie* (*right*) wieloznacznie. Przeciwnie: rozróżniamy pomiędzy – co

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<sup>12</sup> Ostatecznie fundamentalne idee *sytuacji pierwotnej* oraz *zasłony niewiedzy*, zastosowane w przełomowej pracy Rawlsa (1971), były eksperymentami myślowymi.

niezwykle istotne – Hohfeldowską wolnością jurydyczną (*privilege* albo *liberty*), a Hohfeldowskim roszczeniem (*claim-right*). Hohfeldowska terminologia przenika artykuł 2, w którym to przypisujemy pewne pozycje jurydyczne szantażyście w stosunku do szantażowanego. W tym wypadku, ten pierwszy cieszy się wolnością do ujawniania pewnych informacji oraz do nieujawniania tychże w stosunku do szantażowanego. Tak ostry aparat analityczny pozwala uniknąć m.in. błędu ekwiwokacji w naszym rozumowaniu. Dodajmy jeszcze, że pewne argumenty w niniejszej pracy są sformalizowane w postaci sylogizmów albo za pomocą klasycznego rachunku zdań. Dla przykładu, artykuł 2 oraz artykuł 4 odwołują się do sylogistycznej reprezentacji argumentów, które są skądinąd werbalne.

Poniższa część wstępu przeznaczona jest dla czytelnika zainteresowanego bardziej zaawansowaną ekspozycją argumentów rozwijanych w niniejszej dysertacji, albowiem omawiamy w niej szczegółowo treść kolejnych rozdziałów.

### **Rozdział 1: Moralized presuppositions of the libertarian theory of voluntariness [Zmoralizowane presupozycje libertariańskiej teorii dobrowolności]: artykuły 1 & 2.**

Zwyczajowym jest rozumienie dobrowolnych działań jako działań wolnych od przymusu i ignorancji. Taka definicja jednak wciąż pozostawia pojęcia przymusu i ignorancji nieprzeanalizowanymi. Dlatego też **artykuł 1** (“Coercion, Voluntary Exchange, and the Austrian School of Economics”) oraz **artykuł 2** (“Blackmail, Unproductive Exchanges, Fraud and the Libertarian Theory of Voluntariness”) odpowiednio podejmują się zadania wypełnienia powyższych luk teoretycznych.

W artykule 1 wypracowujemy takie pojęcie przymusu, które byłoby spójne z metodologicznym postulatem wolności od wartościowań (*Wertfreiheit*) charakterystycznym dla ASE. Ponadto, wydaje się, że optymalnym byłoby zdefiniowanie przymusu w kategoriach charakterystycznych dla ludzkiego działania, czyli w terminach przekonania, oczekiwań, pragnień oraz intencji. Gdyby powyższy cel został osiągnięty, wartością dodaną stanowiłoby to, że w ten sposób czynimy też zadość typowo austriackiemu subiektywizmowi z jego charakterystycznym naciskiem na rozumienia ekonomii jako nauki, jak utrzymywał Mises (1998: 92–93), „nie traktującej o rzeczach czy przedmiotach namacalnych” tylko o „osobach, sensach, które nadają rzeczom i ich działaniach” (tłum. własne – I.W.).

Po przedstawieniu metodologicznych zasad austriackiej ekonomii artykuł 1 pokazuje, dlaczego teorie przymusu przyjmowane w austriackiej ekonomii do tej pory są niewystarczające. Odwołajmy się teraz do kilku przykładów. Przede wszystkim należy zauważyć, że wśród austro-libertarian standardowo przyjmuje się zmoralizowaną (*rights-based*) teorię przymusu. To, w jakiej relacji pojęcie uprawnień stoi do pojęcia przymusu można zilustrować, odwołując się do sposobu, w jaki libertarianie ujmują rozróżnienie pomiędzy szantażem a wymuszeniem (*extortion*) – patrz Block & Gordon (1985). Tym, co – według powyższych autorów – odróżnia groźbę wymuszenia (która konstytuuje przymus) od propozycji szantażu (która przymusu nie konstytuuje) jest to, że ta pierwsza zapowiada pogwałcenie uprawnień, podczas gdy ta druga nie. Dla przykładu, jeśli szantażysta grozi: „Zapłać mi albo ujawnię twój sekret”, to groźba ta nie stanowi przymusu, jako że ujawnienie sekretu osoby szantażowanej nie pogwałciłoby jej uprawnień. Mówiąc nieco precyzyjniej,

szantażowany nie posiadania uprawnienia, aby szantażysta nie zdradzał jego sekretu. Z drugiej strony, paradygmatycznym przykładem wymuszenia jest groźba „Pieniądze albo życie”. Według libertarian groźba ta stanowi przymus, jako że zapowiada pogwałcenie co najmniej jednego z uprawnień odbiorcy groźby. Ponieważ zakłada się, że odbiorca tejże ma prawo do swoich pieniędzy oraz do swego życia (ściślej mówiąc: ma negatywne uprawnienie do niebycia zabitym), omawiana groźba zapowiada nieuniknione pogwałcenie jednego z uprawnień ofiary. Dlatego też, rozważana właśnie propozycja konstytuuje *groźbę przymuszającą*.

Jak pokazujemy w artykule 1, jednym z głównych powodów, dlaczego teoria przymusu oparta na uprawnieniach jest wadliwa jest to, że daje one fałszywe przewidywania w austriackiej ekonomii dobrobytu. Owe fałszywe predykcje płyną z kolei z opartej na uprawnieniach koncepcji dobrowolnego wyboru (problemy wynikające z przyjęcia zmoralizowanej koncepcji dobrowolnego wyboru naświetlamy w szczególności w artykule 6 i 7). W tym momencie wystarczy wspomnieć, że skoro – według austro-libertarian – brak normatywnie rozumianego przymusu czyni działania automatycznie dobrowolnymi a ta normatywna (i.e. oparta na uprawnieniach) idea dobrowolności okazuje się wadliwa w dziedzinie ekonomii dobrobytu, to w takim wypadku należy zrewidować normatywne austro-libertariańskie rozumienie przymusu. Z tego to powodu staramy się wypracować deskryptywne, a nie normatywne pojęcie przymusu.<sup>13</sup>

Pokazawszy niedociągnięcia austriackich teorii przymusu, przechodzimy do rozważań z dziedziny pragmatyki, aby sprawdzić, czy teoria aktów mowy może posłużyć nam do wypracowania deskryptywnego pojęcia przymusu, które byłoby spójne z bliskim austriakom postulatem wolności od wartościowań. Ponadto, co się szczęśliwie składa, odkrywamy, że akty mowy (czy też akty illokucyjne) ostatecznie stanowią działania i jako takie nakierowane są na realizację celów mówiącego – tym razem jednak poprzez akt komunikacji. Tak czy owak powyższa obserwacja pozwala nam stwierdzić, że teoria aktów mowy nie jest sprzeczna z ekonomią. Co więcej, teoria aktów mowy oraz ekonomia stanowią właściwą część prakseologii – formalnej nauki o ludzkim działaniu. Ten wgląd z kolei daje nam asumpt do badania teorii aktów mowy w celu wypracowania takiego pojęcia przymusu, które okazałoby się spójne z metodologicznymi dezyderatami ASE.

Zagłębiwszy się w pragmatykę gróźb, odkryliśmy, że analiza przymusu powinna obracać się wokół szczególnego rodzaju gróźb warunkowych (i.e. *directive-commissive conditional threats*). Poza tym, okazuje się, że została już wypracowana pewna deskryptywna idea przymusu, która jest spójna z odkryciami dokonanyymi przez teorią aktów mowy oraz z

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<sup>13</sup> Należy zauważyć, że nie wszystkie austro-libertariańskie teorie przymusu są oparte na uprawnieniach. Na przykład teoria przymusu Herbenera (2008) opiera się na pojęciu *własności*. Groźby przymuszające miałyby w myśl tej koncepcji uderzać we własność ofiary. Jednak idea własności u Herbenera nie jest doprecyzowana. Można by ją interpretować jako własność naturalną (czy też socjologiczną) albo jako własność rozumianą normatywnie (jako opartą właśnie na uprawnieniach). Ale jeśli teoria Herbenera odnosi się ostatecznie do normatywnie rozumianej własności, to natrafia na nasze obiekcje wymierzone w zmoralizowane rozumienie przymusu i dobrowolności. Z drugiej strony, jeśli Herbener interpretuje własność naturalnie (czy też socjologicznie), to cierpi na tym jego charakterystycznie austriackie przywiązanie do subiektywizmu. Zadać można bowiem zasadne pytanie, dlaczego groźby przymuszające miałyby być ograniczone do tego, co ofiara posiada *naturalnie*. Ostatecznie przecież ekonomia nie sprowadza się do nauki o przedmiotach namacalnych. Poza krytyką teorii Herbenera (2008), pokazujemy również, dlaczego teoria Hayeka (1960) okazuje się również nieadekwatna.

austriackim programowym *Wertfreiheit*. Rzeczoną ideę przymusu wypracował Lamond (1996, 2000). Po pierwsze, Lamond (1996) rozróżnia pomiędzy intencją przymusu (*coercive intent*), której przedmiotem jest zmuszenie strony przymuszonej do podjęcia pewnego działania, a efektem przymusu (*coercive effect*), który polega na tym, że ofiara sądzi, że została zmuszona do podjęcia pewnego działania. Intencja przymusu jest warunkiem koniecznym dla wystąpienia groźby przymuszającej. Zacytujmy teraz warunki, które Lamond (1996: 225) stawia groźbom przymuszającym<sup>14</sup>:

- “P wysuwa groźbę przymuszającą wobec Q wtedy i tylko wtedy, gdy
- (1) P komunikuje Q swą intencję zrobienia X, chyba że Q zrobi Y oraz
  - (2) P zamierza poprzez (1) zobowiązać się do zrobienia X, chyba że Q zrobi Y oraz
  - (3) Zrobienie X przez P byłoby niemile widziane przez Q i P wie, dlaczego tak jest oraz
  - (4) (a) Racją dla której P robi (1) jest chęć sprawienia tego, że Q zrobi Y oraz  
(b) Racją, dla której P zobowiązuje się do zrobienia X, chyba że Q zrobi Y jest zarówno to, że X jest niemile widziane dla Q w absolutnym sensie oraz bardziej niemile widziane niż to, że Q miałby zrobić Y oraz  
(c) Q wie zarówno (4)(a) jak i (4)(b)”

Szczęśliwie się składa, że wszystkie powyższe warunki są spójne zarówno z teorią aktów mowy<sup>15</sup> jak i z ASE. (1) stwierdza akt illokucyjny (a tego typu akty egzemplifikują działanie), podczas gdy warunki (2) – (4) mówią tylko o tych stanach umysłu, które powodują działanie. Te stany intencjonalne to intencje, pragnienia oraz wiedza. Końcowa część artykułu 1 odpiera pewne zarzuty, który mogłyby zostać wysunięte przeciwko przyjętej przez nas teorii przymusu.

Podsumujmy: artykuł 1 rzucił nowe światło na problem dobrowolności, tak jak jest ona rozumiana w austro-libertarianizmie. Poprzez wypracowanie takiej koncepcji przymusu, która byłaby spójna z aparatem pojęciowym ASE, artykuł *ipso facto* pokazuje, jaki rodzaj przymusu wykluczyłby dobrowolność działania. Ostatecznie przecież to brak przymusu jest koniecznym warunkiem dobrowolności działań. Albo mówiąc równoważnie, brak przymusu stanowi dowód *prima facie* na dobrowolność podejmowanych działań. Jednak dobrowolność *prima facie* charakteryzująca wybór podmiotu działającego może zostać zniweczona (*defeated*) poprzez niewiedzę (*ignorance*) po stronie tegoż. I to właśnie problem niewiedzy jest głównym zagadnieniem podjętym w artykule 2.

Artykuł 2 bada pojęcie niewiedzy o tyle, o ile ma ona wpływ na oszukańczy charakter wymian. Z kolei analiza oszustwa (*fraud*) służy dalszemu rozjaśnieniu pojęcia dobrowolności, ponieważ bycie oszukanym (*defrauded*) zakłada działanie w stanie niewiedzy, a niewiedza z kolei stanowi dodatkowy czynnik niweczący dobrowolny charakter rozważanego działania.

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<sup>14</sup> Warto zauważyć, że groźby przymuszające niekoniecznie przymuszają, bowiem odbiorca groźby nie zawsze jej ulega. Dlatego też nie każda groźba przymuszająca jest udana.

<sup>15</sup> W szczególności, groźby przymuszające w sensie Lamonda (1996) idealnie zbiegają się z tzw. *directive-commissive conditional threats*.

Mówiąc konkretniej, artykuł 2 docieka natury relacji pomiędzy produktywnymi/nieproduktywnymi wymianami w sensie Nozicka (1974), a wymianami oszukańczymi/nie oszukańczymi. W trakcie naszych badań odkrywamy, że teoria Nozicka musi się zmierzyć z pewnymi problemami, ponieważ autor ten proponuje dwa kryteria do zakazywania różnego rodzaju wymian. Wydaje się, że teoria Nozicka zakazuje wymian które są (1) nieproduktywne<sup>16</sup> lub/i (2) oszukańcze. Następnym kluczowym odkryciem omawianego artykułu jest to, że istnieje logiczna możliwość wymian, które są nieproduktywne i jednocześnie nie oszukańcze. To że Nozick skłonny byłby zakazywać tego rodzaju wymian z kolei osłabia jego wierność wobec wyznawanej przez niego doktryny libertariańskiej. Ostatecznie według libertarian, brak oszustwa – przy założeniu, że przymus też nie ma miejsca – automatycznie czyni wymianę dozwoloną. Zanim jednak przedstawimy, jak artykuł 2 rozwiązuje to teoretyczne napięcie, musimy zarysować teorię nieproduktywności rozwiniętą przez Nozicka.

Po pierwsze, należy zauważyć, że wymiany produktywne i nieproduktywne w sensie Nozicka wyczerpują uniwersum wymian. Dlatego też, zdefiniujmy – tak jak to robi Nozick (1974) – jedynie wymiany nieproduktywne. Wymiany produktywne będą wtedy dopełnieniem wymian nieproduktywnych do uniwersum wszystkich wymian. Nozick definiuje dwa warunki konieczne, które wymiana musiałaby spełnić, aby być nieproduktywną.<sup>17</sup> Po pierwsze, wymiana nieproduktywna musi spełnić warunek, który Rothbard (2002: 245) ochrzcił mianem „drop dead” (padać trupem). Idea jest następująca: jeśli odbiorca propozycji miałby się lepiej, gdyby strona składająca propozycję nie miała z odbiorcą propozycji niczego do czynienia, wtedy, warunek “drop dead” jest spełniony. W artykule 2 zajmujemy się głównie wymianami mającymi miejsce wskutek szantażu. Dlatego też zilustrujmy teorię nieproduktywności rozwiniętą przez Nozicka, odwołując się do szantażu. Przede wszystkim łatwo zauważyć, że wszystkie propozycje szantażu spełniają warunek „drop dead”. Szantażowany bowiem miałby się lepiej, gdyby szantażysta po prostu padł trupem. Wtedy bowiem szantażowany nie musiałby wybierać pomiędzy, powiedzmy, swoją reputacją a swoimi pieniędzmi. Przy braku szantażu zachowałby bowiem i pieniądze, i reputację.

Drugi konieczny warunek, który wymiana musi spełnić, aby być nieproduktywną to warunek, który nazywamy „delegalization condition” (warunek delegalizacji). Idea jest następująca: jeśli pewna propozycja miałaby zostać zdelegalizowana, to jej odbiorca miałby się lepiej albo co najmniej nie gorzej. Innymi słowy, założywszy istnienie szantażysty (i.e. przy rozważaniu drugiego warunku szantażysta nie pada trupem), Nozick zaprasza nas do wyobrażenia sobie takiej propozycji szantażu, że jej odbiorca nie miałby się gorzej, gdyby ta została zdelegalizowana. Okazuje się, że aby propozycja szantażu spełniła warunek delegalizacji, propozycja ta musi stanowić błąd. Czyli, jeśli szantażysta nie zamierza wyegzekwować swej groźby w przypadku, gdy szantażowany pozostaje nieugięty, wtedy szantażowany w konfrontacji z bledzącym szantażystą miałby się co najmniej nie gorzej, gdyby tego typu propozycje szantażu (i.e. będące jednocześnie bledzeniami) zostały zdelegalizowane.

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<sup>16</sup> Nozick, jak zauważa Mack (1981: 186–187), traktuje nieproduktywność wymiany jako wystarczający warunek do jej zakazania. Podobnie oszukańczy charakter wymiany wystarczy do jej zakazania.

<sup>17</sup> Warto zauważyć, że rzeczony dwa warunki konieczne są łącznie wystarczające do uczynienia wymiany nieproduktywną.

Łatwo teraz zauważyć, że to spełnienie warunku delegalizacji okazuje się krytyczne dla oceny transakcji dokonanych na skutek szantażu. Przyczyną tego stanu rzeczy jest to, że ponieważ wszelkie wymiany dokonane wskutek szantażu spełniają warunek "drop dead", to w takim razie to warunek delegalizacji robi różnicę co do tego, czy wymiana spowodowana propozycją szantażu jest produktywna czy nie. I ponieważ to propozycje szantażu, które są jednocześnie blefami spełniają drugi warunek Nozicka, to tylko wymiany z blefującymi szantażystami okazują się nieproduktywne.

Zaprezentowawszy teorię nieproduktywności Nozicka, w omawianym artykule rozważamy następnie, co czyni wymianę oszukańczą. I znowuż podczas tych rozważań zwracamy szczególną uwagę na to, które wymiany dokonane wskutek szantażu są oszukańcze. Mówiąc z pewnym przybliżeniem, oszustwo (*fraud*) to kradzież *podstępem*. Innymi słowy, to, co konstytuuje oszustwo to sytuacja, w której pewna osoba podstępem sprawia, że druga zrzeka się tytułu własności. Jak z kolei to odkrycie ma się do oszukańczego charakteru wymian zawartych wskutek szantażu?

Otóż jeśli szantażysta w momencie składania swej propozycji nie zamierza wyegzekwować swej groźby na wypadek, gdyby jego ofiara okazała się nieugięta, ten pierwszy tym samym stosuje podstęp. Jeśli z kolei rzeczony podstęp sprawia, że ofiara szantażu zrzeka się tytułu własności do swych np. pieniędzy, to mamy do czynienia z przypadkiem oszustwa. Innymi słowy, to zwodzenie ofiary co do intencji szantażysty musi ostatecznie sprawić, że ofiara ulega szantażystyce. Jeśli pewien szantaż spełnia powyższe warunki, taki szantaż stanowi oszustwo. Z drugiej strony, jeśli w momencie składania swej propozycji szantażysta szczerze zamierza wyegzekwować swą groźbę na wypadek, gdyby ofiara miała okazać się nieugięta i ofiara ostatecznie płaci szantażystyce za milczenie, to tego typu wymiana nie stanowi oszustwa. Ostatecznie przecież taka wymiana nie zawiera elementu podstępu (i.e. zwodzenia ofiary co do intencji szantażysty), gdzie podstęp stanowi warunek konieczny oszustwa.

Następnie pokazujemy, że cecha bycia nieproduktywną i oszukańczą są logicznie niezależne. To z kolei oznacza, że cztery poniższe kategorie są logicznie możliwe: (1) nieproduktywne i oszukańcze wymiany; (2) produktywnie i nie oszukańcze wymiany; (3) nieproduktywne i nie oszukańcze wymiany oraz (4) produktywnie i oszukańcze wymiany. W tym momencie pojawia się jednak pewna obawa. Skoro Nozick zakazuje nieproduktywnych wymian właśnie dlatego, że są nieproduktywne, a jednocześnie zezwala na wymiany nie oszukańcze, to czy teoria Nozicka nie generuje sprzecznych werdyktów deontycznych, zezwalając na tego typu wymiany (i.e. typu (3)), a jednocześnie ich zakazując? Podobnie, jeśli Nozick zezwala na wymiany produktywnie, ale pryncypialnie zakazuje wymian oszukańczych, to czy kategoria (4) stanowi podobne zagrożenie dla teorii Nozicka?

W omawianym artykule sugerujemy, jak teoria Nozicka mogłaby odeprzeć powyższy zarzut. Ostatecznie możemy interpretować Nozicka w ten sposób, że uznaje on zarówno nieproduktywność oraz oszukańczość wymian za osobno wystarczające do tego, by uznać takie wymiany za niedozwolone. To z kolei wcale nie implikuje tego, że zarówno produktywność jak i nie oszukańczość wymian są osobno wystarczające dla ich dozwolenia. Przeciwnie, zarówno produktywność jak i nie oszukańczość mogą być wtedy osobno uznane za jedynie konieczne warunki dla zezwolenia na nie. Innymi słowy, wymiany muszą spełnić surowsze wymaganie,

aby zostać uznane za dozwolone niż aby zostać uznane za niedozwolone. Życzliwa interpretacja teorii Nozicka uwalnia ją od wszelkich logicznych nieścisłości.

A jednak nawet jeśli uwolnimy teorię Nozicka od deontycznych sprzeczności, to wciąż pozostaje jeden problem do rozwiązania. Żeby zilustrować rzeczony problem, raz jeszcze rozważmy kategorię (3). Twierdzimy, że dla deontologicznych libertarian, nie oszukańczość wymiany (założywszy brak przymusu) sama w sobie stanowi wystarczający warunek dla jej dozwolenia. Dlatego też utrzymujemy, że to bezkompromisowy deontologiczny libertarianizm Nozicka powinien przebić jego utylitarystyczną teorię nieproduktywności. A zatem, próbując rozwiązać ten wewnętrzny konflikt w teorii Nozicka, sugerujemy, że zabranianie wymiana powinno śledzić (*track*) wyłącznie ich oszukańczy charakter. Mówiąc równoważnie, wszelkie oszukańcze wymiany powinny zostać zakazane bez względu na to, że niektóre mogą okazać się produktywne.

Pozostała część artykułu 2 skupia się na implikacjach naszych odkryć dla libertariańskiej teorii dobrowolności. Jak wspomnieliśmy już wcześniej, libertariańska teoria dobrowolności jest oparta na uprawnieniach. Przypomnijmy sobie Nozickowskie rozumienie (nie)dobrowolności. Jeśli osoby *X* i *Y* wchodzi w interakcję, to, aby przetestować czy osoba *X* reaguje dobrowolnie na to, że osoba *Y* ogranicza zbiór możliwości *X* należy sprawdzić, czy *Y* ogranicza ten zbiór prawnie czy bezprawnie. Jeśli bezprawnie, to reakcja *X* jest niedobrowolna. Jeśli prawnie, to *X* reaguje dobrowolnie. Wróćmy teraz do powyżej rozważanej dystynkcji pomiędzy szantażem a wymuszeniem (patrz artykuł 1). Jak pamiętamy, propozycje szantaży – w przeciwieństwie do gróźb wymuszenia – nie zapowiadają pogwałcenia uprawnień. Innymi słowy, szantażysta grozi zrobieniem czegoś, do czego ma skądinąd prawo. Dlatego szantażysta (*Y*) nie ogranicza bezprawnie zbioru możliwości szantażowanego (*X*). Z tego oto powodu jeśli *X* płaci za milczenie *Y*, to akt ten jest dobrowolny według libertariańskich standardów. Ale, jak łatwo zauważyć, to oznacza, że przyjęcia zmoralizowanego standardu dobrowolności sprawiłoby, że wszystkie wymiany dokonane wskutek szantażu okazałyby się dozwolone. Jednak niezależnie ustaliliśmy, że niektóre wymiany na skutek szantażu są oszukańcze. A libertarianie bezkompromisowo zakazują oszustw. Dlatego wymian oszukańczych nie dokonujemy dobrowolnie. Wniosek artykułu 2 jest sceptyczny: wygląda na to, że należy zrewidować pojęcie dobrowolności oparte na uprawnieniach.

## **Rozdział 2: Metafizyczne podstawy wolnego wyboru w ASE: artykuły 3 & 4**

**Artykuł 3** (“Dismantling Rothbard’s *Mantle of Science*?”) oraz **artykuł 4** (“Austrian Economics and Compatibilist Freedom”) podejmują następujący problem: którego rodzaju wolna wola (libertariańska czy kompatybilistyczna) jest do pogodzenia z metodologią ASE? Pod tak zwanym metafizycznym libertarianizmem podpisuje się większość austriaków.<sup>18</sup> Metafizyczni libertarianie utrzymują, że przy wszystkim innym równym, a w szczególności przy tych samych pragnieniach i przekonaniach, podmiot działający może przynajmniej

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<sup>18</sup> Jedynie Ludwig von Mises (1998) explicite utrzymywał, że przyczynowy determinizm jest doktryną stosującą się uniwersalnie, z czego wynika, że każde ludzkie działanie jest przyczynowo zdeterminowane. Mniej jednoznaczny w tej kwestii jest już Hayek ([1960] 2011: 138), choć racjonalna rekonstrukcja jego myśli również wskazuje na to, że ten autor też podpisywał się pod rzekomą prawdziwością determinizmu.

czasami zachować się rozmaicie. Wyrażmy tę samą treść w terminologii światów możliwych. Załóżmy, że moment w którym podmiot działający *A* w tym świecie ( $P_1$ ) *de facto* wybrał opcję  $O_1$  jest tym momentem ( $t_1$ ), w którym *A* wybierał w sposób wolny w sensie metafizycznego libertarianizmu. Oznacza to *ipso facto* tyle, że istniał możliwy świat  $P_2$ , w którym to w czasie  $t_1$  *A* wybierał inną opcję niż  $O_1$ . Zilustrujmy jeszcze metafizyczny libertarianizm bardziej namacalnym przykładem. Jeśli w  $t_1$  *A* zdecydował się *de facto* na pójście do kina i dokonał on tym samym *wolnego wyboru* w sensie metafizycznego libertarianizmu, to w  $t_1$  *A* mógł być przy tych samych pragnieniach, skalach wartości oraz przekonaniach zachować się inaczej. Innymi słowy, *A* mógł być nie pójść do kina, a zrobić coś innego. Odnotujemy też, że metafizyczny libertarianizm jest jedną z pozycji w ramach tzw. inkompetybilizmu. Według inkompetybilizmu wolna wola jest sprzeczna z determinizmem. A zatem, inkompetybiliści twierdzą, co następuje. Jeśli determinizm jest prawdziwy, to człowiek nie posiada wolnej woli (stanowisko określane też mianem *hard determinism*). Z drugiej strony, jeśli człowiek posiada wolną wolę, to przyczynowy determinizm jest doktryną fałszywą.

Wbrew praktycznie powszechnej zgodzie panującej wśród austro-libertarian co do rodzaju metafizycznej wolności, w którą zaopatrzone jest podmiot działający, w rozdziałach 3 i 4 argumentujemy za tym, że austriacy są logicznie zobowiązani do zaakceptowania prawdy determinizmu i tym samym do przyjęcia tzw. kompatybilistycznej koncepcji wolnej woli. Kompatybiliści utrzymują, że wolna wola jest niesprzeczna z determinizmem.<sup>19</sup> A zatem, według kompatybilistów, wszystkie cztery poniższe kombinacje są logicznie możliwe:

- (1) Człowiek posiada wolną wolę i determinizm jest prawdziwy
- (2) Człowiek posiada wolną wolę, a determinizm jest fałszywy
- (3) Człowiek nie posiada wolnej woli, a determinizm jest prawdziwy
- (4) Człowiek nie posiada wolnej woli i determinizm jest fałszywy

W omawianym fragmencie dysertacji argumentujemy za stanowiskiem (1). Utrzymujemy, że austriacy ekonomiści zmuszeni są logicznie do przyjęcia prawdy determinizmu, co z kolei wymusza przyjęcie *kompatybilistycznej* koncepcji wolnej woli, jako że metafizyczna libertariańska wolna wola jest z definicji sprzeczna z determinizmem. Albo innymi słowy: jeśli austriacy mają już opowiadać się za istnieniem jakiegokolwiek rodzaju wolnej woli, to w świetle odkrycia, że muszą oni zaakceptować determinizm, jedyny rodzaj wolnej woli, który pozostaje im do dyspozycji to kompatybilistyczna wolna wola.

Nasz argument za rzekomą koniecznością przyjęcia kompatybilistycznego pojęcia wolnej woli stosuje się najsilniej do Rothbardowskiej gałęzi austriackiej ekonomii. Dzieje się tak, ponieważ rzeczona gałąź zakłada istnienie tak zwanych porządkowych skal wartości, które manifestują się (przynajmniej częściowo) w działaniu. Zilustrujmy teraz prostym przykładem relację między manifestującymi się skalami wartości a ludzkimi działaniami.<sup>20</sup> Załóżmy, że

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<sup>19</sup> Oczywiście można by zatem dodać, że kompatybiliści twierdzą, że wolna wola jest czymś innym niż sądzą inkompetybiliści. Aby zapoznać się z doktryną inkompetybilizmu, patrz m.in. van Inwagen (1983); Kane (1996). Jednymi z bardziej znamienitych kompatybilistów są z kolei Bok (1998); Dennett (2003); Fischer (2006).

<sup>20</sup> Nasz przykład nawiązuje do oryginalnego eksperymentu myślowego Rothbarda (2009).

działający podmiot  $A$  ma do dyspozycji 3 godziny, a pragnąłby w tym czasie zrealizować swoje cztery cele (przy czym realizacja każdego z nich zajmuje dokładnie godzinę). Te cztery cele to:

- (1) Obejrzenie odcinka serialu
- (2) Jazda rowerem
- (3) Czytanie książki
- (4) Przygotowanie obiadu

Wyobraźmy sobie teraz, że podmiot  $A$  w świecie  $P_1$  alokuje kolejne godziny do zrealizowania swych celów w następującym porządku:

1. godzina – jazda rowerem
2. godzina – czytanie książki
3. godzina – przygotowanie obiadu

Według Rothbarda ze sposobu w jaki podmiot  $A$  alokował kolejne godziny w celu zaspokojenia swoich celów możemy wyprowadzić wniosek dotyczący porządkowej skali wartości  $A$ . Otóż skala wartości kierująca działaniami  $A$  w  $P_1$  była następująca:

1. Jazda rowerem
2. Czytanie książki
3. Przygotowanie obiadu

Ogólnie rzecz biorąc, wnioskowanie z działań do skali wartości ma charakter epistemiczny. Ludzkie działania pozwalają odkryć (stanowią dowód na) skale wartości kierujące tymi działaniami. Z kolei relacja między skalami wartości, a ludzkimi działaniami jest *kauzalna*.<sup>21</sup>

Wyobraźmy sobie teraz jednak, że w innym możliwym świecie ( $P_2$ ), nasz podmiot działający  $A$  również dysponuje 3 godzinami i ma identyczne cztery cele do zrealizowania. Tym razem jednak,  $A$  alokuje kolejne godziny do zaspokojenia swych celów w następującym porządku:

1. godzina – czytanie książki
2. godzina – jazda rowerem
3. godzina – przygotowanie obiadu

Ta kolejność działań podjętych przez  $A$  pozwala nam znów wywnioskować skalę wartości kierującą podmiotem działającym  $A$  w  $P_2$ . Skala ta musiała przybrać następujący kształt:

1. Czytanie książki
2. Jazda rowerem
3. Przygotowanie obiadu

Zauważmy teraz, że w paradygmacie Rothbardowskim nie ma miejsce na metafizyczną libertariańską wolność woli. zilustrujemy wymagania stawiane przez libertariańską wolną wolę na przykładzie naszego podmiotu  $A$  i jego celów. Jeśli, jak w przykładzie ze świata  $P_1$ ,  $A$  wybrał

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<sup>21</sup> Oczywiście same pragnienia nie są w stanie spowodować działania. Dopiero pragnienia w połączeniu z przekonaniem są w stanie je wywołać.

w sposób wolny<sup>22</sup> spędzenie pierwszej godziny na jeździe rowerem, istnieje świat możliwy, w którym w tym samym czasie przy wszystkim innym równym (w szczególności przy tej samej skali wartości), *A* postanawia spędzić pierwszą godzinę na np. czytaniu książki. Ale jak widzieliśmy powyżej, z faktu, że nasz podmiot spędza pierwszą godzinę na czytaniu książki wynika to, że czytanie książki figuruje na 1. miejscu w kierującej jego działaniami skali wartości. Ogólnie mówiąc, według Rothbarda, ze zmiany sekwencji działań wnioskujemy o zmianie w skalach wartości. To właśnie z tego powodu Rothbardowska gałąź austriackiej ekonomii nie może z powodów logicznych przyjąć libertariańskiej wolnej woli. I to dlatego właśnie zmuszona jest ona przyjąć kompatybilistyczną koncepcję tejże. Zauważmy przy okazji, że przyjęcie przez austriaków kompatybilistycznej koncepcji wolnej woli nie zagraża idei ludzkiego działania. Ostatecznie bowiem nawet jeśli determinizm jest prawdziwy, to najczęściej (wyłączając odruchy bezwarunkowe) ruchy ludzkich ciał są *celowe*, tj. umotywowane kombinacjami dwóch stanów intencjonalnych: pragnień i przekonań. To z kolei jest niczym innym jak definicyjną (i przy okazji wystarczającą) cechą ludzkiego działania. Podsumowując, austriacy, przyjmując kompatybilistyczną koncepcję wolnej woli, zyskaliby jedynie na spójności swej teorii.

Tę myśl rozwijamy szczególnie w rozdziale 3, gdzie pokazujemy, że przyjęcie determinizmu nie prowadzi jeszcze do przyjęcia doktryny tzw. *popularnego fatalizmu*.<sup>23</sup> Na gruncie doktryny popularnego fatalizmu wszelkie zdarzenia (w tym ludzkie działania) dzieją się *niezależnie* od ludzkich pragnień i przekonań. Odwołując się do naszego powyższego przykładu ze skalami wartości podmiotu *A*, moglibyśmy powiedzieć na przykład, że *A* obejrzy odcinek serialu bez względu na to, czego *A* pragnie najbardziej oraz bez względu na to, jakie ma przekonania. Gdyby austriacy poprzez konieczność akceptacji determinizmu byli logicznie zmuszeni do zaadoptowania do swej teorii doktryny popularnego fatalizmu, to rzeczywiście austriacka ekonomia jako – ogólnie rzecz biorąc – nauka o ludzkich działaniach oraz wyborach jako takich upadłaby. Popularny fatalizm bowiem odbiera pragnieniom oraz przekonaniom jakąkolwiek sprawczość. Zgoła inaczej ma się sytuacja z kompatybilistyczną wolnością. Jak widzieliśmy powyżej, *A* w pewnym świecie możliwym spędza 1. godzinę na czytaniu książki, bo pragnie tego najbardziej. Podobnie w innym świecie możliwym: *A* spędza 1. godzinę na jeździe rowerem, ponieważ jest to coś, czego pragnie najbardziej. A zatem ponownie widać, że austriacy, przyjmując kompatybilizm zamiast metafizycznego libertarianizmu, zyskują jedynie na teoretycznej koherencji swego systemu.

Ponadto, w artykule 3 pokazujemy, w jaki sposób przyjęcie kompatybilizmu pozwala odeprzeć pewne szczególne obiekcje wymierzone przez Rothbarda w determinizm. Dla przykładu, Rothbard (2011a: 6) argumentuje, że “skoro ludzki umysł nie jest według

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<sup>22</sup> Jak się okaże, *A* nie mógł być wybrać niczego w sposób wolny w libertariańskim sensie. Powyższe rozważanie po prostu stanowi dowód nie wprost.

<sup>23</sup> Mackie (2015: 129) jasno odróżnia *popularny fatalizm* od *logicznego fatalizmu* w następującym fragmencie: “Fatalizm w tym sensie należy odróżnić od poglądu (często zwanego też “popularnym fatalizmem), który wyraża slogan “co ma być, to będzie niezależnie od tego, co zrobię”. Pogląd ten sugeruje, że moje działania są przyczynowo nieistotne dla tego, co ma się skądinąd wydarzyć. Fatalista logiczny twierdzi, że nie mam możliwości zachowania się inaczej niż *de facto* się zachowuję. To przekonanie należy odróżnić od absurdałnej doktryny *popularnego fatalizmu*. Według tejże bowiem, jeśli miałbym zachować się inaczej, to efekt byłby i tak zawsze ten sam (tłum. własne – I.W.).”

determinizmu wolny aby myśleć i wyciągać wnioski dotyczące rzeczywistości, to absurdalnym byłoby, gdyby *X* próbował przekonać *Y* bądź kogokolwiek innego do determinizmu.” (tłum. własne: I.W.) Ale w tym momencie odpowiedź na powyższy fragment wydaje się już oczywista. Rothbard ewidentnie myli determinizm z popularnym fatalizmem. Jeśli ktoś dostaje racje, aby przyjąć determinizm, następnie odpowiada na te racje i ostatecznie akceptuje determinizm, to ten ktoś rzeczywiście zostaje *przekonany*. Akt perswazji bowiem okazuje się skuteczny właśnie poprzez podawanie racji. To właśnie racje mają w rzeczonym akcie moc sprawczą. A zatem wcale nie jest absurdalnym – wbrew temu, co sądzi Rothbard – dochodzenie do pewnych przekonań nawet w warunkach determinizmu. To raczej popularny fatalizm czyniłby perswazję niemożliwą. Wtedy to jednostki działające rzeczywiście posiadałyby określony zbiór przekonań *bez względu* na podjęte działania (wliczając w nie też akty perswazji). Artykuł 3 w podobny sposób rozprawia się z innymi pomniejszych Rothbardowskimi uwagami podającymi determinizm w wątpliwość. Podsumowując, artykuł 3 i 4 pokazują, że kompatybilizm nie tylko jest odporny na krytykę Rothbarda (2011a), ale też że jego przyjęcie wzmocniłoby teoretyczną spójność austriackiej szkoły ekonomii.

### **Rozdział 3: Normatywnie nacechowane pojęcie dobrowolnej wymiany w austriackiej ekonomii dobrobytu: artykuły 5, 6 & 7.**

W **artykule 5** (“Social Welfare, State Interventions, and Indeterminacy: In Defense of Rothbard”), **artykule 6** (“Justice vis à vis Welfare: How Austrian Welfare Economics Should Fit in the Austro-Libertarian Framework”) oraz **artykule 7** (“How does Justice Relate to Economic Welfare? A Case against Austro-Libertarian Welfare Economics”) poddajemy krytyce austriacką ekonomię dobrobytu (szczególnie w jej Rothbardowskiej wersji). Rozdział ten ma następującą strukturę. Najpierw broni Rothbardowskiej teorii dobrobytu przed kilkoma znaczącymi krytycznymi głosami. Okazuje się jednak, że próba rehabilitowania teorii Rothbarda jest tylko częściowo skuteczna, jako że kolejne artykuły rozpoznają rzeczywiście słabe punkty tejsze.

Mimo to, jak pokazuje artykuł 5, istnieją pewne krytyczne uwagi skierowane przeciwko Rothbardowskiej teorii dobrobytu, które to rzeczona teoria jest w stanie odeprzeć. W szczególności próbowano krytykować drugie Rothbardowskie twierdzenie o dobrobycie. Utrzymuje się w nim, że „żadna interwencja rządowa nie jest w stanie zwiększyć użyteczności społecznej” (tłum. moje – I.W.). Należy zauważyć, że w zasadzie wszyscy krytycy (e.g. Caplan (1999); Kvasnička (2008); Prychitko (1993)) wysuwają hipotezę, jakoby to przyjęcie przez Rothbarda pojęcia tzw. *Pareto-Superiority*<sup>24</sup> osłabiło Rothbardowską krytykę interwencji rządowych. Wymiany, który konstytuują tzw. Pareto-superior moves to takie wymiany, które sprawiają, że choć jedna osoba ma się lepiej i jednocześnie nikt nie ma się gorzej. Otóż owi

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<sup>24</sup> Tzw. *Pareto-Superiority* czy też *Pareto-superior moves* nie są tym samym, co efektywność w sensie Pareto. To drugie pojęcie odnosi się do pewnego stanu równowagi, w którym to niczyja sytuacja nie może być poprawiona bez jednoczesnego pogorszenia sytuacji kogoś innego. *Pareto-superior moves* z kolei odnoszą się do sytuacji (w szczególności wymian), w których dobrostan co najmniej jednej osoby poprawił się bez pogorszenia dobrostanu kogokolwiek innego. Należy zauważyć, że *Pareto-superior moves* nie implikują efektywności w sensie Pareto. Efektywność w sensie Pareto to ostatecznie stan, w którym żadne Pareto-superior moves nie mogą mieć już miejsca z definicji.

krytycy zauważają, że skoro rządowe interwencje poprawiają dobrostan niektórych osób a pogarszają innych, to ekonomiczne efekty rzeczonych interwencji są po prostu niedookreślone. Ponieważ skutek tych interwencji niektórzy tracą, a niektórzy zyskują i nie możemy porównywać użyteczności międzyosobowo, to wydaje się, że co najwyżej możemy zawiesić osąd w kwestii ekonomicznych efektów rządowych interwencji. Ale z kolei jeśli ekonomiczny wpływ owych interwencji jest niedookreślony w silnym sensie<sup>25</sup>, wtedy Rothbardowska ekonomiczna krytyka interwencjonizmu traci na sile. Pochylmy się zatem nad zasadą optymalności w rozumieniu Pareto (*Unanimity Rule*), tak jak ją rozumie Rothbard, aby sprawdzić, czy można wysunąć argument za *slabym*, a nie silnym rozumieniem niedookreśloności efektów rządowych działań.

Rothbard (2011b: 314) utrzymuje, że istnieje tylko jeden rodzaj sytuacji, kiedy to możemy z pewnością stwierdzić, że użyteczność społeczna wzrosła. Polega on na tym, że „żadna osoba nie ma się gorzej wskutek zmiany (a co najmniej jedna osoba ma się lepiej) (tłum. własne – I.W.).” A zatem, gdy mamy do czynienia z wymianami, na skutek których mamy zarówno wygranych jak i przegranych, to, ekonomicznie rzecz biorąc, efekt tychże jest niedookreślony. To z kolei rodzi pytanie: czy to niedookreślenie jest słabe czy silne? Twierdzimy, że to właśnie słabe niedookreślenie wynika z Rothbardowskiego przekonania zacytowanego powyżej. Zauważmy, że Rothbard utrzymuje, że *możemy* powiedzieć, że użyteczność społeczna wzrosła *jedynie* w przypadkach, w których mamy wyłącznie beneficjentów przy braku przegranych. To z kolei implikuje – przez kontrapozycję – że jeśli mamy zarówno beneficjentów jak i przegranych, to nie możemy powiedzieć, że użyteczność społeczna wzrosła. Ale tego rodzaju sceptycyzm to nic innego jak słabe niedookreślenie. Jeśli tak, to Rothbardowska krytyka działań rządów wcale nie jest anemiczna.

Krytycy wskazują też na to, że Rothbardowska teoria wikła się w sprzeczność. Odeprzyjmy też tę obiekcję. Po pierwsze, należy oddać sprawiedliwość krytykom Rothbarda, kiedy ci zauważają, że nasz autor (Rothbard, 2011b: 322) twierdzi, że ekonomiści „nie mogą powiedzieć niczego na temat społecznej użyteczności” kiedy „niektórzy wyraźnie zyskali, a inni wyraźni stracili wskutek rządowych działań”, żeby już na kolejnej stronie (Rothbard, 2011b: 323) skonstatować, że “żadne działanie rządowe nie jest w stanie podnieść użyteczności społecznej.” (tłum. własne – I.W.) Mimo to, utrzymujemy, że wystarczy tylko życzliwie odczytać teorię Rothbarda, by uwolnić ją od tej (rzekomej) sprzeczności. Gdy Rothbard twierdzi, że “nie [możemy] powiedzieć niczego na temat społecznej użyteczności” gdy tylko pojawiają się zarówno beneficjenci jak i przegrani, to „niczego” należy interpretować jako wskazujące na *slabe* niedookreślenie. Nieżycliwym byłoby twierdzić, że Rothbard zaprzecza samemu sobie na dwóch kolejnych stronach. Sądzymy, że powyższe rozważania skutecznie bronią Rothbardowskiej ekonomii dobrobytu przed zarzutami wymienionych krytyków. Jednak

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<sup>25</sup> To, co w omawianym artykule rozumiemy przez *niedookreślenie w silnym sensie* to to, że nie możemy powiedzieć absolutnie niczego na temat wpływu interwencji rządowych na użyteczność społeczną. Innymi słowy, interwencje te mogą podnieść użyteczność społeczną, zmniejszyć ją albo pozostawić ją na tym samym poziomie, na którym była. Z kolei poprzez *niedookreślenie w słabym sensie* będziemy rozumieli to, że interwencje rządowe albo zmniejszają użyteczność społeczną, albo co najwyżej zostawiają ją na tym samym poziomie, na którym ta była.

kolejne artykuły niniejszej dysertacji obnażają m.in. pewne niedociągnięcia Rothbardowskiej teorii.

Zadanie artykułu 6 jest dwojakie: (1) poddać krytyce Rothbardowski argument za rzekomą efektywnością wolnego rynku oraz (2) pokazać, jaką niezależną<sup>26</sup> rolę miałyby odgrywać austriacka teoria dobrobytu w obrębie austro-libertariańskiego paradygmatu.

Punkt (1) zawiera sylogistyczną rekonstrukcję słynnego Rothbardowskiego (2011b) argumentu za rzekomą ekonomiczną wydajnością reżimu wolnorynkowego. Po rzeczonyj rekonstrukcji argument ten przybiera następującą postać:

1. Wszystkie dobrowolne wymiany są obopólnie korzystne (albo przynajmniej są one korzystne dla stron wymiany *ex ante*).
2. Wszystkie wymiany rynkowe to wymiany dobrowolne.

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3. Wszystkie rynkowe wymiany są obopólnie korzystne (albo przynajmniej są one korzystne dla stron wymiany *ex ante*).

Twierdzimy, że w powyższym argumencie Rothbard popełnia błąd *petitio principii*.<sup>27</sup> Szczególnie łatwo to zauważyć, gdy weźmiemy pod uwagę fakt, że sam Rothbard traktuje przesłankę (2) jako przesłankę definicyjną. Innymi słowy, definiuje on wymiany wolnorynkowe jako sumę wymian dobrowolnych. (Rothbard, 2011b: 320) Ale jeśli tak, to przesłanka (1) wyraża ten sam sąd logiczny, co wniosek (3). W tym momencie docieramy do sedna krytycznej części artykułu 6. Zauważamy bowiem, że jedyni odbiorcy, którzy mogą uznać Rothbardowski argument za przekonujący to ci, którym obca jest językowa konwencja definiowania wymian wolnorynkowych w terminach wymian dobrowolnych. Innymi słowy, argument Rothbarda może dostarczyć racji do bycia przekonanym co do wniosku płynącego z tegoż tylko tym odbiorcom, którzy do tej pory nie poznali definicji wymian wolnorynkowych. Odbiorcy ci rzeczywiście mogą uznać (3) za objawienie, kiedy dowiedzą się, że wymiany wolnorynkowe to nic innego jak suma wymian dobrowolnych. Nawet jeśli poczynimy to ustępstwo wobec argumentu Rothbarda, to i tak nie sposób przyznać, że argument ten jest przekonujący *ekonomicznie*. Albowiem odbiorcom, którzy znają definicję wymian wolnorynkowych argument Rothbarda nie dostarcza żadnych niezależnych racji do uwierzenia w (3). Jest tak ponieważ, jak już zauważyliśmy, (3) niesie tę samą informację co (1). Nic nie stanowi racji dla siebie. A zatem (1) nie stanowi żadnego argumentu na rzecz (3). To właśnie w tym sensie Rothbard popełnia błąd *petitio principii*.

Krytyczna część omawianego rozdziału czyni jeszcze jedną kluczową uwagę co do wymogu, który musiałyby spełnić ekonomia dobrobytu wpisującą się w paradygmat austro-libertariański. Otóż, ekonomia owa nie może w swej definicji obopólnie korzystnych wymian przemycać jakichkolwiek norm libertariańskich. Relatywnie niekontrowersyjna jest przesłanka, jakoby wszystkie dobrowolne wymiany były obopólnie korzystne. Jeśli jednak dobrowolność

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<sup>26</sup> Niezależną od *stricte* libertariańskiej teorii sprawiedliwości.

<sup>27</sup> Jak zamierzamy pokazać w dalszej części tekstu, błąd ten jest zależny od epistemicznej sytuacji odbiorcy argumentu. Jednak, jak mniemamy, nawet ta relatywizacja błędu *petitio principii* nie pozbawia naszej krytyki argumentu Rothbarda decydującej siły.

wymiany presuponuje jej zgodność z libertariańskimi normami sprawiedliwości, to efektywność wolnego rynku zostaje raczej już założona, a nie uzasadniona.

Następnie w pozytywnej części rozdziału sugerujemy, że aby austriacka teoria dobrobytu była konceptualnie w stanie rzucić światło na rzekomą efektywność wolnego rynku (bez przesądzania tej kwestii w swych założeniach), to powinna ona, ogólnie rzecz biorąc, pojmować dobrobyt w terminach zaspokajania preferencji (*preference satisfaction*) uczestników wymiany. Mówiąc nieco konkretniej, sugerujemy, żeby wymiany zwiększające dobrobyt społeczny były pojmowane w terminach wymian produktywnych w sensie Nozicka, a wymiany obniżające poziom dobrobytu społecznego w terminach wymian nieproduktywnych w sensie Nozicka.<sup>28</sup> Tego rodzaju ujęcie wymian podnoszących i obniżających dobrobyt społeczny nie rozstrzygałoby kwestii w założeniu – w przeciwieństwie do teorii Rothbarda. Przy naszym ujęciu twierdzimy, że nieproduktywne wymiany wolnorynkowe są co najmniej logicznie możliwe.

Artykuł 7 idzie o krok dalej. Podczas gdy w artykule 6 poruszaliśmy się w uniwersum dobrowolnych (wolnorynkowych) wymiany i próbowaliśmy zademonstrować nieproduktywność niektórych z tychże, ambicją artykułu 7 jest pokazanie, że dobrobyt i sprawiedliwość konstytuują dwa logicznie niezależne ideały. Mówiąc konkretniej, następujące kombinacje są logicznie możliwe. Istnieją (1) sprawiedliwe i jednocześnie efektywne wymiany jak też (2) wymiany niesprawiedliwe i jednocześnie nieefektywne. Co bardziej interesujące, do pomyslenia są też (3) wymiany sprawiedliwe, ale nieefektywne oraz (4) wymiany niesprawiedliwe, ale efektywne. Zadaniem omawianego artykułu jest zilustrowanie kategorii (3) i (4), ponieważ kategorie (1) i (2) są niekontrowersyjne. Jeśli uda nam skonstruować przykłady wymian podpadających pod kategorie (3) i (4), to tym samym wysuniemy argument *prima facie* na rzecz logicznej niezależności dobrobytu i sprawiedliwości.

W tym celu posiłkujemy się dwoma eksperymentami myślowymi. Po pierwsze próbujemy zademonstrować, że sprawiedliwe wymiany niekoniecznie podnoszą dobrobyt. Twierdzimy, że na pewnym *relevantnym* poziomie opisu kupienie milczenia szantażysty jest ekonomicznie tożsame z płaceniem rozbójnikowi za darowanie nam życia. Mówiąc precyzyjniej, każda propozycja szantażu spełnia Nozickowski warunek *drop dead*, co oznacza, że odbiorca takiej propozycji miałby się lepiej, gdyby strona składająca taką propozycję nie miała z tą pierwszą niczego do czynienia. Rzeczywiście w obu przypadkach jeśli odbiorca propozycji ostatecznie się ugina i zrzeka się tytułu do swych pieniędzy, robi to on tylko po to, by zachować *status quo*. Przy istnieniu szantażysty, szantażowany nie może zachować swej dobrej reputacji za darmo. Na podobnej zasadzie, przy istnieniu rozbójnika, ofiara tegoż nie jest w stanie zachować życia za darmo. To z tego powodu szantaż wydaje się obniżać użyteczność społeczną. W najlepszym wypadku wymiana dokonana wskutek szantażu może stanowić zwykły transfer pieniędzy – coś, o czym trudno powiedzieć, że podnosi użyteczność społeczną. W tym miejscu należy odnotować, że podług standardów libertariańskich wymiany dokonane

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<sup>28</sup> Nozicka teoria nieproduktywności została już streszczona powyżej. Wysocki (2021a) zawiera bardziej szczegółowe omówienie rzeczonyj teorii oraz oferuję obronę tejże przed krytyką Macka (1981).

na skutek szantażu uznawane są za sprawiedliwe. Jak już wspomnieliśmy, aby szantaż uznać za niesprawiedliwy, musi on stanowić przymus, a aby szantaż stanowił przymus, musi on zawierać groźbę nieuniknionego pogwałcenia jednego z uprawnień ofiary. Jednak, jak argumentują libertarianie, ponieważ propozycja szantażu sama w sobie nie zapowiada pogwałcenia uprawnień szantażowanego, zarówno propozycja szantażu jak i ostatecznie wymiana dokonana na skutek tejże propozycji są zgodne z prawem. Ostatecznie przecież, przy propozycji szantażu szantażowany wybiera pomiędzy utratą swej reputacji (coś, do czego szantażowany nie ma skądinąd prawa) a stratą pieniędzy. Dlatego też libertarianie traktują wymiany dokonane wskutek szantażu jako sprawiedliwe.<sup>29</sup> Zauważmy teraz, że skoro libertarianie traktują wymiany dokonane na skutek szantażu jako sprawiedliwe oraz mając na uwadze nasze odkrycie, jakoby rzeczony wymiany były ekonomicznie nieodróżnialne od płacenia rozbójnikowi za darowanie nam życia, to najwyraźniej udało nam się zilustrować kategorię (3), czyli sprawiedliwe, ale jednocześnie nieefektywne wymiany.

Rozważamy też pewną obiekcję, którą można by wysunąć przeciwko naszej teorii. Nawiązuje ona do powyżej zestawionych scenariuszy *Blackmail* (płacenie szantażyście) i *Highwayman* (płacenie rozbójnikowi). Zarzut miałby polegać na tym, że wymiany różnią się w istotny sposób. Ostatecznie, pierwszej z nich dokonujemy dobrowolnie, podczas gdy drugiej niedobrowolnie. A zatem według rozważanego zarzutu, tylko dobrowolne wymiany zapewniają obopólne korzyści. Z kolei niedobrowolne wymiany miałyby zmniejszać użyteczność społeczną. Mimo to należy mieć na uwadze, że – jak już wielokrotnie podkreślaliśmy – libertariańska idea dobrowolności oparta jest na uprawnieniach. Dlatego założmy na potrzeby dyskusji, że dobrowolne wymiany rzeczywiście zapewniają obopólne korzyści. Ostatecznym sprawdzianem na to, czy wymiana jest dobrowolna jest to, czy odbywa się ona z poszanowaniem uprawnień. I *mutatis mutandis* dla wymian niedobrowolnych: jeśli propozycja jednej strony zapowiada niechybne pogwałcenie uprawnień drugiej strony wymiany, to zawarta wymiana ma charakter niedobrowolny. Ale skoro tak jest, to libertarianie – wbrew temu, co twierdzą – nie wysuwają *odrębnego ekonomicznego* argumentu za efektywnością wolnego rynku. Jeśli ekonomiczna efektywność ma się ostatecznie opierać na przestrzeganiu postulatów sprawiedliwości, to zostajemy pozbawieni niezależnego ekonomicznego kryterium do rozstrzygnięcia tego, czy wolny rynek jest efektywny czy nie.<sup>30</sup> Innymi słowy, tak długo jak

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<sup>29</sup> Zdecydowanie najbardziej dogłębną analizę jak też obronę instytucji szantażu prezentuje Block (2013). Jednak najnowsza literatura poświęcona libertarianizmowi poddaje stanowisko Blocka krytyce i wprowadza istotną kwalifikację do libertariańskiego bezwarunkowego przyzwolenia na szantaż. Dominiak (2024) przekonująco argumentuje, że jedynie podzbiór właściwy wymian zawartych wskutek szantażu byłby dozwolony w systemie libertariańskim, ponieważ niektóre wymiany zawarte na skutek szantażu byłyby *oszukiwawcze* i stąd zakazane.

<sup>30</sup> Swoją drogą, Rothbard (2006: 48 – 49) nie zostawia wątpliwości co do tego, że argument za wolnym rynkiem jest przede wszystkim moralnej natury, ponieważ autor ten utrzymuje, że „[t]ak się składa, że gospodarka wolnorynkowa oraz podział pracy charakteryzujący ją jest najbardziej produktywną gospodarką znaną ludzkości. To właśnie gospodarka wolnorynkowa odpowiedzialna jest za uprzemysłowienie, na którym z kolei zawisł rozwój cywilizacji. Z utilitarystycznego punktu widzenia, wszystko to jest szczęśliwym rezultatem działania wolnego rynku. Jednak dla libertarianina nie jest to główny powód, dla którego popiera porządek wolnorynkowy. Główny powód ma bowiem charakter moralny i zakorzeniony jest w prawnonaturalnej obronie własności prywatnej, którą zaprezentowaliśmy powyżej. Nawet gdyby społeczeństwo rządzone przez despotę systematycznie łamiącego uprawnienia obywateli okazało się bardziej produktywnie niż to, co Adam Smith nazwał „systemem naturalnej wolności”, to libertarianin wciąż obstawałby przy tym drugim. Tak się jednak szczęśliwie składa, że produktywność – tak pożądana z utilitarystycznego punktu widzenia – oraz moralność, czy też prawa naturalne i ogólny dobrobyt idą ze sobą w parze (tłum. własne – I.W.)” Na potrzeby dyskusji przyznajemy Rothbardowi rację,

pojęcie dobrowolności opiera się na uprawnieniach, to argument za wolnym rynkiem pozostaje czysto moralnej natury. Pamiętajmy, że libertarianie definiują wolny rynek jako zbiór wymian dokonywanych z poszanowaniem uprawnień. Stąd jeszcze daleka droga do twierdzenia, że takie wymiany konstytuują tzw. *Pareto-superior moves*, tak jak rozumie je Rothbard. Seria implikacji przedstawionych poniżej pozwoli nam zilustrować nasz argument.

- (1) Dla każdego  $x$ , gdzie  $x$  jest wymianą,  $x$  odbywa się z poszanowaniem uprawnień  $\Rightarrow x$  jest dobrowolny  $\Rightarrow x$  podnosi dobrobyt społeczny oraz
- (2) Dla każdego  $x$ , gdzie  $x$  jest wymianą,  $x$  odbywa się z pogwałceniem uprawnień  $\Rightarrow x$  jest niedobrowolny  $\Rightarrow x$  zmniejsza dobrobyt społeczny

Ale skoro relacja implikacji jest przechodnia, to możemy wyprowadzić następujące wnioski:

- (3) Dla każdego  $x$ , gdzie  $x$  jest wymianą,  $x$  odbywa się z poszanowaniem uprawnień  $\Rightarrow x$  podnosi dobrobyt społeczny oraz
- (4) Dla każdego  $x$ , gdzie  $x$  jest wymianą,  $x$  odbywa się z pogwałceniem uprawnień  $\Rightarrow x$  zmniejsza dobrobyt społeczny

Z (3) i (4) jasno wynika, że dobrowolność wymiany nie gra żadnej roli eksplanacyjnej, jeśli chodzi o dobrobyt społeczny, ponieważ ten opiera się na poszanowaniu libertariańskich uprawnień. Ale to nie brzmi jak ekonomia. Dlatego też twierdzimy, że libertariański argument za wolnym rynkiem pozostaje czysto moralny i nie ma w sobie nawet cienia ekonomicznego rozumowania.

Pozostała część artykułu 7 poświęcona jest argumentowaniu za istnieniem wymian niesprawiedliwych, ale jednocześnie podnoszących użyteczność społeczną. Jeśli uda się wykazać, że zbiór takich wymian jest rzeczywiście niepusty, to nasza hipoteza o logicznej niezależności sprawiedliwości od dobrobytu zostanie obroniona. Ażeby dowieść niepustości kategorii (4) (tj. wymian niesprawiedliwych, ale ekonomicznie efektywnych), konstruujemy eksperyment myślowy pod nazwą *Fridge*.

Mówiąc skrótowo, w tym eksperymencie myślowym pewnej osobie zostaje skradziona lodówka. Ale ponieważ właściciel tejże traktuje ją jako ekonomiczne zło (*economic bad*), coś, czego skłonny byłby się pozbyć za pieniądze, kradzież lodówki wydaje mu się pożądana. W ten sposób pozbywa się on lodówki za darmo. Z drugiej strony, jako że właściciel nie udziela złodziejowi żadnej zgody *explicite*<sup>31</sup>, aby ten mógł wejść w posiadanie lodówki, omawiane działanie w oczywisty sposób narusza uprawnienia właściciela. Jako że właściciel nie wyraził

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że wolny rynek broni się dostatecznie z powodów moralnych. Mimo to wciąż nie przekonuje nas rzekomo ekonomiczny argument za tymże.

<sup>31</sup> W tym momencie należy zauważyć, że według libertarian zgoda implicytna (*implicit consent*) albo dorozumiana (*tacit consent*) nie mają moralnego znaczenia. Mówiąc nieco precyzyjniej, nie można zbyć swego uprawnienia ani poprzez implicytną, ani poprzez dorozumianą zgodę. Wróćmy do naszego eksperymentu myślowego *Fridge*. Można by argumentować, że skoro kradzież lodówki była mile widziana przez jej właściciela i ponieważ postanowił on nie interweniować, to *ipso facto* udzielił on implicytnej zgody. Należy przyznać, że fakty te mają pewne normatywne znaczenie. A jednak należy podkreślić, że według libertariańskiej filozofii politycznej tego rodzaju zgoda nie przekłada się na zrzeczenie się swego uprawnienia. Hoppe (2006) przybliży libertariańskie podejście do zgody implicytnej i dorozumianej.

zgody *explicite*, nie zbył on tym samym swego prawa własności. Dlatego też *Fridge* egzemplifikuje wymiany, które są niesprawiedliwe i jednocześnie podnoszące użyteczność społeczną. Z punktu widzenia właściciela kradzież jego lodówki była czymś pożądanym. Całe to rozumowanie ponownie podaje w wątpliwość charakterystycznie libertariańskie rozumienie dobrowolności w kategorii uprawnień. Bowiem w przypadku opisanym we *Fridge* mamy silną niezależną intuicję, jakoby właściciel pozbywał się swej lodówki *dobrowolnie*. Mógł być przecież interweniować i tym samym zapobiec aktowi kradzieży, ale zdecydował, że tego nie zrobi, ponieważ rzeczona kradzież sprawiła, że właściciel ostatecznie miał się lepiej. Omawiana właśnie intuicja silnie przemawia przeciwko libertariańskiej zmoralizowanej idei dobrowolności.

Podsumowując, artykuł 7 przede wszystkim pokazał, że sprawiedliwość i dobrobyt konstituują dwa logicznie niezależne ideały. Po drugie, nasze dwa eksperymenty myślowe (tj. *Blackmail* i *Fridge*) przekonująco zademonstrowały, że libertariańska zmoralizowana idea dobrowolności jest wadliwa.

#### Rozdział 4: Choice vis-à-vis indifference in Austrian School of Economics: artykuły 8 & 9

**Artykuł 8** (“The Problem of Indifference and Homogeneity in Austrian Economics: Nozick’s Challenge Revisited”) oraz **artykuł 9** (“Rejoinder to Block on Indifference”), jak już zauważyliśmy wcześniej, odnoszą się do tematycznego rdzenia (tj. dobrowolnego działania albo dobrowolnego wyboru) niniejszej rozprawy o tyle, o ile wybór jako taki stanowi warunek wstępny *dobrowolnego* wyboru. Innymi słowy, aby *wybierać* dobrowolnie, należy przede wszystkim dokonać wyboru jako takiego. To właśnie pojęciu wyboru, tak jak jest on rozumiany w austriackiej szkole ekonomii, poświęcone są omawiane właśnie artykuły. Okazuje się, że pojęcie wyboru jest subtelnie uwikłane w takie pojęcia jak obojętność czy pojęcie tego samego dobra ekonomicznego. Według austriaków, wybór skontrastowany jest zarówno z obojętnością jak też z tym samym dobrem ekonomicznym, tak że jeśli podmiot działający *A* uznaje dobra *x* i *y* za ekonomicznie tożsame albo jest obojętnym względem nich, to, logicznie rzecz biorąc, podmiot taki nie może dokonywać wyboru między nimi. I równoważnie, jeśli *A* wybiera pomiędzy dobrami  $x_1$  i  $x_2$ , to *A*, logicznie rzecz biorąc, nie może uznawać ich za ekonomicznie tożsame oraz nie może być obojętnym względem nich. Dlatego też, według austriaków, dla dowolnych dwóch dóbr ekonomicznych *x* i *y*, jeśli *A* jest obojętny względem nich, to *A* nie może dokonać wyboru między nimi. Ponadto, jak przekonująco pokazał Nozick (1977), austriacy potrzebują pojęcia obojętności, aby skonceptualizować to samo dobro ekonomiczne. To ostatnie bowiem pojęcie jest presuponowane w prawie malejącej użyteczności krańcowej, w prawie, które austriacy uznają za apodyktycznie prawdziwe.<sup>32</sup> Z drugiej strony należy mieć na uwadze, że prawo malejącej użyteczności krańcowej rzuca światło na wszelkiego rodzaju ludzkie działania. Na przykład, wyjaśnia ono, dlaczego dwóch ekonomicznych aktorów, z których jeden posiada *n* jednostek dobra *N*, a drugi *m* jednostek dobra *M*, wymieniają pewną konkretną liczbą jednostek *N* za pewną konkretną liczbę jednostek *M*. Stąd też, prawo malejącej

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<sup>32</sup> Austriackich ekonomistów od neoklasycznych odróżnia to, że ci pierwsi postrzegają prawo malejącej użyteczności krańcowej jako apodyktycznie i absolutnie prawdziwe (see e.g. Rothbard (2009, 2011b)).

użyteczności krańcowej zawiera element zarówno obojętności (i.e. ideę tego samego dobra ekonomicznego, ideę którą prawo musi presuponować, by być nietautologicznie sformułowane) oraz element działania, które to działanie z kolei ujawnia ścisłą preferencję (*strict preference*). Dlatego też należy ostrożnie zakreślić zakres stosowalności pojęcia obojętności w odróżnieniu od zakresu pojęcia ścisłej preferencji i działania. Debata na temat relacji między obojętnością a preferencją została rozpętana poprzez wpływowy artykuł Nozicka (1977). Autorem, który z kolei wniósł największy wkład do rzeczony debaty jest Block (1980, 2009a, 2009b, 2024). Z kolei ambicją dwóch artykułów rozdziału 4 jest próba wprowadzenia do debaty pojęciowej jasności jak i obrona teorii preferencji i obojętności sformułowanej przez Hansa-Hermann Hoppe (2005, 2009).

W artykule 8, czynimy pewne ustępstwo względem Nozicka, przyznając tym samym, że w austriackiej ekonomii rzeczywiście jest miejsce na pojęcie obojętności (jak też na pojęcie tego samego dobra ekonomicznego), jako że samo sformułowanie prawa malejącej użyteczności krańcowej je presuponuje. Poza tym zauważamy, że aby nietautologicznie sformułować prawo malejącej użyteczności krańcowej oraz uniwersalne prawo preferencji czasowej musimy dysponować niezależnym rozumieniem tego, jakie dobra konstytuują to samo dobro ekonomiczne.<sup>33</sup>

Negatywne spostrzeżenia **artykułu 8** sprowadzają się do krytyki wymierzonej w teorię obojętności wypracowaną przez Blocka (1980). Odpowiedź Blocka (1980: 424) na oryginalną krytykę Nozicka (1977) jest niedostateczna, ponieważ w niepryncypialny sposób czyni użytek z nieistotnego rozróżnienia. Block twierdzi, że istnieje sposób na pogodzenie idei obojętności, a tym samym pojęcia podaży tego samego dobra ekonomicznego z ideą wyboru (a tym samym z pojęciem ścisłej preferencji). W tym celu autor ten wyobraża sobie scenariusz, w którym sprzedawca ma do dyspozycji 100 jednostek masła. Początkowo żadna z owych 100 jednostek nie jest przedmiotem działania. Sprzedawca pozostaje obojętny względem nich. Dlatego też każda jednostka masła jawi mu się jednostką tego samego dobra ekonomicznego. Teoria Blocka zaczyna obalać samą siebie, gdy autor ten zaczyna twierdzić, że jak tylko sprzedawca „wybierze pozbycie się” 72. jednostki na sprzedaż, to w tym momencie nie traktuje on już tej jednostki i dowolnej innej jednostki z pozostałego 99-elementowego zbioru jako równie użytecznych. W tym momencie pojawia się jednak krytyczna obiekcja: ponieważ sprzedawca „wybrał pozbycie się” tej konkretnej jednostki, to nie mógł on traktować tej jednostki i dowolnej innej jednostki jako równie użytecznych. Albo innymi słowami, skoro najmniej odpowiadała mu 72. jednostka (w końcu to tę „wybrał” na sprzedaż), nie mógł traktować tej jednostki i dowolnej innej jako jednostek równie użytecznych. Wydaje się zatem, że Block nie może zjeść ciastka i mieć ciastka. Jeśli przyzna, że sprzedawcę charakteryzuje obojętność względem owych 100 jednostek masła, to nie sposób zrozumieć, w jaki sposób sprzedawca jest w stanie (logicznie) *wybrać* pozbycie się którejkolwiek z nich.

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<sup>33</sup> Austriacy nie tylko wnieśli potężny wkład do literatury poświęconej preferencji czasowej, ale też zaproponowali wysoce oryginalną teorię wyjaśniającą stopy procentowe jedynie w kategoriach indywidualnych stóp preferencji czasowej (*individual time preference rates*). Wyznawcami tej teorii są m.in. Garrison (1979); Kirzner (1993); Mises (1998).

Artykuł 8 sugeruje rozwiązanie rzeczonych pojęciowych kłopotów. Rozwiązanie to czyni kluczowy użytek z idei *poprawnego opisu działania*, tak jak jest ona rozumiana przez Hansa-Hermanna Hoppe (2005). Opis tego typu wybiera tylko te aspekty działania, które podmiot działający ściśle przedkłada (*strictly prefers*) nad inne. Albo mówiąc równoważnie, poprawny opis działania wyłapuje tylko tego elementy/aspekty działania, które podmiot działający *wybiera*. Idea poprawnego opisu działania czyni jednocześnie zadość austriackiemu pogładowi, jakoby obojętność nie mogła być zademonstrowana w działaniu (patrz Rothbard, 2011b). Pokażmy teraz, z jaką łatwością teoria Hansa-Hermanna Hoppe radzi sobie z eksperymentem myślowym Blocka. Założywszy, że sprzedawca jest rzeczywiście obojętny względem rzeczonych 100 jednostek masła, Hoppe po prostu zaprzeczyłby, że sprzedawca „wybiera pozbycie się” 72. jednostki. Hoppe raczej powiedziałby, że sprzedawca zdecydował się na pozbycie się dowolnej (jakiejś) jednostki masła za pieniądze. Zauważmy, że taki opis rzuca światło na działanie sprzedawcy, albowiem ten demonstruje ścisłą preferencję dla pieniędzy w porównaniu do *dowolnej* jednostki masła. Ponadto, opis ten czyni zadość wymogom stawionym przez pojęcie obojętności: sprzedawca nie wybiera pozbycia się 72. jednostki masła – przynajmniej nie w *intencjonalnym* opisie swego działania.<sup>34</sup>

Następnym zadaniem, które podejmuje rozważany właśnie artykuł jest takie poszerzenie teorii Hansa-Hermanna Hoppe, które pozwoliłoby na nietautologiczne sformułowania prawa malejącej użyteczności krańcowej. Jak już zauważyliśmy powyżej, rzeczone prawo presuponuje pojęcie podaży tego samego dobra ekonomicznego. Gdyby przez jednostki tego samego dobra ekonomicznego rozumieć takie jednostki, do których stosuje się prawo malejącej użyteczności krańcowej, to prawo to, które rości sobie pretensje do apodyktycznej prawdziwości, okazałoby się rozczarowująco jedynie tautologicznie prawdziwe. Dlatego też istnieje potrzeba wypracowania niezależnego pojęcia jednostek konstytuujących to samo dobro ekonomiczne.

Nasza próba rozszerzenia teorii Hansa-Hermanna Hoppe przebiega następująco. Najpierw zauważamy, że postrzeganie pewnych jednostek jako jednostek tego samego dobra ekonomicznego jest zrelatywizowane do czasu. Jako że działanie ma charakter sekwencyjny, nie sposób użyć wszystkich jednostek tego samego dobra w tym samym czasie. To z kolei doprowadza nas do spostrzeżenia, że jednostki tego samego dobra ekonomicznego powinny być podwójnie indeksowane po czasie. Pierwszy indeks (w superskrypcie) odnosi się do momentu, w którym to podmiot działający wyobraża sobie sposób, w który go używa. Drugi indeks (w subskrypcie) odnosi się do momentu, w którym dany podmiot rzeczywiście używa tego dobra. Wyjaśnijmy użycie tej notacji na przykładzie:  $u_2^1_3$  oznacza, że pewien podmiot działający wyobraża sobie w czasie  $t_1$ , jak użyje jednostki<sup>2</sup> w czasie  $t_3$ . Wyposażeni w tę notację, możemy już formalnie wyrazić, co to znaczy, że pewne jednostki w pewnym czasie konstytuują jednostki podaży tego samego dobra w oczach pewnego podmiotu działającego. Formalizacja ta wypracowana w artykule 8 przybiera następującą formę:

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<sup>34</sup> Omówienie działania w opisie intencjonalnym (*under intentional description*) znajduje się w m.in. Searle (1984); Davidson (2001).

Dla każdego  $t$  (w subskrypcie, co oznacza rzeczywisty czas użycia pewnej jednostki), gdzie  $t$  jest czasem, podmiot działający pozostaje obojętny względem  $u1^1_t, u2^1_t, u3^1_t$  etc.

Zilustrujmy teraz powyższą formułę namacalnym przykładem. Wyobraźmy sobie, że podmiot działający dysponuje trzema bananami, które to podmiot znajduje ekonomicznie tożsamymi. Wyobraźmy sobie poza tym, że rzeczony podmiot ma wizję trzech potrzeb, które – w jego opinii – każdy banan byłby w stanie zaspokoić. Jeśli w tym momencie podmiot ten byłby rzeczywiście obojętny względem swych bananów, wtedy mógłby on *ipso facto* równie dobrze użyć pierwszego banana w czasie  $t_1$  albo  $t_2$ , albo  $t_3$ . To samo stosuje się do dwóch pozostałych bananów. A zatem, w przekonaniu rozważanego podmiotu działającego jakakolwiek temporalna sekwencja konsumowania kolejnych bananów byłaby równie dobra. Innymi słowa, jakakolwiek permutacja wykorzystywania kolejnych bananów w czasie (jest ich 3!) byłaby dla rozważanego podmiotu równie satysfakcjonująca. Nietautologiczne sformułowanie prawa malejącej użyteczności krańcowej leży już na wyciągnięcie dłoni. Jeśli teraz nasz podmiot znajduje wszystkie trzy banany równie użytecznymi, wtedy nie wybiera pomiędzy nimi. Ostatecznie, jak już ustaliliśmy powyżej, nasz podmiot działający obecnie ocenia każdą permutację wykorzystywania bananów w czasie jako taką, który służyłaby mu równie dobrze. Dlatego to podmiot nie wybiera pomiędzy środkami, którymi dysponuje (tj. pomiędzy bananami).

Z kolei to ten fakt sprawia, że pojęcie obojętności ma tu zastosowanie, a, jak pokazuje Nozick (1977), to właśnie na pojęciu obojętności opiera się idea podaży. Z drugiej strony, rozważany przez nas podmiot działający alokuje kolejne banany do zaspokajania coraz mniej palących potrzeb i to z kolei (ściśła) preferencja kieruje uszeregowaniem celów w czasie. Skoro zaś mówimy o ściślejszej preferencji, to w tym przypadku mamy do czynienia z działaniem.<sup>35</sup>

Artykuł 9 w naturalny sposób rozwija aparat pojęciowy wypracowany w artykule 8. Tym razem rzeczony aparat służy nam do odpowiedzi na krytykę Blocka (2022) skierowaną przeciwko naszej obronie teorii Hansa-Hermann Hoppe. W artykule 9 nie próbujemy innymi słowami wyrazić naszych poprzednich argumentów przeciwko teorii preferencji i obojętności forsowanej przez Blocka. Przeciwnie: stawiamy teorii Blocka dwa oryginalne zarzuty.

Przede wszystkim jednak staramy się precyzyjnie sformułować rozróżnienie pomiędzy sprawczością (czyli tym, co robi podmiot działający przy opisie z zewnątrz), a poprawnym opisem jego działania (czyli tym, co robi podmiot działający w opisie intencjonalnym jego działania). Naszym celem jest pokazanie – przeciwko Blockowi (2022) – że sprawczość nie ujawnia ściślejszej preferencji w każdym aspekcie działania. Innymi słowami, istnieje pewna luka między tym, co jest przypisane *sprawczości* podmiotu działającego, a tym, co podmiot robi *intencjonalnie*. Aby nieco bardziej rozjaśnić rozważaną dystynkcję, wracamy do rozważenia przypadku przysłowiowego osła Buridana, który postawiony jest przed wyborem jedzenia siana albo ze stosu znajdującego się po jego lewej, albo po prawej stronie. Block (2022: 51–52) twierdzi, że skoro osioł „obrócił się w prawą, a nie lewą stronę”, to tym samym mamy do

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<sup>35</sup> Dysponując niezależnym pojęciem podaży tego samego dobra ekonomicznego, w artykule 8 również w podobny sposób nietrywialnie formułujemy uniwersalne prawo preferencji czasowej.

czynienia z dowodem, że „woli on prawy stos od lewego” (tłum. własne – I.W.). Pamiętajmy jednak, że głównym celem artykułu 9 było pokazanie, że to właśnie tego typu wniosek jest nieuzasadniony. Zastosujmy wyżej naświetlone rozróżnienia do scenariusza z osłem. Należy przyznać, że rzeczywiście można zasadnie mówić o tym, że osioł obrócił się w prawą stronę. To jest dokładnie to, co zrobił. Innymi słowy, obrócenie się w prawo możemy przypisać jego *sprawczości*. Jednak fakt ten sam w sobie nie jest w stanie uzasadnić wniosku, jakoby osioł *zamierzał* jeść z prawego stosu siana. Nie możemy też wyprowadzić wniosku, że osioł wolał jeść siano z prawo stosu niż z lewego. Być może osioł zamierzał zjeść z *któregokolwiek* stosu siana. Ponadto, osioł mógł być po prostu obojętny względem stosów siana. Morał tej historii jest taki, że zewnętrzne zachowanie nie dookreśla (*underdetermines*) skali wartości, która nim kieruje. Zachowanie osła można bowiem wyjaśnić co najmniej dwiema różnymi skalami wartości:

#### **Skala wartości<sub>1</sub>**

- (1) Zjeść z prawego stosu siana
- (2) Zjeść z lewego stosu siana
- (3) Umrzeć z głodu

#### **Skala wartości<sub>2</sub>**

- (1) Zjeść z prawego *albo* z lewego stosu siana
- (2) Umrzeć z głodu

Twierdzimy, że obie te skale wartości równie dobrze wyjaśniają zachowanie osła. Ale jeśli rzeczywiście tak jest, to Block nie jest w stanie wywnioskować konkretnej skali wartości przy danym zachowaniu osła. Ogólnie rzecz biorąc, Block nie może wyprowadzić *unikalnej* skali wartości z zachowania podmiotu działającego, ponieważ zachowanie zawsze nie dookreśla skali wartości.

Drugim oryginalnym elementem artykułu 9 jest to, że staramy się w nim argumentować, że stanowisko Blocka (2022) niebezpiecznie zbliża się do metodologicznego (a może nawet ontologicznego) behawioryzmu, co wydaje się niepożądane z punktu widzenia przywiązania Blocka do ASE. Ażeby zilustrować ten problematyczny aspekt stanowiska Blocka (2022: 51), skupiamy się na jego analizie eksperymentu myślowego, w którym to matka staje przed dylematem, którego z synów (Peter albo Paul) uratować przed utonięciem. Ten eksperyment myślowy poddany został gruntownej analizie po raz pierwszy przez Hansa-Hermann Hoppe (2005). Block idzie na tyle daleko, że twierdzi, że nawet gdyby matka “zamknęła oczy i chwyciła najbliższego znajdującego się syna” (tłum. własne – I.W.), to wciąż mielibyśmy dowód na to, że *wolała* ocalić tego konkretnego syna niż drugiego. Jednak tak radykalny wniosek zdaje się utożsamiać preferencje z zachowaniem. Do złudzenia przypomina to metodologiczny (a nawet ontologiczny) behawioryzm. Należy jednak mieć na uwadze to, że wyznawany przez Blocka charakterystycznie austriacki subiektywizm nie idzie w parze z metodologicznym behawioryzmem.

## Wnioski

Podsumujmy teraz tezy niniejszej dysertacji oraz omówmy wkład, który wnosi ona do austro-libertariańskiej literatury. Rozprawa ta przede wszystkim pokazuje, dlaczego zmoralizowane pojęcie dobrowolności, tak jak jest ono rozumiane przez austro-libertarian, jest wadliwe. Dla przykładu, aby dowieść powyższej tezy, pokazujemy, że przyjęcie normatywnego pojęcia dobrowolności prowadzi austriaków do przyjęcia zmoralizowanego pojęcia przymusu, co z kolei nie współgra z charakterystycznie austriackim postulatem wolności od wartościowania. Dlatego też argumentujemy, że austriacy powinni porzucić zmoralizowane pojęcie przymusu w imię spójności swej teorii. Zrezygnowawszy ze zmoralizowanej teorii przymusu, austriacy powinni przyjąć pewne deskryptywne rozumienie tegoż. W **artykule 1** wypracowujemy taką teoretycznie pożądaną teorię przymusu, odwołując się do teorii aktów mowy oraz do teorii przymusu Lamonda (1996). Ponadto, identyfikujemy kolejny powód, dlaczego zmoralizowana koncepcja dobrowolności jest błędna. Ponieważ libertarianie utożsamiają dobrowolne działanie z działaniem wolnym od przymusu (tj. przy braku gróźb zapowiadających nieuniknione pogwałcenia uprawnień strony zagrożonej), taka koncepcja dobrowolnego działania błędnie przewiduje naturę niektórych wymian dokonanych wskutek szantażu. Jak pokazujemy, niektóre wymiany dokonane na skutek szantażu spełniają definicje oszustwa (*fraud*). A libertarianie bezkompromisowo obstają przy zakazie oszustw. W wolnym społeczeństwie nie byłoby, normatywnie rzecz biorąc, miejsca na oszustwa. Wymiany oszukańcze uznaje się za niesprawiedliwe. A skoro dobrowolne wymiany zachowują sprawiedliwą redystrybucją zasobów, na oszukańcze wymiany nie można by się zgodzić dobrowolnie. A zatem, niektóre wymiany odbywające się wskutek szantażu (te które polegają na tym, że szantażysta podstępem doprowadza do tego, że szantażowany zrzeka się tytułu własności) wołają o zrewidowanie zmoralizowanego pojęcia dobrowolności, tak jak jest ono rozumiane przez libertarian.

Ponadto, niniejsza rozprawa ustala (**artykuły 3 i 4**), że jedynie kompatybilistyczna koncepcja wolnej woli jest do pogodzenia z metodologią austriackiej szkoły ekonomii – szczególnie w jej Rothbardowskim wydaniu. Skoro niemożliwy jest jakkolwiek rozdzwięk między zachowaniami a skalami wartości nimi kierującymi, to przy danych skalach wartości, podmiot działający nie może zachować się inaczej niż *de facto* się zachowuje. Stąd też nasze wybory zdeterminowane są przez nasze skale wartości (w połączeniu z relewantnymi przekonaniem) i to z tego powodu austriacy nie mogą, logicznie rzecz biorąc, przyjąć tzw. metafizycznego libertarianizmu. Austriacy mają zatem decydujący powód do przyjęcia kompatybilistycznej koncepcji wolnej woli.

W rozdziale 3 (**artykuły 5, 6 i 7**) niniejszej dysertacji naświetlamy, jakiego rodzaju problemy rodzi przyjęcie zmoralizowanego pojęcia dobrowolnej wymiany w austriackiej ekonomii dobrobytu. Twierdzimy, że Rothbard i jego zwolennicy, odwołując się do rzeczzonego pojęcia, rozstrzygają kwestię efektywności wolnego rynku w założeniu. Przemycenie libertariańskiej etyki do definicji dobrowolności przesuwają tylko problem na innym poziom. Wciąż bowiem należy ustalić czy wymiany odbywające się z poszanowaniem libertariańskich uprawnień są obopólnie korzystne. Argumentujemy, że logicznie możliwe są scenariusze, w

których mamy do czynienia z wymianami odbywającymi się z poszanowaniem libertariańskich uprawnień i jednocześnie zmniejszającymi użyteczność społeczną. W podobny sposób pokazujemy, że logicznie możliwe są wymiany, które naruszają libertariańskie uprawnienia, ale jednocześnie podnoszą użyteczność społeczną. Tym samym – wbrew przekonaniu austriaków – konkluzywnie demonstrujemy, że dobrobyt i sprawiedliwość konstytuują logicznie niezależne ideały. Jeśli chodzi o pozytywne propozycje omawianego rozdziału, to próbujemy wykazać, że produktywne wymiany w sensie Nozicka mogłyby służyć jako kryterium do oceny tego, czy (i na ile) dobrobyt społeczny się podniósł. Warto odnotować, że kryterium Nozicka nie rozstrzygałoby w założeniu kwestii tego, czy wolny rynek jest efektywny. Wynika to z tego, że nieproduktywne wymiany na wolnym rynku są *prima facie* do pomyślenia.

W rozdziale 4 (**artykuły 8 i 9**) analizujemy austriackie rozumienie wyboru jako takiego. Analiza ta wydaje się istotna szczególnie w świetle faktu, że debata na temat wyboru w kontraście do obojętności wciąż się toczy wśród austriaków. Austriacy standardowo odrzucają kategorię obojętności jako niespójną z wyznawaną przez nich prakseologią. Mimo to Nozick przekonująco pokazał, że pojęcie podaży (a tym samym sformułowanie prawa malejącej użyteczności krańcowej) zakłada pojęcie obojętności. Zadaniem omawianego rozdziału jest udowodnienie, że wyzwaniu Nozicka stawianemu austriakom można podołać. Kolejne działania podmiotu działającego, które ilustrowałyby prawo malejącej użyteczności krańcowej ujawniają (ściśłą) preferencję (tak, jak chcieliby austriacy), ale też stwarzają pole obojętności (tak, jak chciałby Nozick). Co istotne, pokazujemy, że obawy austriaków przed obojętnością są nieuzasadnione, jako że obojętność nie figuruje w działaniu w *opisie intencjonalnym*. Ostatecznie przecież Rothbard i jego zwolennicy podkreślają, że obojętność nigdy nie ujawnia się w działaniu (patrz Rothbard, 2011b). Podsumowując, ostatni rozdział domyka pewne konceptualne luki w skądinąd już spójnej siatce pojęciowej charakteryzującej ASE. Poza tym udaje nam się odeprzeć krytykę Nozicka (1977) wymierzoną w austriaków.

Zauważmy na koniec, że wszelkie omówione powyżej tezy niniejszej dysertacji stanowią istotną rewizję austro-libertariańskiej teorii polityki. Należy bowiem odnotować, że niektóre z artykułów składających się na obecną rozprawę już zdążyły wywołać poważną debatę naukową. Na przykład, artykuł 7 (“How does Justice Relate to Economic Welfare? A Case against Austro-Libertarian Welfare Economics”) już doczekał się odpowiedzi ze strony Fegleya i Israela (2024). Z kolei Block (2024) odniósł się już do **artykułu 8** oraz do **artykułu 9** niniejszej rozprawy, w, odpowiednio, Block (2022, 2024). Warto również dodać, że niektóre z artykułów składających się na obecną dysertację zostały opublikowane w czołowych periodykach. Na przykład, artykuł 1 (“Coercion, Voluntary Exchange, and the Austrian School of Economics”) został opublikowany w *Synthese*, a artykuł 4 (“Austrian Economics and Compatibilist Freedom”) w *Journal for General Philosophy of Science*. Oba te pisma to światowej sławy periodyki zajmujące się filozofią nauki. Ponadto, moje rozmaite prace dotyczące austro-libertarianizmu były wielokrotnie cytowane. Warto odnotować fakt, że w samym roku 2024 moje artykuły były cytowane aż 51 razy – głównie z powodu ukazania się specjalnego numeru *Zagadnień Filozoficznych w Nauce* (nr 76), który to numer edytowałem wspólnie z profesorem Walterem Blockiem i który poświęcony był filozoficznym podstawom ekonomii. Co interesujące i jednocześnie krzepiące, większość artykułów tworzących rzeczony numer podejmowała problemy dyskutowane w obrębie austriackiej szkoły ekonomii. Sam ten fakt dobitnie świadczy o tym, że austro-libertariański paradygmat prężnie rozwija się na arenie

międzynarodowej. Rozkwit ten można porównać do tego, który miał miejsce w libertarianizmie w latach siedemdziesiątych poprzedniego stulecia. Ponadto, badaczom libertariańskim zaczęto przyznawać granty badawcze. Na przykład, projekt profesora Łukasza Dominiaka “The Paradox of Blackmail: A Pro Tanto Solution and Its Implications for the Libertarian Theory of Coercion and Voluntary Exchange [Paradoks szantażu: Rozwiązanie pro tanto i jego implikacje dla libertariańskiej teorii przymusu i dobrowolnej wymiany]” uzyskał w 2020 roku finansowanie przez Narodowe Centrum Nauki. Podobnie, mój projekt “Economic Analysis of a Libertarian Legal System [Ekonomiczna Analiza Libertariańskiego Systemu Prawnego]” w 2024 roku uzyskał finansowanie przez tę samą instytucję. Odnotujmy, że oba te projekty zajmują się libertariańską teorią polityki. Relewancja niniejszej dysertacji wydaje się szczególnie oczywista, gdy weźmiemy pod uwagę to, że międzynarodowe zainteresowanie libertarianizmem odżywa. Podobnie znamienne jest – jak widzieliśmy wyżej – instytucjonalne wsparcie badań nad libertarianizmem.

### **Bibliografia:**

Benzecry, Gabriel. (2024). “The Conservative of the Spontaneous Order,” *Journal of Libertarian Studies* 28 (1): 76–90.

Block, Walter. (1980). “On Robert Nozick’s ‘On Austrian Methodology’,” *Inquiry* 23(4): 397–444.

Block, Walter. (2009a). “Rejoinder to Hoppe on Indifference,” *The Quarterly Journal of Austrian Economics* 12(1): 52–59.

Block, Walter. (2009b). “Rejoinder to Machaj on Indifference,” *New Perspectives on Political Economy* 5(1): 65–71.

Block, Walter. (2013). *Legalize Blackmail*. New Orleans: Straylight Publishing, LLC.

Block, Walter. (2022). “Response to Wysocki on Indifference,” *Zagadnienia Filozoficzne w Nauce* 72: 37–62.

Block, Walter. (2024). “Response to Wysocki’s Rejoinder to Block on Indifference,” *Zagadnienia Filozoficzne w Nauce* 76: 481–503.

Block, W. and David Gordon. (1985). “Blackmail, Extortion and Free Speech: A Reply to Posner, Epstein, Nozick and Lindgren,” *Loyola of Los Angeles Law Review* 19(37): 37–54.

Bok, Hilary. (1998). *Freedom and Responsibility*. Princeton: Princeton University Press.

Caplan, Bryan. (1999). “The Austrian Search for Realistic Foundation,” *Southern Economic Journal* 65(4): 823–838.

Davidson, David. (2001). *Essays on Actions and Events*. Second edition. Oxford: Clarendon Press.

Dennett, Daniel. (2003). *Freedom Evolves*. London: Penguin Books.

- Dominiak, Łukasz. (2016). "Problem Aksjomatyczności Zasady Autowłasności w Filozofii Politycznej Libertarianizmu," *Athenaeum. Polskie Studia Politologiczne* 49: 42–64.
- Dominiak, Łukasz. (2017). "Libertarianism and Original Appropriation," *Historia i Polityka* 22 (29): 43–56.
- Dominiak, Łukasz. (2024). "Free Market, Blackmail, and Austro-libertarianism," *Zagadnienia Filozoficzne w Nauce* 76: 85–106.
- Fegley, T. and Karl-Friedrich Israel. (2024). "A Defense of Austrian Welfare Economics," *Philosophical Problems in Science* 76: 19–42.
- Fischer, John. (2006). *My Way*. New York: Oxford University Press.
- Garrison, Roger. (1979). "In Defense of the Misesian Theory of Interest", *Journal of Libertarian Studies* 3(2): 141–150.
- Hare, Richard. (1952). *The Language of Morals*. Oxford: Oxford University Press.
- Harrison, Gerald. (2013). "The Moral Supervenience Thesis is not a Conceptual Truth", *Analysis* 73: 62–68.
- Hayek, Friedrich. ([1960] 2011). *The Constitution of Liberty. The Definitive Edition*. Chicago: University of Chicago Press.
- Herbener, Jeffrey. (2008). "In Defense of Rothbardian Welfare Economics," *New Perspectives on Political Economy* 4(1): 53–78.
- Hurd, Heidi & Michael Moore. (2018). "The Hohfeldian Analysis of Rights," *The American Journal of Jurisprudence* 63(2): 295–354.
- Hohfeld, Wesley. (1913). "Some Fundamental Legal Conceptions as Applied in Judicial Reasoning," *Yale Law Journal* 23(1): 16–59.
- Hoppe, Hans-Hermann. (2005). "A Note on Preference and Indifference in Economic Analysis," *The Quarterly Journal of Austrian Economics* 8: 87–91.
- Hoppe, Hans-Hermann. (2006). *The Economics and Ethics of Private Property*. Auburn: Ludwig von Mises Institute.
- Hoppe, Hans-Hermann. (2009). "Further Notes on Preference and Indifference: Rejoinder to Block," *The Quarterly Journal of Austrian Economics* 12(1): 60–64.
- Inwagen, Peter van. (1983). *An Essay on Free Will*. Oxford: Clarendon Press.
- Johnson, Conrad. (1975). "Moral and Legal Obligation," *The Journal of Philosophy* 72(12): 315–333.
- Kane, Robert. (1996). *The Significance of Free Will*. New York: Oxford University Press.
- Kim, Jaegwon. (2010). *Essays in the Metaphysics of Mind*. Oxford: Oxford University Press.

- Kirzner, Israel. (1993). "The Pure Time-Preference Theory of Interest: An Attempt at Clarification". In: *The Meaning of Ludwig von Mises: Contributions in Economics, Sociology, Epistemology and Political Philosophy* ed. J. M. Herbener 166–192. Auburn: Ludwig von Mises Institute.
- Kramer, Matthew. (2002). "Rights Without Trimmings". In *A Debate Over Rights*, eds. M. H. Kramer, N. E. Simmonds, and H. Steiner, 7–112. New York: Oxford University Press.
- Kramer, Matthew. (2024). *Rights and Right-Holding*. Oxford: Oxford University Press.
- Kvasnička, Michael. (2008). "Rothbard's Welfare Theory: A Critique," *New Perspectives on Political Economy* 4(1): 41–52.
- Lamond, Grant. (1996). "Coercion, Threats, and the Puzzle of Blackmail". In *Harm and culpability* eds. A. P. Simester & A. T. H. Smith, 215–238. Oxford: Clarendon Press.
- Lamond, Grant. (2000). "The Coerciveness of Law," *Oxford Journal of Legal Studies*, 20(1): 39–62.
- Lamond, Grant. (2020). Coercion. In H. LaFollette (Ed.), *International encyclopedia of ethics*.
- Mack, Eric. (1981). "Nozick on Unproductivity: The Unintended Consequences". In *Reading Nozick. Essays on Anarchy, State and Utopia* ed. J. Paul, 169–190. Oxford: Basil Blackwell.
- Mackie, Penelope. (2015). "Fatalism, Incompatibilism, and the Power to Do Otherwise". In *Freedom, Fatalism and Foreknowledge* eds. J.M. Fischer and P. Todd, 128–146. Oxford: Oxford University Press.
- McBride, Mark. (2021). "The Dual Reality of No-Rights," *The American Journal of Jurisprudence* 66(1): 39–48.
- Megger, Dawid, and I. Wysocki. (2023) "Coercion, Voluntary Exchange, and the Austrian School of Economics," *Synthese* 201, 8.
- Mises, Ludwig von. (1998). *Human Action: A Treatise on Economics. The Scholar's Edition*. Auburn, AL: Ludwig von Mises Institute.
- Nozick, Robert. (1974). *Anarchy, State, and Utopia*. Oxford: Basil Blackwell.
- Nozick, Robert. (1977). "On Austrian Methodology," *Synthese* 36: 353–392.
- Ossowska, Maria. (1960). "Moral and Legal Norms," *The Journal of Philosophy* 57(7): 251–258.
- Prychitko, David. (1993). "Formalism in Austrian-School Welfare Economics: Another Pretense of Knowledge?" *Critical Review* 7(4): 567–592
- Rawls, John. (1971). *A Theory of Justice*. New York: Cambridge University Press.
- Rothbard, Murray. (2002). *Ethics of Liberty*. New York and London: New York University Press.

- Rothbard, Murray. (2006). *For a New Liberty. The Libertarian Manifesto*. Auburn: Ludwig von Mises Institute.
- Rothbard, Murray. (2009). *Man, Economy, and State, with Power and Market*. Auburn: Ludwig von Mises Institute.
- Rothbard, Murray. (2011a). “The Mantle of Science”. In: *Economic controversies* (pp. 3–23). Auburn, AL: Ludwig von Mises Institute.
- Rothbard, Murray. (2011b). “Toward a Reconstruction of Utility and Welfare Economics.” In: *Economic controversies* (pp. 289–333). Auburn, AL: Ludwig von Mises Institute.
- Searle, John. (1984). *Minds, Brains and Science*. Cambridge: Harvard University Press.
- Wysocki, Igor. (2021a). *An Austro-Libertarian Theory of Voluntariness: A Critique*. Uniwersytet Mikołaja Kopernika w Toruniu. Wydawnictwo Wydziału Nauk o Polityce i Bezpieczeństwie.
- Wysocki, Igor. (2021b). “The Problem of Indifference and Homogeneity in Austrian Economics: Nozick’s Challenge Revisited”, *Philosophical Problems in Science* 71: 9–44.
- Wysocki, Igor. (2023). “Justice vis à vis Welfare: How Austrian Welfare Economics Should Fit in the Austro-Libertarian Framework”, *Economia Politica* 40: 445–467.
- Wysocki, Igor. (2024a). “Blackmail, Unproductive Exchanges, Fraud and the Libertarian Theory of Voluntariness,” *Polish Political Science Review* 12(1): 76–93.
- Wysocki, Igor. (2024b). “Rejoinder to Block on Indifference”, *Philosophical Problems in Science* 76: 459–479.
- Wysocki I. and Łukasz Dominiak. (2021). “Dismantling Rothbard’s *Mantle of Science*?”, in *Austrian economics 150 years after Carl Menger; 10th International Conference The Austrian School in the 21st century*, Federico N. Fernández, Barbara Kolm, Victoria Schmid (eds.), Wien: Friedrich A. von Hayek Institut, 439–452.
- Wysocki I. and Łukasz Dominiak. (2023). “How does Justice Relate to Economic Welfare: A Case against Austro-Libertarian Welfare Economics?” *Croatian Journal of Philosophy* 23(67): 51 – 67.
- Wysocki, I. and Łukasz Dominiak. (2024a). “Austrian Economics and Compatibilist Freedom”, *Journal for the General Philosophy of Science* 55: 113–136.
- Wysocki I. and Łukasz Dominiak. (2024b). “Social Welfare, State Interventions, and Indeterminacy: In Defense of Rothbard,” *Zagadnienia Filozoficzne w Nauce* 76: 297–315.



# Coercion, voluntary exchange, and the Austrian School of Economics

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## Abstract

In this paper we analyse the concept of coerced exchange (and partly of voluntary exchange inasmuch as the absence of coercion is its necessary condition), which is of utmost importance to economic theory in general and to the Austrian School of Economics in particular. The subject matter literature normally assumes that a coerced action occurs under threat. Threats in turn can be studied from the perspective of speech act theory, which is concerned with the speaker's intentions. Ultimately, our goal is to provide a descriptive (i.e. non-moralized) definitions of threat and coercion, based on the analysis of the coercer's intentions. If successful, we would be in a position to present such an account of coerced and voluntary exchanges that is compatible with both speech act theory and the Austrian methodology. Although we focus on the Austrian School of Economics, we believe that our investigations might impact on economic theory in general. We also criticize a rights-based account of coercion employed in the research practice of some neo-Austrians and based on the libertarian ethic of property rights.

**Keywords** Voluntary exchange · Coercion · Austrian School of Economics · Libertarianism · Speech act theory · Threat

**JEL Classification** B4 · B53 · D01 · K42

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## 1 Introduction

A well-known contention holds that when a voluntary exchange takes place, both parties benefit (at least *ex ante*). This is in fact the key proposition presumed to be true both within the Austrian and the neoclassical paradigm. It is also assumed in the most recognized economic theories and models such as the model of perfect competition or general equilibrium theory. It also figured explicitly in Vilfredo Pareto's welfare economics.

Pareto is famous for his rule of efficiency, according to which economic changes are efficient (Pareto-superior exchanges take place) whenever there is at least one person who benefits (is better off) and no one who loses (is worse off) (see, for instance: Wight, 2015, p. 81). Thanks to that understanding of efficiency, Pareto could thus escape the difficulties with interpersonal comparisons of utility. In consequence, it is at least intuitively plausible that voluntary exchanges are efficient in Pareto's sense and that in the case of coerced exchange one party benefits at the expense of the other,<sup>1</sup> thus violating the Paretian rule of efficiency. These considerations tell us what the results (or expected results) of voluntary exchanges are. However, this still leaves the concept of voluntary exchange unanalysed.

Before proceeding, a few systematizing remarks are due at this point. In this paper we adopt the following assumptions concerning relations between the following notions (those premises are usually accepted in the literature dealing with the problem of coercion, see: Anderson, 2011; Lamond, 2020). First, coercion renders actions (and transactions) involuntary. Therefore, it is an analysis of the concept of coercion that is the focal point of our essay. Second, coercion occurs only in interpersonal relations, which implies that one cannot be coerced by entities that are not persons (or at least we do not deal with such types of coercion). Third, coercion is a notion that is different from the one of violence: in the case of coercion one party resorts to a threat<sup>2</sup> to get someone to do something (coercion takes place only when the victim surrenders, i.e. when the threat is successful), while violence can occur without a threat at all (one party does not necessarily want another to do something, but makes him worse off directly, e.g. in case of battery or robbery).

As *threat* (the *sine qua non* condition of coercion) can be classified as a speech act (wordless communications can be treated as speech acts too, see: Green, 2020), and because the speech act theory is essentially concerned with the analysis of the speaker's intentions, the idea of applying the said theory to investigating the coercer's intentions seems especially interesting and apparently promising. Even though the concept of

<sup>1</sup> As an anonymous reviewer noted, whether a coercer benefits at the expense of the coerced is, after all, a contentious issue, for the very idea of benefitting crucially depends on the notion of "being better off", which, in turn, presupposes *some* baseline. In other words, the problem is: it is *compared to what* that the coercer benefits. And the problem of determining the *relevant* baseline is one of the perennial problems in philosophy of economics. Given this, it is indeed far from certain that the coercer benefits at the expense of the coerced. Yet, it is difficult to deny that this statement has at least some *intuitive* appeal.

<sup>2</sup> More precisely, it has to be a conditional threat of a form "if you do not do X, I will do Y". We develop this thread in "Speech act theory and intention-based account of coercion" section.

coercion was not originally formulated on the grounds of speech act theory, we believe that the latter may well serve to revise the former.<sup>3</sup>

The main goal of this paper is to provide such a definition of coercion that is compatible with the foundations of the methodology of the Austrian School of Economics. The rationale for the present research is that the notions (however clearly defined) of voluntary exchange and coercion as employed by Austrians are inadequate, with the main indictment being that they run counter to Austrian methodology. Although this paper aims at revising the concepts of coercion and voluntariness specifically within the Austrian School of Economics, the considerations presented herein might impact on the economic theory in general. Our thesis is that the intention-based concept of coercion (Lamond, 1996, 2000, 2020) best fits the Austrian methodology. Another problem to solve is the relation between the Austrian economics and libertarian ethic. Even though the Austrians contend that “Austrian economics and libertarianism, although often found together, are distinct both in principle and practice” (Egger, 1979, p. 119), we argue that they are not always distinct in practice. In fact, we submit that they are bound together in the very methodological apparatus employed by some well-known Austrians (Block, 1995, 2000; Block & Gordon, 1985; Herbener, 1997, 2008; Hoppe, [1988] 2010, [1993] 2006, 1994; Huerta de Soto, [1992] 2010; Hülsmann, 2004, 2008; Rothbard, [1970] 2009b). Moreover, we believe that our findings will help to make “a further step in the consistent application of subjectivism” (Hayek, 1952, p. 31) in economic analysis, which seems desirable from the point of view of the Austrian School.

The reasons for choosing the Austrian School are as follows. First, it is characterized by quite consistent and sophisticated methodology, which has been appreciated by the influential philosopher of economics, Uskali Mäki, who claims that the Austrian School is “one of the most self-reflective traditions in economics”.<sup>4</sup> Second, the notions in question are especially important to this intellectual current since a great number of its theories rely on them; for example, monopoly theory, welfare theory, monetary theory, theory of public goods, theory of interventionism, theory of entrepreneurship or comparative analysis of economic systems (see e.g.: Hoppe, [1988] 2010; Huerta de Soto, [1992] 2010; Hülsmann, 2008; Kirzner, 1973; Rothbard, [1962] 2009a, [1970] 2009b; Wiśniewski, 2018).

Even if there were some attempts to deal with the problem of coerced and voluntary exchanges in the economic literature (e.g. Christiano, 2016; Dawson, 2015; Hausman & McPherson, 2006; Johnson, 2015; Klein, 2007; Munger, 2011; Musgrave, 1939; Preston, 1984), none of them proposed a solution that was similar to ours (at least to the best of our knowledge).

<sup>3</sup> We are grateful to one of the referees for pressing us on the point of whether we *define* coercion by resorting to the concepts operating in the realm of speech act theory or the latter simply *illuminates* the former or both. In fact, we would be happy to say that by applying the framework of speech act theory we *define* (or *redefine*) coercion rather than illuminate it, for illuminating coercion would most probably imply that we simply shed some new light (or capture in *other terms*) on what is already known otherwise. However, no such thing applies in our essay. Quite the contrary, as we find all Austrian concepts of coercion hitherto proposed wanting, our agenda is rather to *revise* the concept. Hence, to put it precisely, we do not define coercion *anew* (let alone *stipulate* what it is) but rather *revise* it along such lines that it should fit neatly with the Austrian methodology.

<sup>4</sup> <https://tint.helsinki.fi/maki/research.html>.

This paper proceeds as follows. "Foundations of the Austrian methodology and theory of exchange" section presents the most important methodological postulates of the Austrian School of Economics and the foundations of its theory of exchange in order to understand what criteria the concept of coercion should meet to be consistent with the Austrian methodology. In "Problem of coercion in philosophy" section, we take a look at those concepts of coercion that occur in the contemporary literature on the subject. Next, in "Rights-based concept of coercion in neo-Austrian economics" section, we analyse theories of voluntary and coerced exchange that are being ventured in the research practice of the representatives of the Austrian School, while showing that some of them use these concepts (i.e. voluntary and coerced exchange) in a way that smuggles the libertarian ethic of property rights, thus making them inconsistent with the methodological postulates put forward by Austrians. In "Speech act theory and intention-based account of coercion" section, we offer a solution which seems compatible both with the Austrian methodology and speech act theory at the same time. The last section contains a short summary.

## 2 Foundations of the Austrian methodology and theory of exchange

In the eyes of Austrians, economics is a science of human action (praxeology). The central proposition of the science is the so called action axiom, which holds that an individual acts in order to attain certain ends by employing definite means. Among the most fundamental methodological postulates of the Austrian School are methodological individualism and methodological subjectivism (Martin, 2015).

Methodological individualism postulates a certain *norm* of explanations in sciences concerned with human action. Specifically, what would count as "satisfactory explanations" in the said sciences would be the ones that account for "the change of social institutions, social processes, social facts, and social structures" by citing "the interplay of individual intended human actions" (Linsbichler, 2017, p. 17).<sup>5</sup> Some traces of this principle can be already found in Carl Menger, who contended that "economic phenomena theoretically are reduced ultimately to individual economic efforts or to their simplest constituent elements, and are thus explained" (Menger, [1963] 1985, pp. 90–91). It was the author of the term *methodological individualism*, Joseph Schumpeter himself, who already stressed that this methodological principle should be distinguished from both ethical and political individualism (and thus should not be associated e.g. with egoism or liberalism, respectively). Methodological individualism neither necessarily presupposes ontological individualism (Schumpeter, [1909] 1980). It rather emphasizes that "everything social must in some way be recognizable in the action of the individual" (Mises, [1933] 2011, p. 39). The same has been restated by Friedrich von Hayek and Ludwig Lachmann. Hayek, in his description of "the individualist and»compositive« method of the social sciences", stresses that explanations of complex patterns of social order ultimately refer to beliefs held by

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<sup>5</sup> For an exquisite elaboration on the relation between institutions (or collectives) and individuals, see Kaufmann (1958, pp. 158–168).

acting individuals and to their interactions (Hayek, 1952, pp. 36–43). Lachmann suggests that explanations in social sciences rely on tracing social phenomena back to intentions and plans of certain acting individuals (Lachmann, 1971, p. 20). Finally, it is worth emphasising that according to many Austrians methodological individualism is concerned with explaining social facts as *unintended* results of intended individuals' actions (see: Menger, [1963] 1985; Hayek, 1952; Linsbichler, 2021; Neck, 2022).

Methodological subjectivism, in its turn, holds that social scientists should not be concerned with the (external) physical reality, but rather with acting individuals' mental states. As Austrians claim, there are no objective economic values inhering in material objects. Economic value is rather relative to human needs, desires or preferences. Moreover, Austrians emphasize that only ordinal scales of values are warranted in economic analysis and no interpersonal, intertemporal or quantitative comparisons of utility are valid. This subjective value theory, originally put forward by Menger ([1976] 2007), became the cornerstone of the Austrian School. But there is more to methodological subjectivism than just that. This principle can be treated as the extension of the Mengerian theory of value. It was Mises who consistently expanded subjectivism (see: White, 1984; Lavoie, 1991; Mises, [1933] 2011). As Mises put it: "Praxeological reality is not the physical universe, but man's conscious reaction to the given state of this universe. Economics is not about things and tangible material objects; it is about men, their meanings and actions." (Mises, [1949] 1998, pp. 92–93). Mises also maintained that it is methodological subjectivism that allows economics to be an objective and value-free science (Mises, [1949] 1998, p. 21). Hayek in turn famously claimed that the data of social sciences comprises what people believe and think, and not what exists out there independently of subjective beliefs and valuations. To that effect, he stated what follows: "That the objects of economic activity cannot be defined in objective terms but only with reference to a human purpose goes without saying. Neither a»commodity« or an»economic good,« nor»food« or»money,« can be defined in physical terms but only in terms of views people hold about things" (Hayek, 1952, p. 31). Or, as Don Lavoie expressed it: "It is not directly the way the world is which matters to economics, but rather the way it appears to acting agents" (Lavoie, 1991, p. 476).

Some Austrians went even further. According to so called radical subjectivism, with its originator, Ludwig Lachmann, in the first place, methodological subjectivism is strongly connected with the method of *Verstehen* (i.e. interpreting other people's actions by understanding the meaning they ascribe to them), as put forward by Max Weber (Lachmann, 1971). Lavoie even suggests that economics, as a human science, is concerned with understanding rather than explanation (Lavoie, 1991, p. 473). This orientation is also called the hermeneutical turn in the Austrian economics.

To sum up, Austrians consistently claim that economics is fundamentally about intentions and meanings that people attach to things. Subjectivists hold that economic goods and economic values exist only in the minds of economic actors. Therefore, we could say that methodological subjectivism is based on the belief that social and economic phenomena are relational (and not independent), i.e. they exist in relation to acting individuals' mental states. It means that economics deals with the mental and not with the physical aspect of reality.

Next, there is a value freedom postulate (*Wertfreiheit*). According to this principle, no value judgements are acceptable within (positive, non-normative) economic theory. As Austrians contend, value freedom postulate has it that “personal value judgements are in no way expressed in the substantive content of the science” (Kirzner, 1994, p. 313). It is not permissible for the economist *qua* economist (and not ethicist) to judge whether a change in state of affairs is good or not. In order to assess that, one needs to assume some standard of what is desirable and what is not. As we believe, in more general terms, value freedom means that the descriptive and explanatory power of economic theory should be independent of value judgements or ethical assumptions.<sup>6</sup>

Now, we can turn to the foundations of the Austrian theory of exchange. The fundamental question here concerns the motives of human action. As Mises states: “Acting man is eager to substitute a more satisfactory state of affairs for a less satisfactory. His mind imagines conditions which suit him better, and his action aims at bringing about this desired state. The incentive that impels a man to act is always some uneasiness” (Mises [1949] 1998, p. 13).

As we believe, the above quotation points to a plausible conjecture that the Misesian concept of “uneasiness” might be identified with an unsatisfied desire (or preference). If so, then we could say that this general motive which incites an individual to perform a given action is an unsatisfied preference.<sup>7</sup> As Mises clarifies, to take an action, an individual must be also convinced that his goal is achievable (*ibid.*, p. 14) and that the

<sup>6</sup> On the controversial relation between positive and normative economics, see for instance: Blaug (1998), Davis (2014) and Colander and Su (2015). Blaug (1998) observed that, most of all, economists cannot avoid so called methodological value judgments, i.e. they are committed to preferring one methodology to another. That seems to be an uncontroversial statement. Colander & Su (2015) claim in turn, that Lionel Robbins, in spite of the fact that he believed that economic theory should reduce to a study of logical consequences of initial assumptions, also contended that economics should be divided between “that part of economic analysis which requires ethics to the branch of economics which deals with policy and other practical issues” and “the branch which deals with models and pure theory.” In his view, the latter should not be value-laden (Colander & Su, 2015, p. 162). It seems that Austrians use a similar understanding of positive economics (for discussion see: Gunning, 2005; Block, 2005). This perspective is taken for the sake of argument here.

<sup>7</sup> One reviewer noted that the leap we are making (i.e. trying to identify Misesian “uneasiness” with unsatisfied preferences) is particularly problematic on Austrian grounds. He or she also believes that the reason which could bolster this identification would be the existence of preferences prior to actions, something Austrians are generally cautious about. However, it is, as we submit, possible to make a case for an independent (of action) existence of preferences, which would simultaneously bolster our apparently problematic interpretation of Mises. We contend that it is the very notion of opportunity cost, as understood by Austrians, that implies the independent (of action) existence of unsatisfied preference (see: Nozick, 1977). Hence, if this argument counts for something, then just as uneasiness exists (being a precondition of any action and thus existing prior to it) independently of action, so do unsatisfied preferences. This, we believe, renders our leap from uneasiness to unsatisfied preferences less problematic. Incidentally, for an analysis of the relation between preferences and choices in Austrian economics (and especially whether preferences do exist out there or merely amount to an instrument explaining actual choices), see e.g. Pham (2017). Moreover, in all fairness, in Mises we can find a passage which seems to provide yet another interpretation of the relation between uneasiness and unsatisfied preferences: “Action is always directed toward the future; it is essentially and necessarily always a planning and acting for a better future. Its aim is always to render future conditions more satisfactory than they would be without the interference of action. The uneasiness that impels a man to act is caused by a dissatisfaction with expected future conditions as they would probably develop if nothing were done to alter them. In any case action can influence only the future, never the present that with every infinitesimal fraction of a second sinks down into the past. Man becomes conscious of time when he plans to convert a less satisfactory present state into a more satisfactory future state.” (Mises, [1949] 1998, p. 100) In the light of this citation, it seems that Mises conceived of the relation between uneasiness and *prospective*

benefit from the action will be greater than its opportunity cost, which can be identified with the second-best alternative which has to be foregone (*ibid.*, p. 97).<sup>8</sup> Therefore, we can say that an individual always undertakes the most, at least at the moment of choice, subjectively desirable action.<sup>9</sup> In other words, he acts in a certain way because he prefers it to acting in a different way or not acting at all. Attaining ends is in turn to be identified with satisfying desires (or preferences). Whenever an individual attains a certain end, his preference satisfaction increases, and when a fewer of his ends are being attained, his preference satisfaction decreases (see: Rothbard, [1962] 2009a, p. 18).<sup>10</sup>

Since every action is “an attempt to substitute a more satisfactory state of affairs for a less satisfactory one”, it is always a kind of exchange (Mises, [1949] 1998, p. 97).<sup>11</sup> According to Mises, when an exchange is made without cooperation with other individuals (that is without expectation that another individual will perform an action satisfying some preference of the acting individual), it is an autistic exchange.<sup>12</sup> On the other hand, when an individual expects cooperation from another, it is an interpersonal exchange (*ibid.*, pp. 195–196). While the former type of exchange is not a subject of interest to catallactics (the theory of market exchange) at all, the latter is its very core. It is worth noticing that a consequence of this distinction is that autistic exchanges occur not only when there is no interaction between individuals, but also when there is an interaction without cooperation. For instance, giving a present (when one does not expect receiving anything from the other party in the future) is classified as an autistic exchange (*ibid.*). Consequently, we should also thus conceive of actions involving violence (but not coercion), such as battery, theft or robbery.

Footnote 7 continued

unsatisfied preferences in causal terms. That is to say, apparently he believed that the expectation of future unsatisfied preferences *causes* uneasiness, with the latter in turn inducing man to act. Still, regardless of whether the first or the second interpretation is preferable, the fact (for which we argued) that (unsatisfied) preferences exist prior to action seems to support both of the above interpretations.

<sup>8</sup> Note, however, that Mises does not use the term “opportunity cost” explicitly.

<sup>9</sup> As underlined by one of the reviewers, for an actor to choose a course of action A it takes both a certain (subjective) *preference* P and the (subjective) *belief* that A will lead to the satisfaction of P.

<sup>10</sup> An anonymous reviewer correctly pointed out that, Rothbard’s pretenses to the contrary notwithstanding, the above claim is valid only under the assumption of relative constancy of an actor’s preferences, the assumption he explicitly denies, while speaking derogatorily of “the constancy error” (Rothbard, [1956] 2011, p. 295). After all, it is true that the preference satisfaction increases with a greater number of ends attained (and conversely: the preference satisfaction decreases the fewer ends are attained) only with the caveat that preferences are held constant. For, if preferences were to change over a certain time span, then it might well be the case that the preference satisfaction *actually* decreases although a certain end has been attained. For example, one explanation of such a possibility is that new (unsatisfied) preferences appeared in the meantime.

<sup>11</sup> As Mises put it: “We call such a wilfully induced alteration an exchange. A less desirable condition is bartered for a more desirable. What gratifies less is abandoned in order to attain something that pleases more. That which is abandoned is called the price paid for the attainment of the end sought. The value of the price paid is called costs. Costs are equal to the value attached to the satisfaction which one must forego in order to attain the end aimed at.” (Mises, [1949] 1998, p. 97).

<sup>12</sup> This means that on Misesian grounds, it is logically possible for cooperation to be coerced. In Mises, interpersonal exchanges are always based on cooperation and exchanges as such can be based on either hegemonic or contractual bonds. And because hegemonic bonds can be either coerced or voluntary, it is logically possible that there are instances of coerced cooperation. We are going to develop this thread a few paragraphs later.

It seems important to mention that Rothbard categorizes actions slightly differently. According to him, gifts as well as murder or robbery are to be put under the rubric of interpersonal exchanges (Rothbard, [1962] 2009a, pp. 79–94). We, however, do not deal with such actions here since the very structure of coercive proposals requires assuming a scenario wherein the proposer gets the recipient to do something for him, with the latter expecting undesirable counteraction in case of his non-compliance (like, for instance, in the case of the following proposal: “if you do not give me your wallet, I will hit you”). Thus, we take the Misesian criterion of cooperation for granted in defining interpersonal exchanges.

For our investigations the distinction between two types of interpersonal exchange is crucial. Mises calls the first of them an exchange based on contractual bonds and the second an exchange based on hegemonic bonds. As he maintains, in the case of contractual bonds “the logical relation between the cooperating individuals is symmetrical” (Mises, [1949] 1998, p. 196). There is no director and subordinate. Each party to the exchange has the same relation to the other, and each party receives “definite quantities of goods and services of a definite quality” (*ibid.*, p. 197). The main difference between contractual bonds and hegemonic bonds is that in the case of the latter “the scope in which the choices of the individuals determine the course of events” is radically smaller. Mises writes: “In choosing subjection in a hegemonic body a man neither gives nor receives anything that is definite” (*ibid.*). This means that in such a situation, the only choice of a subordinate individual is subordination. He, unlike the director, does not realize his goals (his main purpose is to act as the director demands). It might be said that motives of his action are external to him. The person who is mainly acting here is the one who gives the orders. The relation between individuals is asymmetrical then (*ibid.*, pp. 196–197).

Mises talks about physical violence and the threat thereof as possible motives for choosing obedience. At the same time, however, he claims that the family is a hegemonic structure too, so he does not seem to contend that these motives (physical violence and the threat thereof) are the only ones that might underlie a hegemonic bond (*ibid.*, p. 197). In the end, it would be suspicious to claim that only preferences related to physical reality matter in economics, since the science of human action is concerned with all types of goals and preferences. It is also worth remembering that according to Mises “no physical violence and compulsion can possibly force a man against his will to remain in the status of the ward of a hegemonic order” (*ibid.*). Quite the contrary, the only result of violence or the threat thereof is that “subjection as a rule is considered more desirable than rebellion” (*ibid.*). Hence, the hegemonic bond occurs only when an individual chooses to succumb to subordination, and he does so because he prefers the consequences of obedience to the consequences of disobedience. If an individual opposes the subordination, hegemonic bond does not occur (*ibid.*).

It is worth emphasizing that Mises does not talk about voluntariness and coercion here. Indeed, since he recognizes family as a hegemonic structure, we could suppose that according to him individuals can engage in hegemonic structures voluntarily. In other words, it seems that according to Mises, coercion is not necessary for hegemonic bond to occur. The only important thing is that the hegemon wants the counterparty to realize his goals and gives the orders which the counterparty realizes, regardless of the fact whether the latter does it voluntarily or not.

It is also Rothbard ([1962] 2009a, pp. 82–84) who resorts to the term of *hegemonic bonds*. However, in this author's view, exchanges based on hegemonic bonds are always coerced. In other words, he, contrary to Mises, identifies exchanges based on hegemonic bonds with coerced exchanges, thus claiming that here, as opposed to voluntary exchanges (which he identifies with exchanges based on contractual bonds) one party gains at the expense of the other (Rothbard, [1962] 2009a, p. 84). As he states, coercion (or intervention, with both terms being used interchangeably here) evokes negative "direct effects on utility" (it decreases preference satisfaction of an individual) (ibid., pp. 878–885). To sum up, Mises's conception of hegemonic bonds cuts across the Rothbardian distinction between voluntary and coercive exchanges. By contrast, in Rothbard's view, the concept of hegemonic bonds is co-extensive with the concept of coerced exchanges. However, this differential conceptualization of hegemonic bonds by Mises and Rothbard seems to amount to nothing more than a merely classificatory (or verbal) issue. Still, since we are primarily interested in the problem of coercion and voluntariness, we are supposed to talk about coerced and voluntary exchanges.

Finally, our investigations should not ignore considerations on coercion put forward by Hayek. In his *Constitution of Liberty* he dedicates the whole chapter to the issue of coercion. Hayek explicitly accepts the assumptions mentioned by us in the introduction: that coercion occurs only between acting individuals; that there is a difference between coercion and violence; and that coercion implies "the threat of inflicting harm" (Hayek, [1960] 1978, pp. 133–135). Moreover, Hayek notices that a coerced person—in spite of the fact that he or she is made to serve "another man's will"—acts (contrary to victims of violence, who do not act).<sup>13</sup>

Interestingly, Hayek distinguishes between coercion and power, and his conception of power seems to correspond to the Misesian conception of hegemonic bonds. Hayek admits that in the case of power one can direct other people without threatening them. For instance, a director of an enterprise tells other people what to do in order to achieve some common goal, but he does not pose a threat at them. Thus, power can be exercised voluntarily, i.e. without coercion (still, it might be coercive too). It seems then that exchanges based on power can be identified with exchanges based on hegemonic bonds (in Mises's terminology).<sup>14</sup>

Despite its advantages (mentioned above) it is necessary to notice that Hayek's position on coercion has been criticized from many different points of view for its flaws and inconsistencies (see: Hamowy, 1971; Hoppe, 1994; Paul, 1980; Rothbard, [1982] 1998; Viner, 1961). For Hayek indeed provides us with problematic criteria of coerced actions. First, he contends that coercion can occur when "the services of a particular

<sup>13</sup> "Coercion occurs when one man's actions are made to serve another man's will, not for his own but for the other's purpose. It is not that the coerced does not choose at all; if that were the case, we should not speak of his "acting."" (Hayek, [1960] 1978, p. 133).

<sup>14</sup> As Hayek puts it: "It is not power as such—the capacity to achieve what one wants—that is bad, but only the power to coerce, to force other men to serve one's will by the threat of inflicting harm. There is no evil in the power wielded by the director of some great enterprise in which men have willingly united of their own will and for their own purposes. It is part of the strength of civilized society that, by such voluntary combination of effort under a unified direction, men can enormously increase their collective power." (Hayek, [1960] 1978, pp. 134–135).

person” are crucial to one’s existence.<sup>15</sup> Unfortunately, this seems to be a very strange criterion for a subjectivist to adopt. Certainly, this condition is purely objective, since it does not refer to mental states (beliefs or value judgments) of acting individuals, but to their “existence” as such. Fortunately, Hayek also presents a subjectivist criterion, i.e. that coercion can occur when what is under threat is something that someone considers the most valuable (Hayek, 1960, 1978).

Second, Hayek claims that for coercion to occur, another necessary condition must be met. That is, there must be no other people who can satisfy one’s desire. To put it in a different way, if there are other people who can satisfy one’s particular desire, then coercion cannot occur under such circumstances. This is because Hayek regards competition between sellers as a sufficient condition for voluntary exchanges to take place.<sup>16</sup> Accordingly, he states:

“A monopolist could exercise true coercion, however, if he were, say, the owner of a spring in an oasis. Let us say that other persons settled there on the assumption that water would always be available at a reasonable price and then found, perhaps because a second spring dried up, that they had no choice but to do whatever the owner of the spring demanded of them if they were to survive: here would be a clear case of coercion.” (Hayek, [1960] 1978, p. 136)

It seems that there are at least two problems with this position. First, if we reject the objective criterion of survival (or existence) and just stick to subjective desires, then every monopolist could coerce other people. For instance, imagine that there is only one university in the particular area. The university authorities inform a student: “pay us \$2,000 in tuition or we will expel you from the university.” Since the student has no choice but to pay (given that he or she wants to graduate in higher education), Hayek’s position predicts that he or she was coerced (perhaps the distinction between warnings and threats could help here, but, unfortunately, Hayek apparently does not take it into consideration—we elaborate on the distinction in the next sections). The second problem with the criterion of competition is that there could be more than one “coercer” at the same time, which predicts that no “true coercion” would obtain in that case. For instance, let us imagine that  $P_1$  comes to  $Q$  and says: “if you pay me \$3,000, I will be defending you, but if not, I will kill you”. Then  $P_2$  comes to  $Q$  and says: “if you pay me \$2,000, I will be defending you, but if not, I will kill you”. Does  $P_1$  or  $P_2$  coerce  $Q$ ? Since there is a competition between  $P_1$  and  $P_2$ , Hayek would have to admit that there is no coercion here. But let us imagine that  $P_2$  drops out of the picture, everything else equal. In this case, the Hayekian position predicts that  $P_1$  coerces  $Q$  even though in both scenarios  $P_1$  performs exactly the same action. *Mutatis mutandis*, if  $P_1$  were to drop out of the picture, suddenly  $P_2$  would start counting as a coercer, which seems equally problematic for the same reason (for other comments

<sup>15</sup> Hayek writes: “So long as the services of a particular person are not crucial to my existence or the preservation of what I most value, the conditions he exacts for rendering these services cannot properly be called “coercion.”” (Hayek, [1960] 1978, p. 136).

<sup>16</sup> As he writes: “The decisive condition for mutually advantageous collaboration between people, based on voluntary consent rather than coercion, is that there be many people who can serve one’s needs, so that nobody has to be dependent on specific persons for the essential conditions of life or the possibility of development in some direction.” (Hayek, 1960, 1978, p. 141).

on the issue of coercion, monopoly and competition in Hayek see also: Paul, 1980, pp. 41–42).<sup>17</sup>

Third, in his discussion of coercion Hayek uses a problematic concept of “reasonable price”. This, however, seems incompatible with the Austrian methodology. Thus, Hamowy rhetorically asks: “at what price does the contract alter its nature and become an instance of»coercion«?” (Hamowy, 1971, p. 354).

Fourth, it seems that there are also problems with the criterion of avoidability, which Hayek presents to suggest that we “need never be coerced”, if only we know in advance that in a particular situation (that can be avoided) we would be “coerced”. Unfortunately, as Hamowy observes:

“It follows from this that if Mr. X warns me that he is going to kill me if I buy anything from Mr. Y, and if the products available from Mr. Y are also available elsewhere (probably from Mr. X), such action on the part of Mr. X is non-coercive! Avoidability of the action is sufficient, according to this criterion, to set up a situation theoretically identical to one in which a threat does not occur at all.” (Hamowy, 1971, p. 356)

Given the above problems with the Hayekian criteria of coercion, it seems that we should look for different solutions. Incidentally, the Hayekian conception of coercion has been criticized also by Rothbard ([1982] 1998) and his followers (e.g. Hoppe, 1994).

Taghizadegan and Otto (2015, p. 300) in their turn seem to rightly claim, referring to Hayek, that: “Human actions that start with offers that can be rejected free of cost by the counterparty belong [...] to the area of catallaxy”. Indeed, it seems that catallactics is to be identified with the area of voluntary exchanges. But the term “free of cost” needs to be more precise, since, as we have seen, every action (and thus every type of exchange) entails an opportunity cost.

As we will try to show later, according to Rothbard and his followers, coercion basically reduces to the aggressive use of physical violence<sup>18</sup> or the threat thereof, and proposals can be recognized as coercive threats only if they announce a (property) right violation as the counteraction in the case of the victim’s non-compliance. Moreover, (property) rights are usually treated by those Austrians as rationally justified natural rights and as given exogenously in their economic theory. As we will argue later, this position is inconsistent with the remainder of the Austrian methodology. Now, however, we would like to turn to the sketchy analysis of philosophical approaches to the concept of coercion, showing their inconsistency with the Austrian methodological postulates presented in this section.

<sup>17</sup> For instance, Paul observes: “If an owner of a business is justified in charging whatever price he wishes for the products he owns when he is in a competitive market, then why should it be illegitimate for him to exercise this same right when his competitors have, for whatever reason, “dried up”?” (Paul, 1980, pp. 41–42).

<sup>18</sup> Note that, by libertarian lights, the phrase “aggressive violence” is not pleonastic at all. Rather, what the attributive adjective “aggressive” picks out is such instances of violence that are at the same time right-violating. By contrast, non-aggressive violence would be such violence that does not violate rights, e.g. proportionate and/or necessary self-defence. On aggressive or invasive violence, see e.g. Rothbard ([1982] 1998).

### 3 Problem of coercion in philosophy

Coercion is a concept that is widely studied in ethics as well as in legal and political philosophy. The problem of coercion has been already stated in Aristotle's *Nicomachean Ethics*. The philosopher from Stagira claimed that coercion makes an action involuntary, and therefore reduces moral responsibility of the coerced person (Aristotle, 1984, pp. 1110a–1111b).<sup>19</sup> Although Aristotle predicted the existence of different types of coercion, at least already from the times of Thomas Aquinas, it is usually assumed that coercion occurs only in relations between people, i.e. when one person forces another to do something (Anderson, 2011).<sup>20</sup>

The new standard of discussion about coercion in the contemporary philosophy was set by Robert Nozick thanks to his essay *Coercion* (1969). Anderson (2011) notices that there are a few types of approaches to the said problem. Nozick can be perceived as the precursor of at least two of them, both of which can be classified as so called baseline approaches.

In this kind of analysis, it is usually assumed that threats coerce, while offers do not, and what distinguishes threats from offers is that “compared to the baseline, threats worsen the coerced’s situation, while offers do not” (Anderson, 2011). More precisely, threatening party by the very issue of the threat renders the performance of an action that the threatened party would otherwise like to take (while the threatening party would not like the threatened party to take) less attractive for them. For instance, in a paradigm case of threat, where P comes to Q and says: “Your money or your life”, Q’s refusal to give P the money appears less desirable for Q than giving it. In other words, the alternative action (preservation of money) appears less desirable for Q than acting as P demands (giving him money), due to the P’s announced counteraction.

There are two kinds of baselines that Nozick uses in his seminal paper. According to him, one baseline can be identified with the “normal or natural or expected course of events” (Nozick, 1969, p. 447). In his analysis, Nozick presents a thought experiment in which he suggests that the normal course of events is what is predictable based on prior experience. In his example, P usually sells drugs to Q, but once he refuses to do so unless Q beats up a certain person (then P will even give Q these drugs for free). That would mean that P threatens (and if he does it successfully, then coerces) Q. On the other hand, if P meets Q for the first time, then his proposal would be treated as an offer (Nozick, 1969, p. 448).

As Nozick observes, there are some problems with this criterion. One is that it is relative to our sense of “normal or expected course of events”. In his other thought experiment, Nozick presents a situation in which Q is going to drown in the lake, and P proposes to save him if Q promises to do something for P in the future. As Nozick states: “Whether P’s saying that he will save Q if and only if Q makes the promise is

<sup>19</sup> Philosophers often say that coerced action is not fully of one’s own choosing.

<sup>20</sup> As Anderson (2011) writes: “If there is a single, continuous thread that runs through the various thoughts about coercion surveyed above, I believe it could be identified as Lucas suggests with a concern for the ability of some agents to implement and enforce decisions about the activities of others. With the possible exception of Mill, who allows for a greater range of coercive methods than the others surveyed, this general idea seems to capture what one might have said was essential in the concept of coercion as pre-modern and modern political theorists employed it, by name or (in the case of Locke) by function.”.

an offer to save Q or a threat not to save Q depends upon what the normal or expected course of events is” (Nozick, 1969, p. 450).

Another problem with this criterion might be that it is overinclusive, for it allows for warnings to count as threats. For instance, P comes to Q and says: “In the near future, I am going to build an ugly building in your neighbourhood. But I can do that elsewhere, if you pay me for the transportation”. As P’s plans are not normal or expected course of events for Q, then Q’s alternative is worse compared to his baseline. In consequence, even if P’s intent was not to coerce Q to pay him, but just to warn Q and give him some alternative, we would have to classify P’s proposal as a threat.<sup>21</sup>

Moreover, this criterion takes into account both speaker’s intentions and recipient’s understanding of a situation. Undoubtedly, this is justified in the analysis of coercion, wherein the necessity of establishing whether a threat is successful or not is widely acknowledged, but as long as we are concerned with the problem of threat as such, we should focus solely on speaker’s beliefs and intentions.<sup>22</sup> Only when we formulate a plausible concept of threat can we go on to probe it further.

The second baseline which Nozick proposes is a normative (moral) baseline. He comes to the conclusion that the “normally expected course of events” baseline is sometimes insufficient and then he formulates another thought experiment. He imagines a situation in which a slave owner beats his slave every morning for no reason, but once he proposes not to beat the slave if the latter does something special for him. If the previous criterion were to be applied, this proposal would be treated as an offer: compared to a “normally expected course of events” the slave is better off having the opportunity to avoid being beaten. However, as Nozick contends, since slavery and battery are themselves immoral, such a proposal should be treated as a threat. It is because no one has a right to enslave and beat another person—at least in the absence of any prior contracts to that effect. In other words, by receiving this proposal the slave is rendered worse off compared to the situation in which his moral rights are respected (Nozick, 1969, p. 450).

Ultimately, the selection of a baseline, Nozick contends, depends on the preferences of the recipient: if he prefers a “normally expected course of events” to the consequences of the refusal of the proposal, then he is confronted with a threat (even though “morally expected course of events” is different from the normally expected one; let us imagine here a thief who is usually unpunished for his crimes: the punishment is “morally expected” for him, even though it is not “normally expected”). If the recipient prefers “morally expected course of events” to the consequences of the refusal of the proposal, then he also faces a threat (even though “normally expected course of events” is different from the morally expected one) (Nozick, 1969, pp. 450–451).

The rights-based view of coercion and voluntariness is shared by Wertheimer (1987). There are a few problems with this approach. First, the most general problem with this rights-based account is that it does not conceptually allow for saying that the legal system coerces people. For instance, legal systems usually provide that the

<sup>21</sup> Without a doubt, warnings and threats differ in terms of the proposal maker’s intentions (Lamond, 1996, pp. 222–230; Nozick, 1969, p. 453–458). We probe this distinction in more detail in “[Speech act theory and intention-based account of coercion](#)” section.

<sup>22</sup> We develop this thread in “[Speech act theory and intention-based account of coercion](#)” section.

penalty for theft is imprisonment. In this situation, we could not say that law enforcement agents coerce the thief (when caught and convicted) to go to prison, for the thief does not have a right not to go to prison. The only possible answer here would be then that the thief goes to prison voluntarily. Unfortunately, this sounds odd and counterintuitive, to say the least.

Second, as a general argument against rights-based positions as such, we must note that *different* rights are recognized by *different* moral or legal systems. And since there is more than one ethical (or legal) system in the world, this *ipso facto* implies that what is coercive relative to one system is not necessarily coercive relative to another.<sup>23</sup> However, if Austrian economists subscribed to this approach (actually, some of them do, and we will critically analyse their position in the next section), they would have to choose a *definite* moral system as a basis for their economic theory. Unfortunately, it would still collide with their postulate of value freedom. Moreover, as our agenda is to elaborate a non-relative concept of coerced exchanges, the relativization of the concept of coercion (and voluntariness) to a given ethical or legal system would be most damaging to our project in the first place. After all, we are interested in coerced exchanges as such, and not in coerced exchanges relative to an ethical (or legal) system. That is to say, our ambition is to lay out such an account of coerced exchanges that can be applied *across* ethical (or legal) systems. Another problem with the rights-based approach on the grounds of the Austrian methodology will be presented in the next section.

A significant contribution to the philosophical debate on voluntariness was made also by Olsaretti (1998). In her article, she criticizes rights-based conceptions of coercion and voluntariness. Her solution, however, is normative too. In her view, there is a need to resort to so called acceptable alternatives. This concept, however, requires some objective (and normative) standard of what is “acceptable”. Unfortunately, this seems inconsistent with both the Austrian subjectivism and value freedom postulate.

Yet another baseline approach has been presented by Zimmerman (1981). According to him, both threats and offers can be coercive and there is no sharp difference between them. In order to assess whether a proposal (whether an offer or threat) is coercive or not, we have to establish if the proposal maker actively prevents the recipient from being in a situation in which the latter has better alternatives to choose from. If the proposal maker makes it impossible for the recipient to be in a better position, then he makes him worse off compared to the baseline, which is the absence of his interference. In consequence, if the recipient accepts the offer, coercion occurs. In his example, Zimmerman imagines a situation in which an island inhabitant receives a work offer from the only other person on this island. Therefore, accepting this offer is the only way for him to survive. In consequence, he accepts the offer. Was he coerced to do so? Zimmerman would say that it depends whether the proposal maker made it impossible for the recipient to receive other offers (for instance, by making it impossible for him to escape from the island).

<sup>23</sup> We are grateful to one of the referees for drawing our attention to the fact that this relativization in and of itself is not yet conflict-generating. Granted, an exchange being coercive<sub>legal system 1</sub> does not contradict the same exchange being not coercive<sub>legal system 2</sub>. However, this indexation, as the body of the text elucidates, does not help to avoid the commitment to one of those ethical (legal) systems, which in turn would violate the Austrian requirement of *Wertfreiheit*.

The problem with this approach is that it resigns from the commonly accepted difference between (coercive) threats and (non-coercive) offers. There is, however, a possibility of preserving the distinction, introducing the notion of exploitation in the case of Zimmerman's coercive offers. In the above scenario with the proposal maker actively preventing the island inhabitant from having better alternatives, we could validly speak of exploitation. Admittedly, the proposal maker could resort to coercion to make it impossible for the recipient to have better alternatives, but at the moment of formulating it, this proposal as such would be classified as an exploitative (but not coercive) offer. Therefore, as usually assumed, coercion would occur only in situations where threats are posed (see: Anderson, 2011). Unfortunately, as Zimmerman does not provide us with an independent definition of threat, these considerations seem useless for the purpose of our investigations.

Now we can turn to so called non-baseline approaches. Feinberg (1986) argues that coercive proposals generate so much pressure on the recipient's will that the latter is unfree to make *his* choice. This account requires employing some method of pressure calculation and comparison between the degrees of pressure that proposals exert on the recipient's will. Unfortunately, this position allows for tempting offers being coercive too as long as they create very strong pressure. This seems to be the first problem. The second is that pressure is not a praxeological concept. Defining pressure in a formal and non-psychological way is most probably impossible. Even if we somehow tried to express pressure in terms of utility (or welfare), we need to remember that Austrian economics bans interpersonal, intertemporal and quantitative comparisons of utility (one can only say that one prefers X to Y, but he cannot say how much). Hence, appealing to calculations of pressure seems inconsistent with this methodology.

Another interesting non-baseline position is the one which focuses on the intentions of the proposal maker (Lamond, 1996, 2000, 2020). As we believe, this is the most appropriate solution to the problem of coercion on the grounds of the Austrian methodology. In our opinion, this account meets all the Misesian criteria, i.e. it refers only to these analytical categories which constitute the essence of the Austrian theory of action: intentions (goals, aims, ends), desires (preferences), and beliefs (expectations), and is thus compatible with the Austrian methodology.<sup>24</sup> In the next section, however, we will show that some contemporary Austrians use a moral, rights-based baseline,

<sup>24</sup> One of the reviewers correctly noted that Lamond's account is not *fully* compatible with the Austrian methodology, though. In particular, his or her indictment is that Lamond's account, as we are about to see, resorts to the idea of the threatening party's promising to do something *unwelcome* to the threatened party. However, the reviewer is right that the Austrian conceptual apparatus does not enable us to apodictically state whether a given proposal is welcome or not. Rather, it is the recipient's choice *given the proposal* that allows us to indubitably infer the recipient's preference (or that the recipient benefits *ex ante*). Still, if this is all that a choice can demonstrate, then on Austrian grounds an acting agent would be powerless to demonstrate that he or she loses *absolutely* due to the occurrence of a given proposal (see: Kvasnička, 2008). After all, it is normally the case, especially when it comes to threats, that the proposal just happens to the recipient. That is, actors normally exercise no choice over proposals. And as there is no action in such cases, then there is no preference to be inferred. True, to capture the idea of an actor losing absolutely, we must assume the existence of prior-to-action preferences. However, as Kvasnička (2008, p. 44) in his criticism of the Rothbardian welfare economics opines, the conclusion that one cannot demonstrate a loss on the free market does not correspond to common sense. Moreover, it should be noted that the fact that actors can lose (in absolute terms) due to market proposals is not troubling to our agenda at all, as we are advocating here a value-free concept of coercion, which is thus guaranteed not to beg the question in favour of the free market. Thus, it remains an open question whether economic agents can lose due to market proposals.

when defining coercion and voluntariness. More specifically, they found these notions upon the libertarian ethic of property rights.

#### 4 Rights-based concept of coercion in neo-Austrian economics

Rothbard and his followers consistently contend that an exchange is mutually beneficial whenever it is voluntarily undertaken by both parties.<sup>25</sup> In his recent paper, it is Rothbard's follower, Block, who holds what follows: "The only way we can deduce benefits for sure is from voluntary interaction" (Block, 2019, p. 106). From the works of Rothbard ([1982] 1998, [1973] 2006, [1962] 2009a, [1970] 2009b) we can infer in turn that by coercion he means a physical violation of property rights or the threat thereof. Moreover, it seems to be based on his libertarian ethic of property rights. That would mean, however, that he uses rights-based concept of coercion. As we will try to show, this position seems incompatible with the Austrian methodology.

Commenting on Rothbard, High (1985) notices that the notions of voluntariness and coercion rely on certain ethical assumptions. He argues that this is the reason why economics needs to employ ethics in its theoretical apparatus.<sup>26</sup> In the economic discourse, the ethical entanglement of these concepts was also noticed by Hausman and McPherson (2006, pp. 36–37). Since ethics is traditionally considered a normative discipline, such understanding of these notions could threaten the Austrian value freedom postulate.

The problem of ethical entanglement of Rothbardian economic theory was noticed by Terrell (1999) in his comment on the Austrian critique of Coase theorem, and by Gunning (2000) in his critique of Cordato ([1992] 2007). These authors, however, do not indicate precisely where the problem really lies. On the other hand, Cordato ([1992] 2007, pp. 41–42) rightly recognizes that the Rothbardian concepts of voluntariness and coercion are based on the libertarian ethic of property rights, and it is for this reason that his concept of economic efficiency is normatively entangled. Cordato's point, however, seems to be underestimated in the literature. For instance, Gordon (1993) in his comment on Cordato ([1992] 2007) notices the problem, but he disregards its gravity and dismisses it in just a few sentences.

In the recent research it has become clear that the notions of threat, voluntariness, coercion or even freedom, as used by deontological libertarians such as Rothbard, rely upon physical violation or non-violation of property rights (Dominiak & Wysocki,

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Footnote 24 continued

Certainly, even more so, our agenda allows for the possibility of economic agent losing (absolutely) due to non-market (i.e. right-violating) proposals.

<sup>25</sup> As he writes: "Let us now consider exchanges on the free market. Such an exchange is voluntarily undertaken by both parties. Therefore, the very fact that an exchange takes place demonstrates that both parties benefit (or more strictly, expect to benefit) from the exchange. The fact that both parties chose the exchange demonstrates that they benefit. The free market is the name for the array of all the voluntary exchanges that take place in the world. Since every exchange demonstrates a unanimity of benefit for both parties concerned, we must conclude that the free market benefits all its participants." (Rothbard, [1956] 2011, p. 320).

<sup>26</sup> It is worth mentioning that within the Austrian School it was noticed by Boettke (1995). Nevertheless, at least to our knowledge, he did not decide to solve this problem.

2016; Dominiak, 2017, 2018). It seems that Austro-libertarians<sup>27</sup> are oblivious of the ethical entanglement of the concepts in question since they use them in their economic theory which they regard as value-free (Block, 2005; Rothbard, [1976] 2011). This problem is especially conspicuous in the Austrian debate on blackmail and extortion. Block and Gordon (1985) distinguish between efficient and inefficient economic exchanges, based on the criterion of physical violation of property rights (where property rights are treated as naturally given). In their view, because blackmail (as they define it) is a kind of threat which does not announce the violation of property rights, an exchange between the blackmailer and blackmailee is voluntary and economically efficient.<sup>28</sup> On the other hand, extortion involves a threat of property rights violation, and hence it makes a resultant exchange economically inefficient.<sup>29</sup>

It is worth noticing here that Hayek held a different view on that issue. He did not regard physical violence as a necessary condition for coercion to occur. He emphasized that “the threat of physical force is not the only way in which coercion can be exercised” (Hayek, [1960] 1978, p. 135). Moreover, as he put it: “True coercion occurs when [...] the knower of an evil secret blackmails his victim” (ibid., pp. 137–138).

Nonetheless, according to Rothbard and his followers, only illegitimate proposals (i.e. those that announce the physical violation of property rights) count as threats and can render exchanges involuntary. Consequently, we should say that proposals that do not violate property rights are not threats at all. Instead, they should be treated as offers. In his defence of Rothbard’s welfare economics, Herbener (2008) takes a similar position:

“A voluntary exchange occurs when neither trader uses or threatens violence against the property of the other. If the two persons trade the ownership of property without aggressive violence, then the exchange is voluntary. Given their natural ownership of property, each person chooses an alternative he prefers more than the non-interaction alternative. Both traders benefit. If one person violently aggresses against the property of the other person, then the exchange is involuntary. Given their natural ownership of property, the aggressor chooses an alternative that he prefers more than the non-interaction alternative and the victim

<sup>27</sup> By the term we mean Austrians who are also libertarians.

<sup>28</sup> In a paradigmatic case, what the blackmailer proposes to do in the case of the blackmailee’s non-compliance is to gossip. Moreover, by libertarian standards, gossiping is permissible, which directly follows from libertarians’ commitment to the freedom of speech. And since by their lights the legitimacy of proposals depends solely on the independent legitimacy of proposed actions (i.e. the ones performed in case their recipients fail to comply), blackmail proposals are deemed legitimate. For a comprehensive treatment of the problem of blackmail, see Block (2013).

<sup>29</sup> At this point, one of the anonymous reviewers objected that the fact that Austro-libertarians take only those preferences the satisfaction of which does not infringe on property rights to be welfare-enhancing is not in and of itself damaging to the Austrian commitment to value freedom. We address an even more general objection at length in footnote 33. However, at this point what is worth mentioning is that the very fact that it is *Austro-libertarians* who subscribe to such a view of welfare-enhancement implies that it is at least them that must *first* make a value judgement (i.e. endorse a certain prior-to-exchange right distribution as justified) *before* they then conclude that a given exchange increased social welfare since the said rights were not violated during the exchange. And generally, when person A subscribes to a certain standard (whatever it might be), person B can indeed coherently report the fact that A subscribed to the said standard without endorsing it at all. Still, it is the latter fact (i.e. B’s value-freely reporting A’s endorsement of a certain value) that presupposes that A’s statement cannot be entirely value-free.

is forced to choose an alternative that he prefers less than the non-interaction alternative. The aggressor benefits and the victim loses.” (Herbener, 2008, p. 61)

One might argue, however, that, given this quote, it is not clear whether Herbener has in mind the legal concept of natural ownership (or property right, as defined in the libertarian concept of natural law), or rather the sociological (or economic) one. The latter, as defined by Mises ([1922] 1962), refers to the fact of physical possession of a good, not the right to possess it.<sup>30</sup> This sociological phenomenon cannot be identified with the legal concept of ownership. Indeed, the sociological interpretation of the passage quoted above is very likely, given the footnote Herbener wrote in his other paper (Herbener, 1997, p. 99).

Unfortunately, neither of these interpretations satisfies the standards set by praxeology. First, note that the argument presented by Block and Gordon (1985) can have ethical significance, but it is difficult to understand the mental leap into economics made therein. As economics talks about acting individuals’ mental states, the mere reference to physical infringement of property rights appears insufficient at best and utterly misleading at worst. Second, even if we mitigate this position by reference to the sociological (or economic) concept of ownership, as Herbener (1997) does, it is still unclear why only the physical possession of goods should matter here, since the Austrian economic analysis examines all types of desires, not just those related to physical aspect of reality (as outlined in "Foundations of the Austrian methodology and theory of exchange" section). Actually, both interpretations lead us to counterintuitive conclusions and are inconsistent with the Austrian methodological principles. To illustrate this thesis, let us consider the following thought experiment (for a similar thought experiment and the critique thereof, see our discussion with Jakub Bożydar Wiśniewski: Wiśniewski, 2019; Wysocki & Megger, 2019, 2020; and our previous works: Megger, 2021; Wysocki, 2021):

- Case (1) *P* comes to *Q* and says: pay me \$1000 or I will (illegitimately) imprison you. As *Q* prefers losing \$1000 to being imprisoned and he does not see any other reasonable options to avoid the threat, he decides to pay \$1000 to *P*. And there are no further consequences.
- Case (2) *P* comes to *Q* and says: pay me \$1000 or I will destroy your reputation. As *Q* prefers losing \$1000 to losing his reputation and he does not see any other reasonable options to avoid the threat, he decides to pay \$1000 to *P*. And there are no further consequences.

The question is why the above contrasting scenarios demonstrate the inadequacy of the rights-based approach to economic efficiency? It is because they both have the same formal structure and—by stipulation—the same final outcome. However, the assessment (in terms of voluntariness and efficiency) of the outcome is for Rothbard and his followers different in each case: case (1) would be treated as an example of coerced and thus economically inefficient exchange; and case (2) would be treated

<sup>30</sup> As Mises writes: “From the sociological and economic point of view, ownership is the having of the goods which the economic aims of men require. This having may be called the natural or original ownership, as it is purely a physical relationship of man to the goods, independent of social relations between men or of a legal order.” (Mises, [1922] 1962, p. 37).

as an example of voluntary and thus economically efficient exchange. Intuitively, this conclusion is at least suspicious.

Of course, one might say that the formal structure of our argument is correct, but the material is not. For why should we contend that these results are identical? One could argue that in each case Q bought different services. In the case (1) he bought his freedom and in the case (2) he bought the gossip's silence. Indeed, it is impossible to deny it.

It should therefore be clarified that what matters here are the formal similarities between these scenarios (in terms of their mere reference to analytic categories of praxeology), and this should be the most important consideration here since both Mises and Rothbard contend that praxeology is after all a formal science (see: Mises, [1949] 1998, pp. 32–36; Rothbard, [1962] 2009a, p. 73). Thanks to that, our argument meets all the essential conditions of the Austrian methodology. We can present the formal similarities between our scenarios as follows:

- (1) P effectively makes Q expect that if Q refuses to accede to P's demand, P will frustrate Q's preference either for being free or for having unspoiled reputation, respectively (Q believes P's promised action is going to frustrate P's particular preference; that is, for being free or for having good reputation, respectively);
- (2) Q prefers losing \$1000 to P's counteraction in the case of Q's refusal to accede to P's demand;
- (3) the only purpose for which Q pays P is to avoid the execution of P's counteraction;
- (4) cost incurred by Q is the same (\$1000);
- (5) after all, P lets Q go free, and there are no further consequences.

In consequence, we could say that the result is the same in both scenarios, because Q loses the same amount of money, P lets Q go free, and Q acts for the same reasons (only in order to avoid P's counteraction).

For Rothbard and his followers the concept of coercion is based on the libertarian ethic of property rights. Hence, as we can observe, although these Austrians argue that the economic theory itself is value-free, they somehow fail to see that the notions they use to distinguish between welfare increasing and welfare decreasing exchanges are value-laden.<sup>31</sup> The reason is that applying such rights-based concepts always requires answers to normative questions like: Which rights are justified?<sup>32</sup> Who should have

<sup>31</sup> It is really puzzling how Rothbard could maintain that economics is value free since already in 1970 he stated that economics begins with a theory of just property rights: "an economist cannot fully analyze the exchange structure of the free market without setting forth the theory of property rights, of justice in property, that would have to obtain in a free-market society." (Rothbard, [1970] 2009b, p. 1047).

<sup>32</sup> An anonymous reviewer brilliantly spotted that since Rothbard defines libertarian rights into his concept of efficiency, the fact that case 1 exemplifies coercion (and is thus economically inefficient), whereas case 2 exemplifies a voluntary exchange (and is thus economically efficient) simply follows by definition and hence, there is no need—contrary to our claim—to establish which rights are justified. However, we would submit that at least for the libertarian, in establishing whether a given exchange is efficient or not, a moral judgement is inevitable. For, from the libertarian point of view, it is only against the background of justly distributed rights that the efficiency of exchanges can be assessed. Or in other words, it is only upon answering the original normative question (i.e. which rights distributions are just) that the question of efficiency can be addressed. Our reasoning is further elucidated in the footnote below.

these rights? How to justifiably acquire them?<sup>33</sup> In addition, this position leads us to weird consequences in economics (i.e. it generates counterintuitive results).

Finally, we could consider yet another interpretation of property rights. More precisely, they could be understood not as natural rights, but as a social institution. Thanks to that, rights-based concept of coercion could meet the value freedom condition. However, it is worth noticing here that Austrian economics is clearly consistent with an endogenic perspective on property rights (according to which property rights are subject to economic analysis), and not with the exogenic one (which assumes that property rights are already given) (Leeson, 2012; Rajagopalan & Rizzo, 2019). Hence, property rights can be subject to economic explanations. But if we conceive of property rights as a social institution (and not a moral standard), it does not solve our problems. For institutions emerge through interactions and exchanges between acting individuals. Hence, we could not properly distinguish between voluntary and coerced exchanges before the institution of property rights emerged. But if so, we would not have analytic tools ensuring the explanation of how property rights emerged (via voluntary or coerced actions).

Now, the question is: are there such concepts of threat, coercion and voluntariness that fit the Austrian methodology? Undoubtedly, talking about voluntary transactions as the essence of free market has a strong rhetorical value. However, as we could have seen above, there are serious difficulties in defining the terms in question in a nonnormative and unambiguous way. If Austrians want to stick to declared value freedom together with methodological subjectivism and methodological individualism, they should look for such an account of coercion that is based on the fundamental categories of praxeology. This would mean that whether an action is voluntary or not

<sup>33</sup> The same reviewer interestingly charged that it is not at all clear that resorting to a rights-based notion of coercion violates the postulate of value freedom. The point was that apparently “conformity with a certain moral or legal system can be analysed descriptively or logically without endorsing or condemning the legal system in question.” And there is indeed something unobjectionable about the above comment. After all, most certainly, all normative statements can be rendered descriptive. It is enough to resort to reported speech to drain the former type of statement of normativity. However, there is a distinction that seems to support our position. Just to illustrate it, let us refer to Steinhoff (2020, pp. 16–17) who, in one of his examples, illuminatingly distinguishes between the *anthropologist’s view* (i.e. “Eating beef is wrong according to the Hindu moral code”) and the view of the Hindu himself (i.e. “Eating beef is wrong”). The former sentence is descriptive, whereas the latter is normative. And indeed, one can easily render *all* normative statements descriptive by merely referring to the former from the *anthropologist’s point of view*. However, as we mentioned, since many Austrians are libertarians (which accounts for the very phenomenon of Austro-libertarianism), it is *within* Austro-libertarianism that the concept of coercion does indeed require a value judgement. It is *Austro-libertarians* that must first *endorse* certain rights (as justified) before they can conclude that coercion takes place in case of violating the said justified rights. In other words, nothing would count as coercion unless certain rights are *first* recognized by Austro-libertarians as justified. By contrast, for the anthropologist, the whole procedure does not involve any value judgement. For the anthropologist to conclude whether coercion (in the libertarian sense) takes place is to first establish whether the rights at stake are indeed recognized as justified by *libertarians* (but not necessarily by the *anthropologist himself*, as the anthropologist might as well stay evaluatively neutral throughout the procedure) and then establish whether a violation of these rights (by the use of physical force) is occurring or is being announced. If these two conditions are met, then the anthropologist can validly conclude that (libertarian) coercion occurred. But note, establishing this did not require *the anthropologist* (as opposed to libertarians) to make any value judgement. Concluding, Austro-libertarians are not in a position of the anthropologist for they themselves must make a value judgement (must endorse certain rights as justified) before they can draw any inference about coercion. And it is this fact that runs counter to their avowed postulate of *Wertfreiheit*.

depends exclusively on specific desires, beliefs and intentions of interacting individuals. An attempt to provide such an account will be made in the next section.

## 5 Speech act theory and intention-based account of coercion

Undoubtedly, a threat is a speech act. It can be also called an “illocution”. It is because nowadays, “speech act” and “illocution” are terms that are often used interchangeably (see: Green, 2020). According to the precursor of speech act theory, John Austin, “illocution” is that dimension of utterance that contains the speaker’s intention (Austin, 1962). According to Searle and Vanderveken (1985), an illocutionary act is an act which is performed through “a sentence in an appropriate context with certain intentions” (Searle & Vanderveken, 1985, p. 1). Moreover, a broader definition of speech acts allows them to be wordless acts of communication (Green, 2020). In consequence, we could say that an illocution is an action aimed at achieving some goal by means of communication. This means that the speech act theory is concerned with the goals which people want to realize by virtue of communication. Thanks to that, we could perhaps say that speech act theory is, like economics, a part of the general science of human action (praxeology).

There are a few types of speech acts, but for the purpose of our investigations two are especially important; that is, (1) so called commissive illocutions, by which the speaker commits himself to perform certain actions in the future, and (2) directive illocutions, by which the speaker wants the recipient to do something.

Some scholars see far-reaching similarity between threats and promises (Salgueiro, 2010). Both so called elementary threats and elementary promises are kinds of commissive illocutions. Consider, for instance, a sentence: “I will kill you!”. In this case, the speaker communicates to the recipient an intention to kill him. In other words, we might say that the speaker commits himself to killing the recipient.<sup>34</sup> Such threats are very similar to elementary promises, such as, say, “I will buy you a car”. In this case, the speaker communicates to the recipient an intention to buy him a car. In other words, we might say that the speaker commits himself to buying the recipient a car. The difference between the two illocutions is that in the case of threat the speaker announces that he will do something unwanted (unwelcome, not preferred) by the recipient (or at least the speaker has such a belief), and in the case of promise the speaker announces that he will do something desired (welcome, preferred) by the recipient (or at least the speaker has such a belief) (Salgueiro, 2010).<sup>35</sup> Things become more complicated, when we consider so called conditional threats.

Both conditional threats and conditional promises can be either just commissive or directive-commissive. To understand the difference between them, let us consider

<sup>34</sup> We need to remember that when we speak about commissive force of illocutions, we do not mean moral or internal obligations. It is only to be said that by commissive illocutions the speaker intends to inform the recipient about his future actions. It would sound absurd to say that the proposal maker has a moral obligation to kill his victim because he said he would do so.

<sup>35</sup> Or, in other words, in a case of a threat the proposal maker has to assume that the recipient does not want the consequences of his non-compliance with the threatening party’s demand to occur. In case of an offer he does not assume that (see: Walton, 2000).

the following example: “If they set me free, I will kill you!”. As this threat requires some condition to be fulfilled, it is a conditional threat. However, there is no directive element yet. An example of directive-commissive threat might be: “I will kill you unless you give me your wallet!”. The second part of this sentence contains a directive illocution: the speaker wants the recipient to give up his wallet. In such illocutionary acts, the directive part of the threat is even more important. While the commissive element of the threat is just aimed at making non-compliance less desirable for the recipient, the directive one is crucial to understand what the speaker wants to achieve (see: Salgueiro, 2010).<sup>36</sup> Such directive-commissive conditional threats (DCCT) are the proper subject matter in our analysis of coercion.<sup>37</sup>

As it seems, in the philosophy of coercion there is a position that is consistent with this speech act theory approach. As we believe, it is also compatible with the methodology of the Austrian School of Economics.

According to Lamond (1996), the baseline approaches to the problem of coercion are misguided. Instead, he claims that the analysis of coercion should primarily rely upon investigating the intentions of the proposal maker, and only then on the reaction of the recipient.<sup>38</sup> As Lamond observes, we need to distinguish two aspects of coercion:

“The first is that one person aims to make another person do something by threatening her. The second is that the threat succeeds in forcing the other person to comply with whatever is demanded. If A coerced B into doing Y, then A intended to make B do Y, and A succeeded in having B do Y (by threatening to do X should B not do Y).” (Lamond, 2000, p. 52).

In other words, we have to make the distinction between coercive intent (“to coerce”) and coercive effect (“to believe to be coerced”). Coercive intent, in its turn, is what it takes for a threat to be *coercive* in the first place. That is to say, no speech act would count as a *coercive* threat unless it is accompanied with a *coercive* intent. And finally, when such a threat is successful (the recipient acts as the proposal maker wants), the coercive effect takes place.

In his analysis of threats, Lamond distinguishes between simple threats and conditional threats (in the same way as Salgueiro distinguishes between elementary and conditional threats) and calls the latter coercive threats (simple threats cannot coerce) (Lamond, 1996, p. 225).<sup>39</sup> According to him:

“There are three features of coercive threats which are crucial to a proper understanding of their nature. The first is that the proposed consequence is *unwelcome* to the recipient. The second is that the maker of the threat proposes to bring

<sup>36</sup> An interesting analysis of conditional threats was also made by Schiller (2019).

<sup>37</sup> As we believe, for the Misesian concept of hegemonic bonds, the directive element is crucial. When someone gives an order that the hearer carries out, a hegemonic bond obtains. It does not mean that the hegemonic bond is already coercive. For an exchange to be coerced a threat is necessary.

<sup>38</sup> It is important to notice that we present a non-moralized interpretation of Lamond’s position. However, as he sometimes uses some moral language (he talks about „responsibilities and expectations”), it is possible to interpret it as ethically entangled. Still, based on quotations we further refer to, we believe our interpretation is plausible.

<sup>39</sup> We might notice that Lamond ignores the difference between non-directive conditional threats and directive conditional threats and identifies coercive threats with directive-commissive conditional threats (DCCT).

about the unwelcome consequence *because* the consequence is unwelcome to the recipient. The third is that the maker *commits* herself to bringing about the consequence if the recipient fails to act as demanded.” (Lamond, 1996, p. 225)

As Lamond claims, to grasp the difference between offers and both (coercive) threats and (conditional) warnings, the first condition is crucial. In order to distinguish threats from warnings, the most important is the second condition. First, however, let us shed light on the compatibility of this approach with the above speech act analysis. In a footnote in his paper, Lamond presents the constitutive conditions of coercive threats more technically:

“P coercively threatens Q when

- (1) P communicates to Q an intention to X unless Q does Y, and
- (2) P intends by (1) to commit herself to X unless Q does Y, and
- (3) P’s doing X would be unwelcome to Q, and P knows why this is so, and
- (4) (a) P’s reason for (1) is to have Q do Y, and
  - (b) P’s reason for committing herself to X unless Q does Y is that X is both unwelcome to Q and more unwelcome to Q than having to do Y, and
  - (c) Q knows both (4)(a) and (4)(b)” (Lamond, 1996, p. 225).

As we see, condition (1) captures the fact that P performs a speech act, i.e. he communicates some intention in order to realize his goal (to influence Q’s behaviour). Condition (2) has it that P’s illocution is commissive. Both conditions (1) and (2) contain a part “unless Q does Y”, which means that P wants Q to do something (this is the directive dimension of P’s proposal) and that P’s threat is conditional. Conditions (3) and (4) explain the rest of the content of the coercive situation: P’s speech act is successful (because Q finds P’s doing X more unwelcome than doing Y), P rightly recognizes Q’s preferences and uses this knowledge to influence Q’s actions, and Q rightly interprets P’s beliefs and intentions. If Q surrenders in this situation, then he performs a coerced (involuntary) action (exchange).

Then Lamond adds that bluffs can be coercive too (because they are aimed at coercive effect), even though they lack some features of real threats:

“The central case allows secondary cases to be understood: thus bluffs involve P lacking the intent in (2) but seeking to have Q believe that (2) and (4)(b) are true; and threat which P hopes will be defied so that she can rationalize doing X involve (4)(a) and (b) being false but P seeking to have Q believe them. Secondary cases thus turn on Q reasonably believing, in the context in which P communicates that she is going to X, either (i) that P has the listed intentions, reasons, and beliefs, or (ii) that P wants Q to so believe.” (Lamond, 1996, p. 225)<sup>40</sup>

<sup>40</sup> One of the reviewers came up with some puzzling scenarios inquiring whether they involve—by the lights of the account of coercion we try to elaborate here—coercion or not. As the said scenarios can clearly count as a serious test for our account, we cannot do better but confront them head-on. First, the reviewer invited us to imagine that person B succumbs to a threat posed by person A “even though person A objectively does not have the power to carry out the threat.” We contend that this example is relevantly similar to one of Lamond’s secondary cases of coercion (i.e. bluffs) wherein P (the threatening party) seeks to have Q (the threatened party) believe that P intends to execute P’s threat if Q fails to comply. If a bluff is successful, that is if Q (falsely) believes that P is really intent upon carrying out P’s threat in case Q’s non-compliance, which eventually induces Q to do something which P wants Q to do, a coerced exchange takes place, a rather

Now, we can turn to the distinction between offers, (conditional) warnings and coercive threats. First, let us notice some similarities between these illocutions. All of them serve the speaker to influence the recipient's behaviour. Moreover, all these illocutions are or can be kinds of conditional proposals. According to the speech act theory, offer in itself is a conditional promise (Searle & Vanderveken, 1985, pp. 195–196). Both warnings and threats can be in turn either elementary or conditional.

As Lamond observes, offers, as opposed to threats, involve a promise to do something that the recipient finds welcome.<sup>41</sup> For instance, if P comes to Q and says: "I can sell you a bread for \$3", then P assumes that Q might find this proposal welcome, but P does not assume that not selling Q a bread will be unwelcome to Q (for P might as well believe that there is a chance Q might want to buy the bread from P).<sup>42</sup>

Footnote 40 continued

plausible conclusion. But then again, there seems to be no relevant difference between Q's false belief about P's real intent and Q's false belief about P's real powers. Given this, if Q falsely believes that P has a power (over and above P's intention) to carry out P's threat, which eventually induces Q to do what P wants him to do, then it appears as though we could equally plausibly conclude that a coerced exchange occurs. Moreover, we would argue that the demand for *objective* powers (regardless of Q's beliefs about these powers) makes it perilously close to objectivism rather than Austrian subjectivism. Second, the reviewer suggests that we "imagine an employee threatens to quit if he isn't given some accommodation that unbeknownst to him he was in line for anyway." The question arises: "[h]as the employer been coerced?" It should be noted that the reviewer's thought experiment does not specify whether the employer *knows* that the employee is in line for accommodation. If the former is aware of this fact (esp. when he arranged for the latter to be in line for accommodation himself), then we would deal with a redundant (or misfired) threat. After all, the employer has already done what the employee tries (via) threat to induce him to do. Such a threat would be pointless. If, on the other hand, the employer does not know that the employee is in line for accommodation anyway (with the prospective accommodation provided perhaps by somebody else), then the employee's proposal might as well be a threat. That is to say, if the employer finds the employee's quitting the job such an unwelcome consequence that he prefers providing him with accommodation and eventually decides to do so, we can validly speak of the employer's being coerced, a rather, we believe, plausible conclusion stemming from Lamond's analysis. Finally, it is worth pointing out that if the employer indeed finds the employee's quitting the job unwelcome but is still happy to provide him with accommodation (he is unaware of the fact that the employee is in line for it), the employee's proposal, although it would have a coercive intent, would not have a coercive effect. For the said proposal would not affect the employer's preferences. With or without the proposal, the employer would be happy to give accommodation to his employee.

<sup>41</sup> An anonymous reviewer made a very interesting point to the effect that in fact there are three possible attitudes towards a given proposal: its recipient may find it (1) welcome, (2) unwelcome or (3) be indifferent to it. Moreover, the reviewer drew our attention to the fact that, after all, indifference is sometimes considered problematic on Austrian grounds. Although in minority, there are indeed some Austrians who do assign a praxeological role to indifference (see: Machaj, 2007; O'Neill, 2010). If acting on indifference is plausible (even if marginally) on Austrian grounds, then why not identify being welcome with what is *weakly* preferred and being unwelcome with what is strictly dispreferred? Additionally, it is worth remembering that Nozick (1977) powerfully argued that the Austrian formulation of the law of diminishing marginal utility crucially depended for its validity on the adoption of the concept of indifference. Eventually, it is to be noted that in our paper we are exclusively concerned with *preference-affecting* proposals (see: Feinberg, 1989, p. 216) And that is why, we seem to be warranted in assuming indifferent proposals away.

<sup>42</sup> Normally, proposals (be it threats or offers) are biconditional in nature. That is to say, even if what a proposal *explicitly* states is just *one* conditional proposition, another conditional gets *implicitly* expressed. For example, according to biconditional analysis, the mugger's saying "Your money or your life" in fact expresses two conditionals: (1) If you pay me, I will not kill you, (2) If you do not pay me, I will kill you. In other words, the proposer announces bringing about different consequences (i.e. not killing his victim and killing his victim) depending on the behaviour adopted by the proposee (paying the gunman, not paying the gunman, respectively—for biconditional analysis of proposals, see: e.g. Gorr, 1986; Feinberg, 1989; Westen, 2012). Apparently taking for granted a bi-conditional analysis of proposals, one of the reviewers criticized our (or Lamond's) account for strangely predicting that "Give me \$3, or I will not give you the

How do we know if the proposal will be unwelcome? Ultimately, it depends on the recipient's desires. If the recipient wants the proposed consequence to occur, then the proposal is welcome. If he prefers the proposed consequence not to occur, then the proposal is unwelcome. Moreover, Lamond admits that it is the recipient's expectations and knowledge (both of them being subsumable under a general notion of beliefs) about actions the proposal maker commits himself or herself to performing that play an important role here. For instance, suppose Q expects P to do X or knows that P is committed to doing X. Now, if P proposes Q not to do X unless Q does Y, then Q finds P's proposal unwelcome. On the other hand, if a stranger (someone towards whom Q has no expectations) comes to Q and says that he is not going to do X unless Q does Y, then Q does not find this proposal unwelcome, for he does not have any expectations associated with the stranger (Lamond, 1996, pp. 226–227).

Although the criterion of unwelcomeness suffices to distinguish offers from both threats and warnings, it is not sufficient to distinguish threats from warnings. Why is this so? First let us compare elementary (non-conditional) warnings and elementary threats. Let us imagine a situation in which P comes to his neighbour, Q, and says that he is going to mow his lawn on Saturday (to use Lamond's example). As Q did not expect that, he finds this information unwelcome. As Lamond observes, whether this is a threat or a warning depends on P's reasons to do that. If P is concerned about Q's comfort, then he warns Q. On the other hand, if P intends to reciprocate for a raucous all-night party by mowing at that time because Q dislikes it, then P is making a threat (Lamond, 1996, p. 227).

The same applies to conditional warnings and conditional threats. For instance, if the teacher, P, informs his student, Q, that he will have to fail him if Q does not submit his work by a certain date, then P is making a conditional warning. Even though Q finds this proposal unwelcome, P does not intend to fail Q *because* being failed is unwelcome to Q. It is perhaps simply his duty. In other words, failing Q would not be

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Footnote 42 continued

bread" might count as a coercive threat when certain additional assumptions are met. We believe that the reviewer's excellently noted what follows from our (or Lamond's) analysis. Indeed, as it stands, "I can sell you a bread for \$3" is an offer. However, it does not *automatically* follow that the second conditional (i.e. "Give me \$3, or I will not give you the bread") is a (coercive) threat. As the reviewer rightly observes, for the second conditional to count as a threat "a few assumptions" must be met. And this fact is precisely the reason why we repudiate the bi-conditional analysis of proposals. Let us take our example again. Suppose that if a person says: "I can sell you a bread for \$3", the person communicates that he or she *intends* to sell the bread for no less than 3\$. However, why should it follow that the person also *intends not to sell* the bread for less than \$3. After all, the actor does not have to hold that very (negative) intention at all. That is, this very intention might be missing among the actor's mental contents. Suppose person A wants to kill person B. One day person A sees person B but B is dressed in a such an extravagant way that A fails to recognize B. Then although A intends to kill B, A does not intend to kill the person A is now seeing although that is the very same person as person B. A similarly false belief is exemplified in the story of Oedipus. Oedipus intended to marry Jocasta the Queen, who happened to be his mother; and yet, he did not intend to marry his mother. Hence, generally speaking, as is widely acknowledged, intentions are referentially *opaque* (see: e.g. Moore, 1997, p. 363–399). However, this consequence is not unwelcome from the vantage point of Austrian methodological subjectivism. Nay, this is precisely what Austrians with their commitment to methodological subjectivism should embrace. Moreover, even if there were no referential opacity to intentions, Lamond's analysis would still stand its ground. For, even if it followed from A's intending to sell the bread for at least 3\$ that A does not intend to sell it for less than 3\$, for the latter conditional to be a threat, A would additionally have to believe that not selling the bread to B is something that B finds unwelcome.

the purpose of P's actions (in case Q does not meet the deadline), but simply unintended (even if conscious) consequence of his actions.<sup>43</sup>

To sum up, only in the case of a coercive threat (DCCT) the proposal maker's reason for committing himself or herself to performing the counteraction which is unwelcome to the recipient is precisely that this counteraction will be unwelcome to the recipient (it will frustrate the recipient's preferences). In other words, in cases of offers and warnings, the proposal maker does not have intentions to frustrate the recipient's preferences if the recipient opts out. Frustrating them is just an unintended consequence of his counteractions. It is just the opposite in the case of threat: here the speaker commits himself to doing something unwelcome to the recipient (if the recipient refuses to accede) precisely *because* this is unwelcome.

## 6 Concluding remarks

As we tried to show, there is a concept of threat that is compatible with both speech act theory and the methodology of the Austrian School of Economics. The basic advantage of the Lamond's concept of threat (or at least according to our interpretation thereof) is that it is free of any moral assumptions. Hence, we are in a position to say that a legal system coerces people to refrain from performing particular actions (Lamond, 2000). Moreover, it allows us to understand the complexity of coercion and to grasp the difference between threats, warnings and offers. Finally, it refers only to purely praxeological categories (such as desires, beliefs and intentions), and neither narrows them down to just physical reality nor assumes any additional categories (such as rights) as exogenously given. That makes it consistent with methodological subjectivism, methodological individualism and the principle of value freedom.

However, the question might still arise of how our theory deals with radical subjectivism. One might add: why shall we be interested in both coercer's intentions and victim's beliefs and desires, and not only with the latter? Is not the fact that the victim believes he or she is coerced sufficient for coercion to occur? After all, Hayek observed that facts of the social sciences are what people believe and think (Hayek, 1943, 1952).

As we believe, methodological subjectivism does not deny that mental states of acting individuals exist objectively (even if they can be known only indirectly and are open to misinterpretations) and allows us to analyse intersubjective facts.<sup>44</sup> Even if such facts are subjective in one sense, they are objective in another. John Searle provides us with a helpful distinction here. As he contends, social facts are ontologically subjective (they exist only in relation to mental states of acting individuals; for instance, pain, as an ontologically subjective entity, cannot exist except as experienced by an individual), but epistemically objective (facts that make statements about them true are independent of the observer's judgments; for instance, the judgment "John feels pain" is epistemically objective, for what makes it true does not depend on the observer's attitudes, opinions or judgements) (see: Searle, 1996, pp. 7–9).

<sup>43</sup> It is worth noticing that Nozick (1969, pp. 453–458) hit upon pretty much similar ideas when analyzing this distinction. He even formulated quite a similar definition of threat then.

<sup>44</sup> As one reviewer pointed out, methodological individualism does not imply solipsism. As we believe, neither does subjectivism.

In this paper we were interested in the concept of *coerced exchange* (which is a kind of interpersonal exchange), and not just coercive effect (which might occur independently of the speaker's intentions, as in the case of misunderstanding). According to the position we presented in our paper, coercion (consisting of coercive intent and coercive effect) is an intersubjective fact. Thus it is not sufficient to look at the beliefs and desires of the recipient of a proposal. Rather, we need to take into account mental states of both individuals—pretty much as in the case of institutions. To illustrate this view on coercion, let us resort to the well-known example provided by Hayek. In his *Constitution of Liberty* there is a suggestion that a husband can be coerced by his nagging wife (Hayek, [1960] 1978, p. 138). The prediction of our position is as follows. If the wife issues a threat (a proper speech act) and is accompanied with required mental states, then indeed, one can validly speak of a coercive nagging wife. However, the fact that the husband feels coerced (i.e. coercive effect takes place) is insufficient to establish the fact that the husband was indeed coerced into some exchange as the coercive intent on the part of the spouse might as well be missing.

As we believe, these considerations can make an important contribution to the foundations of the Austrian theory of exchange (catallactics). They could provide more precise answers to many questions about the coercive nature of certain institutions (especially of tax system and state's law) as well as of state interventions. Our results might be also important for an endogenic perspective on property rights in economic theory (according to which property rights should not be assumed as exogenously given in economic analysis). Moreover, they might illuminate entrepreneurship theory and the theory of market coordination. More specifically, it might at least help to understand why Austrians could be justified in their contention that entrepreneurial activity coordinates the market, while coercion discoordinates it. According to Austrians, in the market process, entrepreneurs, through voluntary exchanges, match ends and means of different economic agents (including themselves), thus satisfying their desires. More precisely, if an entrepreneur wants to gain market profit, he or she has to satisfy consumers' desires. At the same time, Austrians contend that by means of coercion one party satisfies his or her desires at the expense of the other (see: Kirzner, 1973; Huerta de Soto, [1992] 2010, 2009).

Now the question arises: why should our (or Lamond's) *intention-based* concept of coercion be particularly suitable for explaining market discoordination? Why should not more permissive concepts of coercion (i.e. the ones that allow for different mental states on the part of the coercer such as knowledge, recklessness or negligence) equally well account for discoordinating moves on the market? It seems to us that the fact that our concept of coercion *definitionally* requires, secondary cases aside, that a threat posed be a *commissive* speech act—which implies that the threatening party *commits* himself or herself to executing the threat in case of the victim's disobedience—is its virtue rather than its vice. For, it is precisely such a notion of threat that well explains why threats are particularly damaging for market coordination. If, to take another extreme, the concept of threat would allow for threats to be made negligently, such threats would contribute much less to the discoordination of the market process as they would be made as a mere unwitting side effect of the “threatening” party's action. By contrast, if the threatening party genuinely *intends* to bring about unwelcome consequences to the victim once the latter does not comply, this *ipso facto* implies that

the former deliberately employs certain means which are aimed at satisfying only his or her preference, while frustrating the victim's preference. Therefore, it is threats, as understood by us, that would be more likely (than the threats which apparently can be made non-intentionally) to lead to market discoordination.

Moreover, it is worth noticing that the account of coercion developed here sheds some light on the process of price formation on the market. After all, market prices are shaped as a consequence of voluntary exchanges. Moreover, the absence of coercion is a necessary condition of voluntariness of the exchange. And coercion was the main focus of the present paper. Hence, as our account of coercion partly illuminates the concept of voluntary exchange, so does it partly illuminate the process of price formation on the market. We hope our insights will provide an impulse for further fruitful investigations.

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## Declarations

**Conflict of interest** The authors have no competing interests to declare that are relevant to the content of this article.

**Ethical approval** This article does not contain any studies with human participants or animals performed by the authors.

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## References

- Anderson, S. (2011). Coercion. In E.N. Zalta (Ed.), *The Stanford encyclopedia of philosophy*. <https://plato.stanford.edu/archives/sum2021/entries/coercion/>
- Aristotle. (1984). *Nicomachean ethics*. In J. Barnes (Ed.), *Complete works of aristotle, volume 2: The revised Oxford translation* (Trans. W.D. Ross, revised by J.O. Urmson). Princeton University Press.
- Austin, J.L. (1962). *How to do things with words* (2nd ed.). Harvard University Press.
- Blaug, M. (1998). The positive-normative distinction. In J. Davis, W. Hands & U. Mäki (Eds.), *The handbook of economic methodology* (pp. 370–374). Edward Elgar.

- Block, W.E. (1995). Ethics, efficiency, Coasian property rights, and psychic income: A reply to Demsetz. *Review of Austrian Economics*, 8(2), 61–125. <https://doi.org/10.1007/BF01102292>
- Block, W.E. (2000). Private-property rights, erroneous interpretations, morality, and economics: Reply to Demsetz. *Quarterly Journal of Austrian Economics*, 3(1), 63–78.
- Block, W.E. (2005). Value freedom, laissez faire, Mises, and Rothbard. A comment on professor gunning. *American Journal of Economics and Sociology*, 64(3), 919–938. <https://doi.org/10.1111/j.1536-7150.2005.00398.x>
- Block, W.E. (2013). *Legalize blackmail*. Straylight Publishing, LLC.
- Block, W.E. (2019). Libertarian punishment theory and unjust enrichment. *Journal of Business Ethics*, 154, 103–108. <https://doi.org/10.1007/s10551-017-3469-7>
- Block, W.E., & Gordon, D. (1985). Blackmail, extortion and free speech: A reply to Posner, Epstein, Nozick and Lindgren. *Loyola of Los Angeles Law Review*, 19(37), 37–54.
- Boettke, P. (1995). Why are there no Austrian socialists? Ideology, science and the Austrian School. *Journal of the History of the Economic Thought*, 17(1), 35–56. <https://doi.org/10.1017/S1053837200002285>
- Christiano, T. (2016). The tension between the nature and the norm of voluntary exchange. *The Southern Journal of Philosophy*, 54, 109–129. <https://doi.org/10.1111/sjp.12189>
- Colander, D., & Huei-Chun, S. (2015). Making sense of economists' positive-normative distinction. *Journal of Economic Methodology*, 22(2), 157–170. <https://doi.org/10.1080/1350178X.2015.1024877>
- Cordato, R. ([1992] 2007). *Efficiency and externalities in an open-ended universe: A modern austrian perspective*. Ludwig von Mises Institute.
- Davis, J.B. (2014). Economists' odd stand on the positive-normative distinction: A behavioral economics view. In G. DeMartino & D. McCloskey (Eds.), *Handbook on professional economic ethics: View from the economics profession and beyond*. Oxford University Press. <https://doi.org/10.2139/ssrn.2230062>
- Dawson, G. (2015). Interpreting voluntary exchange: Markets, speech acts and communicative action. *Economic Affairs*, 35(2), 240–255. <https://doi.org/10.1111/ecaf.12122>
- Dominiak, Ł. (2017). Problem dobrowolnego niewolnictwa w filozofii politycznej libertarianizmu. *Athenaeum. Polish Political Science Studies*, 54, 61–84. <https://doi.org/10.15804/athena.2017.54.04>
- Dominiak, Ł. (2018). Libertarianism, freedom and the problem of circularity. *Athenaeum. Polish Political Science Studies*, 59, 7–17. <https://doi.org/10.15804/athena.2018.59.01>
- Dominiak, Ł., & Wysocki, I. (2016). A Libertarian theory of threat. *Studia Polityczne*, 43(3), 91–108.
- Egger, J. B. (1979). Efficiency is not a substitute for ethics. In M. Rizzo (Ed.), *Time, uncertainty and disequilibrium: Explorations of Austrian themes* (pp. 117–125). D.C. Heath and Company.
- Feinberg, J. (1989). *Harm to self*. Oxford University Press.
- Gordon, D. (1993). Toward a deconstruction of utility and welfare economics. *The Review of Austrian Economics*, 6(2), 99–112. <https://doi.org/10.1007/BF00842706>
- Gorr, M. (1986). Toward a theory of coercion. *Canadian Journal of Philosophy*, 16(3), 383–405. <https://doi.org/10.1080/00455091.1986.10717126>
- Green, M. (2020). Speech Acts. In E.N. Zalta (Ed.), *The Stanford encyclopedia of philosophy*, <https://plato.stanford.edu/archives/win2020/entries/speech-acts/>
- Gunning, P. (2000). The property system in Austrian economics: Ronald Coase's contribution. *The Review of Austrian Economics*, 13, 209–220. <https://doi.org/10.1023/A:1007864703682>
- Gunning, P. (2005). How to be a value-free advocate of laissez faire: Ludwig von Mises's solution. *The American Journal of Economics and Sociology*, 64(3), 901–918. <https://doi.org/10.1111/j.1536-7150.2005.00397.x>
- Hamowy, R. (1971). Freedom and the rule of law in F.A. Hayek. *Il Politico*, 36(2), 349–377.
- Hausman, D., & McPherson, M. ([1996] 2006). *Economic analysis, moral philosophy, and public policy* (2nd ed.). Cambridge University Press.
- Herbener, J. M. (1997). The Pareto rule and welfare economics. *The Review of Austrian Economics*, 10, 79–106. <https://doi.org/10.1007/BF02538144>
- Herbener, J. M. (2008). In defense of Rothbardian welfare economics. *New Perspectives on Political Economy*, 4(1), 53–78.
- High, J. (1985). Is economics independent of ethics? *Reason Papers*, 10, 3–16.
- Hoppe, H.-H. (1994). F.A. Hayek on government and social evolution: A critique. *The Review of Austrian Economics*, 7(1), 67–93. <https://doi.org/10.1007/BF01102136>
- Hoppe, H.-H. ([1993] 2006). *The economics and ethics of private property. Studies in political economy and philosophy*. Ludwig von Mises Institute.
- Hoppe, H.-H. ([1988] 2010). *A theory of socialism and capitalism*. Ludwig von Mises Institute.

- Huerta de Soto, J. (2009). *The theory of dynamic efficiency*. Routledge.
- Huerta de Soto, J. ([1992] 2010). *Socialism*. Edward Elgar Publishing.
- Hülsmann, J. G. (2004). The a priori foundations of property economics. *Quarterly Journal of Austrian Economics*, 7(4), 41–68.
- Hülsmann, J.G. (2008). *The ethics of money production*. Ludwig von Mises Institute.
- Johnson, M. (2015). Public goods, market failure, and voluntary exchange. *History of Political Economy*, 47(suppl\_1), 174–198. <https://doi.org/10.1215/00182702-3130499>
- Kaufmann, F. (1958). *Methodology of the social sciences*. Humanities Press.
- Kirzner, I. M. (1973). *Competition and entrepreneurship*. University of Chicago Press.
- Kirzner, I. M. (1994). Value-freedom. In P. Boettke (Ed.), *The elgar companion to Austrian economics* (pp. 313–319). Edward Elgard Publishing.
- Klein, D. B. (2007). Economics and the distinction between voluntary and coercive action. *Economic Affairs*, 27(4), 65–69. <https://doi.org/10.1111/j.1468-0270.2007.00783.x>
- Kvasnička, M. (2008). Rothbard's welfare theory: A critique. *New Perspectives on Political Economy*, 4(1), 41–52.
- Lachmann, L. (1971). *The legacy of max weber*. The Glendessary Press.
- Lamond, G. (1996). Coercion, threats, and the puzzle of blackmail. In A. P. Simester & A. T. H. Smith (Eds.), *Harm and culpability* (pp. 215–238). Clarendon Press.
- Lamond, G. (2000). The coerciveness of law. *Oxford Journal of Legal Studies*, 20, 39–62.
- Lamond, G. (2020). Coercion. In H. LaFollette (Ed.), *International encyclopedia of ethics*. Wiley. <https://doi.org/10.1002/9781444367072.wbiee696.pub2>
- Lavoie, D. (1991). The progress of subjectivism. In N. de Marchi & M. Blaug (Eds.), *Appraising economic theories. Studies in the methodology of research programs* (pp. 470–486). Edward Elgar.
- Leeson, P. (2012). An Austrian approach to law and economics, with special reference to superstition. *The Review of Austrian Economics*, 25, 185–198. <https://doi.org/10.1007/s11138-012-0179-3>
- Linsbichler, A. (2017). *Was Ludwig von Mises a conventionalist—A new analysis of the epistemology of the Austrian School of Economics*. Palgrave Macmillan.
- Linsbichler, A. (2021). Philosophy of Austrian economics. In J. Reiss & C. Heilmann (Eds.), *The Routledge handbook of the philosophy of economics* (pp. 169–185). Routledge.
- Machaj, M. (2007). A praxeological case for homogeneity and indifference. *New Perspectives on Political Economy*, 3(2), 231–238.
- Martin, A. (2015). Austrian methodology. A review and synthesis. P.J. Boettke, & C.J. Coyne (Eds.), *The Oxford handbook of Austrian economics* (pp. 13–42). Oxford University Press.
- Menger, C. ([1963]1985). *Investigations into the method of the social sciences with special reference to economics* (L. Schneider, Ed. & F. Nock, Trans.). New York University Press. (Original work published 1883)
- Menger, C. ([1976] 2007). *Principles of economics* (J. Dingwall and B. F. Hoselitz, Trans.). Ludwig von Mises Institute. [https://cdn.mises.org/Principles%20of%20Economics\\_5.pdf](https://cdn.mises.org/Principles%20of%20Economics_5.pdf) (Original work published 1871)
- Megger, D. (2021). *Sprawiedliwość w ekonomii dobrobytu. Libertarianizm i szkoła austriacka*. Wydawnictwo Naukowe Uniwersytetu Mikołaja Kopernika. <https://doi.org/10.12775/978-83-231-4689-6>
- Moore, M. S. (1997). *Placing blame*. Oxford University Press.
- Munger, M. C. (2011). Euvoluntary or not, exchange is just. *Social Philosophy and Policy*, 28, 192–211. <https://doi.org/10.1017/S0265052510000269>
- Musgrave, R. A. (1939). The voluntary exchange theory of public economy. *The Quarterly Journal of Economics*, 53(2), 213–237. <https://doi.org/10.2307/1882886>
- Neck, R. (2022). Methodological individualism: Still a useful methodology for the social sciences? *Atlantic Economic Journal*. <https://doi.org/10.1007/s11293-022-09740-x>
- Nozick, R. (1969). Coercion. In S. Morgenbesser, P. Suppes, & M. White (Eds.), *Philosophy, science, and method: Essays in Honor of Ernest Nagel* (pp. 440–472). St. Martin's Press.
- Nozick, R. (1977). On Austrian methodology. *Synthese*, 36(3), 353–392. <https://doi.org/10.1007/BF00486025>
- Olsaretti, S. (1998). Freedom, force and choice: Against the rights-based definition of voluntariness. *Journal of Political Philosophy*, 6(1), 53–78. <https://doi.org/10.1111/1467-9760.00046>
- O'Neill, B. (2010). Choice and indifference: A critique of the strict preference approach. *Quarterly Journal of Austrian Economics*, 13(1), 71–98.

- Paul, E. F. (1980). Hayek's conception of freedom, coercion, and the rule of law. *Reason Papers*, 6(Spring), 37–52.
- Pham, A.K. (2017). Mainstream economics and the Austrian School: Toward reunification. *Erasmus Journal for Philosophy and Economics*, 10(1), 41–63. <https://doi.org/10.23941/ejpe.v10i1.267>
- Preston, L. M. (1984). Freedom, markets, and voluntary exchange. *The American Political Science Review*, 78, 959–970. <https://doi.org/10.2307/1955801>
- Rajagopalan, S., & Rizzo, M. J. (2019). Austrian perspectives in law and economics. In A. Marciano & G. B. Ramello (Eds.), *Encyclopedia of law and economics* (pp. 92–99). Springer.
- Rothbard, M.N. ([1982] 1998). *The ethics of liberty*. New York University Press.
- Rothbard, M.N. ([1973] 2006). *For a new liberty. A Libertarian Manifesto*. Ludwig von Mises Institute.
- Rothbard, M.N. ([1962] 2009a). *Man, economy, and state. A treatise on economic principles*. In M.N. Rothbard, *Man, economy, and state with power and market* (pp. 1–1041). Ludwig von Mises Institute.
- Rothbard, M.N. ([1970] 2009b). *Power and market*. In M.N. Rothbard, *Man, economy, and state with power and market* (pp. 1047–1369). Ludwig von Mises Institute.
- Rothbard, M.N. ([1956] 2011a). Toward a reconstruction of utility and welfare economics. In M. N. Rothbard, *Economic controversies* (pp. 289–333), Ludwig von Mises Institute.
- Rothbard, M.N. ([1976] 2011b). Praxeology, value judgments, and public policy. In M.N. Rothbard, *Economic controversies* (pp. 81–101). Ludwig von Mises Institute.
- Salgueiro, A. B. (2010). Promises, threats, and the foundations of speech act theory. *Pragmatics*, 20(2), 213–228. <https://doi.org/10.1075/prag.20.2.05bla>
- Searle, J. (1996). *The construction of social reality*. Penguin Books.
- Searle, J., & Vanderveken, D. (1985). *Foundations of illocutionary logic*. Cambridge University Press.
- Schiller, H. I. (2019). Is that a threat? *Erkenntnis*, 86, 1161–1183. <https://doi.org/10.1007/s10670-019-00148-9>
- Schumpeter, J. ([1909] 1980). *Methodological individualism*. Institutum Europaeum.
- Taghizadegan, R., & Otto, M.-F. (2015). Praxeology of coercion: Categorical vs. cratic. *Quarterly Journal of Austrian Economics*, 18(3), 294–310.
- Terrell, T. D. (1999). Property rights and externality: The ethics of the Austrian School. *Journal of Markets & Morality*, 2(2), 197–207.
- Viner, J. (1961). Hayek on freedom and coercion. *Southern Economic Journal*, 27(3), 230–236. <https://doi.org/10.2307/1055089>
- von Hayek, F. A. (1943). The facts of the social sciences. *Ethics*, 54(1), 1–13. <https://doi.org/10.1086/290368>
- von Hayek, F.A. (1952). *The counter-revolution of science*. Free Press of Glencoe.
- von Hayek, F.A. ([1960] 1978). *The constitution of liberty*. The University of Chicago.
- von Mises, L. ([1922] 1962). *Socialism*. Yale University Press.
- von Mises, L. ([1949] 1998). *Human action: A treatise on economics. The Scholar's Edition*. Ludwig von Mises Institute.
- von Mises, L. ([1933] 2011). *Epistemological problems of economics* (Trans. G. Reisman). Liberty Fund.
- Walton, D. (2000). *Scare tactics. Arguments that appeal to fear and threats*. Springer Netherlands, (esp. chapter IV, *The Speech Act of Making a Threat*, pp. 101–128).
- Westen, P. (2012). Why the paradox of blackmail is so hard to resolve. *Ohio State Journal of Criminal Law*, 9(2), 585–636.
- Wertheimer, A. (1987). *Coercion*. Princeton University Press.
- White, L. (1984). *The methodology of the Austrian School Economists*. Ludwig von Mises Institute.
- Wight, J. B. (2015). *Ethics in Economics*. Stanford University Press.
- Wiśniewski, J.B. (2018). *The economics of law, order, and action: The logic of public goods*. Routledge.
- Wiśniewski, J.B. (2019). Austrian welfare economics: A reply to Wysocki and Megger. *Ekonomia—Wrocław Economic Review*, 25(3), 25–28. <https://doi.org/10.19195/2084-4093.25.3.2>
- Wysocki, I. (2021). *An austro-libertarian theory of voluntariness: A critique*. Wydawnictwo Wydziału Nauk o Polityce i Bezpieczeństwie UMK.
- Wysocki, I., & Megger, D. (2019). Austrian welfare theory: A critical approach. *Ekonomia—Wrocław Economic Review*, 25(1), 73–80. <https://doi.org/10.19195/2084-4093.25.1.5>
- Wysocki, I., & Megger, D. (2020). Rejoinder to Wiśniewski on the Austrian welfare economics. *Ekonomia—Wrocław Economic Review*, 26(2), 103–109. <https://doi.org/10.19195/2658-1310.26.2.6>
- Zimmerman, D. (1981). Coercive wage offers. *Philosophy and Public Affairs*, 10, 121–145. <https://doi.org/10.1002/9781444367072.wbiee617>

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**BLACKMAIL, UNPRODUCTIVE EXCHANGES, FRAUD, AND  
THE LIBERTARIAN THEORY OF VOLUNTARINESS** <https://doi.org/10.2478/ppsr-2024-0005>

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The main purpose of this paper is to rationally reconstruct Nozick's account of unproductivity, especially *vis-à-vis* his characteristically libertarian, and hence uncompromising, ban on fraud. We posit that, when Nozick's theory is interpreted charitably, it does not yield to contradictory prescriptions concerning permissibility. That is, there does not have to be any inconsistency in the Nozickian ban on certain exchanges, with the ban tracking two properties of the said exchanges; that is, either (1) their unproductivity or (2) their fraudulence. When analyzing economic exchanges, our interest is focused on both productive and unproductive *blackmail* exchanges. However, we suggest that Nozick's banning exchanges along the lines of their unproductivity tallies poorly with his avowed libertarianism since his position predicts prohibiting unproductive and yet non-fraudulent exchanges. Hence, and we suggest resolving the said tension in a principled libertarian (deontological) manner; that is, by banning *fraudulent exchanges* and allowing *non-fraudulent* ones, *ceteris paribus*, while submitting that the properties of exchanges such that *being productive* or *being unproductive* are morally inert.

**Keywords**

blackmail, fraud, Nozick, unproductive exchanges

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**Introduction**

Nozick's (1974: 84–87) theory of (un)productive exchanges is quite naturally of interest to the way we should handle blackmail proposals. For example, Gorr (1977: 187) speculates that the alleged unproductivity of blackmail exchanges might account for our intuition to the effect that this sort of exchanges should be banned. Indeed, Nozick (1974: 84–87) himself took the property of unproductivity of an exchange to be a sufficient reason for pro-

hibiting it.<sup>1</sup> Indeed, it is plausible to maintain that there is at least a *prima facie* reason to ban unproductive exchanges.<sup>2</sup> After all, roughly speaking, if *A* pays *B* unproductively, the exchange seems to constitute a mere money transfer. In a sense which is going to be elaborated on shortly, *A* then pays *B* for no service whatsoever, for *A* would be – among other things – better off if *B* had nothing to do with him in the first place. Such facts do indeed count in favour of prohibiting unproductive exchanges. Hence, there seems to be a good *economic* reason to disallow unproductive activities. Since they resemble or are identical with mere money transfers, there is a good reason to think that unproductive exchanges

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<sup>1</sup> To prove that unproductivity of exchanges was taken by Nozick to be a *sufficient* rather than only a necessary condition for prohibiting them, let us quote no less than Mack (1981: 186–187): “Yet, we have noted that the unproductivity justification for prohibitions is distinct and separate from the rights violation justification for prohibitions.” It seems crystal clear that Nozick takes unproductivity as sufficing for banning exchanges exhibiting this feature. Elsewhere, says Mack (1981: 176): “Thus it is a startling and insufficiently noticed feature of Nozick’s position that there are two quite separate strands of justifications for prohibition. One, of course, ties the prohibition of an act to its right violating character. The other ties the prohibition of an act to the unproductivity of abstention from that act.” Then again, it seems that unproductivity is considered a sufficient condition for banning an exchange, even granting that such an exchange does not violate rights. Mack (1981: 176) actually submits that the Nozickian ban on blackmail tracks precisely its unproductivity itself. Given all this, we seem to be warranted in taking the Nozickian unproductivity as a sufficient reason — according to this author — for banning such exchanges.

<sup>2</sup> At this point, an incisive anonymous referee charges that he “would agree that it is a *prima facie* reason only under the utilitarian framework in ethics. It is hard to see why it should be the case in deontology as well since deontological reasoning is rather silence about productivity.” Indeed, why should deontologists bother? A modest response at this point might be that productivity of exchanges might still matter to deontologists as long as rights are respected. To wit, deontologists might as well find an outcome with productive rather than unproductive exchanges more desirable, *ceteris paribus*. What they would not accept is only compromising rights in the pursuit of utility. Still, this is a far cry from saying that social welfare is morally irrelevant to deontologists, for rights can simply be lexically prior to considerations related to social utility, the very point standing behind Nozick’s side constraints. A more daring response we can venture is that unproductive exchanges might be a decent proxy for *involuntary* ones. After all, were the buyer to know that he is “served unproductively”, he would not buy a commodity or a service. So, it is only in the *ex ante* sense that the buyer benefits from the said exchange. It is only her false belief (*i.e.*, that she is indeed served productively) that makes her conclude an exchange which only *ex post* proves to be unproductive. Hence, we submit that it is *ignorance* that leads economic actors to strike what turns out to be ultimately an unproductive exchange. And, why shouldn’t this ignorance render the said exchange *involuntary* and precisely *via* the fact that the exchange was made in ignorance of some material facts? And further, since such exchanges would be made *involuntarily*, principled deontology would have no objection to banning them. It is worth noting, however, that unproductivity of exchanges seems to imply involuntariness thereof but not the other way round and hence the relation of equivalence does not hold between the two. The reason is that there is another defeater of voluntariness and that is compulsion or coercion, if you will. In other words, it is *either* compulsion *or* mistake that renders an exchange involuntary. Hence, the actor’s mistake implies that her action was involuntary. And yet, the actor’s involuntary action does not entail that she acted mistakenly, as she might have acted under coercion. Finally, it is worth noting that mistake defeats a voluntary character of the actor’s choice via the so-called *material facts*, with material facts being such that if they had been known, the actor would have made a different choice instead. (see *e.g.*, Child (1994); Ferguson (2018)) To illustrate the point, if a person is deceived into believing that the car she wants to buy is a reliable used car, whereas it is in fact a lemon, the person would strike a deal *involuntarily*. That is to say, were the person to know the car is a lemon, she would not strike a deal in the first place or would strike it on different conditions.

decrease social utility.<sup>3</sup> After all, mere money transfers, something that apparently leaves the social utility intact, come at a cost, even if it is an opportunity cost.<sup>4</sup>

Leaving the Nozickian theory of (un)productivity aside, we cannot but note that at the same time Nozick subscribes to banning fraud. Indeed, prohibiting fraudulent exchanges is what Nozick claims his minimal state should be committed to. Says our author: “Our main conclusions about the state are that a minimal state, limited to the narrow functions of protection against force, theft, fraud, enforcement of contracts, and so on, is justified.” (Nozick, 1974: ix). Hence, we are most warranted in interpreting Nozick as regarding a fraudulent character of an exchange as a sufficient reason to prohibit it. However, as we are about to demonstrate, this two-pronged standard for banning certain exchanges does not necessarily enmesh Nozick in any deontic contradiction. For, given the fact that both fraud and unproductivity individually constitute a sufficient reason to prohibit certain exchanges, it does not follow that productivity and non-fraudulence individually imply permissibility of the exchanges exhibiting either property. And yet, we submit that there is indeed something wanting in the Nozickian ban on unproductive exchanges, given his avowed uncompromising deontological libertarianism. For, there is something suspicious about prohibiting unproductive and yet non-fraudulent exchanges by libertarian lights.

The agenda of the present paper is the following. In section 2, upon presenting the Nozickian theory of (un)productivity, we try to solidify it, while answering some objections levelled at it. In section 3, in turn, we venture a foray into the territory of frauds. We distinguish between *actus reus* and *mens rea* of fraud and, most critically, establish that it is the blackmailer’s intention *at the time* of making the blackmail proposal that makes a difference to its character; that is, whether it counts as fraudulent or non-fraudulent. In section 4, we demonstrate that the categories of (un)productive and (non-)fraudulent exchanges are logically distinct, which completes our point of showing that Nozick’s account of unproductivity is morally inert and should thus give way to considerations of whether a given exchange is fraudulent or not. Section 5 presents the ramifications of our findings to the libertarian theory of voluntariness. Section 6 concludes.<sup>5</sup>

<sup>3</sup> At that point, it would be advisable to note that from the fact that certain reasons are *economic* in nature, it does not automatically follow that economics is normative *per se*. For example, there is nothing prescriptive to *the fact* that a certain exchange frustrates one party’s preferences. However, this *fact* might constitute a reason to ban such an exchange. Similarly, the statement that a certain runner is the fastest is purely descriptive and still the fact referred to by the statement might have *normative importance*. To wit, this fact might serve as a basis for, say, commending, rewarding, or praising the runner. By the same token, it clearly takes a utilitarian ethic to recognize preference satisfaction, pleasure, or productivity of exchanges, or what have you, as morally (and thus normatively) important. Or more generally, as an anonymous referee correctly observed, it is no less than a *normative theory* that can serve to classify some natural facts as morally important and others as morally indifferent.

<sup>4</sup> Illuminatingly, Becker (1968) points out that theft *does not merely* redistribute resources, as criminals, after all, spend money on weapons as well as use their (scarce) time to plan how to carry out their crimes. Thus, theft is on a par with what is now trendily called “rent-seeking”. For the elaboration on the concept of rent-seeking, see: *e.g.*, Friedman (1990).

<sup>5</sup> As an aside, it would be worth noting at this point what the paper contributes and what is the current state of research on both fraud and unproductivity. The problems of deriving the characteristically libertarian ban on fraud from libertarian first principles were illuminated by *e.g.*, Child (1994), Ferguson (2008). Steiner (2019), on the other hand, suggests a solution and also ventures some economic analysis of fraud. Nozick’s account of unproductivity was, in turn, tackled by Gorr (1977), and Mack (1981). However, to the best of our knowledge, unproductivity has not yet been studied *vis-à-vis* frauds and this essay aspires to fill this gap.

## Nozick's account of unproductivity

As already mentioned, Nozick takes the unproductivity of an exchange to be a morally relevant feature thereof. After all, it is on the unproductivity of an exchange that its being banned depends.<sup>6</sup> But what is it for an exchange to be unproductive or productive for that matter? Nozick (1974: 84–87) captures the idea of unproductivity in terms of two conditions either of which is *necessary* and neither of which is *sufficient* by itself. However, the said two conditions are *jointly sufficient* to render a given exchange unproductive. Nozick (1974: 84) introduces his first condition of unproductivity in the following words:

If I buy a good or service from you, I benefit from your activity; I am better off due to it, better off than if your activity wasn't done or you didn't exist at all... [I]f I pay you for not harming me, I gain nothing from you that I wouldn't possess if either you didn't exist at all or existed without having anything to do with me...[T]his provides a necessary condition for an unproductive activity, but not a sufficient condition.<sup>7</sup>

Now, the question arises whether all (or only some) blackmail proposals satisfy the drop-dead condition. After all, what we are after in the present essay is to rationally reconstruct the Nozickian account of unproductivity *vis-à-vis* his unconditional ban on fraud. Hence, it is crucial to establish which blackmail exchanges (or proposals) count as productive and which do not. And to do so, we need to first see which blackmail proposals satisfy the drop-dead condition. But then again, to satisfactorily answer the above question, we need to be crystal-clear on which two worlds we are supposed to compare. Most naturally, we suggest that the relevant comparison is between the actual world (W) wherein the blackmailer's proposal takes place and a merely possible world (W\*) in which the blackmailer drops dead, drops out of the scene, or simply has nothing to do with the blackmailee at all, *ceteris paribus*. Consider a paradigm case of informational blackmail. A comes to B and says:

### Blackmail

- (1) If you pay me \$10.000, I will keep my mouth shut.
- (2) If you do not pay me \$10.000, I will reveal your embarrassing secret to your friends.

The blackmailer's proposal encompassing the two conditionals stated above depicts the situation in the actual world (W). In a merely possible world (W\*), the blackmailer drops dead or has nothing to do with the blackmailee, *everything else being equal*. Since by assumption everything else is equal in W\* as compared to W but for the blackmailer's existence in W, the blackmailee is clearly better off (or at least no worse off)<sup>8</sup> in W\*

<sup>6</sup> As we shall explain later, given that the exchange is already non-fraudulent, it is unproductivity that does all the subsequent moral work. That is to say, once the exchange is non-fraudulent, its being at the same time unproductive suffices, according to Nozick, for prohibiting it.

<sup>7</sup> Incidentally, this (*i.e.*, first) Nozickian condition of unproductivity was picturesquely dubbed the *drop-dead* condition by Rothbard ([1982] 2002: 245). Henceforth, we are going to refer to the said Nozickian condition as the "drop-dead condition", thus following Rothbard's preferred (and quite catchy) wording.

<sup>8</sup> This is our first slight modification of Nozick's theory. We posit that being *no worse off* due to a certain activity (*i.e.*, a productive one) is a better criterion of productivity than Nozick's being "better off due to it". After all, plain market offers are often such that we are basically indifferent to them; that is, in cases wherein we do not act on them (*i.e.*, we decide not to buy what we are offered). If so, we are no better off due to such offers but merely *no worse off*. Certainly, such an adjusted criterion correctly captures

than in  $W$ . For, in  $W^*$ , the blackmailee does not face the dilemma at all. After all, quite trivially, no blackmailer, no blackmail proposal. Hence, the blackmailee preserves both money *and* his reputation.<sup>9</sup> Moreover, it seems to us that literally any blackmail proposal is such that its being issued renders its recipient worse off than he would otherwise (*i.e.*, in the absence of the blackmailer and then, trivially, in the absence of the proposal) be. In other words, any blackmail proposal is such that its recipient may preserve the *status quo* only at some cost, whereas in the absence of the blackmail proposal, the *status quo* is preserved for free, everything else being equal. Consider yet one more example.  $A$  (a competitive businessman) comes to  $B$  saying: “if you do not pay me \$1000, I am going to take over all your customers”, a clear example of blackmail. Now, the only way for  $B$  to retain all his customers is by paying  $A$ . Hence, if  $A$  dropped dead (together with his proposal),  $B$  would enjoy his customer base with no additional cost incurred. Therefore, it appears as though *all* blackmail exchanges (and proposals) satisfy the Nozickian drop-dead condition. Or, to put it in more precise terms, the blackmailee would *always* be no worse off (if not better off) if the blackmailer had nothing to do with him or dropped out of the scene entirely, *everything else being equal*. Still, as we remember, the drop-dead condition is only the first necessary condition of unproductivity. For an exchange to count as unproductive another condition must be met too. Let’s label Nozick’s second condition of unproductivity the *delegalization condition*.

According to Nozick (1974: 85), the *delegalization condition* of unproductivity is met when the exchange has such a property that “it merely gives you relief from something that would not threaten if not for the possibility of an exchange to get relief from it.” This very condition was, in turn, captured by Gorr (1977: 188) in the following manner: “Y’s

a pre-theoretical intuition to the effect that *all* market offers or proposals (including the ones nudging us insufficiently to buy the products advertised) are productive. For the sake of discussion, we will also disregard a possibility that exchanges (proposals) are not exhaustively divided into productive and unproductive ones and that, thus, there is a third category capturing “offers” not acted upon, with such offers being neither productive nor unproductive.

<sup>9</sup> At this point, the inquisitive critic might ask why the relevant comparison should be made against a merely possible world ( $W^*$ ) which differs from the actual world *only* in the absence of the proposer. To this we can venture the following response. Remember, we are trying here not only to present Nozick’s account of productivity but also to improve upon it. An improved version will be clearly such that solves some additional problem, while inheriting the virtues of the former version. We submit that our comparison to  $W^*$  (the world sharing everything with the actual world but the existence of the proposer) solves a problem Nozick himself hinted at. That is, Nozick (1974: 85) entertains a thought experiment with which the drop-dead condition apparently cannot deal. Our author invites us to imagine a situation in which instead of the original actual blackmailer (without whose presence the victim “would be as well off if the blackmailer did not exist at all”) there would be another one who might “have stumbled on the unique piece of information and asked a higher price for silence”. Nozick then seems to conclude that the blackmailee is better off “because his actual blackmailer exists”. This, in turn, would predict that an exchange with the actual blackmailer is productive since the drop-condition is not met. After all, since the drop-dead condition is a *necessary* condition of unproductivity, then its non-satisfaction constitutes a *sufficient* condition for productivity. However, quite intuitively, the exchange with the actual blackmailer makes the blackmailee worse off and if so, the relevant baseline cannot contain a more demanding blackmailer. Rather, and quite non-arbitrarily, the comparison should be made to the world in which the actual blackmailer drops dead, *everything else being equal*. Or, in other words, the only difference between  $W$  and  $W^*$  is that in  $W^*$  the blackmailer drops out of the scene with nothing filling in the space thus left. But then again, we must concede that the problem of *the* relevant baseline is one of the perennial problems in philosophy of economics as well as in moral philosophy. On different baselines for analyzing threats and offers, see: *e.g.*, Feinberg (1989); Steiner (1994); Altman (1996).

part of the exchange would consist entirely in abstaining from some deed, a deed he has no desire to perform; he threatens to perform it, however, solely in order to sell X his abstention.” Now, the reason we decided to label this condition of unproductivity *delegalization condition* becomes apparent when we consult Nozick (1975: 85) yet again. Says our author:

That such exchanges are not productive ones, and do not benefit each party, is shown by the fact that if they were impossibly or forceably prohibited so that everybody knew they couldn't be done, one of the parties to the potential exchange would be no worse off. A strange kind of productive exchange it would be whose forbidding leaves one party no worse off!

So now, we are invited to compare two worlds: one actual ( $W$ ) and the other merely possible ( $W^*$ ). The former contains the proposal, whereas in the latter this sort of proposals is *delegalized*<sup>10</sup>, everything else being equal. If it turns out that the proposee is no worse off in  $W^*$  than he is in  $W$ , the proposal in question meets the delegalization condition.

Let us apply those general considerations to the blackmail proposal cited above. Remember, the blackmail proposal consisted of the following two conditionals.

- (1) If you pay me \$10.000, I will keep my mouth shut.
- (2) If you do not pay me \$10.000, I will reveal your embarrassing secret to your friends.

The crucial question is when would the above proposal meet the delegalization condition. The answer seems straightforward. If the conditional (2) is a mere bluff; viz. the blackmailer is not intent upon revealing the blackmailee's embarrassing secret to his friends in case of the latter's non-compliance, then the blackmailee, once he has paid, “will be “served” unproductively.” (Nozick, 1974: 85). After all, by assumption, the blackmailer has no desire to reveal the blackmailee's secret to the latter's friends. Or, more or less in Gorr's words, the blackmailer threatens to reveal the blackmailee's secret “solely in order to sell [him] his abstention.” Our conclusion might also be appreciated better once we put our point in terms of possible worlds. Consider the actual world ( $W$ ) wherein the blackmailer issues his proposal (two conditionals above) but he does not intend to reveal the secret or he intends *not to* reveal the secret if the blackmailee ( $B$ ) fails to comply. In a merely possible world ( $W^*$ ), the blackmailer ( $A$ ) is legally prevented from making the above proposal. However, since  $W$  and  $W^*$  share all the states of affairs but the proposal (with the proposal being present in  $W$  and absent in  $W^*$ ),  $A$  in  $W^*$  does not intend to reveal the secret or intends not to reveal it. But if so,  $B$  in  $W^*$  does not face any threat forthcoming from  $A$ . By contrast, if  $B$  faces  $A$ 's bluffing blackmail proposal in  $W$ ,  $B$  might well decide to pay. Clearly then, under the circumstances envisaged,  $B$  is no worse off in  $W^*$ , which is precisely why the proposal (exchange) in question would count as unproductive, given the fact that *all* blackmail proposals meet the drop-dead condition.

Now, it is worth noting that it is the satisfaction of the Nozickian delegalization condition that makes all the difference to unproductivity of blackmail proposals. After all, as already settled, *all* blackmail proposals satisfy the drop-dead condition. That is to say, they are all *prima facie* unproductive. It is then the *delegalization condition* that decides whether a given blackmail proposal (or exchange) is *overall* productive or not. Specifically,

<sup>10</sup> Note that here the proposer does not drop dead. Rather, he exists but is only legally unable to make a proposal.

if a blackmail proposal (or exchange) meets the delegalization condition, it is unproductive, whereas if it does not, it is productive.

There is one loose end to tie up at this point. That is, in contrast to the above-considered unproductive blackmail proposal (exchange), which subset of blackmail proposals would prove to be *overall* productive? In other words, the question is: which blackmail proposals would fail to satisfy the delegalization condition? Consider our above-stated blackmail proposal yet again. But now, let the blackmailer's intention vary in the conditional (2). Remember, (2) was just a bluff. Turn (2) into a sincere promise, or a *genuine* threat if you will, and we end up with

- (2') If you do not pay me \$10,000, I will reveal your embarrassing secret to your friends

Now, since (2') is by assumption a genuine threat, this *iso facto* means that the blackmailer does intend to reveal the blackmailee's secret to his friends in case the latter does not succumb to the former's threat. But then, if blackmail proposals were to be delegalized in  $W^*$ , the blackmailee would be denied an option of buying the blackmailer off. And since the blackmailer is assumed to intend to reveal the said secret if not paid, he might simply reveal it in  $W^*$ .<sup>11</sup> If so, then the blackmailee might well be worse off in  $W^*$  than in the actual world ( $W$ ) wherein he receives the blackmail proposal. Or to put it another way, the blackmailee could be worse off if, under the circumstances considered, the blackmail proposals were to be banned, everything else being equal. And this is precisely a situation in which the delegalization condition seems not to be satisfied. Therefore, if, upon receiving the blackmail proposal in  $W$ , the blackmailee pays the blackmailer under consideration, the former does so *productively*, for otherwise his secret might as well be revealed.

Concluding, all blackmail proposals satisfy the Nozickian drop-dead condition. However, this by itself does not render all blackmail proposals unproductive. It is the satisfaction or non-satisfaction of the delegalization condition that determines whether a given blackmail proposal (exchange) is overall unproductive or productive, respectively. Having thus presented Nozick's theory of unproductivity, it is time to elucidate what makes exchanges fraudulent or non-fraudulent.

## What makes an exchange fraudulent

In this section, we are going to elucidate what it is exactly that makes a difference to whether an exchange counts as fraudulent or not. In particular, we are going to focus on the question of what makes a *blackmail* exchange fraudulent. However, before we delve

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<sup>11</sup> As the anonymous referee brilliantly notes, there is a problem of calling this person in  $W^*$  a blackmailer in the first place as "blackmail is out of the picture in  $W^*$ ". Generally, the reviewer is rightly concerned about whether one can legitimately vary the "blackmailer's" intention across these two worlds, holding everything else as equal. We, however, believe that the problem might well be slightly overstated, as apparently there is nothing incoherent about the very person (call it blackmailer or whatever) issuing a genuine threat in  $W$ , the threat he is keen on executing if not paid, and not issuing it in  $W^*$  and thus simply intending to reveal the secret, period. Our point is simply that the blackmailee (or whatever one may decide to call it) is clearly worse off in  $W^*$  than in  $W$  since it is only in the latter that the blackmailee is given the option of buying the blackmailer's silence. Indeed, in  $W^*$  the blackmailee is not even given a blackmail proposal as the blackmail is by assumption delegalized in this world. Or, as the reviewer correctly observes, if anything, it would be the blackmailee that would have to come to the blackmailer "to offer the money for keeping mouth shut."

into the character (fraudulent or not) of blackmail proposals, we would be well-advised to consider what constitutes *frauds* as such.

The Model Penal Code (Official Draft, 1962) defines theft by deception (which is, basically, a fraud) in the following terms:

A person is guilty of theft if he purposely obtains property of another by deception. A person deceives if he purposely:

- (1) creates or reinforces a false impression, including false impressions as to law, value, intention, or other state of mind; but deception as to a person's intention to perform a promise shall not be inferred from the fact alone that he did not subsequently perform the promise; or
- (2) prevents another from acquiring information which would affect his judgement of a transaction; or
- (3) fails to correct a false impression which the deceiver previously created or reinforced, or which the deceiver knows to be influencing another to whom he stands in a fiduciary or confidential relationship; or
- (4) fails to disclose a known lien, adverse claim, or other legal impediment to the enjoyment of property which he transfers or encumbers in consideration for the property obtained, whether such impediment is or is not valid, or is or is not a matter of official record. (Kadish, Schulhofer, Steiker 2007: 1124)

For our purposes, though, it is enough to focus on the deceiver's false representations as to his *intentions*, something captured under (1) in the above-quoted excerpt from the Model Penal Code.<sup>12</sup> After all, as we are about to see, it is the blackmailer's *intention* to

<sup>12</sup> At this point, an anonymous referee delivers an insightful charge in the form of *reductio ad absurdum*. The referee submits "that mere misrepresentation of one's intentions cannot be sufficient to render an exchange fraudulent." His or her argument runs as follows: on our account fraudulent blackmail exchanges should be banned as they involve the fraudster's misrepresenting his or her intentions. However, ordinary market exchanges resulting from free bargaining also involve misrepresentation of the two parties' intentions (more specifically, misrepresentation of the parties' value scales or preferences for that matter). Hence, my position predicts that such market exchanges (involving free bargaining) should also be banned. But this is absurd. And apparently so is my theory, which concludes this piece of *modus tollens* reasoning. Therefore, the referee rightly requires me to point to a relevant difference between fraudulent blackmail exchanges and plain market transactions. What I can offer are two responses. First, free negotiations always presuppose some *consumer surplus*. Suppose person *A* tries to sell *B* a vinyl. Suppose further that *A* would sell it for no less than \$20 and *B* would buy for no more than \$30, which yields the following zone of possible agreement: <20–30> in dollars. That is, consumer surplus (in utility) is a function of \$10. Now, it is worth noting that the said consumer surplus might be distributed differently between *A* and *B*. The point is that how the consumer surplus is distributed crucially depends on how good at deception each party to a transaction is. So, the crux of my rejoinder is that, if anything, all market transactions involve the distribution of a consumer surplus and how the surplus is distributed is a function of how skilful at deception each party is, deception in free negotiations *does not contrast with anything*, quite unlike in blackmail exchanges. After all, there are blackmail exchanges involving no deception whatsoever. And we posit that this is where a relevant difference between blackmail and free negotiations lies. However, this rejoinder, as spotted by the referee, might still be thought of as merely restating the original problem. After all, it might be argued that since *all* market transactions involve *some* misrepresentation of the intentions of the parties thereto, all such transactions are fraudulent. However, and this probably where such allegedly innocuous market transactions relevantly differ from blackmail exchanges involving deceit. Deception on the part of one freely negotiating party is always assumed by the other and vice versa. This deception hardly makes any difference at all. The parties are willing to exchange *regardless* of the way the consumer surplus is going to be distributed due to their respective skills in deceiving. To conclude this thread, what might of help at this point is a certain legal case involving one party's misrepresenting their intentions and still obtaining a valid consent. The case in question is *Desnick v. American Broadcasting Companies, Inc.*, wherein the Defendant dispatched their people equipped with hidden cameras to the Plaintiff (Dr. Desnick, being the owner of Desnick Eye Center). As it happened, the people with hidden cameras posed as regular customers, whereas their true intention was to prepare tape of Desnick's medical practice in order to subsequently air them on the television programme. Being under a false impression,

execute or not to execute his threat that accounts for its non-fraudulent or fraudulent character, respectively.

Let us recall *Blackmail* and the critical conditional (2), the threat element of the entire proposal.

- (2) If you do not pay me \$10.000, I will reveal your embarrassing secret to your friends.

As it stands, (2) as a mere locutionary act *underdetermines* whether it is a bluff or a sincere threat. If (2) is read as a genuine threat, this *ipso facto* means that the blackmailer is *committed* to executing it in case the blackmailee does not succumb thereto. Or, to put it differently, the blackmailer *intends* to carry out his threat in case of the blackmailee's non-compliance.

Now, following the notation employed above, let us label a genuine threat as (2'). Remember, (2') is a sincere threat constituted by the following conditional: "If you do not pay me \$10.000, I will reveal your embarrassing secret to your friends." In turn, let us label the corresponding bluff (2''). That is to say, if the conditional "If you do not pay me \$10.000, I will reveal your embarrassing secret to your friends" is asserted insincerely, we are going to label this disingenuous locution (2''). Now the question arises: how does the difference between (2') and (2'') translate into the difference between a non-fraudulent and fraudulent exchange, everything else being equal? Recall that a "theft by deception" (which is essentially a fraud) obtains when "a person purposely obtains property of another by deception" with deception "including false representations as to...intention or other state of mind."

Consider (2''), a bluff. If the blackmailer indeed misrepresents his intention (*i.e.*, either he says he intends to reveal the secret, whereas he intends *not to do so* or he simply *does not intend to do so*) and thus causes the blackmailee to part with the money, this satisfies *actus reus* of fraud. Moreover, if this impermissible act is accompanied with contemporaneous *mens rea*, a complete crime of fraud obtains. In the case under analysis, *mens rea* of fraud, in turn, would consist in the blackmailer's *knowingly* engaging in the impermissible act that might cause the blackmailee to part with the money demanded.<sup>13</sup> Or in plain

Desnick allowed them to enter and thus subsequently argued that his consent was obtained *via* the Defendant's people misrepresenting their respective intentions. After all, what they wanted was to tape the doctor rather than to have their eyes examined. Hence, Desnick claimed that trespass took place. However, the court's reasoning was that not all misrepresentations of intentions constitute frauds and so Desnick's consent was valid and therefore no trespass had occurred. Or, in other words, undercover videos did not amount to the interference with Desnick's ownership of his premises, as Desnick's centre was, after all, open to literally anybody wanting his services. Hence, perhaps, the same logic applies to freely bargaining parties. They are also willing to bargain with literally everybody, while trying to maximize their respective surplus. Therefore, it seems that the deceit concerning the negotiating parties' intentions (*i.e.*, value scales or preferences) would not vitiate the resulting consent once the transactions are concluded. The second response I can think of is to allude to the fact that *actus reus* of fraud involves causation as well. In the words of the above-cited Model Penal Code, a fraudster must — to meet the description of *actus reus* of fraud — "create or reinforce a false impression". Given this, again, quite unlike in blackmail, the deception involved in free negotiations seems to be too little of a cause. Yet, as noted above, note that the two parties to a transaction want to strike a deal anyway, sometimes even irrespective of how the surplus is distributed. It is not the case that a transacting party deceptively lures the other party to negotiate. After all, both parties do negotiate *freely*. But if so, then deception does little causal work — and again, quite unlike in blackmail, in which case the blackmailee would never decide to succumb to the blackmailer's threat were the former to know that the latter is merely bluffing. For an illuminating analysis of causation, esp. *vis-à-vis* moral responsibility, see *e.g.*, Moore (2009).

<sup>13</sup> For both *actus reus* and means of fraud, see *Regina v. Thérout*, [1993] 2 S.C.R. 5

English, if the blackmailer bluffs that he is going to tarnish the blackmailee's reputation in case of the latter's non-compliance and *believes* that this very prohibited act will cause the blackmailee to part with his money and if the blackmailee takes the bait and pays, then a crime of fraud obtains, with the exchange concluded as therefore being *fraudulent*.

Now, consider (2'), a genuine threat. In contradistinction to (2''), (2') is not a speech act involving any deception. When pronouncing (2') the blackmailer does contemporaneously intend to carry out his threat if the blackmailee decides not to meet his demand. And since (2') involves, critically, no deception pertaining to the blackmailer's intention, (2') cannot, trivially, deceitfully cause the blackmailee to part with his money. Hence, if the blackmailee pays upon hearing (2'), the exchange is thus non-fraudulent. Consequently, everything else being equal, the blackmailee under (2') would successfully waive his title to the money demanded.

Just to reiterate then, what makes an exchange fraudulent is the fact that the blackmailer *knowingly* engages in a prohibited act of deception which causes the recipient of the proposal to part with his money. Moreover, the intention to deprive another person of his property or the belief that the deceiver's act may lead to the said deprivation must be contemporaneous with the act of making the blackmail proposal. To put it another way, required *mens rea* must coincide in time with *actus reus*, the point which is going to turn out to be crucial in our forthcoming demonstration that fraudulent exchanges are not equivalent with unproductive ones. On the other hand, non-fraudulent blackmail exchanges would involve the blackmailer sincerely threatening to destroy the blackmailee's reputation. Absent deception, the proposal cannot, rather trivially, *deceitfully* cause the recipient to part with the title to his money. Hence, *actus reus* of fraud cannot logically obtain. Having demonstrated which blackmail proposals translate into frauds and which do not, it is time to investigate the relation between productive exchanges and non-fraudulent ones as well as between unproductive exchanges and fraudulent ones in order to show that there is nothing contradictory in the Nozickian two-pronged standard for banning exchanges; that is, along the lines of both (1) their unproductivity and (2) their fraudulent character.<sup>14</sup>

### How (non-)fraudulent exchanges relate to (un)productive ones

The present section is to dispel the worry that the Nozickian two-pronged account of prohibiting exchanges may in the end prove inconsistent. To wit, the worry might be related to the possibility of the said account generating conflicting deontic verdicts. Still more specifically, it appears as though there is a genuine possibility of Nozick banning certain exchanges on the basis of their unproductivity alone, while allowing them on the basis of their non-fraudulence. And analogously, if fraudulent and yet productive exchanges are thinkable, perhaps these two facts generate two conflicting moral verdicts as well. That is, wouldn't Nozick prohibit the latter sort of exchanges due to their fraudulence, while at the same time permitting them due to their productivity? If so, then his two-pronged account would be caught in an insuperable logical predicament. However, we submit that Nozick's two-pronged account, when read charitably, suffers from no logical flaws whatsoever. To

<sup>14</sup> However, it should be borne in mind that Nozick's insistence on prohibiting certain exchanges due to their unproductivity alone cannot be squared with his firm adherence to deontological (*i.e.*, side-constraints-styled) libertarianism, the point to which we are going to repair in the next section.

show this, we shall demonstrate the presumed logical distinctness of two properties of exchanges; that is (1) their productivity and (2) their fraudulence. To this effect, let us first demonstrate that (un)productivity of exchanges is indeed logically independent of their (non-)fraudulent nature and subsequently show that this very fact poses no problem for the Nozickian framework determining which exchanges are to be permitted and which prohibited.

Now, since we believe that productivity of an exchange is logically distinct from its fraudulent character, we end up with the following taxonomy:

- (1) Unproductive and simultaneously fraudulent exchanges
- (2) Productive and simultaneously non-fraudulent exchanges
- (3) Unproductive and simultaneously non-fraudulent exchanges
- (4) Productive and simultaneously fraudulent exchanges<sup>15</sup>

Now, the only categories that appear to threaten the coherence of Nozick's two-pronged account are (3) and (4). Hence, let us try to demonstrate that each of these categories is indeed non-empty. To this effect, we are going to construct two coherent scenarios exemplifying each of them, respectively. Hence, the first question arises: how are unproductive but simultaneously non-fraudulent exchanges possible? First, let us settle what would satisfy the non-fraudulence prong of an envisaged exchange. To illustrate this sort of exchange, let us repair to our *Blackmail*. As settled above, if the blackmailer at the moment of making a blackmail proposal did indeed intend to carry out his threat in case of the blackmailee's non-compliance, this sort of a proposal would clearly fall short of being fraudulent. That is to say, the blackmailee parting with his money would not be caused by the false representation of the blackmailer's intention to execute his threat. Quite the contrary, in the scenario under consideration, the blackmailee decides to part with his money as he *correctly* believes that the blackmailer *intends* to destroy his reputation once he fails to pay. Hence, it is the blackmailer's *genuine threat* (correctly recognized by his victim) that is *causally responsible* for the blackmailee's handing in the money. Therefore, in this situation, no *actus reus* of fraud obtains, for there is – by assumption – no hint of deception involved in the analyzed exchange. But how can such an exchange turn out to be unproductive? On the face of it, it seems that since the blackmailer, while making his proposal, *did intend* to execute his threat if the blackmailee were not to meet the demand, the concluded payment should count as productive. After all, it appears that if the blackmail proposals were to be delegalized, then the imagined blackmailer would gossip, everything else being equal.

However, it is when we recognize that there is a chasm between having an intention and acting on it that relevant counterexamples start coming to mind. To take the most mundane group of scenarios, suppose that the blackmailer is going to be unable (for what-

<sup>15</sup> Interestingly, it should be noted that the distinction *ex ante/ex post* does not apply to unproductive exchanges. For, rather trivially, no exchange is unproductive in the *ex ante* sense. If it were, the economic agent would have no reason to make it. Or in other words, we can conclude whether a given exchange is unproductive from whether two Nozickian conditions are met *in fact* for no rational agents can believe that these conditions are met and still go for the exchange. To give but one example, no blackmailee would pay a bluffing blackmailer if the former knew that the latter is indeed a bluffer. That is why unproductive exchanges are impossible *ex ante*, while all exchanges are productive *ex ante*. It is for that reason that *ex ante* analysis, when applied to productivity and unproductivity, is uninteresting. It is only when we consider the *ex post* sense that we can arrive at our typology (with four distinct possibilities) since productivity combines with the logically independent feature of fraudulence.

ever reason) to execute his threat despite the cherished intention. For instance, the blackmailee's friends might be completely beyond the blackmailer's reach, with the latter being powerless to acquire information on the former's whereabouts. Even more prosaically, the blackmailer might experience a change of heart. To wit, when the time is ripe the blackmailer in the face of a sudden conflicting desire resolves the conflict in such a way that he starts intending *not* to reveal the secret to the said friends. He might, have felt, say, a sudden and overriding urge for benevolent conduct and thus have dropped his previous intention to gossip. If this is the possible world that would be actualized were the blackmailee not to pay, then the blackmailee's payment *in the actual world* would prove to be unproductive. Or, to put it in Nozickian terms, the blackmailee would be no worse off (or indeed better off) were he to decide not to pay the blackmailer. To generalize our point, even though the blackmailer at t1 may indeed intend to carry out his threat, there are all sorts of *contingencies* (such as the blackmailer's lack of relevant knowledge to act on or his possible change of heart or whatever else) that would prevent the blackmailer from executing his threat at t2. But with the said counterfactuals being presumably true, if the blackmailee does actually pay the blackmailer at t1, he is "served unproductively", for the former would be no worse off (if not better off) were he not to pay in the first place – and precisely in the light of the counterfactuals whose truth is assumed. On the other hand, because we assume that at t1, that is, at the moment of making a proposal, the blackmailer cherishes the intention to carry out his threat and it is the blackmailee's correct belief as to the blackmailer's intent that makes him ultimately part with the money, this exchange cannot be regarded as fraudulent. But if so, we seem to come up with an instantiation of (3); *viz.*, unproductive but non-fraudulent exchanges

Now, what is left is to also show how productive but simultaneously fraudulent exchanges are possible. Let us now proceed in the same fashion as we did, while trying to instantiate (3). A fraudulent blackmail proposal is made when the blackmailer intends *not* to carry out his threat or does *not intend* to do so. In turn, if the blackmailee is caused by the blackmailer's deceptive speech act to pay him for his abstention, an *actus reus* of fraud is satisfied and we are already warranted in saying that in this situation a fraudulent exchange takes place. Moreover, if the blackmailer has requisite *mens rea*; that is, he engages in what he *knows* to be a prohibited act, a complete *crime* of fraud obtains.

Now, how can paying the bluffing blackmailer turn out to be productive? At this point, we should consider what might possibly happen if the blackmailee at t1; that is, at the moment of the proposal being made, refused to pay the blackmailer. We submit that the bluffing blackmailer (as of t1) might well turn into a gossip at t2. For, isn't it (psychologically) possible that an unsuccessful bluffer, however grudgingly, forms an intention (say, at t2) to indeed execute his threat? After all, once the blackmailer's bluff has been called, he could quite naturally acquire an instrumental *desire* to reveal the blackmailee's secret to secure his reputation as force to be reckoned with. But then, given this newly acquired desire, the blackmailer might – upon resolving any conflicting desires – as well start intending to reveal the secret at t2, which might in the end prompt the revelation. Therefore, it appears possible to be served productively even if the blackmailee pays the bluffing blackmailer. For, as illustrated above, it is no stretch to imagine a bluffer (at t1) who, when his bluff is called, turns into a genuine threatener at t2. But if this transformation on the part of the blackmailer is possible, then the blackmailee would in the end be worse off were he not to pay the bluffer at t1, for that would trigger the loss of his reputation at t2. We can

express the same point in terms of the delegalization condition. If blackmail proposals get delegalized at  $t_1$ , precisely at the time when a blackmailer would make his bluffing blackmail proposal, the blackmailer might, out of frustration, turn into a gossip at  $t_2$  and promptly destroy his victim's reputation. If so, the victim would be worse off due to the delegalization of blackmail. And if so, the delegalization condition would not be satisfied. But remember, the delegalization condition was a necessary condition of unproductivity. And if a necessary condition of unproductivity is not met, then this constitutes a sufficient condition of *productivity*. Hence, it seems that we managed to exemplify productive but simultaneously fraudulent exchanges.

Now, why should the non-empty categories (3) and (4) present a problem for the Nozickian two-pronged theory designed for the sake of judging which exchanges to ban and which to allow?<sup>16</sup> Whether the Nozickian two-pronged theory is enmeshed in a logical contradiction hinges on whether Nozick takes productivity and non-fraudulence of an exchange as individually sufficient conditions for classifying the exchange as permissible. For, if either productivity or non-fraudulence of the exchange immediately implies its being permissible, then Nozick's framework would indeed generate contradictory deontic verdicts. To clearly appreciate the problem, let us first analyze our category (3); that is, unproductive and simultaneously non-fraudulent exchanges. Now, since the exchange under consideration is by assumption unproductive, this very fact alone suffices for deeming it *impermissible*. However, this exchange is at the same time non-fraudulent and if non-fraudulence constitutes a sufficient condition for permitting exchanges, this very exchange would be also deemed *permissible*, nothing short of a contradiction. The same applies to the exchanges under (4); that is productive and simultaneously fraudulent exchanges. We know otherwise that Nozick takes fraudulence of exchanges as a sufficient condition for banning them. However, if he also takes productivity of exchanges as sufficing for judging them permissible, we end up with a deontic conflict yet again. For, such exchanges would be then found impermissible due to their fraudulence and at the same time permissible due to the assumed productivity, nothing short of a contradiction. And yet, there is a way of interpreting Nozick so that any hint of inconsistency evaporates.

We posit that instead of interpreting Nozick as taking either productivity or non-fraudulence as an individually sufficient condition for rendering exchanges permissible, we should conceive of either of the two properties as merely individually necessary for permitting the exchanges in question. In other words, if an exchange is to be permissible it must be *both* productive *and* non-fraudulent, as each of the two properties are individually necessary for permissibility of exchanges. By contraposition, if an exchange happens to be unproductive, this fact alone suffices for deeming it impermissible. By the same token, if an exchange happens to be fraudulent, this fact alone is sufficient for rendering the exchange impermissible.<sup>17</sup> Hence, the Nozickian two-pronged standard for banning exchanges involves banning exchange on the basis of two conditions: their fraudulence and

<sup>16</sup> What follows is almost exclusively inspired by the comments of one of the anonymous referees of the paper. His or her comment made me substantially rethink my original argument, for which I remain very grateful to the said referee.

<sup>17</sup> The logical rule at work here is the following. If property  $p$  is necessary for  $q$ , then non- $p$  is sufficient for non- $q$ . To illustrate the reasoning, let us resort to a mathematical example. Being a rectangle is a necessary condition for being a square. Therefore, if something fails to be a rectangle, this constitutes a sufficient condition for the object to fail to be a square.

their unproductivity, with each condition being sufficient for prohibiting the exchanges in question. On the other hand, for an exchange to be deemed permissible it must meet two criteria at the same time: it must be (1) productive and simultaneously (2) non-fraudulent. This construal of Nozick's framework frees him from any logical incoherence.

However, at this point a certain objection might arise. For, the inquisitive reader may start wondering why should productivity or unproductivity matter at all for the libertarian. Or in other words, why should the process of prohibiting exchanges *track* their unproductivity? Reverting to our category (3), we wonder why non-fraudulence alone should not suffice for permitting the exchange exhibiting this feature. That is, we claim that for side-constraints-oriented deontological libertarians (Nozick included) the very fact that the exchange is non-fraudulent, everything else being equal, should be recognized as sufficient for permitting it even if the exchange happens to be unproductive. But given this remark, it seems that even if we managed to solidify the Nozickian two-pronged account, it, even when improved upon, still clashes with thus author's avowed unyielding deontological libertarianism. So, in a sense, our solution to a clear tension in Nozick's overall agenda (*viz.*, his utilitarian-styled account of unproductivity and his avowed deontological libertarianism) is party doctrinal, as we appeal to Nozick *qua* most of all libertarian. For it is his libertarianism that prompts banning exchanges along the lines of fraud rather than unproductivity. Similarly, exchanges would be permitted based on their non-fraudulence alone, everything else being equal. To wit, by libertarian lights, being non-fraudulent (everything else being equal) should suffice to render an exchange permissible without also requiring that the exchange be productive at the same time. And if so, we might as well, from a libertarian standpoint, regard both productivity and unproductivity as *morally inert*.

Or still in other words, we submit that it is simply *on moral grounds* that fraudulent exchanges should be banned even though they might in the end turn out to be productive. Similarly, non-fraudulent exchanges should pass muster even though they might ultimately prove to be unproductive. After all, it should be borne in mind that the libertarian argument for the free market is *primarily moral*. It would be *only* the most welcome happenstance if the free market transpired to be the most efficient. We cannot conclude this section better than by quoting Rothbard to this effect:

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 it is not, to the libertarian, the prime reason for his support of this system. That prime reason is moral and is rooted in the natural-rights defense of private property we have developed above. Even if a society of despotism and systematic invasion of rights could be shown to be more productive than what Adam Smith called 'the system of natural liberty', the libertarian would support this system. Fortunately, as in so many other areas, the utilitarian and the moral, natural rights and general prosperity, go hand in hand. (Rothbard, [1973] 2006: 48–49)<sup>18</sup>

<sup>18</sup> There is a joke circulating among some libertarians pertaining to the anaphoric "this" in "this system" presumably advocated by the libertarian. As the quote stands, it is ambiguous between two readings: (1) that the libertarian would support "what Adam Smith called 'the system of natural liberty'" and (2) that the libertarian would support "systematic invasion of rights". The joke is that it is a part of esoteric knowledge that what Rothbard really meant is (2). Needless to say, the remaining part of Rothbardian corpus clearly prompts the interpretation (1), which simultaneously defeats the interpretation (2), which the joke plays on.

## Ramifications for the libertarian theory of voluntariness

In this section, we are going to study what bearing our findings have on the libertarian theory of voluntariness. Specifically, we are about to press the point that libertarians themselves, with their unyielding ban on fraud, have a reason to revise their cherished *moralized* conception of voluntariness. However, we should first remind the reader that the libertarian conception of voluntary action is parasitic on a prior distribution of rights. At this point, an extensive quote from Nozick (1974: 262) would come in handy:

Whether a person's actions are voluntary depends on what it is that limits his alternatives. If facts of nature do so, the actions are voluntary. (I may voluntarily walk to someplace I would prefer to fly to unaided.) Other peoples' actions place limits on one's available opportunities. Whether this makes one's resulting actions non-voluntary depends upon whether these others had the right to act as they did.

Hence, the libertarian idea of voluntariness is *moralized* in this sense that whether *A*'s (re)action is voluntary depends on whether *B* constrained *A*'s opportunity set *rightfully* or not. In other words, when *B* acts within his rights and thus limits *A*'s options, *B* (re)acts voluntarily. If, on the other hand, *B* were to act in violation of *A*'s prior rights, *A* would (re)act involuntarily. Let us briefly illustrate which exchanges would count as voluntary and which as involuntary by libertarian lights.

A paradigm case of an involuntary action is a coerced exchange with a gunman. Suppose *B* (a gunman) approaches *A* (his victim) and utters "Money or your life." Since *B* has no right (absent any prior contracts to the contrary) to take *A*'s life, *B*'s action of paying the gunman would be automatically rendered involuntary. In more Nozickian terms, since *B* would be under these circumstances constraining *A*'s options *illegitimately*, *A*'s resulting action would be involuntary.<sup>19</sup> By way of contrast, suppose *C* (an entrepreneur) threatens to set up some competitive business unless bought off by *D* (a so-far monopolist in the area). Since *C* is threatens to do what he has a right to do, if *D* decides to buy *C* off, the latter would do so *voluntarily*.

Now, what does this theory of voluntariness predict in case of blackmail proposals? Remember, in the eyes of libertarians, voluntariness of an action on the part of the recipient of a proposal is a sole function of whether the proposal-maker constraints the former's options *legitimately* or not. However, what the blackmailer threatens to do is something that he has an *independent* right to do.<sup>20</sup> This would render, quite indiscriminately, *all* blackmail proposals permissible. And this, in turn, would make the blackmailee's result-

<sup>19</sup> It is worth noting in passing that for libertarians a proposal which makes its recipient give up one of his rights is already illegitimate or coercive. It is for that reason that the gunman is not acting within his rights, while making his proposal. For an elaboration of the illegitimacy of proposals previewing a right violation, see *e.g.*, Epstein (1975: 296).

<sup>20</sup> Incidentally, the fact that what the blackmailer threatens to do is rightful is precisely what distinguishes blackmail from extortion. The logic is the following. The blackmailer (by definition) threatens to do what would be independently *permissible* to do, which makes, according to libertarians, the overall blackmail proposal permissible. Since the proposal would be constraining the blackmailee's opportunity set legitimately, the blackmailee's resulting action would be voluntary. By contrast, what the extortionist (by definition) threatens to do is independently *impermissible*. Now, since the extortionist would be making an impermissible threat, the resulting action of the threatened party would be *involuntary*. For a further elaboration of the distinction between blackmail and extortion, see *e.g.*, Block, Gordon (1985); Block, Anderson (2000).

ing action *voluntary*. However, we already know that at least *some* blackmail proposals are attempted frauds, and therefore at least *some* blackmail exchanges are fraudulent. But libertarians are keen on prohibiting fraudulent exchanges as involuntary.<sup>21</sup> Therefore, they may not – on the pains of logic – consider *all* blackmail exchanges voluntary. And finally, concluding our *modus tollens* reasoning, there is something wanting to the libertarian standard of voluntariness. Or from a slightly different angle, libertarian rights-based conception of voluntariness predicts that *all* blackmail exchanges are voluntary. This implies that the blackmailee successfully waives his right to the money paid to the blackmailer. However, as discovered, *some* blackmail exchanges are clearly fraudulent. This would *ipso facto* mean that the defrauded party has *not* waived his right to the money transferred. But the libertarian standard of voluntariness predicts that in *all* blackmail exchanges there is a valid waiver of the blackmailee's right to his money. Hence, the libertarian standard of voluntariness is wanting. For the sake of clarity, let us represent our reasoning more systematically.

- (1) Libertarian moralized (rights-based) idea of voluntariness entails that *all* blackmail exchanges are voluntary
- (2) The fact that *all* blackmail exchanges are voluntary entails that the blackmailee always waives his right to the money transferred
- (3) Still, *some* blackmail exchanges are fraudulent
- (4) A fraud implies no waiver
- (5) In *some* blackmail exchanges, the blackmailee does not waive his right to the money transferred [from (3) and (4) via *modus ponens*]
- (6) Therefore, not *all* blackmail exchanges are voluntary [from (5) and (2) via *modus tollens*]
- (7) Hence, the libertarian moralized (rights-based) idea of voluntariness is false [from (6) and (1) via *modus tollens*].

In conclusion, it appears as though our finding to the effect that *some* blackmail proposals constitute attempted frauds and that therefore *some* blackmail exchanges are plainly fraudulent count as a reason to jettison the libertarian moralized (rights-based) theory of voluntariness with its peculiar blindness to the blackmailee's being deceived or plainly ignorant. Moreover, we submit that this criticism is internal to libertarianism. To wit, since libertarians themselves stick firmly to banning fraud, what it takes them to revise their theory of voluntariness is the realization that *some* blackmail exchanges are indeed fraudulent.

## Conclusion

In this paper we demonstrated that unproductive exchanges are not equivalent to fraudulent ones. Similarly, it turned out that productive exchanges do not fully overlap with non-fraudulent ones. Yet, we showed that this does not necessarily threaten the legitimacy of Nozick's two-pronged standard for prohibiting and permitting economic exchanges, as

<sup>21</sup> After all, Rothbard (1998: 77): viewed *fraud* as something “which involves the appropriation of someone else's property without his consent, and is therefore ‘implicit theft.’” Moreover, for an excellent elaboration on the problem of fraud, mistake, and ignorance in the libertarian theory of voluntariness, see: e.g., Dominiak (2022, 2023). And for further elucidation on the libertarian theory of contracts, see: e.g., Dominiak, Fegley (2022).

Nozick might simply conceive of productivity and non-fraudulence as only individually *necessary conditions* for judging exchanges permissible. And yet, it seems that there is a tension between the said two-pronged account and Nozick's deontological libertarianism. We suggest that the principled libertarian solution to the said tension is to ban and allow exchanges tracking their fraudulent and non-fraudulent nature, respectively, while treating their unproductive and productive character as morally inert.

Finally, we tried to show that our demonstration that there are indeed some fraudulent blackmail exchanges has an important bearing on the libertarian theory of voluntariness. As the libertarian moralized (rights-based) conception of voluntariness predicts that *all* blackmail exchanges are voluntary and thus that all blackmailees validly waive their respective right to the money they transfer to blackmailer, our discovery as to the fraudulent character of at least some blackmail exchanges casts doubt on, if not refutes, the libertarian idea of voluntary exchanges. We also submitted that since libertarians are keen on banning fraud, they do have a reason to revise their conception of voluntariness accordingly.

## References

- Altman, S. (1996). "Divorcing Threats from Offers", *Law and Philosophy* 15(3): 209–226.
- Becker, G. (1968). "Crime and Punishment: An Economic Approach," *Journal of Political Economy* 76(2): 169–217.
- Block, W.E., Gordon, D. 1985. "Blackmail, Extortion and Free Speech: A Reply to Posner, Epstein, Nozick and Lindgren," *Loyola of Los Angeles Law Review*, 19(1): 37–54.
- Block, W.E., Anderson, G.M. 2000. "Blackmail, Extortion, and Exchange." *New York Law School Law Review* 44(3): 541–561.
- Child, J. 1994. "Can Libertarians Sustain a Fraud Standard," *Ethics* 104(4): 722–738.
- Desnick v. American Broadcasting Companies Incorporated, 44 F.3d 1345 (1995).
- Dominiak, Ł. 2022. "Unjust Enrichment and Libertarianism," *Polish Political Science Review* 10(2): 1–13.
- Dominiak, Ł. 2023. "Proceeds of Crime, Punishment, and Libertarianism," *Archiwum Filozofii Prawa i Filozofii Społecznej* 2(35): 20–33.
- Dominiak Ł., Tate Fegley. 2022. "Contract Theory, Title Transfer, and Libertarianism," *Diametros: A Journal of Philosophy* 19(72): 1–25.
- Epstein, R.A. 1975. "Unconscionability: A Critical Reappraisal," *Journal of Law & Economics* 18(2): 293–315.
- Ferguson, B. 2018. "Can Libertarians Get Away with Fraud?" *Economics and Philosophy* 34(2): 165–184.
- Feinberg, J. (1989). *The Moral Limits of the Criminal Law: Volume 3: Harm to Self*. Oxford: Oxford University Press.
- Friedman, D. 1990. *Price Theory: An Intermediate Text*. Cincinnati: Southwestern.
- Gorr, M. 1977. "Nozick's Argument Against Blackmail," *Personalist* 58(2): 187–191.
- Kadish, S., Schulhofer S., Steiker, C. (2007). *Criminal Law and its Processes: Cases and Materials* (8<sup>th</sup> edition). New York: Wolters Kluwer.
- Mack, E. (1981). "Nozick on Unproductivity: The Unintended Consequences". In: Jeffrey Paul, ed., *Reading Nozick* (pp. 169 – 190). Oxford: Basil Blackwell.
- Moore, M. (2009). *Causation and Responsibility: An Essay in Law, Morals and Metaphysics*. Oxford: Oxford University Press.

- Nozick, R. 1974. *Anarchy, State, and Utopia*. Oxford: Basil Blackwell.
- Regina v. Théroux*, [1993] 2 S.C.R. 5
- Rothbard, M. 2006 [1973]. *For a New Liberty. The Libertarian Manifesto*. Auburn: Ludwig von Mises Institute, Scholar's Edition.
- Rothbard, M.N., 1998. *The Ethics of Liberty*. New York: New York University Press.
- Steiner, H. (1994). *An Essay on Rights*. Oxford: Blackwell.
- Steiner, H. (2019). "Asymmetric Information, Libertarianism, and Fraud," *Review of Social Economy* 77(2): 94–10

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### Dismantling Rothbard's 'Mantle of Science'?

Abstract:

The present paper investigates the relation between the metaphysics of human freedom and Austrian economics, particularly its Rothbardian branch. The view on metaphysics of freedom that is explicitly embraced by Rothbard and other Austrian economists (Ludwig von Mises might be a notable exception here) seems to be a version of libertarian incompatibilism. However, as we demonstrate in the present paper, Austrian economics, especially its Rothbardian exposition, requires for its tenability compatibilist metaphysics. As we argue, the libertarian freedom (the one incompatible with determinism, and involving the ability to do otherwise on a particular occasion no matter what) would be damaging to Austrian economics, especially to its key notion of value scales, with Rothbard being one of the most prominent figures who rely on this concept.

Key words: Austrian economics, Rothbard, free will, determinism, compatibilism, libertarianism, value scales

#### 1. Introduction

In the present paper we address the question of metaphysical positions concerning the problem of determinism and free will that are entailed by Austrian economics as represented by one of its main proponents, Murray N. Rothbard. Our inquiry into the metaphysical presuppositions of the Rothbardian vein of Austrian economics assumes a form of a criticism of the metaphysical position explicitly espoused by Rothbard, viz. libertarian incompatibilism, as

being inconsistent with some key concepts and theorems (e.g. value scales, economic notion of choice etc.) of Austrian economics. We claim that despite Rothbard's open subscription to the incompatibilist, libertarian metaphysics, it is a compatibilist idea of freedom that is required by Austrian economics. Rothbardian libertarian metaphysics is implicit all cross his intellectual corpus (be it his political libertarianism or Austrian economics); yet, his views thereupon were most explicitly and comprehensively aired in his paper *The Mantle of Science*— the work we draw heavily upon herein. However, our argument reaches beyond this particular essay or even this particular branch of Austrian economics into the problem of the metaphysical idea of human freedom underlying Austrian economics as such (or any economics employing similar concepts and theorems, for that matter). We proceed in the following order: Our paper starts with addressing the relation between fatalistic doctrines (logical fatalism, divine omniscience and causal determinism) and metaphysical libertarianism, with the latter view being normally presupposed by virtually all economists of any persuasions, be it neo-classical ones or Austrians (Ludwig von Mises might be a notable exception here). Then we proceed to scrutinize the Rothbardian claims concerning free will vis-à-vis determinism. Then we argue that the libertarian freedom (the one incompatible with determinism, and involving the ability to do otherwise on a particular occasion no matter what) would be damaging for Austrian economics with its notion of value scales (with Rothbard being one of the most eminent figures representative of it). Accordingly, we claim that it is *compatibilist* freedom that is *required* by Austrian economics.

## 2. Mapping the Terrain of the Free Will Problem

Let us start with providing some general sketch of the relation between fatalistic doctrines and the libertarian incompatibilism, with the latter position being espoused by Rothbard and many other Austrian economists. Somehow pedantically, it is to be noticed that it is nothing peculiar to determinism alone that it seemingly threatens human freedom (or an exercise of the free choice). Historically speaking, first, it was logical fatalism that was regarded as damaging for human freedom. The idea was very powerful because it seemed that it is only the law of excluded middle and the putative validity of statements made today but referring to future states of affairs that pointed to fatalistic conclusions. For example, consider: I claim *today* that *tomorrow* I will wake up at 6 00 (as scheduled) and my wife claims (also today) that I will not.

From the law of excluded middle, we can infer that one of the disjuncts is true, while the other is false. Certainly, today we cannot know *which* disjunct is true (with this fact being contingent upon our ignorance; after all, we are not omniscient). Yet, one of them is *already* true since the law of excluded middle is timeless and once we deal with contradictory propositions (irrespective of their time reference), it is necessarily the case that one of them is true and the other is false.<sup>1</sup> Now, suppose tomorrow comes. Then, we are powerless to change the past; and hence, we are powerless to change the truth (or falsity) of our disjuncts. Yet, the truth-makers of yesterday's statements are provided today. What makes my wife's (or mine) yesterday statement true is today's state of affairs. However, since we were powerless to change the truth of those propositions, then it seems that we must be powerless to change today's state of affairs.<sup>2</sup> And it is precisely this very principle of the transfer of powerlessness that lies at the heart of historically later challenges to free will; that is, divine omniscience and causal determinism.<sup>3</sup> Pike (1977, pp.210-11) showed that more or less the same remarks apply to the problem of divine omniscience and human freedom. If God has a *true belief* (this condition applies *ex hypothesi* for we have just assumed God's omniscience) *today* about what I am going to do *tomorrow*, then when tomorrow comes I am powerless to render God's yesterday belief false; and hence, at least *prima facie*, I am powerless to behave in a way different from the one *truly* anticipated by God. If I were to have *today* power to do otherwise (that is contrary to God's prior *true* belief about my *today's* behavior), then I would thus bring it about that God held a false belief *yesterday*. This, however, is at odds with the assumption about God's omniscience which has it that God believes all true propositions and he believes no false propositions. In other words, if God believed *yesterday* that I was going to do this and that *today* which in fact I am not going to do today, then God would have effectively held a false belief yesterday. This, as stated above, would violate the assumption of God's omniscience. Upon this reading, it is God's *omniscience* that is inherently at odds with free action (with the latter here being understood as implying the power to perform it as well as to refrain from it<sup>4</sup>). There are two

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<sup>1</sup>There is an objection that this fatalistic argument begs the question against metaphysical libertarians, which is in turn replied by, *inter alia*, Fischer and Todd (2011). We are not getting into technical details here but rather presenting the original fatalistic argument.

<sup>2</sup>See: Fischer and Ravizza's (2000: pp. 151-152) principle of the transfer of powerlessness.

<sup>3</sup>Mises (1998, p. 70) seemingly entertained pretty much the same intuition in the context of God's omniscience much earlier (although he obviously did not refer to it as the principle of the transfer of powerlessness), which is evidenced by the following quote: "Are omnipotence and omniscience compatible? Omniscience presupposes that all future happenings are already unalterably determined. If there is omniscience, omnipotence is inconceivable. Impotence to change anything in the predetermined course of events would restrict the power of any agent."

<sup>4</sup>To this effect says Pike (1977, p. 210): "But if we assume that a free action is such that it is within the agent's power to refrain from its performance, we must conclude that Jones' doing X at  $t_2$  is not a free action." Note, Pike was arguing that it is the fact of God *infallibly* knowing that Jones is going to do X at  $t_2$  that implies that Jones is

more alternative readings of what sort of implications the agent's free choice (and hence, the power to perform a given actions as well as to refrain from it) has for God's omniscience. It may be claimed that it is within my power today to perform such an act that would effectively bring it about that God did not hold the belief yesterday that he in fact held. And finally, it may seem that it is within my power today to act otherwise than God believed yesterday, which would bring it about that God held a false belief yesterday and was therefore not God at all. Yet, by hypothesis, God existed yesterday. The last two possible readings are succinctly summarized by Pike (1977, p. 211) as follows: "Whether or not it is logically possible for some event in the present to determine some circumstance in the past, it is not within the power of a human being so to act at a given time that a belief held prior to that time was not held prior to that time or that a being (person) who existed prior to that time did not exist prior to that time. This I take to be a conceptual truth." In effect, Pike is saying that once we hypothesize that there was God *yesterday* and he held some belief at that time, then the existence of human free choice *today* would effectively render our hypothesis false for the assumption of free choice *today* would imply either that the entity existing yesterday was not God at all, or it was God but he did not hold the belief that he by hypothesis held. Once again, God's omniscience and free choice (in the libertarian sense) prove inconsistent.

In this respect, causal determinism is no exception. Since I am unable to change the past or the operative laws of physics and these two combined together entail all the future states of affairs<sup>5</sup>, then it looks as though I am unable to change the future either. In other words, at the dawn of time, given laws of physics, there were already *sufficient conditions* for our present and future behavior. Clearly then, it is not merely causal determinism that threatens human freedom of choice. Logical fatalism and causal determinism do so to no lesser degree and the reason is that the latter two doctrines appeal to the same (damaging for human freedom) principle of the transfer of powerlessness. So, let us stipulatively refer to the above three doctrines as *fatalistic doctrines*. At this point, we must also draw a very important distinction which is going to prove useful once we delve into the question of what sort of freedom

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powerless to do anything other than X at  $t_2$ . Given his understanding of what free actions is (as indicated in the quote above) and the implications of God's omniscience for the Jones' powers that the author so lucidly spells out, the only valid conclusion we can reach is that God's omniscience and free action (as understood by Pike) are inconsistent. Incidentally, it is clear that Pike's requirement for freedom (at least as far as his argument goes) is that of a metaphysical libertarian. He would conclude that Jones' doing X at  $t_2$  is *free* only when it was within Jones' power at  $t_2$  to refrain from this very action. However, as we are about to demonstrate in the forthcoming part of the paper, the libertarian freedom is not the one required by Rothbardian economics. Hence, we can easily have meaningful economics, given even God's omniscience.

<sup>5</sup>Let us just take it for granted. We are merely stating but not debating the doctrine of causal determinism.

economics requires. So, it must be noted that what we dub as *fatalistic doctrines* have nothing to do with fatalism, as traditionally understood. This peculiar doctrine is best exemplified by the story of Oedipus, who was simply fated to kill his father and to subsequently marry his mother *whatever his motivations and reasons for actions*. Note further that this renders our underlying motives totally inefficacious for our forthcoming actions. This means that Oedipus would have killed his mother *whatever he had decided to do*. If this version of fatalism were true, we might as well give up any hopes for having meaningful economics for our deliberation, our decision-making would be thus rendered utterly meaningless. Human agents would be reduced to mere puppets since they would be deprived of the most relevant (as we shall argue later) sort of freedom: freedom to do what one decides to do. After all, literary fatalism assumes that man ‘does’ what he was destined to ‘do’ – irrespective of what he decides to do. On this view, it is barely conceivable to speak of human actions if man’s merely apparent doings are so radically divorced from his decisions. Luckily, this sort of fatalism (hereinafter referred to as ‘literary fatalism’) is merely a literary curiosity, rather than an object of philosophical study

Having said that, let us ask a *general* question: are fatalistic doctrines in any relevant sense compatible with freedom of choice? For the main thrust of our rejoinder is not to try to take fatalistic doctrines head on and thus to debunk it or at least cast doubt upon it. Instead, it is to claim that we are in the most fortunate position for we can undercut the whole controversy and subsequently to argue that it is *only* the compatibilist concept of freedom (the one compatible with determinism) that would not only be (a) compatible with fatalistic doctrines and (b) would meet the requirements for free choice in Austrian economics with its concomitant notion of value scales. But before we embark on our agenda of arguing *positively* for the sort of freedom Austrian economics requires, let us scrutinize the Rothbardian arguments in his paper.

### 3. Rothbard’s Position on Determinism vis-à-vis Free Will: Critical and Interpretative Comments<sup>6</sup>

First and foremost, we would like to avoid any misrepresentation of Rothbard’s philosophical stand on the general relation between determinism and free will. Logically, there are three possible general positions to take.<sup>7</sup> We would like to make sure we correctly assign Rothbard

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<sup>6</sup>All the quotes from Rothbard in this section refer to his paper *The Mantle of Science* (2011b, pp. 3-23).

<sup>7</sup>We adduce to the most general typology at this point. To arrive at the basic distinction, we ask the question 1): is determinism compatible with free will or not, thus obtaining two most general positions – *compatibilism* and *incompatibilism*. The question 2) operates within incompatibilism and asks which disjunct is true (determinism or free will). This question allows us to distinguish *metaphysical libertarianism* (free will obtains and determinism is false) and *hard determinism* (free will is just an illusion and determinism is true). These are the three positions

to one of these views, only to subject his identified standpoint to scrutiny and see whether it can be reconciled with a sort of economics he advocates. We believe that the most telling excerpt from his paper in this respect is the following one:

It will undoubtedly be charged that this discussion of free will and determinism is “one-sided” and that it leaves out the alleged fact that all of life is multicausal and interdependent. We must not forget, however, that the very goal of science is simpler explanations of wider phenomena. In this case, we are confronted with the fact that there can logically be only one *ultimate sovereign* over a man's actions: either his own free will or some cause outside that will. There is no other alternative, there is no middle ground, and therefore the fashionable eclecticism of modern scholarship must in this case yield to the hard realities of the Law of the Excluded Middle.

The above-cited fragment might be interpreted as stating a conceptual truth and so the Rothbardian position stemming from it must be in one sense definitely true. Because once freedom is understood as an ability to do otherwise on any particular occasion no matter what, it is *logically* incompatible with causal determinism. It is little wonder then that Rothbard believes that this dilemma is adequately captured by the law of excluded middle for he is clearly an incompatibilist. If determinism *necessarily* rules out freedom of will and vice versa, this is nothing but the standpoint of incompatibilism. Now, if we know which of the disjuncts (free will or determinism) Rothbard finds true, we will successfully identify his position in the determinism vis-à-vis free will debate. Luckily, the evidence swiftly comes as Rothbard commences his section on free will in the following way:

Only human beings possess free will and consciousness: for they are conscious, and they can, and indeed must, choose their course of action. To ignore this primordial fact about the nature of man – to ignore his volition, his free will – is to misconstrue the facts of reality and therefore to be profoundly and radically unscientific.

This passage combined with the one cited first leaves no doubts as to Rothbard's standpoint: he is a metaphysical libertarian. Having said that, let us note that *free will* in general is an unanalyzed concept. Compatibilists do not deny freedom of will at all. Yet, compatibilists are

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we meant above. Incidentally, *compatibilism* has more subcategories and the reason is that whereas within incompatibilism, the falsity of one disjunct *entails* the truth of the other, compatibilism may hold that, e.g. although determinism is compatible with free will (that is determinism does not entail the falsity of free will), we do not have free will as a matter of fact. Or, alternatively, it may hold that determinism entails that free will is true; and, so naturally we *in fact* have both determinism and free will. The same goes for determinism: freedom of will might entail it or not (but still it may be true in fact). We already arrived at four possible positions within compatibilism and there are more imaginable.

also logically forced to deny one variation of freedom; that is, the one *incompatible* with determinism. Certainly, determinism being true entails the inability to do otherwise on any particular occasion, *ceteris paribus*. And, trivially, compatibilists espouse freedoms *compatible* with determinism. To illustrate the latter, we could even employ the all-famous phrase “I could have done otherwise on a particular occasion” – but not everything else equal. To illustrate the point, our sense is this: Person A was playing football and *in fact* he missed a crucial goal. If he indeed missed the goal, he still (being a highly skilled football player himself) *could* have scored it anyway under slightly different conditions. Our sense of ‘can’ is then a test for general competence or capacity, whereas metaphysical libertarians’ ‘can’ is a particular ‘can’; that is, the ability to do otherwise on any particular occasion, holding the condition precisely the same.<sup>8</sup>

Furthermore, to defend compatibilism in its own right, we must also address a couple of passages wherein Rothbard alludes to, a false, as we believe, alternative between libertarianism and literary fatalism. Simply stated, it is not the case that once free-will is only an illusion, then we are doomed to literary fatalism. Remember, literary fatalism is a doctrine which submits that we are bound to do a certain action and experience some natural events *whatever we may possibly decide to do*. In other words, literary fatalism plays down an efficacy of our mental states (desires, beliefs etc.), treating them as merely epiphenomenal, that is not playing any causal roles in the action we are going to perform. Oedipus’ story mentioned earlier is a classic example. Our protagonist was simply destined to kill his father and marry his mother *whatever he could have decided to do* in the meantime. We, by contrast, hold that the said mental states are *efficacious* in the sense that they cause *states of affairs* they represent. If person A desires to go to a shop, then it is this very mental states that contributes causally (among other things) to his going to the shop. Note, granting *causal efficacy* to mental states is compatible with determinism. If I am able to go to the shop and I decide to go there, I am just going to go there. If I am able to go the shop but shops repel me, it is for that reason (that shops are repulsive to me) that I am not going to visit it, with this prediction running counter to the one of literary fatalism. Compatibilists just make one caveat: we could not have decided otherwise. That is, the freedom compatibilism requires is the freedom to do *what we necessarily decide to do*. Still, as noted above, this formulation assigns a proper causal role to decisions, which do make a difference to our actions. After this brief exposition, let us scrutinize Rothbardian claims to this

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<sup>8</sup>On particular vs general ‘can’, see: Honoré (1964)

effect. The most pronounced hint of the false alternative he introduces is to be witnessed in the following passage:

None of these disciplines [praxeology, psychology, technology and ethics] can make any sense whatever on scientific premises. If men are like stones, if they are not purposive beings and do not strive for ends, then there is no economics, no psychology, no ethics, no technology, no science of man whatever.

Yet, Rothbard, having introduced his false alternative, fails to consider the third option: compatibilism. Why should not compatibilist freedom suffice to have all the above-mentioned disciplines? After all, assuming a scientific world-view does not automatically imply that man is like a stone. Rothbard seems to be oblivious to the fact that even on the grounds of compatibilism, man's reasons for actions (or desires) are *efficacious*. As we pointed out above, compatibilists believe that I do A only when I decide to do A. If I decided to do B instead, I would do B.<sup>9</sup> Otherwise compatibilism would be reducible to literary fatalism. If this were what compatibilism is all about, then economics would indeed be unable to fare with it. Luckily, there is no equation between literary fatalism and compatibilism.

Another trace of the Rothbardian false alternative is recorded in the following excerpt:

For determinism, as applied to man, is a self-contradictory thesis, since the man who employs it relies implicitly on the existence of free will. If we are determined in the ideas we accept, then *X*, the determinist, is determined to believe in determinism, while *Y*, the believer in free will, is also determined to believe in his own doctrine. Since man's mind is, according to determinism, not free to think and come to conclusions about reality, it is absurd for *X* to try to convince *Y* or anyone else of the truth of determinism.

In this passage, we can yet again clearly see that Rothbard conflates determinism with literary fatalism. There is also the same false antithesis lurking: Rothbard seems to believe that we can respond to reasons only if we are metaphysical libertarians; and if we are determinists then we cannot resort to reason-responsiveness. But that is not so. Compatibilists would have no problem of accommodating the practice of persuasion into their doctrine. Suppose, person A is a flat-earth-er. Then B comes and gives A scientific reasons aimed at shaking off A's flat-earth-related beliefs, which finally materializes. B becomes a converted scientist. It is *those very reasons* that changed A's mind. Was it possible for A not to succumb to B's arguments no

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<sup>9</sup>Incidentally, this is precisely the role Hume (1902, p. 95) assigned to freedom: the ability to do A once I have decided to do A.

matter what? No, but this is a far cry from saying that A did not respond to B's reasons. He indeed did and now he is not a flat-earther any longer. Let us reiterate, in compatibilist view, reasons are not *epiphenomenal*. Quite the contrary, they do make a difference. It is for the very same reason that Rothbard's claim that "[...], the determinist must rely, for the spread of his ideas, on the nondetermined, free-will choices of others, on their free will to adopt or reject ideas" fails. The practice of persuasion does not presuppose a libertarian sort of freedom on the part of either interlocutor. Probably, each party has an experience that he and the other party are free (in the libertarian sense) at any moment to either reject an argument or accept it. Yet, we are not concerned with phenomenology. We are trying to settle the truth of the matter and we claim that the very fact of (necessarily) responding to a given reason (or not) is all that is required for an argument to succeed or to fail. In other words, for any given particular occasion a given argument either necessarily succeeds or necessarily fails. Still, if the argument on that occasion necessarily succeeds, does it invalidate the putative fact that this very utterance constituted an argument? Does the fact that our audience was determined to accept our argument's conclusion (or determined to reject it) reduce the argument in question to mere noise? Does the same fact bar us from the activity of arguing? No, and the reason is that the very argument in question did its job (thus amounting to an instance of *arguing* successfully) *precisely by virtue of the fact* that the argument's premise was recognized by our audience as a *reason* to accept our argument's conclusion.<sup>10</sup> The fact that the listener was determined to accept the argument's conclusion does not render compatibilist metaphysics incompatible with the practice of argumentation. The question whether *an argument* (in contrast to anything else) brought about the listener's acceptance of its conclusion is settled not by the appeal to its necessary causal contribution (this is after all a part and parcel of determinism) but rather by the appeal to the fact that *the activity of arguing works through providing listeners with reasons* and it is those very reasons to which listeners happen to positively respond, which in turn causes their respective actions. However, we would like to argue even more strongly since we believe that even the above-mentioned appeal to phenomenology (as justifying the belief in libertarian freedom) is suspicious. Suppose, we present Rothbard with some well-established mathematical theorem and he, as expected, finds it apodictically true. Is he now free (in the libertarian sense of the word), once he has grasped the theorem and fully recognized

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<sup>10</sup>Our understanding of an *argument* and *arguing* follows Sinnott-Armstrong's (1999, p. 174) conceptual framework: "*An argument* consists of an ordered pair of a set of propositions (the premises) and a proposition (the conclusion)) That is all there is to an *argument*, but that is not all there is to the activity of *arguing*. To argue or to give an argument is to present the premises as reasons for the conclusion."

its *a priori* truth, to reject it? Would Rothbard even want to have libertarian freedom in such a case?<sup>11</sup>

Later on, Rothbard appeals to the pursuit of knowledge and yet again in the following excerpt:

A corollary self-contradiction: the determinists profess to be able, someday, to determine what man's choices and actions will be. But, on their own grounds, their own knowledge of this determining theory is itself determined. How then can they aspire to know *all*, if the extent of their *own* knowledge is itself determined, and therefore arbitrarily delimited? In fact, if our ideas are determined, then we have no way of freely revising our judgments and of learning truth — whether the truth of determinism or of anything else.

This passage again treats reasons as inefficacious. What does it mean that “their *own* knowledge is [...] arbitrarily delimited”? Is it arbitrarily delimited *whatever we could decide to learn*? If the answer is ‘yes’, then we are in the hands of literary fatalism. Whatever we decided to learn, we would end up having the same pre-determined amount of information. So, it is literary fatalism – but not determinism– that would predestine us to have fixed amount of knowledge *however much we would be prone to learn*. By contrast, we assign a proper causal role to motivational reasons. There is a world of a difference in outcomes between the scenario in which we decide to learn (having acted on an appropriate motivational reason) nothing and the one wherein we decide to learn (having acted on a different reason) substantially more. In the former, we end up knowing nothing, whereas in the latter we would end up knowing at least something. The actual decisions of ours do make a difference then. Concluding, our knowledge would be *arbitrarily* limited if literary fatalism held true. If it does not, our knowledge is limited not *arbitrarily* but due to decisions we make concerning our education.

There is one more passage by Rothbard that merits our critical attention:

Determinists often imply that a man's ideas are necessarily determined by the ideas of

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<sup>11</sup>Parfit (2011b, p. 500) argues in a similar manner claiming that responding to epistemic reasons is compatible with our mental processes being causally determined, as evidenced by the following quote: “[...] even if, at the neurophysiological level, the mental processes in our brains are fully causally determined, that does not threaten the belief that we can reason in valid ways, and can respond to epistemic reasons. [...] When we form beliefs by reasoning in valid ways, freedom is irrelevant. If we believe the premises of some argument that is clearly valid, and we are epistemically rational, we *must* believe this argument’s conclusion. Since this response is *rationally* necessary, it can be also *causally* necessary at the neurophysiological level. These two necessities can be, and should be aligned.”

others, of “society.” Yet A and B can hear the same idea propounded; A can adopt it as valid while B will not. Each man, therefore, has the free choice of adopting or not adopting an idea or value.

This is yet another fragment, the relevance of which to our point is going to become clear shortly, wherein Rothbard reveals his hand. He leaves no doubts that he argues for a libertarian free-will. Rothbard seems to imply that it is *ultimately* up to an agent to weigh in his decision in either way, which is reminiscent of source incompatibilism.<sup>12</sup> Source incompatibilism is the position which tallies very well with freedom metaphysical libertarians require. This camp does not just want indeterminism, period. What they usually require is that a source of the actor’s action be his *undetermined uncaused will*. In other words, they want *the undetermined will* to determine the actor’s actions. Note, this sets standards very high: man’s actions are, according to this view, sort of godly in the sense that man’s will is an *uncaused cause* of man’s actions. This (godly) sort of causation is also labelled as *agent causation*.<sup>13</sup> However, this *agent causation* (as opposed to *event causation*), comes at a price – especially to an economist. Rothbard would have to posit a radical uncaused action the source of which would lie only in *ourselves*, having prescinded from our preferences, character, upbringing etc. This raises a natural question: Who (What sort of being? Is it still a person, as normally construed?) makes such a decision? Should Rothbard then, *qua* economist, suspend his belief that when it comes to actual choices, they are not guided by value scales? If Rothbard were to take *agent causation* seriously, then we cannot maintain that value scale guide people’s actual choices. Hence, it already seems that his adoption of metaphysical libertarianism would be the most unwelcome consequence for him *qua* economist to bear and conversely, as we are about to see, his commitment to value scales as informing our choices is disastrous to his libertarian proclamations.

Concluding, it might be argued that our position is a mere definitional caprice, completely detached from reality (not to mention experience of freedom, which at least points to its libertarian understanding). We submit that the opposite is true. First, it is only compatibilism that does not collide with a scientific world-view. Second, compatibilist freedom does not have to appeal to controversial agent causation etc. However, most importantly, our strongest contention is that the fact that Rothbard subscribes to Austrian economics logically

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<sup>12</sup>On source incompatibilism, see: Mckenna, 2001.

<sup>13</sup>For a brief and very clear exposition of agent causation and event causation in the context of the problem of free will, see: Parfit (2011a, pp. 258-263).

requires that he be a compatibilist and not a metaphysical libertarian, the argument for which we are now going to turn to.

#### 4. Why Rothbardian Incompatibilism Is Incompatible with His Austrian Economics

As promised before, we are about to unfold our reasoning positing that it is Austrian economics with its postulate of value scales<sup>14</sup> that bars Rothbard from coherently employing the libertarian idea of freedom. We contend that arguing for this sort of libertarian metaphysical freedom would be very suspicious especially in the context of economics. For it is precisely economics that recognizes the fact that preferences guide choices (as noted above, be it neoclassical one or Austrianism). Keeping preferences fixed (under the clause of holding everything else equal) commits us to determinism rather than indeterminism. After all, in economics, we want preferences to be determinative of choices. Therefore, in economics, we do not disown determinism. Quite the contrary, economists (whether they explicitly acknowledge it or not) embrace determinism. Therefore, it looks as if incompatibilists are in trouble for, according to their view, determinism entails the falsity of free will and vice versa. Hence, by definition, they cannot preserve determinism and free will at the same time and this is exactly what sound economics requires. After all, ideally, we would like to preserve two intuitions:

- a) Preferences guide choices
- b) An actor is free to do what he decides to do

Crucially, it should be again underlined that our adopted compatibilist notion of freedom makes (b) imply that although the actor is free to do what he decides to do, he cannot decide to do

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<sup>14</sup>Rothbard (2009, p. 6) not only postulates value scales but explicitly binds them with choices economic actors make. Epistemically speaking, a person's actual choice is indicative of the fact that he chose the best alternative possible, which is evidenced by the following quote: "The actor may be interpreted as ranking his alternative ends in accordance with their *value* to him. This scaling of ends may be described as assigning ranks of *value* to the ends by the actor, or as a process of *valuation*. Thus, suppose that Jones ranked his alternative ends for the use of an hour of time as follows:

(First) 1. Continuing to watch the baseball game

(Second) 2. Going for a drive

(Third) 3. Playing bridge

This was his *scale of values* or *scale of preferences*. The supply of means (time) available was sufficient for the attainment of only one of these ends, and the fact that he chose the baseball game shows he ranked that highest (or first). Suppose now that he is allocating two hours of his time and can spend an hour on each pursuit. If he spends one hour on the game and then a second hour on the drive, this indicates that his ranking of preferences is as above." Granted, Rothbard here speaks of choices as *indicative* of preferences (and is mute here on whether, genetically speaking, preferences appear prior to choices, with the former thus underlying the latter) but this suffices for our argument that this sort of economics requires compatibilist freedom. After all, the Rothbardian branch of economics would not allow for the possibility that, just to stick to the above example, the actor in question's value scale stays the same and he *can* keep watching the baseball game but he goes for a drive instead.

otherwise on this particular occasion no matter what. This conclusion (however uncomfortable for incompatibilists) is actually welcome because it tallies well with condition (a). If he could have decided otherwise, this would make sense only if our “everything else equal” condition was somehow loosened; that is, most importantly, preferences could not remain equal. But a given value scale of an actor is what it is. It is impossible then to make a successful case for incompatibilism in economics. Something has to give. There are two options:

- 1) Either: the libertarian “ability to do otherwise on any particular occasion no matter what” transforms into “ability to do otherwise if the actor wanted to do otherwise”. The relaxation of this condition would make the *apparently revised* libertarian position become identical without compatibilist view. For, as noted by Parfit (2011a, pp. 258-263), it is compatibilists who employ the motivational sense of ‘can’.<sup>15</sup> In other words, an actor *could* have chosen his second-best option on his value scale only if he had wanted it most<sup>16</sup>; that is, if it had actually been his highest-ranked option.
- 2) Or: one can stick to the libertarian ability to do otherwise, everything else equal. However, under this proposal, our choices would depend on some mysterious free-floating will and I could attain any goal in my value scale *despite their relative ranking*. That would amount to jettisoning the key concepts of value scales and human action as pertinent to economics. For according to these notions, if preferences are fixed and options are available, the actor *cannot* choose anything that he prefers less. Therefore, the libertarian theory of freedom and the economic idea that preferences inform choices cannot go hand in hand, as demonstrated.

Let us come up with some concrete value scale to illustrate the above theoretical ponderings. Consider: an actor’s value scale is the following:

1. Buying tea for 5\$
2. Buying coffee for 5\$

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<sup>15</sup>Motivational sense of ‘can’ is conditional by nature. Even if the actor picked up A because he most preferred it, he could (in the motivational sense) have picked up B if he had preferred B over A. Note that this sense of can is compatible with determinism.

<sup>16</sup>But there is no problem with that for we are not committed to the ability to do otherwise, *ceteris paribus* (and crucially, with preferences held fixed). Instead, we employ the motivational sense of ‘could’ – a conditional ‘could’. Note, this concept of ‘could’ is not empty, for clearly, there is a contrast between what we could do *if we wanted* and what we could not do *even if we wanted*. To illustrate the latter, we normally cannot fly to the moon even if we wanted to do so.

### 3. Keeping 5\$ and refraining from drinking

Now, assuming the actor has an opportunity to buy either tea or coffee, he would buy tea, given his value scale. It is his very preferences (or the value scale for that matter) that guide his behavior. Any view (metaphysical libertarians being one of them) holding that an actor could have bought coffee instead (everything else equal; that is, his preference scale being the same too) is implausible. As established, in economics, we want actual choices to be guided by preferences. Second, if an actor has at least 5\$ and both tea and coffee are available, and he eventually buys coffee, this behavior is incomprehensible on the grounds of the given value scale. On a more positive note, we conceive of freedom in the motivational sense; that is the ability to do A given that an actor most prefers to do A considering all the options available. Note that the actual choice can be easily explained on our grounds. After all, actuality implies possibility. If the actor actually spent 5\$ on tea; then it must have been possible for him to spend 5\$ on tea if he wanted to do so most. Thus, we cannot have any trouble of accommodating actual choices into our frameworks. Moreover, we can make sense of other *merely possible* choices (the ones unactualized). The actor could have spent 5\$ on coffee instead *if he had preferred coffee most* (that is if he had preferred it to both tea and to 5\$). Note that we allow conditions (that is value scales) to vary, which makes our notion of motivational (conditional) freedom compatible with determinism. By contrast, for metaphysical libertarians, who do not allow any conditions (and *a fortiori* value scales) to vary, the purported ability to do otherwise implies that one can choose anything from one's value scales whether he prefers the option in question or disprefers it, which (a) runs counter to the principle that preferences guide choices and (b) threatens the concept of value scales and human action as pertinent to Austrian economics. Second, our view intuitively implies that once all the options are available to us, we are in a sense free to choose of all them. The sense is that if any of these options is the most preferred one, we would naturally pick it up. And the welcome consequence is that this motivational sense of freedom (of 'can') is fully compatible with determinism.

There appears to be one escape route open to Rothbard. Elsewhere, Rothbard (2011a, pp. 294-295) claims that human preferences are indeed unstable and that they vary over time.<sup>17</sup>

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<sup>17</sup> Rothbard (2011a, p. 295) argued specifically against Samuelson's assumption of people's preferences over time in the latter's doctrine of revealed preference in the following way: "[...], as Mises has pointed out, *constancy* [of preferences] and *consistency* are two entirely different things. Consistency means that a person maintains a transitive order of rank on his preference scale (if A is preferred to B and B is preferred to C, then A is preferred to C). But the revealed preference procedure does not rest on this assumption so much as on an assumption of *constancy* – that an individual maintains the same value scale over time. While a violation of the former might be

Technically speaking, at time  $t_1$  my choice may be informed by the value scale  $v_1$ , whereas at time  $t_2$  it might be informed by the value scale  $v_2$ , where  $v_1$  and  $v_2$  are not identical. So certainly, a human actor is not stuck with one and the same value scale. The clearest way to appreciate this fact<sup>18</sup> is to realize that once a need is satisfied, it cannot be the most pressing one any longer. For instance, if we happened to quench our thirst at  $t_1$ , quenching thirst cannot be our most valued end any longer – at least at the very moment of having quenched it. Then at  $t_2$  it is necessarily some other value scale (with at least the most highly-ranked end being different) informing our choices at that time.

Having established that much, let us consider the above-mentioned escape route Rothbard could avail himself of. First, note that he could perhaps concede to us that any given value scale *necessitates* choosing the satisfaction of the most valued end. In other words, once the option ranked highest is available, the actor chooses it. However, Rothbard might adduce to the fact that it is *different* value scales that may inform our choices.<sup>19</sup> Yet, as we are about to demonstrate, resorting to the above fact cannot help Rothbard reconcile his avowed libertarianism with his commitment to the doctrine of value scales informing man's choices. Granted, the value scales might be *different* but this may simply mean that different value scales guide the actor's choices at *different* times; that is, it is easily conceivable that a value scale  $v_1$  guides the actor's action at  $t_1$ , whereas at  $t_2$ ,  $v_2$  does so, where  $v_1 \neq v_2$ . Hence, value scales may be *different* in the sense that they may vary over time; and yet, it is *necessarily the case* (which we compatibilists happily agree with) that these particular value scales have operated at those particular times. This could not have been otherwise. Therefore, upon this interpretation, Rothbard would not make any case for the reconciliation of his libertarianism with his Austrian economics. Positively speaking, when construed along these lines, his position would be indistinguishable from the compatibilist position (see: interpretation 1 below). The other construal of *different* value scales informing our choices, although fully coherent with his metaphysical libertarianism, fatally collides with his Austrian economics, leaving Rothbard with *regressus ad infinitum* to cope with (see: interpretation 2 below). So, let us now elaborate on these two logical possibilities in more detail:

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called irrational, there is certainly nothing irrational about someone's value scales changing through time. Hence, no valid theory can be built on a constancy assumption."

<sup>18</sup>Moreover, apart from our theoretical demonstration above, one can easily point to mundane experience of preferring tea to coffee one day, and then preferring coffee to tea the other day.

<sup>19</sup>Just to avoid any confusion at this point, we compatibilists believe that it is indeed the case that different value scales guide our choices; yet, they do so one at a time. However, let us, *arguendo*, take the hypothetical Rothbardian retort for granted and see what logically follows.

- 1) The fact that different value scales guide our choices might simply and innocuously mean that for each time (t), there is one *necessary* (that is causally determined) value scale (v), where v guides the actor's choice at t. That is, at each moment our choice is informed by some *determined* value scale within which we always pick up the highest-ranked option available. Still, just to reiterate slightly, under this interpretation, at every *single* time (t), there is a *single* determined value scale (v) such that v guides the actor's choices at t. Note, with Rothbard being understood in this way, the Rothbardian position and ours would fully converge. This interpretation is nothing but the expression of freedom compatibilists adhere to: at any time, we are *free* to pick the most preferred option (providing it is available) *within a value scale operating at that time*. Yet, crucially, there is no question of choosing *among* value scales. At any time, a value scale (that or another) is our ultimate given, which implies it is not subject to choice. In still other words, one way in which our moving between different or subsequent value scales can be understood is that we are determined (in compatibilist sense, as far as our position is concerned) to move between them the way in which we in fact do – in contradistinction to the next understanding which brings in a real bone of contention.
- 2) What Rothbard might mean instead is that for each time (t), an economic actor is *free to choose* a value scale guiding him at that time. But this interpretation, however distinct from the position we argue for, is fatal for Rothbard for it invokes the notion of choice. The fact that this choice is presumed to operate *among* value scales rather than *within* them is irrelevant. Remember, Rothbard *qua* economist is committed to the doctrine that choices are bound by value scales; or, in the other words, that the latter inform the former. So, in the end, choosing *among* value scales must imply the existence of a meta-value scale (or meta-preference). But once Rothbard admits of a meta-value scale being operative at some time, he must – on the grounds of his economics – concede that this very meta-value scale necessitates a choice of a particular first-order value scale, just as a given first-order value scale necessitated the satisfaction of a particular material end. It is clear to see that the appeal to meta-preferences brings about the element of recursiveness here. For Rothbard might now claim that there can obviously be various meta-preferences which would open our two interpretations at yet a higher level: 1) those meta-preferences are determined at their respective times or 2) an economic actor is free to choose among meta-preferences at *any* t, t a time. But 2) would imply that since there is a choice, there must be a meta-meta preference accounting for that choice of a meta-preference. And so on, and so forth *ad infinitum*. Hence, either Rothbard

coherently ends up as a compatibilist (interpretation 1) or he is trapped in an inevitable explanatory *regressus ad infinitum*. To summarize, it seems that the inconsistency of Rothbardian metaphysical libertarianism and his Austrian economics, with the latter relying on value scales, was conclusively proven.

## 5. Conclusion

The aim of this paper was to demonstrate that Rothbardian adherence to metaphysical libertarianism is irreconcilable with his espousal of Austrian economics, with the latter being committed (at least in its construal along Rothbardian lines) to value scales. We proceeded in the following manner. First, we acquainted our reader with what we dubbed as *fatalistic doctrines*, which we then distinguished from what we labelled as *literary fatalism*. Then, in passing, we noted that it is only *literary fatalism* that could threaten any meaningful idea of choice in economics. However, literary fatalism is not a view taken seriously in philosophy. Still, as we argued later, *fatalistic doctrines* would be damaging to Rothbardian branch of economics with its reliance on value (preference) scales. On a positive note, we tried to demonstrate that we can make sense of actual choice as being guided by value scales once we employ the compatibilist freedom (the one compatible with determinism) or the motivational sense of ‘can’ for that matter in place of its libertarian counterpart.

We believe that there is one more important feature to our paper and that is its attempt at the unification of human action with a scientific world-view. It has long been recognized that the latter is governed by causal laws – if not exceptionless, then at least probabilistic. If, as we argued, compatibilist freedom suffices (or is even required) to conceive of free choices, then there is no need to stick to an unwelcome dichotomy to which metaphysical libertarians subscribe between the world of human action (which is the realm of indeterminism) and the world of nature (wherein events are causally determined). By contrast, compatibilism is in no need of bridge laws somehow explaining the gulf between indeterminate human choices and causally determined natural events.

## References:

Fischer, J. M. and P. Todd. 2011. The truth about freedom: a reply to Merricks. *Philosophical Review* 120(1): 97–115.

- Fischer, J. M. and M. Ravizza. 2000. *Responsibility and Control: A Theory of Moral Responsibility*. Cambridge: Cambridge University Press.
- Honoré, A.M. 1964. Can and can't. *Mind* 73: 463–479
- Hume, D. 1902. *Enquiry into Human Nature*. ed. L. A. Selby-Bigge, second edition. Oxford, Clarendon Press.
- McKenna, M. 2001. Source incompatibilism, ultimacy, and the transfer of non-responsibility. *American Philosophical Quarterly* 38(1): 37–52.
- Plantinga, A., 1974. *The Nature of Necessity*. Oxford: Oxford University Press
- Parfit, D. 2011a. *On What Matters*. Vol. 1. Oxford: Oxford University Press.
- \_\_\_\_\_. 2011b. *On What Matters*. Vol. 2. Oxford. Oxford University Press.
- Pike, N. 1977. Divine Foreknowledge, human freedom and possible worlds. *Philosophical Review* 86 (2):209-216
- Sinnott-Armstrong, W. 1999. Begging the question. *Australasian Journal of Philosophy*, 77 (2): 174–191.
- Von Mises, L. 1998. *Human Action*. Scholar's Edition, Auburn, AL: Ludwig von Mises Institute.
- Rothbard, M., N. 2009. *Man, Economy and State*. Auburn AL: Ludwig von Mises Institute, Scholar's Edition.
- \_\_\_\_\_. 2011a. Toward a reconstruction of utility and welfare economics. In: *Economic Controversies*(pp. 289-333), Auburn AL: Ludwig von Mises Institute.
- \_\_\_\_\_. 2011b. The mantle of science. In: *Economic Controversies* (pp. 3-23), Auburn AL: Ludwig von Mises Institute.



# Austrian Economics and Compatibilist Freedom

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## Abstract

The present paper probes the relation between the metaphysics of human freedom and the Rothbardian branch of Austrian economics. It transpires that Rothbard and his followers embrace metaphysical libertarianism, which holds that free will is incompatible with determinism and that the thesis of determinism is false as pertaining to human action. However, as we demonstrate, their economics with its reliance on value scales requires for its tenability compatibilist freedom. Moreover, we attempt to show that the notion of value scales (or preferences) postulated by them implies that value scales are determinative of choices people make. We contend that it is for this reason that the said Austrians should jettison their metaphysical libertarianism.

**Keywords** Austrian economics · compatibilism · metaphysical libertarianism

## 1 Introduction

Whether human agents are endowed with metaphysical libertarian freedom<sup>1</sup> seems to be no petty matter. Although the present paper focuses on the type of human freedom purportedly cohering with the overall conceptual framework of Austrian economics, we cannot

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<sup>1</sup> Under metaphysical libertarianism, for agent S to perform an act *x* *freely* implies that at the very least the agent could have refrained from performing *x*, everything else equal. In other words, just to resort to the possible worlds semantics, according to metaphysical libertarians, an act *x* is performed *freely* by the agent S at time *t* only if there is a possible world where everything is the same up until *t* and S does something other than *x* at *t*.

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but notice that the metaphysics of human freedom matters most in moral philosophy, and especially in assigning moral responsibility. Before Frankfurt's (1969) seminal paper, it was almost universally accepted in the philosophical literature that moral responsibility requires metaphysical libertarian freedom (hereinafter referred to as MLF); that is, the ability to do otherwise, *ceteris paribus*. And it must be granted that this dominant pre-Frankfurt view has some intuitive appeal. After all, at least *prima facie*, it seems that, given determinism, an ought-implies-can principle<sup>2</sup> would be violated. For, under determinism, if a person fails to discharge his duty and thus violates somebody's right, the former does so *necessarily*. But, if he could not have done otherwise, then *a fortiori* he could not have discharged his duty, everything else equal. In other words, there is no possible world sharing the history of the actual world (up to the moment of him *actually* failing to discharge his duty) and its laws of nature in which he discharges his duty. And if so, it appears to be odd to hold people responsible for the actions that were unavoidable, keeping everything else fixed.

And indeed, even after Frankfurt (1969), there is a strand of thought associated for example with Pereboom (2001; 2014) or Caruso (2021) arguing that the truth of determinism rules out moral responsibility in a *basic-desert* sense in which "the agent would deserve to be blamed or praised just because she has performed the action, given an understanding of its moral status, and not, for example, merely by virtue of consequentialist or contractualist considerations" (Pereboom 2014, 2). It is also Parfit (2011, 265) who claims that, given the absence of MLF, we cannot be responsible for our acts in a way that could make us *deserve* to suffer. However, the controversy around the notion of *basic desert* aside, we cannot but stress that, generally speaking, *compatibilism* about moral responsibility and determinism is the dominant view nowadays.<sup>3</sup>

It might seem that, compared to the problem of compatibility of moral responsibility with determinism, settling the question of whether an *economic* choice is compatible with determinism is of lesser practical importance. However, the problem of metaphysical freedom is no less pressing in economics than it is in moral philosophy, for the obvious worry (whether well-warranted or not) is that there would be no economics were determinism to hold true.<sup>4</sup>

<sup>2</sup> Of course, 'can' in this context must be given the incompatibilist reading, that is the ability to do otherwise, everything else equal, which contrasts with the so-called *motivational* 'can', with the latter denoting the ability to do otherwise if only one had chosen otherwise. On a classic analysis of different senses of 'can', see: Austin (1961). On the ought-implies-can principle, see: e.g. Otsuka (1998); Kramer (2006); Graham (2011).

<sup>3</sup> Most certainly, compatibilism about moral responsibility and determinism is not a novel view but it traces back to ancient times. Much more recently, but still before Frankfurt, Strawson (1962) powerfully argued that our responsibility practices undercut the whole debate between libertarian free will and determinism. But if so, there is no obstacle to have meaningful responsibility practices under determinism. This Strawsonian view with a Humean twist was brilliantly defended by Russell (1995). Mele (1995) purports to offer an account of moral responsibility that would satisfy both compatibilists and incompatibilists. More recently, compatibilism about moral responsibility and determinism was argued for by e.g. Bok (1998), Fischer and Ravizza (1998), McKenna (1998), Beebe and Mele (2002), Dennett (2003), Fischer (2006), Mele (2006), Moore (2020). However, as mentioned above, compatibilism about moral responsibility and determinism is still open to criticism. For a dissenting (i.e. incompatibilist) view, see: e.g. van Inwagen (1983), Kane (1996), Copp (1997), O'Connor (2000), Pereboom (2005). Incidentally, it should be borne in mind that although Mele's works cited herein defend the compatibilist view, this author actually remains agnostic about the disagreement between compatibilists and incompatibilists and he simply strives to examine and critically assess the arguments of both camps.

<sup>4</sup> Still, Heisenberg (2009) famously argued that determinism is plainly false and so there are no problems with the freedom of will. Hence, it might look as if there is also no need to call upon compatibilism to rescue the free will. However, first, that determinism is false is by no means conclusively established. Second,

After all, economics is a science of human choices and it appears that if certain choices (i.e. the ones that will *actually* and *necessarily* be made under determinism) were inevitable, this *ipso facto* would nullify their existence. In other words, there is a concern that the concept of choice would not apply under determinism, which would in turn entail the inapplicability of economics.<sup>5</sup>

However, we hold that the worry that the truth of determinism would drain economics and Austrian economics in particular of its significance is unfounded. Even more, we argue that adopting MLF, as some Austrian economists do, does not cohere with subscribing to the conceptual framework of Austrian economics and it is precisely the compatibilist freedom (i.e. the one compatible with determinism) that Austrian economics requires.<sup>6</sup> More specifically, our point is—*contra* quite a few Austrians with a notable exception of Ludwig von Mises ([1949] 1998) or Hayek ([1960] 2011)—that Austrian economics with its reliance on value scales and the relation of strict preference, which economic agents act on, coheres only with the compatibilist sort of freedom. However, let us not precipitate things as the technicalities of our solution will play out in Sect. 2. For the time being, let us provide some textual support for Austrians' avowed sympathies with MLF.

By far the most eloquent expression of the adherence to MLF among Austrian economists is to be found in Rothbard (2011b, 5–6):

Surely we can, at the very least, tell the determinists to keep quiet until they can offer their determinations—including, of course, their advance determinations of each of our reactions to their determining theory. But there is far more that can be said. For determinism, as applied to man, is a self-contradictory thesis, since the man who employs it relies implicitly on the existence of free will.<sup>7</sup>

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compatibilism *per se* is not committed to any existential claims about determinism or the freedom of will. It simply asserts the compatibility between the two regardless of whether in the actual world determinism is true or false and of whether we have the free will or not.

<sup>5</sup> One of the reviewers drew our attention to the possibility that, after all, 'choice' might be just "a technical term not intended to involve metaphysical libertarian freedom (MLF) in the first place". As a next step, the reviewer invites us to "[c]onsider the case of an agent who maximizes her utility", adding that "[h]er 'choices' do not seem free in the relevant MLF sense". Not wanting to precipitate things at this expository stage of our paper, we just want to mention that we are going to argue in subsequent parts of the paper that the Austrian idea of choice precisely necessitates the compatibilist rather than libertarian metaphysics of free will. However, to make the strongest charge out of the reviewer's remark, we should probably take it to imply that, *technically speaking*, choice can be understood in abstraction from any metaphysics of its *freedom*, which points to a sort instrumentalist reading of the concept of choice. Granted, this is a feasible (methodological) position. However, Austrians adhere to so-called causal realism, which seeks to identify causal laws underlying market phenomena. The Austrian causal-realist approach was commenced by Menger himself ([1871] 2007). In the words of Salerno (2010, 3): "He [Menger] concluded that all product prices, rents, wage rates, and interest rates were interrelated and were the systematic outcome of the value judgments of individual consumers who chose between concrete units of different goods according to their subjective values or "marginal utilities"". That is to say, according to Menger, it is real human valuations that causally explain the emergent market phenomena. Given this, merely instrumentalist reading of choice would not do for Austrians. For more on causal-realist approach, see Salerno (2007).

<sup>6</sup> Note that if we indeed succeeded in demonstrating that Austrian economics requires the adoption of compatibilist metaphysics of freedom, we would, as an interesting corollary, make a considerable step towards the unification of sciences. For then, we would not only employ the *univocal* sort of freedom (i.e. compatibilist one) both in moral philosophy and in economics but we would also thus render the said two disciplines coherent with a scientific deterministic world-view.

<sup>7</sup> This argument is actually strengthened by Rothbard (2011b, 6) in a later passage wherein he claims that he proves the existence of MLF indirectly, that is by assuming the truth of determinism *arguendo*, which

The last sentence of the above excerpt is the most telling: Rothbard makes it explicit that one cannot coherently state the thesis of determinism since the very statement thereof putatively presupposes the existence of libertarian free will.<sup>8</sup> But if so, we can easily attribute

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apparently leads to a contradiction: “If we are determined in the ideas we accept, then *X*, the determinist, is determined to believe in determinism, while *Y*, the believer in free will, is also determined to believe in his own doctrine. Since man’s mind is, according to determinism, not free to think and come to conclusions about reality, it is absurd for *X* to try to convince *Y* or anyone else of the truth of determinism. In short, the determinist must rely, for the spread of his ideas, on the nondetermined, free-will choices of others, on their free will to adopt or reject ideas (footnote deleted). In the same way, the various brands of determinists—behaviorists, positivists, Marxists, and so on—implicitly claim special exemption for themselves from their own determined systems (footnote deleted). But if a man cannot affirm a proposition without employing its negation, he is not only caught in an inextricable self-contradiction; *he is conceding to the negation the status of an axiom.*”

<sup>8</sup> At this point we would like to offer a suggestion to the effect that Rothbard’s commitment to MLF is to some extent an outcome of his *aprioristic* style of reasoning. It is noteworthy that in his *Mantle of Science*, Rothbard almost exclusively argues for MLF by resorting to *a priori* reasoning. Most notably, as observed in the footnote above, Rothbard posits that an attempt to convince others of the truth of determinism enmeshes the determinist in a performative contradiction. For, it is the act of attempting to convince others that apparently presupposes their free will (in the libertarian sense). Hence, allegedly, what the determinist preaches is at odds with what her preaching presupposes (i.e. the audience’s ability to freely (in the MLF sense) “adopt or reject ideas”. Yet, as we claim, the act of trying to convince others of some beliefs is reconcilable with compatibilist metaphysics. After all, to try to convince one’s audience of a certain claim is to give them a *reason* to believe it. Presumably, it should not matter whether one’s interlocutor was ultimately determined to appreciate the strength of the reason provided. However, what does matter is that the interlocutor changes her mind *via* reasons. Moreover, we contend that the Rothbardian belief of the interlocutor’s being free “to adopt or reject ideas” can be best explained in terms of *uncertainty* (or the present ignorance of future facts) rather than determinism. That is, the convincing party does *not* know whether her interlocutor is going to be effectively convinced or not. If the former somehow *knew* that the latter is going to reject determinism, she would never engage in the act of persuasion in the first place. Therefore, if anything, it is the persuading party’s ignorance of an outcome rather than the audience’s MLF that the act of persuasion presupposes. Rothbard (2011b, 7) makes a similarly conceptual point when professing that “if our ideas are determined, then we have no way of freely revising our judgments and of learning truth”. It is now the concept of *learning* that seemingly presupposes MLF on the part of learners. But suppose person P learned the truth of  $2+2=4$  and P was determined to accept (and not reject) the soundness of this proposition. Would not we be prone to saying that P learned that  $2+2=4$  even though he was not free (in MLF sense) to reject this proposition? Certainly, Rothbard might argue that this act of P could not amount to learning since the presupposition (i.e. P’s MLF) was not met. Fair enough, by stipulation, P’s coming to accept the truth of  $2+2=4$  would not be the act of learning *in the Rothbardian sense* but it would clearly be one *in the ordinary sense*. We can reconstruct another Rothbardian argument for MLF along the following lines. Says our author: “On the formal fact that man uses means to attain ends we ground the science of *praxeology*, or economics; *psychology* is the study of how and why man chooses the contents of his ends”, while adding that “[i]f men are like stones, if they are not purposive beings and do not strive for ends, then there is no economics, no psychology” (Rothbard 2011b, 4). Apparently, the Rothbardian reasoning assumes the form of *modus tollens*. That is, if human agents are determined, then the disciplines of praxeology, economics or psychology are impossible. But the said disciplines are possible (or even impossible to deny without running into a performative contradiction). Therefore, human agents are not determined, which was to be demonstrated. However, what we must take heed of is that this argument is question-begging. That is, since, by Rothbardian lights, the existence of praxeology or economics presupposes MLF, how does he know that praxeology is applicable in the first place. After all, whether human agents are endowed with MLF or not is a point at issue. Hence, to reason from the existence of praxeology to the existence of MLF is to beg the question. For, according to Rothbard, praxeology is possible (or is applicable) only when determinism is ruled out but whether determinism is true or not is something yet to be established. And the presumed fact that the possibility of praxeology requires MLF cannot in and of itself establish the truth of MLF, for when MLF is in doubt, so is praxeology. The same criticism applies to Rothbard’s *a priori* arguments from the concepts of persuasion or of learning, which seemingly serve to establish the truth of MLF. Even if the concept of learning and persuading were (contrary to fact, as we believe) to imply MLF, we could not non-question-beggingly infer MLF from the said concepts. After all, if we do not know just yet whether MLF holds in the actual world, we cannot know whether the concepts of learning and persuading are ever exem-

to Rothbard the belief in MLF as this author clearly subscribes to the existence of free will which simultaneously rules out determinism, the position being nothing short of metaphysical libertarianism.

Hülsmann (2003, 7) is another prominent Austrian economist who is most explicitly sympathetic to MLF:

Irrespective of how small the scope for choice is, within this scope, choice is to some extent undetermined and undeterminable; here, the human being is self-determining. To sum up, because of the existence of choice, it is impossible to give a full explanation of human behaviour in the mere light of any other event, or a combination of other events.

If we are to take Hülsmann's view at its face value, we are to conclude that since human behavior cannot be explained "in the mere light of any other event", then *a fortiori* human (purposeful) behavior cannot be explained by such mental events (or states) as the occurrences of certain desires and beliefs, the view we are about to deem irreconcilable with Austrian economics in the forthcoming section.

It is also Block (2015, 6) who unwaveringly subscribes to MLF, while claiming that it is *only* the libertarian free will that is compatible with Austrian economics, whereas determinism is not:

Another difficulty for the determinist philosophy is that it runs counter to Austrian economics. One of the key elements of this school of the dismal science is methodological dualism: that a different perspective must be brought to bear in the study of human action, on the one hand, and the physical world, on the other. Since under determinism man is merely in effect a machine, contrary to Austrianism, there is a need for a separate method to study these two very different aspects of reality.

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plified. Therefore, the Rothbardian *a priori* conceptual reasoning seems to get it backwards. Now a word of caution is advisable at this point regarding classifying Rothbard's reasoning as aprioristic. As rightly pointed out to us by an anonymous referee of this journal, Rothbard presents his position as an alternative to the alleged Kantian apriorism of Mises and thinks that the truth of the fundamental axioms of his system can be assessed by observation, especially by introspection. However, at the same time Rothbard (2011, 108–109) claims that "this type of 'empiricism' is so out of step with modern empiricism that I may just as well continue to call it *a priori* for present purposes. For (1) it is a law of reality that is not conceivably falsifiable." And elsewhere (Rothbard 2011b, 6) he contends that "if a man cannot affirm a proposition without employing its negation, he is not only caught in an inextricable self-contradiction; *he is conceding to the negation the status of an axiom.*" It is therefore important to distinguish between, on the one hand, Kantian apriorism—sometimes problematically ascribed to Mises and his understanding of the action axiom—which claims, in a nutshell, that *Formen der Anschauung* (space and time) and categories of *Verstand* are logical conditions of possibility of any experience (even an introspective one) and knowledge (even an unfalsifiable one) whatsoever and that they must be assumed in order for the latter to even occur and, on the other hand, Aristotelian-Thomistic apriorism—subscribed to by Rothbard—according to which the first principles of theoretical and practical knowledge, although grasped by our *nous* or *intellectus* by way of insight into the previous experience, are aprioristic in the sense of being *per se nota*, self-evident or undervalued from any prior proposition and thus capable of being justified only via dialectical arguments demonstrating that any negation of these principles presupposes their truth. Rothbard's reasoning is aprioristic only in this second, less radical, sense of the word. On the relation between these two kinds of apriorism as well as on each of them in separation see, *inter alia*, Veatch (1965, 239–263), Timmons (1997, 1–13), Copleston (1955), Finnis (1998, 86–90).

Elsewhere, van Schoelandt et al. (2016, 91) maintain that:

[T]he Austrian tradition, in contrast to theories in the grip of scientism and adopting an overly mechanistic view of human behaviour, sees humans as purposeful choice makers, responding not merely in instructive ways to external stimuli, but through their own desires and preferences in ways that are largely unpredictable.

But then again, as we are going to claim, holding that humans respond “in ways that are largely unpredictable” to their respective “desires and preferences” is to distort the Austrian-spirited view on the relation between choice and preference.

Eventually, most recently, Wiśniewski (2009) took a stand on the problem of free will vis-à-vis determinism. This author (2009, 1) argues that “the nomenclatural affinity” of metaphysical libertarianism “with political and economic libertarianism [...] is by no means accidental”. Moreover, he (2009, 1) decidedly states his case against compatibility of determinism with *laissez-faire* in the following manner:

I remain convinced that as soon as one grants that every human decision can be traced back to factors beyond one’s control (e.g., genetic makeup, environmental influences, personal upbringing etc.), the notions of sovereign choice and personal liberty become empty.

The above statement coupled with the fact that Wiśniewski is a declared Austrian economist leaves no doubt as to the way we should interpret his conception of “sovereign choice”: that it is incompatible with determinism.

By contrast, and as promised, we are about to argue—*contra* some prominent Austrians—that Austrian economics with its overall conceptual framework and especially with its reliance on value scales and with its conception of action as reflecting strict preference<sup>9</sup> should embrace compatibilist freedom (i.e. the one compatible with the truth of determinism) and it is precisely the exposition of key features of Austrianism and the statement of our argument that we are now turning to.

## 2 Why Austrians’ Belief in MLF Is Incompatible with Their Economics

The purpose of the present section is to establish the incompatibility between Austrians’ avowed belief in MLF and the sort of economics (i.e. Austrian economics) they subscribe to. In order to do this, we should have a closer look at the notions of value scales and strict preference employed by Austrians, for it is there that the key to our compatibilist solution lies. First and foremost, what needs illuminating is the Austrian view on the relation between value scales (or preferences for that matter) and actual choices. This view is best expressed in Rothbard ([1962] 2009, 6):

Thus, suppose that Jones ranked his alternative ends for the use of an hour of time as follows:

(First) 1. Continuing to watch the baseball game.

<sup>9</sup> However, there are Austrians who deny that man never chooses under indifference. See: footnote 14.

- (Second) 2.     Going for a drive.  
 (Third) 3.     Playing bridge.

This was his *scale of values* or *scale of preferences*. [...] Suppose now that he is allocating two hours of his time and can spend an hour on each pursuit. If he spends one hour on the game and then a second hour on the drive, this indicates that his ranking of preferences is as above. The lowest-ranking end—playing bridge—goes unfulfilled.

And elsewhere, Rothbard ([1956] 2011a, 290) expresses the very same point explicitly in terms of demonstrated preference:

Man has means, or resources, which he uses to arrive at various ends; these resources may be time, money, labor energy, land, capital goods, and so on. He uses these resources to attain his most preferred ends. From his action, we can deduce that he has acted so as to satisfy his most highly valued desires or preferences. [...] The concept of *demonstrated* preference is simply this: that actual choice reveals, or demonstrates, a man's preference; that is, that his preferences are deducible from what he has chosen in action. Thus, if a man chooses to spend an hour at a concert rather than a movie, we deduce that the former was preferred, or ranked higher on his value scale.

Now, how should we conceive of the above fragments? First, let us note that Rothbard maintains that actual choices people make are *indicative* of their respective value scales. Moreover, he seems to hold (however implicitly) that value scales exist *independently* of choices; after all, he concludes that once the economic actor picks up option 1, that is, continuing to watch the baseball game, his option 3 (playing bridge) “goes unfulfilled”. So, he seemingly grants the possibility of the existence of some preferences which the actor does not *actually* choose to act on. And with preferences being independent of choices, we can infer the former from the latter.<sup>10</sup> Furthermore, the said inference seems to be *all the more possible* (if not apodictically valid) when we assume along with Austrians that people choose the most preferred option, *all things considered*.<sup>11</sup> And it must be borne in mind that Austrian economics by virtue of its nature strips the human action down to its bare essentials (e.g. Mises [1949] 1998; Rothbard [1962] 2009). That is to say, Austrians are not interested in which *specific* reasons were relevant to the actor's final resolution as to which course of action to undertake or indeed which *specific* reason tipped the balance in favor of the actual action performed. For instance, suppose that subject S buys a blue shirt instead of a white one. Are Austrians entitled to infer that S bought the blue shirt just because he preferred this

<sup>10</sup> To use the parlance of mainstream economics, we shall henceforth refer to the Rothbardian view on the relation between choices and preference as *the evidential view*. Just to reiterate slightly, on this view, value scales (or preferences) exist prior to actual choices and, epistemologically speaking, we can infer the former from the latter, whereas, genetically speaking, it is the former that guide the latter. For an excellent elaboration of *the evidential view*, see: Hausmann (2012, 88–103).

<sup>11</sup> These “total subjective comparative evaluations” (see: Hausman 2012, 34–35) are precisely in the spirit of Austrian economics with its commitment to the idea that people's actions trace (are *indicative* of) their respective most valued ends. Jeffrey (1983, 225) captures the idea of this sort of evaluations very sharply indeed: “I am concerned with preference *all things considered*, so that one can prefer buying a Datsun to buying a Porsche even though one prefers the Porsche *qua fast* (e.g., since one prefers the Datsun *qua cheap*, and takes that desideratum to outweigh speed under the circumstances). *Pref*=preference *tout court*=preference on the balance”.

very shirt to its white equivalent? Not quite. What they can at most infer is that S preferred to buy the blue shirt rather than the white one, *all things considered*. Perhaps, S knew that his wife would rather have him dressed in blue. S can even sincerely declare that he prefers white shirts to blue ones *himself*.<sup>12</sup> However, this declaration is mute on S's wife's preferences as to the color of S's shirts, which in turn might count as a reason when it comes to S's *choosing* between shirts. So, whatever the reason (S's wife preferences or anything else for that matter) that tipped the balance in favor of S's buying the blue shirt, the very fact that S did so *indicates* that S preferred to buy the blue shirt rather than the white one (or indeed, rather than to do anything else), *all things considered*.

Still, there is another aspect of Austrian economics around which our argument revolves. The aspect in question is the Austrian view on *indifference*. The dominant view within the Austrian school is that man acts on strict preference<sup>13</sup> but never on indifference.<sup>14</sup> Or, positively speaking, man's actual choice reflects the fact that he *strictly* prefers the option actually chosen to other actions he deemed feasible (including inaction). The pertinent fragment from Rothbard<sup>15</sup> ([1956] 2011a, 304–305) runs as follows:

Indifference can never be demonstrated by action. Quite the contrary. Every action necessarily signifies a *choice*, and every choice signifies a definite preference. Action specifically implies the *contrary* of indifference. The indifference concept is a particularly unfortunate example of the psychologizing error [...]. If a person is really indifferent between two alternatives, then he cannot and will not choose between them.

To put it more formally, if the economic actor S is indifferent between x and y, then he or she does not choose between *these two* options. And conversely, if S chooses x over y, then he or she has not been indifferent between x and y.

Now, we believe that this exposition of the two crucial aspects (i.e. actors' value scales being aligned with their respective choices and man acting on strict preference, with the latter relegating indifference out of the realm of human action) of Austrian economics suffices to allow us to make our compatibilist point. So, let us stipulate that in the actual world W a certain economic actor S has the following value scale and that he has 2 hours to economize, with each end (1–3) taking an hour to be satisfied.

Value scale  $v_1$ :

1. Resting on the couch.
2. Walking in the forest.

<sup>12</sup> That is to say, it may well be true that were S to be a single man, he would buy white shirts instead of blue ones.

<sup>13</sup> For a very clear exposition of this view, see: e.g. Block (2009a; 2009b); Block and Barnett (2010).

<sup>14</sup> However, there are dissenting views within the Austrian camp having it that it is the relation of *weak preference* that is fundamental to action, with *strict preference* being only derivative (see: e.g. Machaj 2007; O'Neill 2010). That is, subject S strictly prefers x to y iff he weakly prefers x to y and he does not weakly prefer y to x. Mind you, if the actor weakly prefers x to y, it is by definition possible that he is indifferent between x to y. And if it is weak preference that governs actions, it is conceptually possible for man to act (or choose) under indifference.

<sup>15</sup> We picked up Rothbard's exposition for we believe it is probably the most pellucid. However, as mentioned above, the view that man acts only on strict preference is the prevailing view among Austrians. Its most prominent proponents also include Mises ([1949] 1998); Block (1980; 1999; 2009) Hoppe (2005).

### 3. Reading a book.

Note that the above postulated value scale is just a slight variation on the scenario adduced earlier. So, let us *mutatis mutandis* apply Rothbard's reasoning to S's preference scale. Then, we can say that if S spends an hour on resting on the couch and subsequently an hour on walking in the forest, this *indicates* that S's value scale is as above and that the lowest-ranking end—reading a book—goes unfulfilled. At this point, it would be also worth noting that the inference running from actual actions (or choices) to underlying value scales is of *epistemic* nature. However, genetically speaking, it is only a *combination* of desires (represented on value scales) and beliefs (but not desires alone) that issue in action. Just to illustrate the point further, if our S in W did not believe that there was a forest nearby he or she could access, he would never attempt to satisfy his end 2 (i.e. walking in the forest). That is to say, his desire to walk in the forest in and of itself was powerless to cause him to act. However, that very desire coupled with relevant beliefs already can issue in S's action.

Having elucidated the causal role of beliefs, let us consider a slight variation on S's behaviour in W described above. Suppose now that in a close possible world (W\*) S economizes his two hours *differently*. Instead of prioritizing resting, S spends his first hour on walking in the forest and only subsequently he or she is resting on the couch for an hour. On Austrian grounds, this *differential* action would be aptly accommodated by a *different* value scale informing S's action in W\*. Specifically, S's action in W\* would *indicate* that his value scale therein is as follows<sup>16</sup>:

Value scale  $v_2$ :

1. Walking in the forest.
2. Resting on the couch.
3. Reading a book.

It therefore follows that for any world W and any agent S it is impossible for S to choose anything but the highest ranked option in W on Austrian grounds. For on this view any actual choice *indicates* the fact that the actor picks up the most preferred option available, thus maximizing his welfare at least in expectation. So, to come back to our example, given that the value scale  $v_1$  operates in W (i.e. resting on the couch is the most valued end for S), Austrian economics does not allow us to envisage a possible world in which S chooses

<sup>16</sup> As noted by one of the referees, there are other possible value scales that S's behaviour in W\* may be evidentiary of. Indeed, from the fact that S spends his first hour on walking and his subsequent hour on resting we cannot infer with apodictic certainty how S *framed* his choice. It might as well be the case that the value scale underlying S's behaviour was the following: (1) first walking and then resting; (2) first resting and then walking; (3) doing a salto. Still, various ways in which S can frame his choice have interesting ramifications. First, given the framing envisaged by the referee, options 2 and 3 on the proposed value scale are not demonstrated, whereas on the grounds of the value scale we suggested in the body of the text, options 1 and 2 are demonstrated and only option 3 remains undemonstrated. The reviewer's framing, by contrast, is agnostic about the content of option 2 and 3 as there is no behaviour on the part of S that would satisfy either preference (desire) 2 or preference (desire) 3. Second, from our framing it follows that S preferred walking to resting, which, in turn, does not follow from the framing proposed by the referee, for if S had had only one hour to economize, he might have preferred resting to walking even though he in fact preferred first walking and resting to resting and then walking. Finally, our way of framing choices resembles Rothbard's simply because we mainly discuss this author's position. In this regard, it seems preferable to alternative framings.

anything but the most preferred option,<sup>17</sup> for if S were to choose in  $W^*$  to spend his first hour walking in the forest (i.e. a less preferred option in  $W$ ), this fact would automatically imply that walking in the forest is the most valued end for S in  $W^*$ . But if so, then preferences appear to be *determinative*<sup>18</sup> of choices under Austrian economics. And if preferences are determinative of choices, then there seems to be no room for MLF. In other words, given the actor's actual choice at a given time, he could not have done otherwise at that time, with his or her value scale fixed.

As it seems, probably the most obvious escape route open to MLF-inclined Austrians is to claim that human preferences are indeed unstable (Rothbard 2011b, 295). Let us consider two possible interpretations of this claim. The most straightforward one (interpretation 1) amounts to the repudiation of the so-called assumption of *constancy*, which has it that people's preferences are stable over time.<sup>19</sup> So, technically speaking, Austrians might argue that at time  $t_1$  one's choice may be informed by the value scale  $v_1$ , whereas at time  $t_2$  it might be informed by the value scale  $v_2$ , where  $v_1$  and  $v_2$  are not identical. So certainly, a human actor is not stuck with one and the same value scale *over time*. However, this does not affect our compatibilist point at all. Granted, the value scales might be *different* but this may simply mean that different value scales guide the actor's choices at *different* times; that is, it is easily conceivable that a value scale  $v_1$  guides the actor's action at  $t_1$ , whereas at  $t_2$ ,  $v_2$  does so, where  $v_1 \neq v_2$ . Yet, this feature of Austrian economics goes no distance towards establishing MLF. Value scales may be *different* in the sense that they may vary over time.

<sup>17</sup> At least in the *ex ante* sense. In Austrian economics, the actor's actual choice, as compared to other possible choices, benefits him most *in expectation*. This is, of course, not to deny that it is only *contingently* true that it also benefits him most *ex post*. The human actor is fallible: he may misjudge probabilities, fail to appreciate relevant causal relations or simply may not be imaginative or knowledgeable enough to envisage alternative courses of action. Given all this, it might as well be the case that he would have been better off *ex post* had he chosen otherwise.

<sup>18</sup> It is important to note yet again that, strictly speaking, preferences alone do not determine choices. Contemporary philosophy of action has it that preferences (or desires) can issue in an action only when coupled with beliefs, as maintained by e.g. Goldman (1970) or Davidson (1980, 3–19). Some other philosophers (see e.g. Moore 1993, 113–165) hold that we need to postulate some more immediate causes, such as, say, volitions, that eventually bring about actions. And it is common sense: if a given actor's highest valued end is to marry a particular lady but he deems this end unattainable, he would not be acting on this unsatisfied preference. As Mises ([1949] 1998, 14) put it: "But to make a man act, uneasiness and the image of a more satisfactory state alone are not sufficient. A third condition is required: the expectation that purposeful behavior has the power to remove or at least to alleviate the felt uneasiness. In the absence of this condition no action is feasible". Therefore, it should be borne in mind that the sentence 'preferences determine choices' is not *literally true* for unsatisfied preferences alone are insufficient for an action to be taken. Accompanying beliefs of the proper content are necessary. Technically speaking, if one most *wants* the state of affair  $S$  to obtain, one will do nothing to bring it about unless one also *believes* that he can employ some means  $M$  that will make  $S$  obtain. It is only then that one starts employing  $M$ , which is another way (however convoluted) way of saying that one starts *acting*.

<sup>19</sup> A very interesting debate concerning the stability of preferences ensued between Block and Barnett (2012), who explicitly reject the idea, and Hudik (2012). Slightly ironically, the former authors attempted to debunk the alleged rational requirement of *transitive* preferences as their *main* target. However, as demonstrated by Hudik (2012, 459–460), if the assumption of transitivity of preferences is dropped, then the observer cannot distinguish between the agent's having unstable or intransitive preferences. Consequently, if Block and Barnett want to remain unyielding about the apparent instability of preferences as explanatory of "all observed choice inconsistency", they should rather embrace their transitivity rather than reject it. Hudik (2012, 460–461) argues that when it comes to "market-level phenomena" such as an increased demand for a certain commodity or service, preference changes constitute sort of last-resort explanations. Instead, he submits that such facts might be better explained by an increase in real income or by a lower price of the said commodity or service. Given this, the assumption of stable preferences appears to be quite reasonable.

Still, upon the reading under consideration, what their instability over time implies *at most* is that a particular value scale determines a choice at a particular time. But this implication is simply indistinguishable from the compatibilist position. Hence, interpretation 1 does not pose any threat to the kind of *compatibilism* between (free) choice in Austrian economics and the truth of determinism we advance.

So perhaps there is a way of reinterpreting the instability of value scales so that MLF can prove to be reconcilable with Austrianism. More interestingly, Austrians may try to hold that for each time ( $t$ ), an economic actor is *free to choose* a value scale guiding him at  $t$ . But note that this position, most crucially, invokes the notion of *choice*. The fact that this time choice is presumed to operate *among* value scales rather than *within* them is irrelevant. Remember, for Austrians, any actual choice is *evidential* of the underlying preference. So, in the end, an *actual choice* among first-order value scales must imply the existence of a second-order value scale (or a second-order preference) informing that very choice (for an interesting objection suggesting a possibility of the free creation of value scales, which would allegedly not involve a choice behavior, see footnote 23). For instance, if an economic actor was indeed *choosing* between  $v_1$  and  $v_2$  and eventually opted for, say,  $v_1$ , this would *ipso facto* indicate that his or her second-order value scale ranked  $v_1$  higher than  $v_2$ .

It is clear to see that the appeal to second-order preferences brings about the element of *recursiveness* here. For Austrians might now claim that there can obviously be *various* second-order preferences, which would in turn open the following two logical possibilities:

- 1) A second-order preference might be determined itself. If so, it would in turn determine a first-order value scale, which would eventually determine the pursuit of a particular highest valued end figuring in the said first-order value scale. It is to be noted that this possibility does not pose any threat to our compatibilist contention that preferences determine choices. In the end, it was a second-order preference that ultimately determined (*via* a first-order preference) a particular choice.
- 2) An economic actor might be free to *choose* among second-order preferences. But then again, once the actor *chooses* a given second-order preference, this fact *indicates* that there was a certain third-order preference accounting for that choice.
- 3) And so on and so forth *ad infinitum*. Hence, Austrians would have to either accept the fact that preferences *of whatever order* are determined at a given time (interpretation 1 expressing the gist of compatibilism), which eventually determines the choice of pursuing a particular material end through the direct influence of a first-order value scale or face an explanatory *regressus ad infinitum*, with either way falling short of establishing MLF on Austrian grounds.<sup>20</sup>

To bolster our point further, let us now take the idea of MLF seriously and study what sort of implications we can draw therefrom. If *any* of them proves to be inconsistent with Austrian economics, this would provide us with another reason why Austrians should adopt

<sup>20</sup> We can easily generalize the above point. To avoid explanatory *regressus ad infinitum*, Austrian must assume that there exists such an  $n$ -order preference that determines a choice of a particular  $n-1$ -order value scale, which in turn determines a choice of a particular  $n-2$ -order value scale etc. until we reach the level of a *first-order* value scale, which *directly* determines an action towards the satisfaction of a particular highest valued material end.

compatibilist freedom. So, consider again the following value scale taken from Rothbard ([1962] 2009, 6).

Value Scale  $v_3$ :

1. Continuing to watch the baseball game.
2. Going for a drive.
3. Playing bridge.

Now, we know from the earlier analysis that if S does actually spend his first hour on watching the baseball game and only the second hour on going for a drive, his value scale is indeed the one right above. So, for all we know so far, in W the agent S in fact chooses to spend his first hour on watching the baseball game and his second hour on going for a drive, from which actions we *inferred* the value scale  $v_3$ . That much can be granted just for the sake of argument. But now we should investigate what are the demands of MLF in the scenario under scrutiny. Remember, metaphysical libertarianism envisages the *freedom* of an action in a characteristically demanding manner; that is, for agent S to perform the act x *freely* implies that S can do otherwise, everything else equal. Or to put it in the vernacular of possible worlds, an act x is performed *freely* by the agent S at time t only if there is a possible world where everything is the same up until t and S does something other than x at t. Given this, let us spell out what MLF predicts in the Austrian scenario considering the actor whose actual choices are indicative of value scale  $v_3$ .

Metaphysical libertarians would have it that if S in W does indeed *freely* choose to spend his first hour on watching the baseball game, he *ipso facto* could have chosen to spend his first hour on going for a drive, *everything else equal*. However, and crucially, the condition of *everything else equal* implies—among other things—the value scale equal.

Therefore, if S could have chosen to go for a drive *first*, everything else equal, then *a fortiori*, S could have decided to do so, with S's value scale fixed. In other words, MLF commits us to the view that if S *freely* chooses to *first* watch the baseball game and only *then* to go for a drive (which is informed by value scale  $v_3$ ), this very fact implies that there is a possible world W\* in which the very same agent chooses to *first* go for a drive and only *then* to watch the baseball game, with, most crucially, S's choices in W\* being still *indicative* of value scale  $v_3$ —after all, everything but choices are equal across the two worlds under scrutiny. But this in turn would mean that the situation in W\* is as follows:

Value Scale  $v_3$  still applies:<sup>21</sup>

1. Continuing to watch the baseball game.
2. Going for a drive.
3. Playing bridge.

However, in this scenario S chooses to *first* go for a drive and only *then* to watch the baseball game. But then, no longer do choices *indicate* preferences. Even more, in W\*, S's choices seem to run counter to his preferences, a sheer impossibility on Austrian grounds. And since MLF implies by definition an ability to do otherwise, *ceteris paribus*, and because an ability to do otherwise, *ceteris paribus*, implies that there must be a possible world in which actor's

<sup>21</sup> After all, we seriously take the libertarian claim that *literally everything else is equal* in W\* but S acts in W\* in a different way from the one in which he acts in W.

choices run counter to his value scales therein, which is impossible on Austrian grounds, we end up with the conclusion that MLF is incompatible with Austrian economics. We cannot retain the two at the same time: either actors' choices are aligned with their respective value scales, in which case we give up MLF, *or* we adopt MLF but disavow the characteristically Austrian commitment to a harmony between actions and preferences.

This in turn gives rise to yet another problem. As we remember, taking MLF seriously led to the possibility that S acts *differentially* between the worlds (W and W\*) without any accompanying alteration in S's value scale. Specifically, what we discovered is that, according to metaphysical libertarianism, S can spend his first hour either on watching the baseball game (the actual world W) or on going for a drive (a close possible world W\*), with one and the same value scale ( $v_3$ ) applying across these two worlds. But if so, then what explains S's *differential action* across these worlds? *Ex hypothesi*, W and W\* are identical in all respects but in S's choice. So, there seems to be *nothing* that can explain why during his first hour, S watches the baseball game in W and goes for a drive in W\*. Hence, it seems that whether S does one thing in W and another thing in W\* ultimately depends on *luck*.<sup>22</sup> However, as we believe, economists of any persuasion would like to have at their disposal a *contrastive explanation* of why a given actor chooses one thing *rather than* another. In fact, it is precisely for that reason that economists appeal to actors' preferences or value scales for that matter. Hence, if there is nothing that can account for S's watching the baseball game in W and S's going for a drive in W\*, this must count as a major embarrassment for Austrians, which is another reason that speaks against embracing MLF.

To put it in still another way, if we take MLF seriously, then during his first hour, S acts *differently* in W\* from the way he acts in W. And what is it that *explains* the differential action of S across these two worlds? It seems that MLF-inclined Austrians are caught in a particularly thorny dilemma: either (a) they have to concede that there is literally *nothing* that accounts for S's cross-world *differential action* or (b) they have to admit that W and W\* after all differ with respect to some *external circumstances* since S's preferences (value scale) are held fixed *ex hypothesi*. If they decided on option (a), they would be deprived of a *contrastive explanation* of the cross-world difference in S's action. If, on the other hand, they picked up option (b), they would indeed have a *contrastive explanation* (i.e. W and W\* differ in some *external* respect and that is why S's action varies accordingly across the two worlds) but at the cost of leaving their metaphysical libertarianism unsupported. After all, it would then be some external factor that would be doing the explanatory work regarding S's differential action rather than S's free will. In other words, appealing to *some difference* between W and W\* to explain why S acts in W differently to the way he does in W\* can be in *no way supportive* of metaphysical libertarianism since, as we remember, this doctrine has it that at least *sometimes* an agent (S) acts *freely*, which, technically speaking, implies that there is such a time *t* at which there are two possible worlds (one actual and the other merely possible) which share *literally everything* apart from S's action in them at *t*.<sup>23</sup>

<sup>22</sup> The problem of *luck* primarily arises in moral philosophy. Indeed, there are thinkers who believe that *luck* rules out responsibility in the basic-desert sense completely (e.g. Levy 2011; Caruso 2019), the position labelled *hard luck*. Mele (2006), on the other hand, offers probably the most comprehensive review of the problem to be found. For the classical exposition of *luck* and its taxonomy, see: Nagel (1979).

<sup>23</sup> An anonymous reviewer entertained a very interesting possibility of higher-order preferences being "the outcome of an indeterminate process that is not a choice process but still has some stable characteristics, so that it is not pure luck." The thought is that although first-order value scales would function deterministically (i.e. given the actor's beliefs and the first-order value scale at a certain time, he or she would inevitably make

Faced with this dilemma, MLF-inclined Austrians might try to save their commitment to Austrianism by arguing that what explains S's differential action in the above scenario is the fact that S was in fact genuinely *indifferent* between watching the baseball game and going for a drive. In other words, they might claim that there is such a value scale ( $v_4$ ) that can account for the fact that S watches the baseball game in W and goes for a drive instead in W\*.

Value Scale  $v_4$ :

### 1. Continuing to Watch the Baseball game *or* Going for a Drive<sup>24</sup>

a definite choice), the actor's higher-order preferences (or value scales) would be governed only by *propensities* and would thus be indeterministic. And if so, then in the end actual choices made by economic agents would not be *fully* determined. When taken seriously (i.e. on the realist reading thereof), propensities are such dispositions of an object that account for its differential behaviour (i.e. different relative frequencies of certain outcomes). For instance, if a coin has a propensity 0.7 for landing heads uppermost, this very property is responsible for the coin landing (more or less) 70% of times heads uppermost in the long run, as opposed to landing (more or less) 30% of times tails uppermost, with *everything else being equal* (for an elaboration of the propensity interpretation of probability statements see: Mackie (1973, 179–187)). Now, by analogy, if our actor has a 80% propensity for Value Scale<sub>1</sub> and 20% propensity for Value Scale<sub>2</sub>, this *ipso facto* predicts that in the long run he or she will be guided by  $V_1$  four times as often as by  $V_2$ . However, if so, then at least in the long run, the actor is determined to be guided by *the ratio* between these two value scales. To wit, if the actor's propensity under consideration is something which generates the stipulated ratio (i.e. 4:1) of first-order value scales, then the actor is not free to choose to be guided by the said two value scales at a different ratio. To conclude, propensity argument seems to salvage a hint of indeterminism, while still facing determinism in the long run. However, rescuing indeterminism in this manner still runs into our *luck* challenge. To illustrate the point, let us stick to our previous example of the actor being guided by  $V_1$  and  $V_2$  at the ratio of 4:1. Suppose further that in the actual world ( $W_1$ ), the actor is guided over time by the following series of the two value scales:  $\{V_1, V_1, V_1, V_1, V_2, \dots\}$ . Moreover, since the actor is presumed to be endowed with the above-defined propensity, there is a merely possible world  $W_2$ , in which the same actor is guided over time by the following series of the two value scales:  $\{V_1, V_1, V_2, V_1, V_1, \dots\}$ . Clearly then, the 4:1 ratio alone allows for some variability *within* series. Specifically, in the envisaged worlds, the two value scales are distributed *differently* over time. But then again, since everything is the same about  $W_1$  and  $W_2$ , the differential distributions of  $V_1$  and  $V_2$  cannot be explained by the propensity (or anything else, for that matter). Rather, they are *lucky*. However, according to an anonymous referee, one worry still remains, for we do not conclusively rule out a possibility of “a creative construction of a value scale” in the first place since our example involving propensities still assumes pre-existing value scales and a choice between them. By contrast, the referee invites us to imagine “free creation of value scales”. To address this objection, we offer the following two points. First, it seems to us that the most charitable reading of the referee's suggestion is to take it to be an allusion to contra-causal freedom in the form of agent causation (for the major problem haunting agent causation see footnote 37). For, in the absence of value scales of a higher order to choose from, it appears as if the only option left open is that it is the agent *herself* (as a cause) that “freely” creates a first-order value scale which, in turn, guides her actions. However, as already mentioned, agent causation—as opposed to event causation—does not fare well among the contemporary views on the metaphysics of free will. Second, we believe that since the scenario suggested by the referee involves no choice, it is automatically beyond the remit of Austrian economics. After all, Mises ([1949] 1988, 3) viewed “modern subjectivist economics” as “a general theory of human choice.” Thus, praxeology aims at illuminating human choice. And hence, Mises would be prone to regarding “free creation of value scales” not involving a *choice* behaviour as an ultimate given, something that praxeology can only take for granted but cannot be a theory of.

<sup>24</sup> One of the reviewers pointed out that this value scale does not reflect the intended indifference since apparently *every* entry on a value scale contains several options which the agent is indifferent between and not only those entries with an “or”. The reviewer indeed made a valid point and so we take no issue with it. Granted, each and every option on a value scale might be rendered in such a way as to include those aspects of an action that the agent is indifferent between. For instance, our option 2 in  $v_4$  might be rendered in the following way: 2. Playing bridge indoors *or* outdoors. For the Actor in question might as well be indifferent between various circumstantial aspects of the game. The reason why we do not describe options in this manner is that we explicitly mark indifference (*via* “or”) only when it is vital for our argument. Therefore, as it stands,  $v_4$  signals that it is both continuing to watch the baseball game and going for a drive that S would *strictly* prefer

## 2. Playing Bridge

And indeed, the dominant Austrian view on indifference<sup>25</sup> has it that if the agent S is indifferent between doing one thing or another (or between employing one means or another, given his end), the agent may do one thing in the actual world (W) and another thing in a close possible world (W\*), with the same value scale ( $v_4$ ) being operative. Given this, Austrians might hold that it is *precisely*  $v_4$  that does explain S's cross-world differential action.

For while on  $v_3$  S's differential action would indeed be impossible to account for in terms of some contrastive explanation, on  $v_4$  it is relatively easy to explain; that is, in both worlds S chose option 1 over playing bridge but since he was indifferent between the disjuncts within his most preferred option, it transpired that in W he watches the baseball game whereas in W\* he goes for a drive, with the condition of everything else being equal up to the moment of choice preserved. Hence, it seems that S might have exercised his libertarian freedom without running into any problems mentioned above.

Granted, on Austrian grounds, if S is *indifferent* between watching the baseball game and going for a drive, it would indeed follow that it might as well be the case that S spends his first hour on watching the baseball game in W and on going for a drive in W\*, with S's value scale ( $v_4$ ) held fixed. Unfortunately, this would in turn imply that neither does S *choose* to watch the baseball game in W nor does he or she *choose* to go for a drive in W\* since there is no choice under indifference.<sup>26</sup> Hence, even if Austrians were able to explain different *behaviours* of S in W and W\* by resorting to the concept of indifference, they would still be unable to explain S's different *choices*. For in order to say that S *chooses* differentially in W and W\*, Austrians would have to admit that S's behavior is informed by *strict preference* between watching the baseball game and going for a drive. Since indifference excludes this possibility, Austrians are barred from appealing to this concept insofar as they are interested in explaining economic actor's *choices* and *actions*. Indeed, it would be a very strange sort of economics that would have it that economic actors do not value their ends (and derivatively: their actions) *differentially*; that is, for any agent S and any action x, S might *as well* do something other than x and be equally well off—the most absurd conclusion. Given that, on Austrian grounds, once we admit that agents do *choose* at times, we cannot appeal to *indifference* any more. So, technically, if S *chooses* option x over y in W and option y over x in W\*, this differential *action* must be explained by a corresponding shift in relative evaluations of these two options; that is, S prefers x to y in W but when it comes to W\*, S ranks these two options in the opposite order.

Moreover, resorting to indifference suffers from infinite regress. Note that metaphysical libertarianism predicts that, given  $v_4$ , S could have still chosen the less preferred option (2), that is playing bridge, everything else being equal up to the moment of decision. However, S's *choosing* in W\* to play bridge rather than to watch the baseball game *or* go for a drive would immediately imply that this option is strictly preferred to anything else, which would

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to playing bridge, with the question of whether there are some ways of playing it or some circumstantial elements of the game that S is indifferent between being left open

<sup>25</sup> Again, see footnote 14.

<sup>26</sup> Let us quote Rothbard ([1956] 2011a, 301–305) again: “Indifference can never be demonstrated by action. Quite the contrary. Every action necessarily signifies a *choice*, and every choice signifies a definite preference. Action specifically implies the *contrary* of indifference. The indifference concept is a particularly unfortunate example of the psychologizing error [...]. If a person is really indifferent between two alternatives, then he cannot and will not choose between them.”

in turn render  $v_4$  inoperative in  $W^*$ . Most certainly, Austrians do have resources to accommodate the fact that there is a possible world in which S plays bridge instead of continuing to watch the baseball game *or* going for a drive. So, in order to account for the libertarian possibility of S's playing bridge instead of continuing to watch the baseball game *or* going for a drive, Austrians would have to postulate S's indifference between all these three options.

Value Scale  $v_5$ :

1. Continuing to Watch the Baseball game *or* Going for a Drive, *or* Playing Bridge
2. Playing Chess

But now, metaphysical libertarianism would predict that, given  $v_5$ , the economic actor S could still have played chess. In other words, there was a possible world in which S plays chess, everything else equal. However, this statement could only<sup>27</sup> be saved by postulating that in fact it was  $v_6$  that could account for this possibility.

Value Scale  $v_6$ :

1. Continuing to watch the baseball game *or* going for a drive, *or* playing bridge *or* playing chess.
2. Watching a film (or whatever else).

But now we can appreciate the gravity of the problem. It is clear to see that appealing to indifference cannot explain differential *choices* across worlds. Granted, resorting to indifference is able to explain why S does one thing in  $W$ , another thing in  $W^*$  and still some other thing in  $W^{**}$  but at the cost of S being barred from *choosing* between the said options. And more critically, it seems that once we employ indifference to accommodate S's cross-world differential behavior, the implication is that whatever S happens to do across worlds, he is always equally well off. In other words, even though his behavior may vary considerably across worlds, his welfare would be fixed<sup>28</sup>—the most unwelcome consequence for economics.

Therefore, it seems that Austrians have little (if anything) to appeal to in order to save their proclaimed metaphysical libertarianism. The characteristically Austrian rejection of the assumption of *constancy* of preferences poses no problems to the compatibilist view, whereas citing the existence of second-order preferences catches MLF-oriented Austrians in a predicament, for then they either have to face an *explanatory* infinite regress or admit that  $n$ -order preferences are determined and they eventually (regardless of their order) issue in an action, with neither option being palatable to metaphysical libertarians. Moreover, once we take MLF seriously and spell out its implications, we—rather unsurprisingly—discover that the adoption of MLF runs into the problem of *luck*. That is to say, if Austrians accept that sometimes an economic actor chooses *freely* (in the metaphysical libertarian's sense), they are at a loss to explain the *cross-world difference* in the actor's behavior, for they can neither resort to the actor's value scale varying across the worlds or to a cross-world differ-

<sup>27</sup> As already observed, Austrians are barred from saying that S could have *chosen* to play chess, everything else equal for—at the very least—S's underlying preferences must have changed too.

<sup>28</sup> After all, he would be *ex hypothesi* indifferent between indefinitely many options, which seems to be the only way to grant to him the possibility of behaving differentially across worlds, everything else equal.

ence in some external conditions.<sup>29</sup> And as long as we speak of two distinct *choices* made by S (i.e. one option being *chosen* in W and the other in W\*), Austrians are barred from explaining *this* sort of cross-world difference in terms of S's indifference between the said two options.

Having thus made a preliminary case for compatibilism as a metaphysical stance that Rothbardians seem to be logically committed to adopting, let us now proceed to consider whether there are other prominent Austrians who already embrace compatibilism or at least have a good reason to do so.

### 3 Compatibilist Freedom vis-à-vis Other Austrians

If the arguments made thus far count for something, it seems that the branch of Austrian economics which relies on value scales, with the value scales being *evidenced* by actual choices, indeed has a rather compelling reason to embrace compatibilist freedom. However, as our reasoning targeted Rothbardians, the question arises whether there are other prominent Austrians for whom a compatibilist notion of freedom might well prove to be attractive.

Starting our investigations with Mises would be much in order. As aptly put by Linsbichler (2017, 14–15), Mises “denies individuals a free will in the metaphysical sense”, while “explicitly acknowledge[ing] the possibility of absolute determinism on a purely physical or physiological basis.” However, there are places in which Mises makes an even stronger case for the sway of determinism over human action. Says this author: “To be sure, even the valuations of individuals are causally determined” (Mises [1933] 2003, 129).<sup>30</sup> Elsewhere, Mises ([1957] 2007, 77) avers that “[t]he determinist is right in asserting that everything that happens is the necessary sequel of the preceding state of things.” Given the above citations, it appears as though it is no stretch to classify Mises as a determinist.<sup>31</sup> Still, being a determinist does not by itself make one a compatibilist, for one might as well believe that the truth of determinism is indeed incompatible with free will. Therefore, we should make sense of Linsbichler’s assertion to the effect that Mises “denies individuals a free will in the metaphysical sense”, for if he denies individuals a *libertarian* free will, he might as well be a compatibilist. Specifically, what would make Mises a compatibilist is his allowing the possibility of the economic actor acting on his or her reasons, desires, preferences, beliefs or what have you. As we stressed time and time again, compatibilist freedom reduces to man’s having power to do what they happen to want to do. That is to say, compatibilist freedom requires one’s *utmost* desires or preferences (coupled with relevant beliefs) to be causally efficacious even if they were to be determined themselves. There is indeed ample evidence

<sup>29</sup> It is indeed puzzling that MLF-oriented Austrians would ever want to have this variety of will. After all, would they *really* want the sort of control (or the lack thereof) whereby their respective differential cross-world behaviors (e.g. whether they play cards in W and go swimming in W\*) is just a matter of luck and not of their preferences or anything else for that matter? Upon reflection, this sort of *control* looks like a travesty of control.

<sup>30</sup> It is worth noting in passing that it was also Menger that was most probably a determinist too. Consider the following citation: “All things are subject to the law of cause and effect. This great principle knows no exception, and we would search in vain in the realm of experience for an example to the contrary.” (Menger [1871] 2007, 51)

<sup>31</sup> A very persuasive construal of Mises’ philosophy along determinist (compatibilist) lines can be found in Megger (2021).

that Mises might be read along compatibilist lines. For instance, says Mises ([1949] 1998, 97):

Action is an attempt to substitute a more satisfactory state of affairs for a less satisfactory one [...]. A less desirable condition is bartered for a more desirable. What gratifies less is abandoned in order to attain something that pleases more. That which is abandoned is called the price paid for the attainment of the end sought.

Now, crucially, Mises does not say that action might involve substituting a less satisfactory state of affairs for a more satisfactory one, something MLF would permit by all means. Rather, he seems to imply that actors *via* their action attempt to bring about the most preferred state of affairs. But if so, this position is nothing short of compatibilism avowed here. To put it succinctly, actors strive to attain their highest ranked ends by dint of their causally efficacious desires (and beliefs) even if the latter are causally determined.

Hence, metaphysically speaking, one can rather unproblematically conceive of Mises as a compatibilist. However, one caveat is important at this point. Although, metaphysically speaking, Mises can be undoubtedly ranked as a determinist, he remains an epistemological indeterminist. That is to say, even though all the events (including human action) might indeed be causally determined, future events are unknowable in principle. Mises ([1957] 2007, 77) indeed acknowledges that “[th]e choices a man makes are determined by the ideas that he adopts”. However, he also believes that the thesis of determinism is “considerably weakened by the fact that nothing is known about the way in which ideas arise.” Allegedly then, metaphysical determinism does not automatically translate into epistemological determinism since we do not know the way in which ideas governing our actions are formed.<sup>32</sup> In other words, because we do not know which ideas are going to determine our actions, our future remains epistemically indeterminate.

We submit that Hayek might be equally plausibly ranked as a compatibilist.<sup>33</sup> It is especially his *Constitution of Liberty* that contains most pertinent and telling assertions. For instance, Hayek ([1960] 2011, 136) says that “the whole suggestion that “free” in any relevant or meaningful sense precludes the idea that action is necessarily determined by some

<sup>32</sup> The idea is that the truth of determinism does not entail perfect knowledge. Especially, and crucially, the former does not in and of itself entail present knowledge of future actions. And since the relation of entailment between the two does not hold, it is conceivable to have (radical) uncertainty coupled with determinism. That is, even if all the events were to be causally determined, this very fact would still not guarantee that future events (esp. actions) can be knowable *now*. Actually, Morgenstern (1928, 96) advanced a stronger thesis, while trying to demonstrate that predictions in social sciences are necessarily flawed. For, if a social scientist is to publicly announce her prediction, the prediction will fail *once* it affects the information set on which economic agents act. This finding only strengthens our point that metaphysical determinism does not immediately translate into epistemic determinism. For, if epistemic determinism is ruled out on independent grounds, then the possibility of ending up with metaphysical determinism and epistemic indeterminism is all the more viable.

<sup>33</sup> This is explicitly acknowledged by Gray ([1960] 1984, 9), who has it that “Hayek’s ‘compatibilist standpoint in respect of freedom of the will—his belief that the causal determination of human actions is fully compatible with ascribing responsibility to human agents for what they do—is analogous with his stance on the mind-body question.” For a classic exposition of the way Hayek tackles the mind-body problem, see Hayek (1952). In fact, Hayek’s skepticism as to the possibility of the mind explaining itself constitutes yet another reason why he may be validly described as a metaphysical determinist (compatibilist) and an epistemological indeterminist. Again, as Gray ([1960] 1984, 9) puts it, “Hayek is concerned to deny any ultimate dualism in metaphysics or ontology, while at the same time insisting that a dualism in our practical thought and in scientific method is unavoidable for us.”

factors proves on examination to be entirely unfounded.” Incidentally, it is worth noting that whereas Mises allowed for “the possibility of absolute determinism”, Hayek’s thesis is even stronger. For the latter author claims that “the conception of responsibility rests, in fact, on a determinist view.” In other words, while Mises apparently regards free will (i.e. having one’s actions guided by one’s ideas) as simply compatible with the truth of determinism, Hayek conceives of responsibility assignments as *requiring* determinism.<sup>34</sup> Generally, Hayek’s idea of responsibility assignments is forward-looking. That is, he views the institution of responsibility as serving to influence the prospective behaviour on the part of human agents who are eligible for responsibility ascriptions in the first place. To this effect, says Hayek ([1960] 2011, 137): “It is just because there is no separate “self” that stands outside the chain of causation that there is also no “self” that we could not reasonably try to influence by reward or punishment.” Hayek’s compatibilism is probably most plainly expressed in the following fragment:

If we say that a person is responsible for the consequences of an action, this is not a statement of fact or an assertion about causation. The statement would, of course, not be justifiable if nothing he “might” have done or omitted could have altered the result. But when we use words like “might” or “could” in this connection, we do not mean that at the moment of his decision something in him acted otherwise than was the necessary effect of causal laws in the given circumstances. Rather, the statement that a person is responsible for what he does aims at making his actions different from what they would be if he did not believe it to be true. We assign responsibility to a man, not in order to say that as he was he might have acted differently, but in order to make him different. (Hayek [1960] 2011, 137)

The above fragment clearly contains a compatibilist (and not libertarian) reading of “can”. Hayek most definitely does not view the ability to do otherwise as a contra-causal power. Rather, human agents *can* act otherwise, given the institution of responsibility assignment. Or to put the point more precisely, it is the said institution that makes human agents act differently from the way they would have acted in the absence of the institution. By contrast, believers in MLF would have it that, first of all, human agents can still act counter to institutions’ causal influence<sup>35</sup> and, second of all, would claim that the ascription of responsibility depends on agents’ ability to do otherwise, everything else equal, to start with.

<sup>34</sup> Hayek’s compatibilist stance falls into what is recently labelled “cheap compatibilism”, the idea that punitive measures as justified by forward-looking deterrence-related utilitarian considerations are compatible with determinism. What is “cheap” about this sort of compatibilism is that responsibility assigned is not *desert*-based. (Moore 2020, 208) That is to say, on the grounds of cheap compatibilism, responsibility assignments do not reflect the offender’s moral desert and is thus not backward-looking. Rather, the institution of punishment is justified instrumentally as it is supposed to deter potential offenders and is therefore, by contrast, forward-looking.

<sup>35</sup> Compare Rothbard’s (2011b, 8–10) treatment of social and institutional determinism in his *The Mantle of Science*. Moreover, it is worth noting that the Rothbardian (1982 [2002]) theory of punishment also contrasts sharply with that of Hayek’s. For Rothbard, the rationale of responsibility assignment has nothing to with the deterrence of future crimes. Rather, ascriptions of responsibility are motivated by backward-looking considerations. Specifically, Rothbard’s theory of punishment is retributive. That is to say, the reason why punishment is inflicted is that the punished person culpably committed a prior wrong. Or still in other words, according to Rothbard, the institution of punishment is desert-based rather than informed by forward-looking considerations such as, say, minimizing future crimes.

Moreover, as in the case of Mises, Hayek makes room for indeterminism in the realm of epistemology. Elsewhere in his *Constitution of Liberty*, he submits that when we call our actions *free*, we imply that “we do not know what has determined it, and not that it has not been determined by something”. (Hayek [1960] 2011, 138) So then again, as Mises, Hayek appears to be a determinist (compatibilist) metaphysically and an indeterminist epistemologically. Therefore, it seems that the Misesian and Hayekian position scrutinized above is unproblematically reconcilable with our view that human action is determined by a combination of the actor’s ordinarily ranked desires (represented by value scales) and his or her fallible knowledge.

Concluding, it appears as though Mises and Hayek already embrace compatibilist metaphysics. We submit that this fact alone serves to support our contention that Austrians in general should adopt this very sort of metaphysics. And yet, there are other (non-Rothbardian) prominent Austrians who explicitly advocate MLF. The following authors who we are going to subject to critical scrutiny are, metaphysically speaking, pretty much like Rothbardians. Still, we contend that they might find our compatibilist account attractive as it would enable them to avoid otherwise problematic agent causation, while keeping everything they hold dear (e.g. Kirznerian (2000) entrepreneurship or Lachmannian (1977) radical subjectivism) intact.

Moreover, it is the very distinction between *metaphysical* and *epistemological* (in)determinism drawn above that can help us demonstrate that it is precisely compatibilist metaphysics that may prove to be friendly to the said MLF-inclined Austrians notwithstanding their pretensions to the contrary. For example, O’Driscoll and Rizzo (1996, 257) have it that

[t]he approaches of both Kirzner and Schumpeter remove entrepreneurial discovery from the confines of maximization models. The latter imply that, given the data, the outcome is inevitable. It is in this sense that these models are deterministic. Entrepreneurial discovery or creativity is not, however, a determinate outcome of the data. If it were, it would not be entrepreneurship!

However, the above-quoted “determinate outcome of the data” is underdescribed, given the bifurcation of determinism into metaphysical or epistemological one. When we employ the epistemological reading of the cited phrase, then O’Driscoll and Rizzo’s point amounts to the assertion of a conceptual truth. Indeed, if a certain discovery were to be *known* in advance, it would never be a discovery in the first place. Still, *metaphysically* speaking, discoveries might as well be determined. Hence, as it seems, Kirznerian or Schumpeterian entrepreneurship are in principle reconcilable with the compatibilist metaphysics we are advancing here.

On the other hand, elsewhere, Kirzner (2000, 56) advanced a stronger thesis, while laying bare his *metaphysical* indeterminism within the purview of human action. Says our author: “For the subjectivist, human action is, in this sense, “uncaused”; it is not determined by circumstances (even by the agent’s own preferences).”<sup>36</sup> However, to try to conceive of human action as “uncaused” is to call forth otherwise controversial agent causation.<sup>37</sup> And

<sup>36</sup> One cannot fail to see that these remarks are indicative of the author’s belief in MLF.

<sup>37</sup> For a defense of agent causal accounts of free will, see e.g. Clarke (1993), O’Connor (2000). It must be heeded, though, that agent causation is rather severely criticised these days. For a critique of this doctrine, see e.g. Moore (2020, 61), where the author contends that postulating “the “agent-causation” supposedly

as Hodgson (2004, 187) aptly put it, “[w]e may not find the cause, but in which case it is better to leave the matter open, rather than proclaiming an uncaused cause”. Moreover, it seems to us that there is indeed no need for Kirzner to postulate agent causation. The author, while approvingly drawing on Lachmann’s (1977) subjectivism, admits that “economic outcomes are not determined by any objective physical phenomena whatever” and that “[a]ll the powerful influences exercised upon human affair by external phenomena are exercised strictly through the intermediation of active human minds.” (Kirzner 2000, 55) If we take this citation at its face value, it tallies well with compatibilist metaphysics. That is to say, actors effectuate certain states of affairs *via* their respective preferences even though these preferences are determined themselves.

However, a few passages later, Kirzner (2000, 56) cautiously adds what follows: “What people believe, expect and know is not determined by outside phenomena. What they do is therefore, indeed likely to have been significantly affected by, even influenced by, physical phenomena, but is never determined by them.” However, this seems to amount to yet another invocation of the problematic doctrine of agent causation. Moreover, it is not readily noticeable what is purchased at this cost. As observed above, Kirznerian entrepreneurship is not threatened by the truth of determinism. Rather, what the phenomenon of entrepreneurship presupposes is the present ignorance of a future discovery, the ignorance that the truth of determinism leaves unaffected.

Concluding, we submit that trying to save indeterminism by resorting to agent causation is more trouble than it’s worth. Additionally, we claim that for the notion of entrepreneurship as well as for the entire Austrian subjectivism to fare well it is enough to posit *causal efficacy* of certain mental states (most notably, preferences and beliefs). In other words, it is compatibilist metaphysics that appears to adequately (and most parsimoniously) account for many phenomena Austrians firmly adhere to such as entrepreneurship or their programmatic subjectivism, to name but a few. Hence, even if Kirzner (2000)<sup>38</sup> and Lachmann (1977) explicitly subscribed to indeterminism, we claimed that (less expensive) compatibilism could constitute an adequate metaphysics grounding their respective conceptual frameworks.

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distinctive of persons bringing about changes in the world through their actions” is a desperate move which “could say little about the nature of this *sui generis* kind of causation, other than it was not to be confused with ordinary causation and it is the kind of causation persons uniquely originate.” As such, most apparently, agent-causation is of little explanatory value and makes our ontology unnecessarily expensive.

<sup>38</sup>At some other place, Kirzner (2000, 58–59) laments that “the Paretian device of accounting for market outcomes” eliminates “[a]ny freedom of the consumer to choose a market basket in a way that might permit him to err, to exercise imagination concerning, say future price changes” and it is for that reason that Kirzner believes we need (libertarian) freedom or—which is pretty much the same thing—Lachmannian (1977) “autonomy of the human mind”. But then again, our compatibilism is unscathed by this criticism. After all, we submit that it is a *combination* of the actor’s *fallible* knowledge and preferences that determine his or her action. Hence, on our grounds, it is unproblematic to envisage, say, a speculative act wherein the actor overestimates some future demand for a given commodity and makes purchases which only *ex post* prove to amount to an entrepreneurial error. To put it simply, since the actor was acting—among other things—on a false belief, he ultimately erred. It should be clear to see that the explanation of entrepreneurial errors does not need to resort to “uncaused” agential causes.

## 4 Conclusion

The aim of this paper was to demonstrate that MFL and some essential features of Austrian economics (i.e. its reliance on value scales and the view of action as indicating *strict* preference) are incompatible. As we observed, the metaphysical libertarian view of *freedom* of action has it that once an actor has acted (or chosen) *freely*, this fact implies that the actor could have done otherwise, everything else, including value scales, equal. However, as demonstrated, this fatally collides with the Austrian view to the effect that economic actors' actual choices are *indicative* of their most (and *strictly*) preferred ends. Moreover, it appeared as though citing the lack of *constancy* of preferences and appealing to second-order value scales fall short of saving MLF within Austrian economics. If anything, it is the compatibilist freedom that accommodates the above two phenomena easily, while holding firmly to the spirit of Austrianism. Eventually, it transpired that resorting to *indifference*, as conceived of by Austrians, would go no distance towards supporting MLF either.

On a positive note, it was clear to see that we can easily make sense of value scales (coupled with relevant beliefs) being determinative of choices if we submit to the compatibilist notion of freedom. As opposed to MLF, which is haunted by the problem of *luck*, the compatibilist freedom is a power to do what we happen to want to do, with the latter being most certainly a "variety of free will worth wanting". But even more critically, it appears to be only the *compatibilist* freedom that is compatible with the conceptual edifice of Austrian economics. Additionally, it is worth remembering that even though *compatibilism* per se does not assert the truth of determinism, the very essence of the former doctrine is that free will is indeed compatible with determinism. And since determinism seems to govern the natural world at least on a macroscale, a welcome corollary of our investigations is that Austrian economics (with its reconstructed notion of *free* choice along the compatibilist lines) smoothly coheres with the general scientific world-view. In other words, if Austrian economics proves to be compatible with determinism, then so much the better for Austrian economics, for it is only then that this sort of economics is internally consistent and that the gap between sciences of human action and nature gets at least partially narrowed.

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## Declarations

**Conflict of interest** The authors have no competing interests to declare that are relevant to the content of this article.

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## References

- Austin, J. 1961. "Ifs and cans". In *Philosophical papers*, eds. J. O. Urmson, and G. Warnock, Oxford: Clarendon Press.
- Beebe, H., and A. Mele. 2002. "Humean compatibilism". *Mind* 111: 201–224.
- Block, W. 1980. "On Robert Nozick's 'On austrian methodology'". *Inquiry: A Journal of Medical Care Organization, Provision and Financing* 23 (4): 397–444.
- Block, W. 1999. "Austrian theorizing, recalling the foundations: reply to Caplan". *Quarterly Journal of Austrian Economics* 2 (4): 21–39.
- Block, W. 2009a. "Rejoinder to Machaj on indifference". *New Perspectives on Political Economy* 5 (1): 665–671.
- Block, W. 2009b. "Rejoinder to Hoppe on indifference," *Quarterly Journal of Austrian Economics*, 12(1): 52–59.
- Block, W., and W. Barnett. 2010. "Rejoinder to Hoppe on indifference, once again". *Reason Papers* 32: 141–154.
- Block, W., and W. Barnett. 2012. "Transitivity and the money pump". *Quarterly Journal of Austrian Economics* 15 (2): 237–251.
- Block, W. 2015. "Free will, determinism, libertarianism and austrian economics". *Dialogue*, Issue 3, p. 1; <http://connection.ebscohost.com/c/articles/110798998/free-will-determinism-libertarianism-austrian-economics>
- Bok, H. 1998. *Freedom and responsibility*. Princeton, New Jersey: Princeton University Press.
- Caruso, G. 2019. "A defense of the luck pincer: why luck (still) undermines moral responsibility". *Journal of Information Ethic* 28 (1): 51–72.
- Caruso, G. 2021. *Rejecting retributivism: free will, punishment and criminal justice*. New York: Cambridge University Press.
- Clarke, R. 1993. "Toward a credible agent-causal account of free will". *Noûs* 27 (2): 191–203.
- Copleston, F. 1955. *Aquinas*. Harmondsworth, Middlesex: Penguin Books.
- Copp, D. 1997. "Defending the principle of alternate possibilities: blameworthiness and moral responsibility". *Noûs* 31 (4): 441–456.
- Davidson, D. 1980. *Essays on actions and events*. Oxford: Clarendon Press.
- Dennett, D. 2003. *Freedom evolves*. London: Penguin Books.
- Finnis, J. 1998. *Aquinas: moral, political, and legal theory*. Oxford: Oxford University Press.
- Fischer, J. 2006. *My way*. New York: Oxford University Press.
- Fischer, J., and M. Ravizza. 1998. *Responsibility and control: an essay on moral responsibility*. Cambridge: Cambridge University Press.
- Frankfurt, H. 1969. "Alternate possibilities and moral responsibility". *Journal of Philosophy* 66 (23): 829–839.
- Goldman, A. 1970. *A theory of human action*. Princeton, New Jersey: Princeton University Press.
- Graham, P. 2011. "'Ought' and ability". *Philosophical Review* 120 (3): 337–382.
- Gray, J. [1960] 1984. *Hayek on liberty: 3rd edition* London: Routledge.
- Hausman, D. 2012. *Preference, value, choice and welfare*. Cambridge and New York: Cambridge University Press.
- Hayek, F. A. 1952. *The sensory order: an inquiry into the foundations of theoretical psychology*. Chicago: Chicago University Press.
- Hayek, F. A. [1960] 2011. *The constitution of liberty. The definitive edition* Chicago: University of Chicago Press.
- Heisenberg, M. 2009. "Is free will an illusion?". *Nature* 459: 164–165.
- Hodgson, G. 2004. "Darwinism, causality and the social sciences". *Journal of Economic Methodology* 11 (2): 175–194.
- Hoppe, H.-H. 2005. "Must austrians embrace indifference?". *Quarterly Journal of Austrian Economics* 13 (1): 87–91.
- Hudik, M. 2012. "Transitivity: a comment on Block and Barnett". *Quarterly Journal of Austrian Economics* 15 (4): 456–462.
- Hülsmann, J. G. 2003. "Facts and counterfactuals in economic law". *Journal of Libertarian Studies* 17 (1): 57–102.
- Jeffrey, R. 1983. *The logic of decision*. 2nd ed. Chicago: University of Chicago Press.
- Kane, R. 1996. *The significance of free will*. New York: Oxford University Press.
- Kirzner, I. 2000. *The driving force of the market: essays in austrian economics*. London and New York: Routledge.
- Kramer, M. 2005. "Moral rights and the limits of the ought-implies-can principle: why impeccable precautions are no excuse". *Inquiry: An Interdisciplinary Journal of Philosophy* 48 (4): 307–355.
- Lachmann, L. M. 1977. *Capital, expectation and the market process*. Kansas City: Sheed Andrews and McMeel.
- Levy, N. 2011. *Hard luck: how luck undermines free will and moral responsibility*. New York: Oxford University Press.
- Linsbichler, A. 2017. *Was Ludwig von Mises a conventionalist? A new analysis of the epistemology of the austrian school of economics*. Palgrave Macmillan.
- Mackie, J. 1973. *Truth, probability and paradox*. Oxford at the Clarendon Press.

- Machaj, M. 2007. "A praxeological case for homogeneity and indifference". *New Perspectives in Political Economy* 3 (2): 231–238.
- McKenna, M. 1998. "The limits of evil and the role of moral address: a defense of Strawsonian compatibilism". *Journal of Ethics* 2: 123–142.
- Megger, D. 2021. "Determinism, free will, and the austrian school of economics". *Journal of Economic Methodology* 28 (3): 304–321.
- Menger, C. [1871] 2007. *Principles of economics*. Auburn, AL: Ludwig von Mises Institute.
- Mele, A. 1995. *Autonomous agents*. New York: Oxford University Press.
- Mele, A. 2006. *Free will and luck*. New York: Oxford University Press.
- Morgenstern, O. 1928. *Wirtschaftsprognosen*. Vienna: Julius Springer.
- Moore, M. 1993. *Act and crime*. Oxford: Clarendon Press.
- Moore, M. 2020. *Mechanical choices. The responsibility of the human machine*. New York: Oxford University Press.
- O'Driscoll, G. and M. Rizzo. 1996. *The economics of time and ignorance*. London: Routledge.
- Nagel, T. 1979. *Mortal questions*. New York: Cambridge University Press.
- O'Connor, T. 2000. *Persons and causes*. New York: Oxford University Press.
- O'Neill, B. 2010. "Choice and indifference: a critique of the strict preference approach". *Quarterly Journal of Austrian Economics* 13 (1): 71–98.
- Otsuka, M. 1998. "Incompatibilism and the avoidability of blame". *Ethics* 108 (4): 685–701.
- Parfit, D. 2011. *On what matters*. vol. 1. Oxford: Oxford University Press.
- Pereboom, D. 2001. *Living without free will*. New York: Cambridge University Press.
- Pereboom, D. 2005. "Defending hard incompatibilism". *Midwest Studies in Philosophy* 29 (1): 228–247.
- Pereboom, D. 2014. *Free will, agency and meaning of life*. New York: Oxford University Press.
- Rothbard, M. [1982] 2002. *Ethics of liberty*. New York and London: New York University Press.
- Rothbard, M. [1962] 2009. *Man, economy, and state, with power and market*. Auburn, AL: Ludwig von Mises Institute.
- Rothbard, M. [1956] 2011a. "Toward a reconstruction of utility and welfare economics". In: *Economic controversies*: 289–333. Auburn, AL: Ludwig von Mises Institute.
- Rothbard, M. [1956] 2011b. "The mantle of science". In: *Economic controversies*: 3–23. Auburn, AL: Ludwig von Mises Institute.
- Russell, P. 1995. *Freedom and moral sentiment: Hume's way of naturalizing responsibility*. New York: Oxford University Press.
- Salerno, J. 2007. "What is a causal-realist approach," [mises.org/library/what-causal-realist-approach](https://mises.org/library/what-causal-realist-approach).
- Salerno, J. 2010. "Menger's causal-realist analysis in modern economics". *Review of Austrian Economics* 23: 1–16.
- Strawson, P. 1962. "Freedom and resentment". *Proceedings of the British Academy* 48: 187–211.
- Timmons, B. 1997. "Thomistic metaphysics and the synthetic a priori". *Episteme* 8 (September): 1–13.
- van Schoelandt, Ch., I. Jankovic, and W. Block. 2016. "Rejoinder on free will, determinism, libertarianism and austrian economics". АИ "Ценов": 81–95.
- van Inwagen, P. 1983. *An essay on free will*. Oxford: Clarendon.
- Veatch, H. 1965. "St. Thomas and the question, 'How are synthetic judgments a priori possible?'". *Modern Schoolman* 42 (March): 239–263.
- von Mises, L. [1933] 2003. *Epistemological problems of economics*. 3rd ed. Auburn, AL: Ludwig von Mises Institute.
- von Mises, L. [1949] 1998. *Human action: a treatise on economics. The scholar's edition*. Auburn, AL: Ludwig von Mises Institute.
- von Mises, L. [1957] 2007. *Theory and history. An interpretation of social and economic evolution*. Auburn, AL: Ludwig von Mises Institute.
- Wiśniewski, J. 2009. "Free will and preactions". *Libertarian Papers* 1 (23): 1–9.

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# Social welfare, interventionism, and indeterminacy: In defense of Rothbard\*

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Abstract

The present paper argues that Rothbard's economic case against the state is more robust than suggested by his critics. The charge that it might be anemic is based on the suggestion that we can say literally nothing about the way governmental acts bear on social utility. Contra this supposition we submit that Rothbard's critics missed the fact that the effects of governmental interventions might be actually indeterminate in two ways: weakly or strongly. If the indeterminacy involved in his welfare theory is weak, then his economic criticism of the state is more robust than envisaged by these authors. To the effect that this indeterminacy is indeed weak we advance the following reasons: Rothbard's understanding of the Unanimity Rule; the avoidance of the contradiction allegedly committed by Rothbard over one and the same page of his famous essay; his economic criticism of interventionism being better aligned with his overall ethical anti-governmental stance; the principle of charitable reading, which cuts across all of the previously stated reasons. If our arguments count for something, then we are warranted in claiming that Rothbard is indeed able to say

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something about social utility under interventionism. And if so, then his criticism of interventionism should be viewed as robust rather than anemic.

Keywords

indeterminacy, interventionism, social welfare, Murray N. Rothbard, welfare.

## 1. Introduction

**B**ryan Caplan (1999, p.834) claims that Murray Rothbard's welfare theory provides only a weak basis for the criticism of governmental interventions. Specifically, Caplan argues that what Rothbard can at most establish is that these interventions have indeterminate effects on social utility. It is true, as demonstrated by Joseph Salerno (1993, p.131), that Rothbard does not show that governmental interventions decrease social welfare and so this fact might have prompted Caplan to make the said charge. However, there are still two possible sorts of indeterminacies left to consider, given Rothbard's anti-governmental stance. For the impact of governmental interventions on social welfare might be indeterminate in a strong or a weak sense. In the strong sense, we cannot say whether these interventions increase, decrease or leave social utility unaffected. By contrast, in the weak sense, we cannot say only whether they decrease or leave social utility as it was although what we can say is that they never increase it. Now if Rothbard's criticism of governmental intervention were to involve the strong indeterminacy, then it would indeed be anemic. If, on the

other hand, the indeterminacy appealed to in his welfare theory were to be weak, then his criticism of the government would be much more radical than suggested by Caplan.

In the present paper we argue that the Rothbardian welfare economics<sup>1</sup> should be interpreted as claiming that the effects governmental interventions have on social welfare are indeterminate<sup>2</sup> only in the weak sense, that is, that they can never increase it and that the only indeterminacy they involve reduces to whether they decrease or leave social utility unaffected. Hence, we believe that Rothbard's critique of governmental interventions should be viewed as much more radical than Caplan contends. We posit that unless we construed the concept of indeterminacy in the weak way, we would have to conclude that Rothbard contradicts himself over one and the same page of his paper *Toward a Reconstruction of Utility and Welfare Economics*, which

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<sup>1</sup> An anonymous reviewer rightly noted that it is not very clear whether in this paper we defend Rothbard himself or his welfare theory. What we can offer as a reply is that this paper is meant to be primarily theoretical (even if interpretive at times). Therefore, its main focus is to defend Rothbard's welfare *theory* rather than its author. However, by defending the theory, we, *nolens volens*, defend its author. Given this, irrespective of whether we speak of "the Rothbardian welfare theory" or indeed of "Rothbard's welfare theory", it is *always* the theory itself that we intend to defend.

<sup>2</sup> A compelling case can be made that according to Rothbard's welfare economics it does not make sense to call effects of state interventions 'indeterminate' to start with. Besides the fact that Rothbard himself does not call them 'indeterminate', the idea that they could be indeterminate presupposes that interpersonal comparisons of utility can be made, although the result of such comparisons is, sometimes, indeterminate. However, Rothbard rejected the very possibility of making such comparisons. It is therefore better to say that Rothbard's conclusion that state interventions cannot increase social utility simply and trivially follows from his premise—afforded by his doctrine of demonstrated preferences—that interpersonal comparisons of utility are impossible than to say that the effects of state interventions are indeterminate. Nevertheless, Rothbard's critics base their argument on the concept of indeterminacy. Thus, our ambition in this paper is to meet them on their own grounds and show that even if one accepts their problematic conceptual framework, Rothbard still comes out victorious.

is a highly unlikely diagnosis and an extremely uncharitable thing to say. On the other hand, once we interpret the indeterminacy involved as the weak one, no contradiction ensues and the Rothbardian welfare theory is then unproblematically coherent. Moreover, this interpretation tallies better with both what we argue is the proper Rothbardian understanding of Pareto-Superiority and with his overall anti-governmental anarcho-capitalist stance<sup>3</sup> and therefore with the broader Austro-libertarian framework adopted by this author.<sup>4</sup>

The present paper proceeds in the following fashion. Section 2 introduces the distinction between weak and strong indeterminacy, in terms of which the Rothbardian conception of the impact of governmental interventions on social utility can be analyzed. Section 3 illuminates the relation between the kind of indeterminacy and the strength of his economic criticism of the state. Section 4 argues that the weakly indeterminate character of state interventions into economy follows as a corollary from Rothbard's commitment to the Paretian

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<sup>3</sup> Rothbard's commitment to anarcho-capitalism is probably most plainly laid down in Rothbard (2006; 2009; 2002). For an excellent exposition of the Rothbardian *moral* argument for the free market, see also Juruś (2012).

<sup>4</sup> One of the anonymous referees wondered why it is all important to revisit the debate over the Rothbardian welfare economics. First of all, we believe that we (at least to some extent) contribute to showing that the free market—as opposed to governmental interventions—bears positively on social utility not only *ex ante* but also *ex post*. Granted, for libertarians, the defense of the free market is primarily of *moral* nature. However, as acknowledged by Hausman and McPherson (2006, p.172), “libertarians would like it to be the case that protecting freedom also makes people better off.” After all, it is precisely the task of providing a purely *economic* argument in favor of the free market regime that Rothbard set himself in his paper *Toward a Reconstruction of Utility and Welfare Economics*. And we believe that our paper to some degree fills in the lacuna between the free market (understood as a totality of *rights*-respecting exchanges) and its beneficial *economic* consequences. Second, we submit that the present paper also sheds more light on the Paretian Unanimity Rule, not only a central tenet of the Austrian welfare economics in its Rothbardian version but also an important device adopted in mainstream economics.

Unanimity Rule. Section 5 addresses the challenge levelled at the Rothbardian welfare theory to the effect that he contradicts himself in his assessment of the effects of governmental interventions upon social utility. Section 6 undertakes the problem of coherence of Rothbard's overall theoretical system under alternative interpretations of indeterminacy. Section 7 concludes.

## **2. Strong vs weak indeterminacy**

It is incontrovertible that Rothbard does not say that governmental interventions necessarily decrease social utility. As he himself points out (Rothbard, 1976, p.100), "we cannot say that any action of the State *decreases* social utility." This fact is further confirmed by Salerno (1993, p.131), who says that, contrary to his own "more radical conclusion" which is indeed "able to completely discount any gains, in terms of direct utility or exchangeable goods, that accrue to the interveners and their beneficiaries," what Rothbard "has ably demonstrated on purely scientific grounds" was only that governmental interventions never "increase social welfare." (Salerno, 1993, p.131) This is also acknowledged by Caplan (1999, p.833) saying that Salerno's argument to the effect that the government does reduce social welfare is "stronger than Rothbard's." Likewise, Kvasnička's (2008, p.49) criticism of Herbener (1997, pp.103–104) allegedly getting it wrong that "involuntary interaction [is] 'Pareto-Inferior'" implies that "Rothbard says it correctly" when he submits that "it is only indeterminate." (Kvasnička, 2008, p.49)

It seems that the fact that Rothbard does not claim that state interventions necessarily decrease social utility prompted some of the

above authors to make a charge against Rothbard that his economic criticism of state interventions is anemic. Most notably, Caplan (1999, p.834) argued that:

Rothbard could only claim the welfare effect of government intervention upon social utility is indeterminate. This is an important point because it shows that Rothbard's welfare economics provides a much weaker defense of laissez-faire than usually assumed. In particular, Rothbard's own theory strips him of the ability to call any act of government inefficient. By denying others the ability to endorse state action in the name of efficiency, Rothbard also implicitly denies his own ability to reject state action in the name of efficiency. His welfare criterion justifies agnosticism about—not denial of—the benefits of state.

There are other authors making a similar point. For instance, Kvasnička (2008, p.49) concurs with Caplan to the effect that “even if Rothbard's welfare theory was correct (which it is not), it would be a very weak basis for a critique of governmental meddling with the economy” because governmental interventions, as any involuntary interactions, instead of being Pareto-Inferior are “only indeterminate.” Moreover, Prychitko (1993, p.576) maintains that, according to Rothbard, “we must remain agnostic: we simply don't know” what the effects of state interventions are. All these charges find some additional support in Rothbard (2008, p.252) himself saying that “[a]s economists, we can therefore say nothing about social utility in this case, since some individuals have demonstrably gained and some demonstrably lost in utility from the governmental action.”

There are, however, two ways in which the effects of governmental interventions on social utility can be indeterminate. The first way in which they might be indeterminate is that we cannot say whether

social utility decreases, increases or is left unaffected by governmental interventions. This sort of indeterminacy we label *strong indeterminacy*. Note that if the impact of governmental interventions on social utility were strongly indeterminate, Rothbard would be right saying that “we cannot say that any action of the State *decreases* social utility.” Indeed, we would not be able to say that because we would not be able to say anything, that is, whether these interventions increase, decrease or leave social welfare unaffected.

Now the second way in which governmental interventions might have indeterminate influence on social utility is that we cannot say whether social utility decreases or is left unaffected even though what we can say for sure is that it never increases as a result of such interventions. This kind of indeterminacy we label *weak indeterminacy*. Note again that if the influence of governmental interventions on social utility were to be weakly indeterminate, Rothbard could neither say “that any action of the State *decreases* social utility” because he would not be able to say whether state interventions decrease or leave social welfare unaffected. Therefore, more specifically, even though he would be justified in saying that state interventions never increase social utility, he would not be able to determine whether they decrease or leave it unaffected and so, he would not be prepared to state with certainty that they decrease it.

### **3. Indeterminacy and economic criticism of the government**

As we mentioned above, Caplan and other authors criticize Rothbard for making a very anemic economic case against the state. The reason they cite for this criticism is that, according to Rothbard, the effects

of governmental interventions on social welfare are indeterminate. However, they are not specific enough about the kind of indeterminacy involved in Rothbard's welfare theory. After all, as we saw above, there are two possible types of such indeterminacy and we submit that the Rothbardian criticism of the state would indeed be anemic, as the above-mentioned authors claim, only if the indeterminacy involved in his theory were *strong indeterminacy*. By contrast, his criticism would by no means be anemic if the indeterminacy he talks about were *weak indeterminacy*. For, if the indeterminacy in question were weak, Rothbard would indeed be able to say that governmental interventions can never increase social utility. And that does not seem to be a weak criticism of the state at all.

What is yet due at this point is a word of more precise explanation of why the criticism of governmental interventions following from the adoption of weak indeterminacy would be robust indeed. Note that if the state were an institution which is inherently powerless to increase social utility, there would be no welfare-related point of having it in the first place. Additionally, it would be possible for the state to decrease social welfare although it must be granted that one cannot say with apodictic certainty whether the state would do so in any particular case of its intervention. Given the fact that under this interpretation the state could not increase social welfare and might indeed even decrease it, the Rothbardian criticism appears to be almost as robust as it can get. After all, if showing that a given institution is structurally unable to ever improve social utility does not amount to a robust criticism of it, then almost nothing does.

Now note that Caplan and those other authors do not provide a single reason to prefer strong indeterminacy as the proper way of interpreting the Rothbardian welfare theory. This should come as no surprise because they do not even draw the very distinction be-

tween strong and weak indeterminacy. Thus, even if their criticism of Rothbard's economic case against the government happened to be true, it would nonetheless be unjustified as far as their argument goes. For, as we already made clear, the anemic character of the economic criticism of the government does not follow from the indeterminate nature of its impact on social utility. It would only follow if the indeterminacy in question were to be weak—but this, however, was not established. Moreover, we submit that there are actually four reasons to believe that the indeterminacy in question should be construed as *weak indeterminacy*. First of all, it follows from the way Rothbard understands the Unanimity Rule, a crucial element of his welfare economics. Second of all, it is only weak indeterminacy that would save Rothbard from contradicting himself within the confines of one and the same page of his seminal essay *Toward a Reconstruction of Utility and Welfare Economics*. On the other hand, assuming strong indeterminacy would enmesh him in the contradiction. Certainly, it would be uncharitable to maintain that this author makes two mutually exclusive claims over one and the same page, especially when there is an interpretation available that can easily block making such an improbable charge. Third, weak indeterminacy translates into more robust economic criticism of the state and therefore it best aligns with his anti-governmental ethical stance, thus rendering Rothbard's overall position more coherent. Finally, as already suggested while presenting the second reason, interpreting Rothbard's welfare economics in terms of weak indeterminacy would abide by the principle of charity.

#### 4. Rothbardian understating of the unanimity rule

We submit that the fact that Rothbard adopts the Unanimity Rule as a criterion of welfare-enhancing exchanges provides a reason to believe that the indeterminacy involved in his theory about the impact of governmental interventions on social utility is weak (and hence, that his criticism of the state is robust rather than anemic). How Rothbard conceives of the said rule is evinced by the following lengthy quote:

This Rule runs as follows: We can only say that “social welfare” (or better, “social utility”) has increased due to a change, if no individual is worse off because of the change (and at least one is better off). If one individual is worse off, the fact that interpersonal utilities cannot be added or subtracted prevents economics from saying anything about social utility. Any statement about social utility would, in the absence of unanimity, imply an ethical interpersonal comparison between the gainers and the losers from a change. If X number of individuals gain, and Y number lose, from a change, any weighting to sum up in a “social” conclusion would necessarily imply an ethical judgment on the relative importance of the two groups. (Rothbard, 2008, pp.244–245)

Note that, according to Rothbard, there is only one sort of change after the occurrence of which an increase in social utility can be justifiably predicated and that is the situation wherein at least one party benefits and nobody loses. By contrast, in case in which one party gains while the other loses, that is, “in the absence of unanimity,” we must be left with an indeterminate verdict as to the impact of such changes on social utility. Now the question arises: is the verdict under consideration strongly or weakly indeterminate?

We claim that the corollary of Rothbard’s contention to the effect that “we can only say that ‘social welfare’ [...] has *increased* [...], if

no individual is worse off because of the change (and at least one is better off)” is the weak indeterminacy interpretation of the way governmental interventions influence social utility. After all, if “we can only say” that social welfare increases if nobody loses utility and at least one person gains it, then in the situation wherein there are both utility gainers and losers it must be the case—by way of contraposition—that what we cannot say is precisely one thing only: that social welfare was enhanced. And since we cannot say that it was enhanced, we are justified in saying that it was not enhanced. This in turn leaves us with indeterminacy only about two things, that is, whether (a) social utility diminished or (b) remained at the same level. But this is exactly the weakly indeterminate reading of the way Rothbard conceives of governmental acts vis-à-vis social utility. For indeed, it is the weak indeterminacy interpretation that has it that we are warranted in being agnostic only about whether governmental interventions decrease social utility or leave it unaffected.

To make our point even clearer, note that what Rothbard claims is that ‘We can only say that social welfare increases if no one loses in utility’ (and at least one person gains). We contend that what it means is that only then it is true that social welfare increased. Now by contraposition it must be the case that ‘If someone loses in utility, then we cannot say that social welfare increases.’ Again, we submit that what it means is that it is false that social utility increases in such a case.<sup>5</sup> However, if it is false that social utility increases,

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<sup>5</sup> But why do we claim so? Does not Rothbard say that “[i]f one individual is worse off, the fact that interpersonal utilities cannot be added or subtracted prevents economics from saying anything about social utility” rather than it prevents economics from saying that social welfare increases? He does, but then he adds that we should “conclude therefore that *no government interference with exchanges can ever increase social utility.*” Thus, the point is that it is up for debate how to understand Rothbard’s stance on what is going on when someone loses in utility. Our claim is that it is better to

then it must be true that it does not increase. But does it mean that, therefore, social utility decreases? This does not follow. For even though social utility does not increase, it is still not clear whether it decreases or stays at the same level. This, of course, means that social utility is indeterminate but only in the weak sense, that is, only between two possibilities of decreasing or remaining constant. As to the third possibility, it is determined: “no act of government can ever increase social utility.” (Rothbard, 2008, p.253) Therefore, it seems that the weakly indeterminate character of the governmental bearing on social utility also follows from the Rothbardian understanding and commitment to the Unanimity Rule.

## 5. The contradiction problem

But why assuming *strong indeterminacy* would portray Rothbard as committing simple contradiction? For on the very same page he says

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understand him as saying that it is false that social utility increases in such a case than that we cannot say absolutely anything about it. Why? For one thing, because it avoids what Prychitko called “a careless self-contradiction” in Rothbard (see section 5 below). Second, because opting for the agnostic reading renders Rothbard’s second welfare theorem—that “no act of government can ever increase social utility”—disappointingly uninformative. Of course, “no act of government can ever increase social utility” if no act of government can ever decrease it, increase it or leave it as it is (due to impossibility of interpersonal comparisons of utility). To be sure, then Rothbard’s second welfare theorem follows as a matter of logic, but it follows vacuously, due to the antecedent being false. Finally, the agnostic reading gives rise to the question of why, if we cannot say absolutely anything about social utility in the case of governmental intervention, Rothbard is so keen on saying that therefore “no act of government can ever increase social utility” rather than that no act of government can ever *decrease* social utility? We are equally in the dark about both of these effects. Would then honesty not require that an economist use less prejudicial language in expressing his agnosticism about the effects of state interventions? Our reading of Rothbard avoids these and other problems. Or so it seems to us.

that: “[a]s economists, we can therefore say nothing about social utility in this case, since some individuals have demonstrably gained and some demonstrably lost in utility from the governmental action.” (Rothbard, 2008, p.252) And right after it, he states that: “[w]e conclude therefore that *no government interference with exchanges can ever increase social utility*. . . Given the fact that coercion is used for taxes, therefore, and since all government actions rest on its taxing power, we deduce that: *no act of government whatever can increase social utility*.” (Rothbard, 2008, p.252) Now if the indeterminacy were to be strong, the latter passage would be inconsistent with the former because the former would exclude the possibility of knowing that governmental interventions never increase social utility. After all, strong indeterminacy implies not knowing whether social welfare diminished, stayed unchanged or increased.

Indeed, this was perspicuously noted by Prychitko (1993, p.575), who contends that “the additional claim Rothbard makes about social welfare under interventionism—specifically, that no state intervention can ever increase social utility—is a careless self-contradiction.” This author goes on to indicate that “Rothbard argues, ‘economics can say nothing about social utility in this case. Again. We must remain agnostic: we simply don’t know.’” In the very next paragraph, Prychitko (1993, p.576) additionally notes that:

Yet his next sentence reads: “We conclude therefore that *no government interference with exchanges can ever increase social utility*.” In fact, he goes so far as to proclaim that “since some lose by the existence of taxes, therefore, and since all government actions rest on its taxing power, we deduce that: *no act of government whatever can increase social utility*.” Somehow Rothbard has leapt from agnosticism to certainty:

the state definitely cannot increase social utility. His italics suggest we take his claim seriously, as an apodictic truth. But it's more apoplectic than apodictic.

Granted, as we pointed out above, at least *prima facie* there seems to be a tension between Rothbard's prior assertion to the effect that "economics can say nothing about social utility" in case of state interventions and his apparently bolder statement which has it that "no act of government whatever can increase social utility." Clearly, if it is literally *nothing* that economics can say about the impact of governmental interventions upon social welfare, then this statement warrants greater skepticism than his more informative assertion to the effect that it is only increases in social utility that the state cannot bring about. In other words, Rothbard's first assertion does not seem to rule out *any* effect of governmental acts on social welfare, whereas his subsequent statement explicitly rules out the possibility of governmental interventions ever increasing social utility.

And yet, there is a neat way out of this seeming contradiction. A solution appears to hinge on the way we interpret the Rothbardian contention as to the alleged inability of economics to issue *any* welfare-related verdicts concerning the impact of governmental acts on social utility. We posit that if only we construe the first skeptical assertion by Rothbard along the lines of weak indeterminacy, then the contradiction between his two statements disappears. After all, if *nothing* that economics can say about social utility in case of governmental interventions is only weakly indeterminate *nothing*, then the proposition expressed by Rothbard's first pronouncement is identical with the one expressed by his next sentence. But, most certainly, if the relation between two statements is that of propositional identity, then they cannot contradict one another by any means. Still in other words, if the indeterminacy is interpreted as weak, then it only means that

we cannot say whether social utility decreased or stayed unchanged, something perfectly consistent with saying that it necessarily did not increase. By contrast, if we were to conceive of the first Rothbardian assertion in terms of *strong indeterminacy*, then the contradiction would inevitably ensue, for Rothbard would be effectively saying two inconsistent things at the same time, that is, (a) that we cannot say literally anything about the way governmental acts impact social utility and (b) that whatever the effect of state's intervention upon social welfare is, one thing we know for certain is that the state is powerless to increase social utility.

Now given that it would be most uncharitable to attribute to Rothbard self-contradiction within the space of one and the same page of his essay; taking into consideration the fact that the hypothesis according to which Rothbard contradicted himself over one and the same page is highly unlikely; and, most importantly, having at one's disposal an alternative hypothesis that easily explains away the alleged contradiction and coheres better with the rest of Rothbard's theory, we claim that the most plausible interpretation of *nothing* that economics can say about the influence of state's intervention on social welfare is only weakly indeterminate *nothing*, that is, such that is indeed informative, for it rules out the possibility of governmental acts ever increasing social utility.

## **6. Coherence of Rothbard's economic and ethical criticisms of the state**

Now Caplan and other authors suggest that there is something wrong with a putative fact that Rothbard's economic criticism of the government is anemic. If they had not thought so, they would not have

made a charge of it in the first place. Allegedly, it has something to do with his overall anti-governmental stance, for, on the one hand, he is an adamant enemy of the state as far as ethics is concerned while he is presumably only a weak critic of the government on economic grounds on the other. Besides this fact suggesting that the Rothbardian system might be incoherent across these two branches, it also does not tally well with what Rothbard says about “a fortunate utilitarian result of the free market”, which is “by far the most productive form of economy known to man”.<sup>6</sup> (Rothbard, 2006, p.48)

However, we contend that the apparent incoherence cited above would be attenuated or would disappear completely if the indeterminacy of state’s interventions were to be interpreted as weak. The reason is that then Rothbard’s economic criticism would be more robust, proving that state’s interventions cannot ever increase social utility and thus calling into question the very economic *raison d’être*

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<sup>6</sup> It is well-worth stressing that, according to Rothbard, it is not only *ex ante* but also *ex post* that the free market is economically more efficient than interventionism. Says Rothbard (2009, p.891): “[T]he free market has a smooth, efficient mechanism to bring anticipated, *ex ante* utility into the realization and fruition of *ex post*. The free market always maximizes *ex ante* social utility; it always tends to maximize *ex post* social utility as well.” More, he goes on saying that “the divergence in *ex post* results between free market and intervention is even greater than in *ex ante*, anticipated utility.” Upon saying it, Rothbard brilliantly illustrates how the state’s interventions prove to be counter-productive. For example, the imposition of a *maximum* price set *below* a market-clearing price (i.e. one of the two types of effective price control) inevitably leads to the creation of an artificial shortage. Hence, however benevolently motivated and however beneficial *in expectation*, price control policies fail spectacularly *ex post*. By contrast, as demonstrated by Rothbard, free market is a self-correcting system. It is losses that allow for weeding out those entrepreneurs that do not serve their customers well and it is continual profits that constitute a signal that given entrepreneurs do increase the consumers’ utility *ex post*. Granted, there is no guarantee that *each* market exchange is going to be mutually beneficial *ex post*. However, as perspicuously observed by Rothbard (2009, p.885), “[p]rofits and losses spur rapid adjustment to consumer demands”. All in all, as far as the *ex post* welfare goes, the market still performs better than interventionism.

of the state. After all, then the state would transpire to be at least redundant since it would be economically indifferent at best and harmful at worst. This, of course, would tally much better with Rothbard's otherwise well-known vehement criticism of the state and with his overall anarcho-capitalist stance.

It should be clear that coherence is a virtue of any theoretical system. So, whenever possible, we should strive for it either *via* theoretical revisions or reinterpretations that allow us to achieve it. Because our distinction between weak and strong indeterminacy, and especially the appeal to the former, bolsters coherence within the Rothbardian system whereas its critics' indiscriminate idea of indeterminacy threatens it, this very fact speaks in favor of supporting our reading of Rothbard's welfare economics. Besides, interpreting his utility theory in a way that suggests incoherence in his overall system would run against the principle of charity, particularly when there is an alternative interpretation easily avoiding it. Finally, because Caplan and other critics believe, as we pointed out above, that the alleged weakness of Rothbard's economic case against the state and the incoherence it engenders constitute a vice in his general theoretical system, these authors too should conceive of our distinction as preferable to their own indiscriminate idea of indeterminacy, for it would enable them to get rid of what they themselves consider a vice.

## **7. Conclusion**

The aim of this paper was to argue that—contrary to what some critics maintain—the Rothbardian theory of social utility under interventionism is by no means anemic. That is, the verdicts it reaches are more informative, and therefore less indeterminate, than its critics be-

lieve them to be. Specifically, we posit that Rothbard's welfare theory should be indeed construed as saying that there is one thing that we can say for certain; namely, that governmental acts are powerless to increase social utility.

The reasons we provided for the above contention are four-fold. First of all, in his welfare economics, Rothbard explicitly adopts the Paretian Unanimity Rule as the determinant of welfare-enhancing exchanges. What clearly follows as a corollary from the way Rothbard interprets the said rule is only weakly rather than strongly indeterminate character of state interventions into economy. This in turn means that the best the government can do is to leave social utility unaffected, which calls into question this very institution at least as far social welfare is concerned. It should be noted that such a conclusion reached by the Rothbardian welfare theory does not even remotely resemble supposedly agnostic conclusions attributed to it by its critics. Second of all, we argued that unless we construed the concept of indeterminacy in the weak way, we would have to conclude that Rothbard contradicts himself over one and the same page of his famous paper *Toward a Reconstruction of Utility and Welfare Economics*. On the other hand, if we interpret the indeterminacy involved as the weak one, no contradiction ensues and the Rothbardian welfare theory is then rendered consistent. Third, it is only under weak indeterminacy interpretation that Rothbard's overall theoretical system achieves coherence. And fourth, we pointed to the principle of charity, which would be obeyed only if we stick to our fine-grained distinction between weak and strong indeterminacy. All these reasons operating *via* the discrimination between weak and strong indeterminacy support the final conclusion that Rothbard's economic criticism of the state is much more radical than his critics believe it to be.

## Bibliography

- Caplan, B., 1999. The Austrian Search for Realistic Foundations. *Southern Economic Journal*, 65(4), pp.823–838. <https://doi.org/10.2307/1061278>.
- Hausman, D.M. and McPherson, M.S., 2006. *Economic Analysis, Moral Philosophy and Public Policy*. 2nd ed. Cambridge: Cambridge University Press. <https://doi.org/10.1017/CBO9780511754289>.
- Herbener, J.M., 1997. The Pareto rule and welfare economics. *The Review of Austrian Economics*, 10(1), pp.79–106. <https://doi.org/10.1007/BF02538144>.
- Juruś, D., 2012. *W poszukiwaniu podstaw libertarianizmu: w perspektywie rothbardowskiej koncepcji własności*. Kraków: Księgarnia Akademicka.
- Kvasnička, M., 2008. Rothbard's Welfare Theory: A Critique. *New Perspectives on Political Economy*, 4(1), pp.41–52.
- Prychitko, D.L., 1993. Formalism in Austrian-school welfare economics: Another pretense of knowledge? *Critical Review*, 7(4), pp.567–592. <https://doi.org/10.1080/08913819308443319>.
- Rothbard, M., 1976. Praxeology, Value Judgements, and Public Policy. In: E.G. Dolan, ed. *The Foundations of Modern Austrian Economics*. Kansas City: Sheed and Ward, pp.89–111. Available at: <[https://oll-resources.s3.us-east-2.amazonaws.com/oll3/store/titles/104/0724\\_Bk\\_Sm.pdf](https://oll-resources.s3.us-east-2.amazonaws.com/oll3/store/titles/104/0724_Bk_Sm.pdf)> [visited on 16 April 2024].
- Rothbard, M., 2002. *The Ethics of Liberty*. New York; London: New York University Press.
- Rothbard, M., 2006. *For a New Liberty: The Libertarian Manifesto*. Auburn AL: Ludwig von Mises Institute.
- Rothbard, M., 2008. Toward a Reconstruction of Utility and Welfare Economics. In: M. Sennholz, ed. *On Freedom and Free Enterprise*. Auburn AL: Ludwig von Mises Institute, pp.224–262.
- Rothbard, M., 2009. *Man, Economy, and State: A Treatise on Economic Principles; with Power and Market: Government and the Economy*. 2nd ed. Auburn AL: Ludwig von Mises Institute.
- Salerno, J.T., 1993. Mises and Hayek dehomogenized. *The Review of Austrian Economics*, 6(2), pp.113–146. <https://doi.org/10.1007/BF00842707>.



# Justice vis à vis welfare: how Austrian welfare economics should fit in the Austro-libertarian framework

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## Abstract

The present work calls for a modification of Austrian welfare economics so that it should be given a *distinct* role within the Austro-libertarian paradigm. To this end, we clearly distinguish between justice and welfare. We proceed by trying to stick to the spirit of Austro-libertarianism as firmly as possible. In particular, we operate within the universe of voluntary (viz. rights-respecting) exchanges, having assumed the *libertarian* absolutist side-constraints view of rights. Furthermore, we take for granted the Austrian *actual preference satisfaction view*. The specific purpose of the present paper is two-fold. First, we subject Austrian rights-based welfare economics to critical scrutiny. Concluding that the above theory begs the question in favor of free market, we assert that to gauge market *efficiency* we need to resort to some *descriptive* criterion, which could reasonably be deemed constitutive of welfare. And it is only then that the question of market efficiency is an open question.

**Keywords** Austro-libertarianism · Justice · Voluntary exchange · Welfare economics

**JEL Classification** K110 · P1 · D6

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## 1 Introduction

What initially gave impetus to our investigations was the very phenomenon of Austro-libertarianism<sup>1</sup> as well as a rather intriguing fact that a person's being an Austrian economist makes it very likely that the person is also a political libertarian (see Boettke, 1995). However, this rather strong correlation is particularly puzzling in the light of Austrian programmatic *Wertfreiheit*. If their economics is to be genuinely *wertfrei* (in particular, free of any underlying principles of justice),<sup>2</sup> 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. Consequently, we somehow sensed that this intimate link between political libertarianism and Austrian economics cannot be a mere contingency. Rather, we presumed that there should be some *implicit conceptual* connection between the two. That the above is indeed the case is most conspicuously evinced in the Rothbardian ([1956] 2011) reconstruction of welfare economics as well as in its subsequent defenses.<sup>3</sup>

<sup>1</sup> Austro-libertarianism as a doctrine is perhaps *most explicitly* referred to in Gordon's (2017a, 2017b, 2017c) voluminous work, in Hoppe (2015) as well as in the recent work by Futerman and Block (2021). As Futerman 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". The reasons why—even in the absence of the label *Austro-libertarianism*—we can speak of the marriage of Austrian economics and the libertarian ethic are going to be provided later on in this section when we cite examples of Austrian economic findings coupled with the characteristically libertarian focus on property rights. Still more prosaically, one can think of Austro-libertarians as those Austrians who subscribe to the libertarian ethic of private property rights.

<sup>2</sup> Certainly, not all branches of economics can be *wertfrei*. 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. However, what we object to is for welfare economics to presuppose any theory of justice. And as we are about to see, it is the latter sort of normative entanglement that is damaging for the Rothbardian branch of welfare economics.

<sup>3</sup> It must be granted that the Rothbardian branch of welfare economics does not exhaust all the sorts of welfare theories advanced within Austrian School of Economics at large. However, it would be desirable to assure the reader that the Rothbardian theory is widely shared by the most prominent Austro-libertarian scholars; see: e.g. Hoppe (1990), Gordon (1993), Herbener (1997, 2008), Hülsmann (1999). Still, it must be noted that *some Austrian* welfare theories do not follow Rothbard's footsteps. For example, Kirzner (1988a, 1988b, 1998), identifies social welfare enhancement with increasing coordination of economic agents' actions. Kirzner's criterion of welfare (i.e. coordination) contrasts with the Pareto-criterion employed by Rothbardians in that, as Kirzner (1998, p. 298) puts it, "[n]onetheless use of the Paretian-criterion does...presume a moral acceptance of the satisfaction of individual preferences as an important element of "goodness." Use of the coordination criterion involves no such moral commitment, at all, on anybody's part. Use of the coordination-criterion presumes that those advised by the economist are morally concerned that members of society undertake their actions in a way that does not inevitably spell disappointment and/or regret". In a word, Kirzner's welfare economics differs from Rothbard's in that the former is rather cautious about whether it is preference satisfaction that constitutes welfare, something Rothbard takes for granted with his employment of the Pareto-criterion and demonstrated preference. On the other hand, Kirznerian coordination clearly builds on the Hayekian (1945) defense of the open market, based on the dispersed character of knowledge. The idea is that, roughly speaking, since information in society is dispersed, central planning cannot match the efficiency of the free market. Or in other words, a central planner knows only an infinitesimally small fraction of what all the members of a society know in aggregate and therefore cannot coordinate their actions. Clearly then, there is an implicit premise in Hayek to the effect that it is coordination that translates into efficiency. Another author who jumps on

Having said that, the entire Austro-libertarian edifice seems to be caught in a predicament. On the one hand, Rothbard and (much later) Herbener purport to provide a *distinct economic* argument for free market from efficiency.<sup>4</sup> And their pretenses notwithstanding, as we are about to see, their agenda fails as the idea of mutually beneficial exchanges they employ presupposes the free market. The above statement holds true since both authors find *voluntariness* of a given exchange sufficient to make it mutually beneficial, with voluntariness being defined *solely* in terms of the absence of right-violating acts or proposals. But if that is so, then it is the free market as a rights-respecting regime *alone* that *necessitates* mutually beneficial exchanges only. However, given this tight conceptual link between property rights and beneficial exchanges, whether the free market is efficient or not is not an open question any longer. The *avowed economic case* for the free market proves to be just an illusion. Instead, upon final analysis, the Rothbardian welfare economics merely reaffirms the author's natural-rights-based defense of the free market provided elsewhere (e.g. Rothbard, [1973] 2006).

In fact, the Rothbardian welfare economics is not just an isolated case wherein justice-related considerations are inextricably intertwined with Austrian economics. In fact, the general case for the existence of Austro-libertarianism can easily be made. To illustrate our point, let us just cite some of the most conspicuous realms of Austrian economics presupposing the libertarian ethic. For instance, Austrian entrepreneurship theory (e.g. Kirzner, 1973) rests on the assumption that entrepreneurs discover temporarily undervalued means (relative to the ends attainable therewith) while *voluntarily* (i.e. under the condition of respecting rights) interacting with other actors. Similarly, there are Austrians whose monopoly theory takes monopoly to be essentially a result of the government illegitimately bestowing trading

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Footnote 3 (continued)

the Hayekian tradition is Huerta de Soto (2009). This author stresses the *temporal* dimension of resource allocation. Hence, he is not preoccupied with mere allocative efficiency, that is distributing resources *at a given time* in such a way that no further mutually beneficial exchanges are possible, the so-called state of Pareto-optimality. Rather, this author emphasizes the fact that new information is generated *over time* by entrepreneurial efforts and thus economic possibilities (for mutually beneficial trades and for speculation) also expand *over time*. In short, for Huerta de Soto, it is this *dynamic* aspect—and not the problem of mere allocation of resources at a given time—that primarily matters. There is, of course, more to be said about different Austrian welfare theories but due to space constraints, we must, sadly, rest content with this necessarily sketchy overview. Suffice it to say that the present essay deals with the Rothbardian branch of Austrian welfare economics and our criticism is levelled precisely at this branch. On a final note, to avoid the tediousness of the prose, from now onwards whenever the phrase “Austrian welfare economics” is used, what will be thereby meant is the Rothbardian branch thereof unless specified otherwise.

<sup>4</sup> A word of explanation is due at this point. Certainly, *efficiency* as such “is the measure of how well we have achieved our goal” (Wight, 2015, p. 59). Therefore, in our present work, what we are going to mean by *market* efficiency is a measure of the extent to which *the market* contributes to people's *welfare* (whatever constitutes it). This tallies well with our overall agenda involving the distinction between two independent goods within Austro-libertarianism: justice and welfare, with the former being accounted for by the libertarian prong of the above doctrine, and the latter being an exclusive domain of Austrian *welfare* economics.

privileges (e.g. Rothbard, [1962] 2009). Moreover, Austrian business cycle theory<sup>5</sup> (e.g. Huerta de Soto, [1998] 2006) interestingly relies on normative considerations (viz. banks acting *unrightfully* lending depositors' money). Furthermore, Austrian definition of inflation (e.g. Hülsmann, 2008) also characteristically presupposes governmental violence, and is hence also normatively tinted (viz. being rights-based). 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”. Just to reiterate, it is in this sense that we can validly speak of Austro-libertarianism. To wit, there are scholars, such as the ones mentioned above, who combine the Austrian positive reasoning with the libertarian ethic of property rights.

However, we take no issue with the mere fact that many Austrian theories simply assume this ethic.<sup>6</sup> Quite the contrary, this very fact in and of itself is not damaging at all, for 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. For Austrian welfare theory to be meaningful, it must relate the regime of property rights (the libertarian prong) to welfare, with the latter being identified by Austrians with actual preference satisfaction (e.g. Mises, [1949] 1998, pp. 94–97).

To make Austrian welfare economics *informatively* contribute to the study of welfare on the free market, we argue that we should clearly distinguish between *two* types of *good*. First, in order to fit nicely within Austro-libertarian framework, Austrian welfare economics should take the libertarian ethic of private property rights for granted. And secondly, it should focus on the actual preference satisfaction, which economists at large usually take to be constitutive of welfare (see: Hausman, 2012; Wight, 2015). And only then, we can *meaningfully* probe the problem of how the free market relates to actual preference satisfaction without begging any question in favor of the former. Furthermore, while keeping to the uncompromising spirit of the libertarian theory of

<sup>5</sup> An incisive anonymous referee drew my attention to the fact that the reliance on normative considerations is not anything specific to Austrian economics. Nay, normativity in economics applies across the board. That is, all branches thereof are not entirely free of it. Granted, however, as it will transpire in the course of the narrative, 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). However, there are also such value-laden judgements that are indeed troubling to this science. In particular, in welfare economics, if the notion of welfare-enhancement were to already presuppose a specific idea of *justice*, then arguing from the concept of welfare for a social arrangement embodying that form of justice would be viciously circular. Precisely this dialectical fallacy haunts the Rothbardian alleged argument for the free market efficiency.

<sup>6</sup> After all, is it not what we should expect Austro-libertarianism to consist in?

justice (see Block, 2017; Hoppe, 1993; Nozick, [1974] 1999; Rothbard, [1982] 2002),<sup>7</sup> we shall take justice as lexically prior to welfare,<sup>8</sup> with the former being a non-tradable good weighing infinitely more than welfare.

The present paper proceeds in the following order: in Sect. 2 we provide an overview of the general concepts of justice and welfare as well as probe the possible relations between the two. Having done so, we try to identify the *specifically* Austro-libertarian notions of justice and welfare. In Sect. 3, we subject Austrian welfare economics to critical scrutiny. In Sect. 4, we hint at some formal requirements that Austrian welfare economics should satisfy to coherently fit within Austro-libertarianism as well as to be able to *informatively* study market efficiency. Section 5 concludes.

## 2 Welfare, justice and the relation between the two

In this section, we are going to be concerned with two types of good that are of utmost importance to our essay; that is, justice and welfare. To this end, we shall provide a brief overview of various theories of welfare and justice as well as of different ways in which the relation between the two might be conceived of. Having thus mapped the general conceptual terrain, we shall place Austrian welfare economics and the libertarian theory of justice within the sketched framework, while making sure that Austrian economics is relegated to deal with justice-independent welfare and libertarianism—with justice construed independently of welfare considerations.<sup>9</sup>

Without doubt, welfare economics is at the bottom a normative enterprise. Whatever 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*.<sup>10</sup> Incidentally, the very problem

<sup>7</sup> As might be expected, this *absolutism* (so characteristic of right libertarians) of Nozickian rights as side constraints was criticized by more moderate thinkers of liberal or libertarian persuasions (e.g. Callahan, 2013; Hudik, 2015).

<sup>8</sup> The principle of lexical priority of justice was famously defended by Rawls (1971). However, the rights recognized by the Rawlsian principle of justice differ from the ones recognized by the strictly libertarian theory of justice.

<sup>9</sup> Although we shall take for granted the absolutist libertarian view of the priority of justice over welfare (viz. actual preference satisfaction), it does not imply that justice and welfare are not independent. Quite the contrary, we subscribe to the view that justice and welfare are two distinct goods but that the former weighs infinitely more than the latter. This means that compromising even on an infinitesimally small marginal unit of justice cannot be compensated by *any* increase in welfare. Or, as Simmonds (1986, p. 143) puts it: “[...] we do not think of rights as coming and going with our changing calculations of utility: if people have a *right* to speak freely, that right does not cease to exist the moment it comes into conflict with the general welfare. Indeed, many would suggest that it is precisely when they conflict with the general welfare that rights become truly important, for they should be understood, not as steps on the way to the maximisation of utility, but as constraints that limit what can permissibly be done in pursuit of utility”. In other words, side constraints ultimately delineate what is permissible. However, side constraints per se do not commit us to the view that once an act is deemed impermissible, welfare considerations stop counting morally at all. Note that if so, welfare economics has a job to do even given unjust exchanges—the point we share with e.g. Sheinman (2005).

<sup>10</sup> And if such a property or fact is not identified, welfare economics should at least specify *how* to discover what is good for economic agents. The usual *proxy* (or *evidence*) for what is inherently good for economic actors is their actual preferences, which are in turn revealed in their respective choices (see:

of what *constitutes* welfare and what can thus serve as a *standard* for welfare comparisons makes welfare economics such an interesting and contentious discipline. One—and very general at the same time—important division of theories of well-being is mentioned in Hausman and McPherson (2006, p. 119):

Theories of well-being can be classified as either “formal” or “substantive. A substantive theory of well-being says what things are intrinsically good for people. “Hedonism” is an example of a substantive theory of well-being; it says that well-being is happiness or pleasure. “Formal” theories of well-being specify how one finds out what things are intrinsically good for people, but they do not say what those things are. To maintain that welfare is the satisfaction of preferences is to offer a formal theory of well-being. This theory does not say what things are good for individuals. Instead it says how to find out: by seeing what people prefer. Formal theories may be compatible with substantive theories. For example, if happiness is the ultimate object of preference, then it could be true both that well-being is the satisfaction of preference and that well-being is happiness.

As far as *substantive* theories of welfare go, the literature dedicated to them is enormous (e.g.; Crisp, 2006; Parfit, 1984, 2011a, 2011b; Scanlon, 1998; Sumner, 1996). These days, some of the most hotly debated theories of welfare are hedonism, desire-based theory and objective list theories (e.g. Lauinger, 2017; Woodard, 2013).<sup>11</sup> However, economists are normally committed either to actual preference satisfaction view (a formal theory of welfare which regards people’s actual preferences as proxies for what is good for them) or to the view identifying welfare with the satisfaction of needs, with the latter being subscribed to by economists bent on utilitarian calculations (Hausman & McPherson, 2006, p. 111).

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Footnote 10 (continued)

Hausman 2012, pp. 88–100). The usual reason why actual choices are only an imperfect (and therefore only a proxy) evidence of what is good for economic actors is that economic actors normally hold (to a lesser or greater degree) false beliefs. In an extreme case, imagine an actor who desires to quench his thirst and believes that the bottle nearby contains water and so grabs it and drinks its content. However, the bottle contains poison. Certainly, given his false belief, we cannot infer that picking up poisonous drink was (instrumentally) good for the actor as the outcome was much worse than what the actor desired; viz., he died rather than quenched his thirst. However, Austrian economists are usually concerned with benefitting *in expectation*. For this reason, even in the above-presented extreme scenario, we can always maintain that picking up the bottle with poison benefitted the actor *in expectation*. After all, the actor believed that this action would satisfy his most pressing need.

<sup>11</sup> On hedonism, what contributes to our well-being are pleasant mental states, however broadly conceived. Hedonism differs from desire-based theories in that on latter theories, a desire may be *satisfied* and thus allegedly render the actor better off without the actor’s necessarily having an accompanying *feeling* of satisfaction. In other words, according to desire-based theories, what would matter for one’s welfare enhancement is the *sole* fact that the world turned out as desired. Eventually, on objective-list theories, what constitutes one’s well-being is the achievement of certain goals, such as, say, knowledge, friendship etc., regardless of whether or not achieving them translates into a pleasant mental state or not and whether they are desired or not. For an excellent and comprehensive exposition of the theories of well-being, see Parfit (1984). For the classical and simultaneously uncompromising defense of the pleasant-mental-state conception of well-being, see Brandt (1979).

Austrian economics, as already hinted at, instantiates a *formal* theory of welfare. That is, it studies economic actors' choices, then infers their preferences therefrom, and finally it treats those preferences as *evidential* of what is good for the actors in question (see: e.g. Mises, [1949] 1998, pp. 94–97). The reason why in Austrian economics choices must be treated as only evidential (or proxies) of what is good for respective choosers is that the Austrian view has it that at the moment of choice they benefit only *in expectation*. That is, it might as well turn out that *ex post* they in fact lose due to their false beliefs. Just to provide one more example, suppose person A chooses to buy a book on economics since he desires to increase his knowledge on the subject and believes that this book will enable him to do so. However, the book turns out to be badly written and the agent ends up learning very little from it. In conclusion, buying a book was not—with the benefit of the hindsight—instrumentally good for the actor involved. After all, buying the book did not contribute much to the satisfaction of his desire. However, given more or less correct beliefs, particular choices are a pretty reliable guide to what is good for the economic agents.

Still, given our commitment to Austro-libertarianism, welfare (however broadly conceived) does not exhaust our normative realm. It is the libertarian prong of Austro-libertarianism that forces us to pay due attention to considerations related to justice. It is not only a libertarian theory of justice but theories of justice in general that serve—in one way or another—to distribute rights. 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? As for the former option, 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”.<sup>12</sup> 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. The so-called principles of justice in original appropriation explain *how* one may acquire ownership of a thus far unowned resource. In this regard, the two competing theories are (a) the labor theory (e.g. Block, 2008; Rothbard, 1969) and (b) the first possession theory (e.g. Epstein, 1979; Hoppe, 2015; Kinsella, 2008). The former accounts for the original appropriation in terms of mixing one’s labor with a resource, whereas the latter takes first possession to count as a fact which earns the first possessor a property title in a possessed thing. As for principles of justice in transfer, libertarians recognize consent and title

<sup>12</sup> Note that this is most relevant to our project. It remains to be shown whether there are inefficiencies on the free-market. We take the libertarian moral case for the free market for granted. However, our positive agenda is to formally reconstruct Austrian welfare economics in such a manner that it should be able to non-question-beggingly address the problem of market efficiency or inefficiency for that matter.

transfer theory of contracts. Then again, in neither of them, welfare figures as an important factor.

What is also worth mentioning is that normally for libertarians, rights count as *absolute* side constraints. To wit, their violation cannot be justified at all on the grounds that welfare was thereby increased. That is to say, the *absolutism* of libertarian rights implies that they weigh infinitely more than welfare. (e.g. Block, 2017; Nozick, [1974] 1999; Rothbard, [1982] 2002).

What runs counter to typically libertarian rights absolutism are those theories that maintain that “the problem of right articulation can be formulated as one of selecting rules that maximize good consequences” (Hausman & McPherson, 2006, p. 167). Such theories are broadly labelled as consequentialist ones. Under those theories, good outcomes (or welfare for that matter) are logically prior to rights (and correlatively: to duties). To put it more precisely, it is good outcomes (or welfare-maximizing states of affairs) that must be *first* identified. Only then, can one assign rights and—correlatively—duties. Still in other words, specific distributions of rights (and duties) depend on good consequences or on welfare-maximization, if you will.<sup>13</sup> To wit, a moral agent *ought* to bring about (if he can) such a state of affairs that is *best*. And conversely, a sub-optimal state of affairs is such that one has a duty not to bring about. Note the contrast: for libertarians, the facts that would *invest* people with *rights* are not related to good outcomes at all, with what counts as a good outcome depending on a theory of welfare. Rather, the said facts are amoral. These are either about homesteading (mixing one’s labor with a resource) or about the first possession. What follows is that under libertarianism it is logically possible to have a right to do something that would *not* bring about the best possible outcome—a logical impossibility on the grounds of consequentialism.

Another very important strand of thought modeling rights (or, more precisely, legal institutions) along the lines of welfare-maximization is the economic analysis of law. This tradition is mainly associated with the pioneering works by Coase (1960) and then Posner (1973). Also, the insight that the common law is efficient is pervasive in Friedman (2000). Then again, libertarianism stands in sharp contrast to the Coasean and Posnerian view.<sup>14</sup> To reiterate, the original rights assignment according to the libertarian theory of justice in acquisition is a function of two facts: (a) homesteading and (b) first possession, with welfare-related considerations being immaterial in this respect.

There is one more interpretation of the relation between justice and welfare naturally stemming from the claim that “(...) rights (and again especially property rights) are often taken as starting points in economic analysis. For example, analyses of the distributional properties of economic arrangements often begin from a given allocation of property rights” (Hausman & McPherson, 2006, p. 165). This in turn might prompt conceiving of welfare as *presupposing* justice. In other words,

<sup>13</sup> Contemporary utilitarians are most explicit about this *derivative* nature of rights and duties (e.g. Broome, 2013; Parfit, 2011a, 2011b).

<sup>14</sup> As Hausman and McPherson (2006, p. 172) put it: “(...) philosophical libertarians would reject Coase’s consequentialist view of rights as welfare-enhancing devices (...)”.

welfare-enhancing or welfare-diminishing exchanges would be a justice-bound sphere. That is, no exchanges could even count as welfare-enhancing or welfare-diminishing unless they were just in the first place. This view was subscribed to by e.g. Dworkin (1990). In his *Justice and the Good Life*, Dworkin construes justice as a *condition* of welfare. As we understand it, whatever it is that constitutes welfare would have no normative importance unless the demands of justice are first satisfied. If we were to conceive *in this manner* of the relation between justice and welfare within Austro-libertarianism, we would be committed to saying that a preference-satisfying or preference-frustrating exchanges are powerless to render a given economic actor *better off* or *worse off*, respectively, unless property rights were respected in the meantime. More technically, as long as the demands of justice are not satisfied (in our case, property rights are violated), then actual preference satisfaction (or frustration) is irrelevant to the *overall good* of a given outcome. Still in other words, when rights are infringed upon, whether some actual preferences are satisfied or indeed frustrated cannot make *any* difference to the overall good of an outcome. By contrast, what we take to be an overall good of an outcome is always a function of both (1) respecting or not respecting rights and (2) actual preference satisfaction or frustration, with the proviso that rights weigh infinitely more than welfare. Hence, in our model, welfare (or, more precisely, whatever constitutes welfare) matters *independently* of whether justice was given its due or not with the caveat that unjust outcomes with a very high degree of actual preference satisfaction are still infinitely worse *on balance* than just outcomes with a low degree of actual preference satisfaction. The inquisitive reader might wonder if there is any *sufficient* reason to prefer our view on the relation between justice and welfare to Dworkin's. What we can offer at this point is just an intuition. Suppose *A* is a very affluent person living in a beautiful house. However, he is stuck with an old useless sofa at the back of his garden. Person *A* genuinely consider the sofa an economic bad. Therefore, he would be even ready to pay for the removal of this ugly bulky item. Obviously, he would rather sell it at a positive price. Alas, there is no market for old pieces of furniture in his area.<sup>15</sup> Moreover, even if there were a market price for such items, *A ex hypothesi* would not bother to sell it. After all, he is very rich and the opportunity cost of selling the sofa would be too high. For the sake of argument, we can also stipulate that even if the opportunity cost would not be too high, *A* can be blissfully unaware of the existence of a market price for this sort of items.<sup>16</sup> Therefore, *whichever* scenario obtains; that is, whether *A* finds selling the sofa unworthy of all the effort necessary or he is simply unaware of a possibility of getting rid of it at a positive price, one day he notices that a thief enters his premises and starts

<sup>15</sup> An incisive anonymous reviewer rightly pointed out that apart from use value, resources have an exchange value. Therefore, in presenting the present variation on the original thought experiment, we will assume away the possibility of the sofa having a market value. However, we believe that for reasons indicated in the main text, even in the presence of a market price for such old sofas, our forthcoming point would stand.

<sup>16</sup> In this scenario, even if *A* were to later find out that he could have sold the sofa at a positive price, he would still be benefiting *in expectation* if somebody were to steal the sofa from him, given his present belief that he cannot sell the item but can only pay for its removal.

stealing the sofa. To his delight, *A* realizes that he is just having the economic bad<sup>17</sup> removed for free. Moreover, it seems that both parties benefit from this illegitimate transfer: the uncompelled thief, after all, engaged in the act of theft, whereas *A* omitted<sup>18</sup> to prevent the theft. The latter might have stepped in but did not, thus demonstrating that he deemed allowing the thief to do his job preferable to anything else he saw as a possibility. And crucially, by assuming that *A* had a property right in the sofa and did not explicitly consent to the thief's taking possession of it, the libertarian principle of justice in transfer would condemn this act (this exchange) as unjust. Still, if the reader shares our intuition that despite the actual injustice in question, the world was rendered better *at least in one other respect*<sup>19</sup>; viz. welfare increased, then our view that welfare matters independently of justice is given enough plausibility.

So, in the end, Dworkin's (1990) view subtly but importantly differs from the absolutist side-constraints view of rights we adopt herein. Our perusal of the relation between justice and welfare is that of a *lexical priority* of the former over the latter, with both and justice and welfare contributing *independently* to the overall good of an outcome, whereas on Dworkin's view, welfare fully depends on justice in such a way that *only* when postulates of justice are satisfied can welfare (or rather, whatever constitutes it) exert its normative force.

To summarize, the adoption of our libertarian prong of Austro-libertarianism commits us to the lexical priority of justice over welfare. On the other hand, Austrian welfare economics is relegated to study whatever constitutes welfare independently of whether standards of libertarian justice were met or not. The fact that we are about to study in (efficiencies) *given* the free-market regime does not then imply the justice-bound view of welfare. Quite the contrary, as stressed out many a time before, justice and welfare are two distinct and incommensurable goods, with the former weighing infinitely more than the latter. The reason we shall focus on the question of (in)efficiency *on the free market* is that we take our libertarian prong for granted. Our agenda is to provide a conceptual framework that would allow for coherent moral assessments *within* Austro-libertarianism. But before we *formally* carve out the proper area of study for Austrian welfare economics within the Austro-libertarian doctrine, we shall demonstrate why the received Rothbardian welfare economics (and the Herbenerian defense thereof) fails.

<sup>17</sup> Note that we *stipulate* that *A* treats the sofa as an economic bad in order to comply with the Austrian principle of the impossibility of interpersonal utility comparisons. It seems that our stipulation guarantees that both parties benefit (their preferences are satisfied) due to *A*'s theft. After all, the outcome in terms of actual preference satisfaction is identical to the one which would obtain were the current thief to consensually get the sofa for free. For other economists allowing for interpersonal utility comparisons, the assumption that *A* values the sofa negatively would be too strong. It would be sufficient if we intuitively conclude that the thief's act of stealing benefits him more than it harms *A*—the interpretation our thought experiment is designed to invoke anyway.

<sup>18</sup> Note that on Austrian grounds, omissions count as actions. Mises ([1949] 1998, p. 13) had it that “[a]ction is not only doing but no less omitting to do what possibly could be done.” Therefore, we can unproblematically conclude that *A* demonstrated his preference. Granted, he was omitting to prevent the theft but he acted nonetheless.

<sup>19</sup> However, we should bear in mind that the world after the theft compared to the possible world in which no theft would occur is (infinitely) worse.

### 3 The attempt to debunk Austrian welfare economics

Before we scrutinize Rothbard's apparently *economic* argument for the free market, it must be first granted that Rothbard ([1973] 2006, pp. 48–49) in another work endorses the free-market economy *independently* of 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 it is not, to the libertarian, the prime reason for his support of this system. That prime reason is moral and is rooted in the natural-rights defense of private property we have developed above. Even if a society of despotism and systematic invasion of rights could be shown to be more productive than what Adam Smith called 'the system of natural liberty', the libertarian would support this system. Fortunately, as in so many other areas, the utilitarian and the moral, natural rights and general prosperity, go hand in hand.

And yet, in his *Reconstruction of Welfare Economics*, he sets himself an additional task of arguing *for* the free market *from* the concept of welfare.<sup>20</sup> In our view, the Rothbardian project fails and it does so on two counts. First and foremost, 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 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. General remarks aside, let us critically scrutinize how the Rothbardian deductive reasoning unfolds in detail.

After putatively repudiating all hitherto proposed theories of welfare economics, Rothbard ([1956] 2011, p. 320) launches his new positive account thereof by saying:

Let us now consider exchanges on the free market. Such an exchange is voluntarily undertaken by both parties. Therefore, the very fact that an exchange takes place demonstrates that both parties benefit (or more strictly, *expect* to benefit) from the exchange. The fact that both parties chose the exchange demonstrates that they benefit. The free market is the name for the array of all the voluntary exchanges that take place in the world. Since every exchange demonstrates a unanimity of benefit for both parties concerned, we must conclude that *the free market benefits all its participants*.

<sup>20</sup> There is, as mentioned before, a subsequent Austrian economist who *expressly* sticks to the view that Rothbard in his reconstruction of welfare economics provides an *economic* (and hence independent of a natural-rights justification) argument for the free market. The said economist is Herbener (2008, p. 1), who recapitulates the point succinctly: "Rothbard's demonstration that *laissez-faire* renders the greatest social welfare in the real economy is shown to be valid".

Having quoted Rothbard at length, let us establish why we contend that the above reasoning is question-begging. For the sake of convenience, let us represent his argument in a syllogistic form:

1. All voluntary exchanges are beneficial (or at the very least, the parties thereto *expect* to benefit)
2. All market exchanges are voluntary exchanges
3. Therefore:
4. All market exchanges are beneficial (or at the very least, the parties thereto *expect* to benefit).

Also, crucially, Rothbard adds that “[t]he free market is the name for the array of all the voluntary exchanges that take place in the world.” But then, premise 2 is a *definition*. Certainly, we take no issue with this definition. It might be simply understood as a *terminological stipulation*. So far, so good. What is more, we do grant the *validity* to the above reconstructed argument made by Rothbard. Still, we believe that the above argument suffers from a dialectical fallacy of beginning the question. For it seems to us that the only audience who would not find the above argument question-begging is the one which is unaware of the way Rothbard uses the phrase ‘free market’. In other words, if a person is *already* convinced that all voluntary exchanges are beneficial (*viz.*, he would accept premise 1), he would find the conclusion informative, for he would learn that free market is equivalent with all voluntary exchanges. This is closely paralleled to the example given by Walter Sinnott-Armstrong (1999, p. 176). Consider this argument:

Suppose Kate says to Larry, ‘Mary lives in Buckeye State’. Larry responds, ‘No. I’ve never heard of the Buckeye State, but Mary lives in Ohio’. Kate then argues,  
(A3) Ohio is the Buckeye State.  
Mary lives in Ohio.

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Mary lives in the Buckeye State.

The second premise is equivalent to the conclusion, since Ohio is the Buckeye State. So Kate’s argument is weakly circular. But Kate’s use of the argument is still informative for Larry, who did not know that Ohio is the Buckeye State.

By the same token, the Rothbardian conclusion (“all market exchanges are beneficial”) is equivalent to his premise 1 (all voluntary exchanges are beneficial), since all market exchanges *are* voluntary exchanges.<sup>21</sup> So to reiterate, the above argument does not beg the question *only* against the audience which is not informed about the Rothbardian terminology (the use of the phrase ‘free market’). However, and more interestingly, any audience skeptically inclined towards its *substantive* conclusion

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<sup>21</sup> Remember, according to Rothbard, the former is “the name” for the latter.

(3)<sup>22</sup> cannot be persuaded by the argument's only *substantive* premise (1) for (1) only *restates* (3). This in turn meets the criterion for an argument to beg the question. By analogy, anybody who knows that Ohio is the Buckeye State but casts doubt upon the conclusion of (A3) argument, that very argument cannot work, for its second premise ("Mary lives in Ohio") merely restates "Mary lives in the Buckeye state" and the latter is precisely this proposition that the person in question doubts.

Shifting back to the Rothbardian argument, let us note that it suffers from the fallacy of begging the question due to its inadequate account of *voluntariness*. As a brief aside, let us consider how to remedy the Rothbardian argument. On the face of it, premise 1 (viz., all voluntary exchanges are beneficial) seems very plausible. Indeed, premise 1 can be given a fairly straightforward reading which would amount to just a neat way of saying that a *voluntary* exchange is *indicative* (or *evidential*) of welfare-enhancement (see: Hausman, 2012, pp. 88–103; Scanlon, 1998, pp. 115–116).<sup>23</sup> But under this interpretation of voluntariness, 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.<sup>24</sup>

Given the said inadequacy (if not the sheer absence) of the Rothbardian account of voluntariness,<sup>25</sup> we should perhaps look further to find some ruminations on how free market exchanges relate to voluntary exchanges. Luckily, this task is performed by Herbener (2008, p. 61), who is rather explicit on the above relation:

Voluntary and involuntary interactions are defined in economics to recognize the distinction between cases in which it is possible to deduce that a person is better off from an interaction with another person and cases in which it is possible to deduce that he is worse off. Each person comes to an exchange with his naturally-owned property. A voluntary exchange occurs when neither trader uses or threatens violence against the property of the other. If the two persons trade the ownership of property without aggressive violence, then the exchange is voluntary. Given their natural ownership of property, each person

<sup>22</sup> And we do have a reason to doubt this conclusion, as our forthcoming thought experiments shall aptly demonstrate.

<sup>23</sup> In most likelihood, this perusal would effectively divorce the concept of voluntariness from the concept of rights; or, at the very least, the conceptual link between the two would be attenuated. Still, whatever this *voluntariness* specifically would mean then, there is something intuitively appealing in the idea that a voluntary choice is a sufficient *indication* of the economic actor's benefitting *ex ante*. Although we would be left then with an unanalyzed concept of voluntariness, we should still be satisfied with the negative claim that whatever a voluntary exchange consists in, it *does not reduce to free-market exchanges*. If they did, we would be back to the original Rothbardian question-beginning reasoning.

<sup>24</sup> Normally, not much turns on words and therefore, instead of redefining *voluntariness*, we shall stick to the libertarian rights-based use thereof. However, bearing in mind our crucial distinction between justice and welfare, we shall demonstrate that the idea of welfare-enhancement is separate from the idea of just exchanges.

<sup>25</sup> Remember, Rothbard used "voluntary exchanges" as a *definiens* of market exchanges without specifying what the former consist in.

chooses an alternative he prefers more than the non-interaction alternative. Both traders benefit. If one person violently aggresses against the property of the other person, then the exchange is involuntary. Given their natural ownership of property, the aggressor chooses an alternative that he prefers more than the non-interaction alternative and the victim is forced to choose an alternative that he prefers less than the non-interaction alternative. The aggressor benefits and the victim loses.

As we can easily see, Herbener perceives *voluntariness* of an exchange as a function of one and only one variable. In short, 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. Furthermore, Herbener contends that whether parties benefit is a function of whether the exchange was voluntary in the first place. After all, to reiterate, he says that “[i]f the two persons trade the ownership of property without aggressive violence, then the exchange is voluntary. Given their natural ownership of property, each person chooses an alternative he prefers more than the non-interaction alternative. Both traders benefit.” So, in the end, his chain of reasoning is as follows:

- (1) voluntariness/involuntariness of an exchange is a function of *only* the absence/presence of aggression and/or threat thereof, respectively.
- (2) whether the parties to an exchange benefit/do not benefit is a function of *only* voluntariness/involuntariness of that exchange, respectively. So, *ultimately*.
- (3) whether parties to an exchange benefit/do not benefit is a function of *only* the absence/presence of aggression and/or threat thereof, respectively.

But note, in final analysis (as (3) has it), whether parties to an exchange benefit or not *does not depend* on whether the parties exchange voluntarily or involuntarily. Rather, positively speaking, the prediction is that both parties to an exchange benefit from it if it involves no right violation and that the exchange fails to be mutually beneficial if it does involve a right violation.<sup>26</sup> Somehow voluntariness of an exchange was taken out of the picture without any loss in explanatory or predictive power of the theory under consideration. If that is so, Herbener errs claiming that Rothbard makes a *distinct economic* argument for a free-market regime. If our above analysis is correct, Rothbard (rather implicitly) and Herbener (quite explicitly) *merely* restate the libertarian ethic of property rights they both adhere to. After all, introducing the *rights-based concept of voluntariness* cannot *by itself* render the argument economic in its nature. Just to reiterate, to *discover* that parties benefit from market exchanges is to have a market-independent account of *voluntariness*. Falling short of

<sup>26</sup> Note that the rights-based concept of voluntariness abounds in subject-matter literature. One of the most outstanding proponents of the moralized view of coercion and voluntariness is Wertheimer (1987). In turn, the defender of two baselines (one moral, and the other statistical) for assessing coerciveness of proposals was Nozick (1969). Olsaretti (1998), on the other hand, levelled a very illuminating criticism at the rights-based concept of voluntariness. There is no room to adjudicate between various philosophical accounts of voluntariness. We rather take the rights-based concept of voluntariness for granted but demonstrate that this concept *by itself* cannot provide a synthetic argument for free-market efficiency as it already presupposes free-market arrangements.

this requirement, what Herbener with his explicit rights-based account of voluntariness at most establishes is, rather trivially, that market exchanges are just—a far cry from settling the issue of whether market exchanges are *also* welfare-enhancing.

To conclude this critical section, let us invoke a certain thought experiment aimed at illustrating that, as opposed to what seems to follow from Rothbard and his subsequent defenders' claims, the relation between rights-based voluntariness and welfare maximization is not that of equivalence. As can be inferred from the above quote from Herbener, Rothbardians would believe that every rights-respecting exchange is mutually beneficial and that every beneficial exchange implies respecting rights. By contrast, we would hold that some voluntary (in the sense of respecting rights) exchanges are not welfare-maximizing.<sup>27</sup> To illuminate this claim, let us resort to the following intuition.

Suppose an economic actor faces two following proposals:

- (1) Blackmail case: A blackmailer comes to you saying: “I will reveal your secret to the public unless you pay me \$ 1000.” Given the newly constrained options, you prefer to accede to the blackmailer’s demand, you pay \$ 1000 and there are no further consequences.
- (2) Extortion (gunman) case: A gunman stops you saying “\$ 1000 or your life”. Given the newly constrained options, you rationally choose your life, thereby giving up \$ 1000. The gunman disappears with your money and there are no further consequences. (Incidentally, for the original thought experiment and the criticism levelled at it, see Wysocki and Megger (2019, 2020), Megger (2021) and Wiśniewski (2019), respectively).

Now, our two proposals are allegedly so designed that they appear to differ in only one respect. Allegedly, they differ as far as their respective moral legitimacy is concerned. Libertarians maintain that moral legitimacy of proposals in turn depend on the *independent* moral legitimacy of the *threat element* (see Block, 2017; Block & Gordon, 1985). The threat element is what the threatening party proposes if the victim refuses to accede to the threatener’s proposal. So, in case (1) the threat element is to reveal your secret to the public, whereas in (2) it is to shoot you. And now, since it would be *independently* (in the absence of the proposal) legitimate in a free society to reveal your secret to the public (with any possible prior voluntarily incurred contractual duties not to reveal it assumed away), the very proposal (1) is also legitimate; that is, it does not constitute an act of aggression. By the same token, in case (2), since shooting you would be *independently* illegitimate (again, assuming away the possibility that you voluntarily gave up your self-ownership rights), proposal (2) is also illegitimate.

On the other hand, let us try to describe our two cases abstracting from their normative aspect. If we consider both exchanges in *ex post* terms, their outcomes seem to

<sup>27</sup> We would also hold that *some* involuntary exchanges could be welfare-enhancing, as our old sofa theft thought experiment purportedly demonstrated. However, Austro-libertarianism (specifically, the acceptance of its libertarian prong) commits us to the belief that *all* involuntary exchanges—even if welfare-enhancing—render the outcome infinitely worse *on balance* compared to *all* voluntary exchanges (whether welfare-enhancing or not).

be identical. Threatening parties are paid for not doing what they threaten to do. Once they are paid, they are gone with no further consequences ensuing. 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.

However, it might be objected that at the very least, in blackmail case a blackmailee buys a negative right against a blackmailer. From then onwards, the former holds a right against the latter, which correlates with the fact that the latter is now under a duty not to reveal the former's secret to the public (see Hohfeld, 1913). In effect, the blackmailer gave up his *liberty* to reveal your secret for money. And you in turn earned a *negative right* against the blackmailer, whereas in case (2) no such (seemingly beneficial) rights redistribution takes place. We grant such an objection has some force. Still, what we are concerned with at this point is a *non-normative* description of an *ex post* situation. Our very thought experiment is designed to imply that the question of whether we benefit (in the sense of our *welfare* being enhanced) or not is only *contingently* related to whether rights are respected or not. More specifically, as we already suggested, 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),<sup>28</sup> 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. After all, there is no contradiction between the fact that the blackmailer

<sup>28</sup> To fully appreciate the fact that as far as *welfare alone* is concerned paying the gunman may as well turn out to be *more* beneficial than paying the blackmailer, let us construct a slight variation on the gunman's proposal (2\*) such that now the proposal (i.e. "Money or your life") is morally legitimate rather than illegitimate. This move would render the gunman's proposal *morally* on a par with the blackmail proposal, which would in turn allow us to compare the two solely in terms of their respective impact on their recipients' welfare. To this end, suppose the recipient of the gunman's proposal killed the gunman's family member before. Suppose further that there is no institution around able to enforce the gunman's right to, at the very least, compensation and so the gunman's proposal serves as the only *legitimate* way to enforce his right. To remove the reader's uneasiness due to the fact that a right to compensation is enforced by such drastic means (i.e. "or I will kill you), we can also stipulate that the gunman indeed tries to force the proposee to pay him the compensation but that the gunman is bluffing at the same time; that is, he does *not* intend to kill the proposee in case of the latter's non-compliance. Moreover, it should be borne in mind that, *ex hypothesi*, the proposee killed the gunman's family member in the first place. 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 differential influence on the recipients' welfare that allows us to decide which of the two proposals yields a better result *overall*.

can blackmail me but he *may* not do so. If this intuition is correct, this would again show that voluntariness alone cannot render an exchange beneficial in a welfare-enhancing sense, everything else equal.<sup>29</sup>

The same point applies to an *ex ante* analysis of our two cases contrasted above. After all, is it not possible that *even if* I concluded a contract with a blackmailer, I might still reasonably *expect* a breach and *even though* I did not conclude any contract with a gunman, I do not *expect* him to come back and threaten me again? If so, this might show that *in expectation* I can benefit more by paying the gunman than by paying that blackmailer. But then again, if that is so, then *benefitting* is by no means as intimately related to *rights* as Rothbard and Herbener believe it to be. Crucially, if our audience shares our intuition, the two cases cited above fly in the face of the Herbenerian contention that a *beneficial* character of the exchange proves to be a function of one aspect thereof, that is its voluntariness, with voluntariness, in turn, depending only on whether prior rights of the parties to the exchange get violated or not.<sup>30</sup> Having levelled the criticism of Austrian welfare economics, we are about to commence the positive part our paper. Section 4 presents some formal requirements Austrian welfare economics should satisfy in order to fit within Austro-libertarian paradigm and to be able to *non-question-beggingly* study market (in)efficiency.

#### 4 An exclusive domain of study for Austrian welfare economics within the Austro-libertarian framework

It is now high time to carve out a proper area of study for Austrian welfare economics so that it should be compatible with the idea of justice assumed by the libertarian prong of Austro-libertarianism. Note that the way we conceive of the relation between justice and welfare guarantees that the above condition is met. After all, we understand welfare as contributing independently of justice to the *overall good* of an outcome. Our view of conceiving of welfare as a sphere fully independent of justice considerations has this welcome advantage that thus modelled welfare economics would be in principle applicable to *any* political regime. However, given our

<sup>29</sup> There is an easy—albeit more artificial—way to construct two scenarios that do indeed differ *only* in their moral legitimacy. Let us stipulate (1\*) case (illegitimate blackmail). Suppose I did pay off the blackmailer in (1), thus concluding a contract whereby I earn a right that the blackmailer does not blackmail me ever again and he incurs a correlative duty of the same content. Alas, he approaches me again with the same proposal: “I will reveal your secret to the public unless you pay me \$ 1000.” Unwillingly, I pay him off again. However, this time I pay him *involuntarily* since the proposal violated my newly earned right. Still, we cannot see why (1) and (1\*) should differ *economically*.

<sup>30</sup> We anticipate that some Austrians would at this point retort that we cannot resort to some other intuitive notion of *benefitting* without begging the question against them. And this point would be correct. On the other hand, the very purpose of our appeal to the above intuition is that if our reader (intuitively) finds both cases *economically* identical despite their moral differences, then perhaps there is something *prima facie* wanting about the Rothbardian view linking *benefitting* with the *absence of aggression*. After all, is there any *decisive reason* to treat the assumption that *benefitting* is about rights-respecting as unshakable? Instead, why not apply *modus tollens*, thereby arguing that this assumption is to be jettisoned?

commitment to Austro-libertarianism, we are forced to say that no increment in welfare is able to compensate for any (even infinitesimally small) decrease in justice.

In other words, our *overall* normative framework provides that the primary good to be maximized is justice, with justice being non-tradeable for welfare. 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. And the reason for this prediction is that in the scenario just cited justice was compromised. If, instead, the sofa owner had not had the sofa stolen, he would have been still stuck with the economic bad. That is, in this situation, although his well-being would be compromised, the *overall* outcome would be still better compared to the previous one. And what makes it the case is that in the latter scenario justice was served.

Now, given the fact that within the Austro-libertarian paradigm justice *lexically* dominates welfare, Austrian *welfare* economics would serve to study welfare-enhancing and welfare-diminishing exchanges *on the free market*.<sup>31</sup> In other words, since libertarian rights act as a side constraint on maximizing welfare, the corresponding welfare economics would necessarily operate in the universe of voluntary (i.e. rights-respecting) exchanges. Remember, just as the budget line limits the height of an indifference curve, so do libertarian (absolute) rights limit the welfare maximization. However, just as it is at least logically possible to end up at a lower indifference curve somewhere below the budget line, so it is at least logically possible to have rights-respecting but welfare-diminishing exchanges.

At this point, it is worth noting yet again that such a project would be inexpressible on the grounds of the Rothbardian branch of Austrian welfare economics. For Rothbardians take *market* exchanges (via the rights-based concept of voluntariness) as sufficient for welfare-enhancement. But if so, then for Rothbard and his followers, market exchanges that would be at the same time welfare-diminishing are impossible, something that should raise a suspicion in the first place. By contrast, the intuitive appeal of our position is that it allows for welfare-diminishing exchanges on the market. We do not claim that such exchanges are indeed exemplified on the market but that they are at least *logically* possible. And it is precisely for this reason that *welfare* economics has some distinct work to do. That is, on our account, quite unlike in Rothbard's, the ideal of welfare does not in fact collapse into the one of justice. For instance, note that on our account the blackmail proposal was regarded as being *economically* on a par with the gunman's proposal. That is, two morally distinct proposals (one legitimate, and the other not, respectively) did not apparently

<sup>31</sup> Remember, given the side-constraint character of libertarian rights, pursuing utility at the cost of violating rights would be banned on independent moral grounds. As we stressed time and time again, it is the libertarian prong that constrains welfare-related considerations. To wit, welfare may be permissibly maximized but not beyond the limits set by inviolable libertarian rights. In fact, we can think of side constraints as budget constraints. Just as we *can* maximize utility up to the budget line so we *may* maximize utility as long as we do not violate libertarian rights. Whereas in the former case the constraint is economic (the amount of money we have), in the latter case the constraint is *normative* (i.e. in your pursuit of utility, you *may* not cross the line settled by absolute libertarian rights).

differ in terms of their respective effects on utility. And this shows, rather plausibly, that welfare is separate from justice.

Now, what is left to specify is how thus carved *welfare* economics would be supposed to proceed. We maintain that assessments made by welfare economics should be based on two premises. First and foremost, it should be explicit about its *normative* premise; that is, it should identify some property (or a fact) constitutive of welfare.<sup>32</sup> Note that this task is not something *positive economics* can be relegated to do. Instead, once the purely normative work is done (i.e. *what* constitutes well-being gets established), the purely *positive* part of economics would enter, providing us with the *means* to maximize that which matters.

Our position towards welfare economics is thus *structurally* well aligned with that of Kirzner's (1998, p. 291):

Economic science cannot, it appears, be deployed for social-normative purposes, only because the criteria we wish to apply in our evaluations cannot be coherently *defined* except as pure (non-scientific) judgments of value. Positive science may not, without appealing to non-scientific judgments of value, be able to pronounce heart disease desirable or undesirable. But these judgments of value are not needed to identify heart disease (and thus to be able scientifically to identify its causes).

By the same token, it does not take a value judgement to determine whether some preferences are satisfied or frustrated. Moreover, purely positive economics is in principle able to equip us with the guidelines of how to maximize preference satisfaction or even—however bizarrely—how to maximize preference frustration. And yet, it takes *normative* economics; that is, it takes a judgement of value to say that it is indeed the maximization of preference satisfaction that is desirable.

So then again, welfare economics should rest on both (a) a normative premise and (b) technicalities (the part of *positive economics* demonstrating how to causally get from means to *desired* ends). And the fact that the assessments (or policy recommendations) of welfare economics are informed by the said two premises makes the very discipline so contentious. For consider we take actual preference satisfaction as constitutive of welfare and we know how to satisfy the preferences in question (we know which actions to take to this end) but our interlocutor disagrees with our conclusion that such and such actions (or exchanges) would be welfare-enhancing. There are as many as three logical possibilities as to the premises he may deny. First, he may accept our positive (technicalities-related) part but deny that actual preference satisfaction constitutes welfare. Alternatively, he may concur that actual preference satisfaction is indeed constitutive of welfare but we may diverge as far technicalities are concerned. Or indeed, he may deny both premises at the same time, in which case he may reach the same conclusion as we do *only by accident*. In short, two persons reaching different policy recommendation does not imply that they

<sup>32</sup> As mentioned in footnote 3, different Austrians take different properties to constitute welfare. Still, what is of interest to us is that Rothbardians normally take preference satisfaction to be quite a reliable guide (a proxy) to what is good for the economic agents whose preferences are satisfied.

necessarily subscribe to different moralities (or that either person's *positive economics* is necessarily deficient).

There is just one loose end to tie up. If actual preference satisfaction is to be this property that constitutes welfare, at least some sketchy remarks pertinent to the former are due. Unfortunately, our agenda was meant to operate on a rather formal level. Thus, specifying what would count as an actual preference-satisfying or preference-frustrating exchange is beyond the scope of the present research, for it would necessarily involve us in investigating the problem of *the relevant baseline*.<sup>33</sup> However, if we were to venture a hypothesis as to *which* exchanges translate into welfare-enhancing ones and which into welfare-diminishing ones, we would construe this distinction more or less along the lines of Nozickian ([1974] 1999, pp. 84–87) productive and unproductive exchanges, respectively.<sup>34</sup> However, building on the Nozickian account, while trying to overcome the problems haunting it, would take a separate paper.

## 5 Conclusion

That aim of the present paper was primarily critical. We attempted to demonstrate that the Rothbardian variant of Austrian welfare economics cannot really prove its points. Its avowed programme of establishing that voluntary (i.e. rights-respecting) exchanges are mutually beneficial and—conversely—that involuntary (i.e. coerced) exchanges are non-beneficial fails. We established that both Rothbard and Herbener beg the question in favor of the free market by *conceptually* tying beneficial exchanges to market exchanges (via the concept of rights-based *voluntariness*). On their grounds, market exchanges simply *necessitate* mutually beneficial exchanges. In our turn, just to avoid begging the question against Rothbard we did not just bluntly deny his premise that all voluntary exchanges are mutually beneficial but instead we presented a thought experiment that might give us a sufficient reason to believe that, in terms of welfare, a voluntary exchange might be

<sup>33</sup> After all, there must be some standard of comparison set in order to judge *which* preferences satisfied count as welfare-enhancing. For instance, to take an extreme example, if our preference to fly to the moon is frustrated, it would be correct to say that our welfare diminishes *compared* to the world in which I do fly to the moon, *ceteris paribus*. However, this only shows that the ideal world in which all our preferences are satisfied is not *the relevant* baseline and that we need some other standard of comparison. On the perennial problem of baselines, see e.g. Nozick (1969), Feinberg (1987), Steiner (1994), Altman (1996).

<sup>34</sup> I do concede the point to the anonymous reviewer that the positive account of how Austrian welfare economics should operate within the Austro-libertarian framework presented here is rather anemic. After all, we simply evaded the problem of a baseline against which welfare-enhancement and welfare-diminishment were to be assessed. Instead, what we say in this section is of rather *formal* nature. However, for a substantive (and therefore more informative) theory of how we envisage welfare-increasing exchanges, see my (Wysocki, 2021) recent publication, wherein a slightly altered account of Nozick's (un)/productive exchanges is offered as something in terms of which welfare-diminishing and welfare-enhancing exchanges, respectively, are to be captured. The said publication also addresses Mack's (1982) powerful criticism leveled at the Nozickian theory. However, there are a few other objections to our account developed in the said publication that were only signaled and are thus far from being dispelled.

as bad as an involuntary one, which was meant to show that *voluntariness* (or *justice* for that matter) of an exchange should be conceived of *independently* of the question whether the exchange is mutually beneficial or not.

As far as the positive part of the present work goes, first, we made some (both historical and conceptual) case for Austro-libertarianism as a serious and already well-entrenched research programme. So, instead of trying to free Austrian economics of *any* normative assumptions, we conformed to the current practice of Austrian economists presupposing the libertarian ethic of property rights. Trying to fit a slightly remodeled Austrian *welfare* economics into the fully-fledged Austro-libertarian doctrine, we realized that we needed to distinguish between two goods: justice and welfare. And we did so in accordance with the characteristically libertarian construal of rights as absolute side constraints, with justice being lexically prior to welfare. However, in the light of a thought experiment at the end of Sect. 2, we putatively established that welfare still independently contributes to *the good* of an overall outcome.

Moreover, we concluded that it is only when we draw the above-mentioned distinction between justice and welfare that Austrian welfare economics is given a *distinct* job to do. From then onwards, the entire Austro-libertarian *normative* framework can make coherent moral assessments: the libertarian prong evaluates the *justice* of a given exchange according to the libertarian principles of justice, whereas Austrian welfare economics studies welfare-enhancing or welfare-diminishing exchanges, whatever the political regime. However, the adoption of Austro-libertarianism commits us to maximizing, first and foremost, justice and only secondarily—welfare. That is, a just exchange is always better than an unjust one regardless of welfare-related considerations. On the other hand, given that two given exchanges are equally just, the dimension of welfare makes all the difference to overall assessment of the two exchanges in question. And last but not least, only when welfare considerations are effectively divorced from justice considerations can we *meaningfully* (viz. non-question-beggingly) study the problem of market efficiency, that is to what extent does the market regime contribute to the actual preference satisfaction (or to whatever constitutes welfare).

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**Data availability** I do not analyse any datasets. Neither do I generate any. Rather, this work is of theoretical and philosophical nature. Any relevant materials can be obtained from the references cited below.

## Declarations

**Conflict of interest** The author has no competing interests to declare that are relevant to the content of this article.

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## References

- Altman, S. (1996). Divorcing threats and offers. *Law and Philosophy*, 15(3), 209–226.
- Block, W. (2008). Homesteading, Ad Coeculum, Owning Views and Forestalling. *The Social Sciences*, 3(2), 96–103.
- Block, W. (2017). Rejoinder to Callahan and Hudik on libertarian principles. *Cosmos and Taxis*, 4, 35–44.
- Block, W., & Gordon, D. (1985). Blackmail, extortion and free speech: A reply to Posner, Epstein, Nozick and Lindgren. *Loyola of Los Angeles Law Review*, 19(1), 37–54.
- Boettke, P. (1995). Why are there no Austrian socialists? Ideology, science and the Austrian school. *Journal of the History of the Economic Thought*, 17, 35–56.
- Brandt, R. (1979). *A theory of the good and the right*. Oxford University Press.
- Broome, J. (2013). *Rationality through reasoning*. Wiley-Blackwell.
- Callahan, G. (2013). Liberty versus libertarianism. *Politics, Philosophy & Economics*, 12, 48–67.
- Coase, R. (1960). The problem of social cost. *Journal of Law and Economics*, 3, 1–44.
- Crisp, R. (2006). *Reasons and the good*. Clarendon Press.
- Dworkin, R. (1990). *Justice and the good life*. University of Kansas.
- Epstein, R. (1979). Possession as the root of title. *Georgia Law Review*, 13, 195–218.
- Feinberg, J. (1987). *Harm to others* (Vol. 3). Oxford University Press.
- Friedman, D. (2000). *Law's order: What economics has to do with law and why it matters*. Princeton University Press.
- Futerman, A., & Block, W. (2021). *The Austro-libertarian point of view: Essays on Austrian economics and libertarianism*. Springer Singapore.
- Gordon, D. (2017a). *An Austro-libertarian view: Essays by David Gordon. Vol. I: Economics, philosophy, law*. Mises Institute.
- Gordon, D. (2017b). *An Austro-libertarian view: Essays by David Gordon. Vol. II: Political theory*. Mises Institute.
- Gordon, D. (2017c). *An Austro-libertarian view: Essays by David Gordon. Vol. III: Current affairs, foreign policy, American history, European history*. Mises Institute.
- Gordon, D. (1993). Toward a deconstruction of utility and welfare economics. *The Review of Austrian Economics*, 6(2), 99–112.
- Hausman, D. (2012). *Preference, value, choice and welfare*. Cambridge University Press.
- Hausman, D., & McPherson, M. (2006). *Economic analysis, moral philosophy, and public policy* (2nd ed.). Cambridge University Press.
- Hayek, F. (1945). The use of knowledge in society. *American Economic Review*, 35, 519–530.
- Herbener, J. (1997). The pareto rule and welfare economics. *The Review of Austrian Economics*, 10(1), 79–106.
- Herbener, J. (2008). In defense of Rothbardian welfare economics. *New Perspectives on Political Economy*, 4, 53–78.
- Hohfeld, W. (1913). Some fundamental legal conceptions as applied in judicial reasoning. *The Yale Law Review*, 23, 16–59.
- Hoppe, H.-H. (1990). Review of man, economy, and liberty. *Review of Austrian Economics*, 4, 249–263.
- Hoppe, H.-H. (1993). On the ultimate justification of the ethics of private property. In: *The economics and ethics of private property*. Springer.
- Hoppe, H.-H. (2015). *A short history of man. Progress and decline: An Austro-libertarian reconstruction*. Ludwig von Mises Institute.
- Hudik, M. (2015). Libertarian preferences: A comment on Callahan and Block. *Cosmos and Taxis*, 3, 52–54.
- Huerta de Soto, J. ([1998] 2006). *Money, bank credit, and economic cycles*. Ludwig von Mises Institute.

- Huerta de Soto, J. (2009). *The theory of dynamic efficiency*. Routledge.
- Hülsmann, J. (1999). Economic science and neoclassicism. *The Quarterly Journal of Austrian Economics*, 2, 3–20.
- Hülsmann, J. (2008). *The ethics of money production*. Ludwig von Mises Institute.
- Kinsella, S. (2008). *Against intellectual property*. Ludwig von Mises Institute.
- Kirzner, I. (1973). *Competition and entrepreneurship*. University of Chicago Press.
- Kirzner, I. (1988a). Welfare economics: A modern Austrian perspective. In W. Block & L. H. Rockwell Jr. (Eds.), *Man, economy and liberty, essays in honor of Murray N. Rothbard*. Ludwig von Mises Institute.
- Kirzner, I. (1988b). Austrian economics, the coordination criterion and classical liberals. *Journal des Economistes et des Etudes Humaines*, 8(2–3), 187–200.
- Kirzner, I. (1998). Coordination as a criterion for economic ‘goodness.’ *Constitutional Political Economy*, 9, 289–301.
- Lauinger, W. (2017). The morality-welfare circularity problem. *Philosophical Studies*, 174, 1959–1981.
- Mack, E. (1982). Nozick on unproductivity: The unintended consequences. In J. Paul (Ed.), *Reading Nozick. Essays on anarchy, state and utopia* (pp. 169–190). Basil Blackwell.
- Megger, D. (2021). *Sprawiedliwość w Ekonomii Dobrobytu. Libertarianizm i Szkoła Austriacka*. Toruń: Wydawnictwo Naukowe Uniwersytetu Mikołaja Kopernika.
- Nozick, R. (1969). Coercion. In S. Morgenbesser, P. Suppes, & M. White (Eds.), *Philosophy, science, and method: Essays in honor of Ernest Nagel* (pp. 440–472). St. Martin’s Press.
- Nozick, R. ([1974] 1999). *Anarchy, state, and utopia*. Blackwell.
- Parfit, D. (1984). *Reasons and persons*. Oxford University Press.
- Parfit, D. (2011a). *On what matters* (Vol. 1). Oxford University Press.
- Parfit, D. (2011b). *On what matters* (Vol. 2). Oxford University Press.
- Posner, R. (1973). *Economic analysis of law* (1st ed.). Little Brown.
- Rawls, J. (1971). *A theory of justice*. Cambridge University Press.
- Rothbard, M. ([1956] 2011). Toward a reconstruction of utility and welfare economics. In: *Economic controversies* (pp. 289–333). Ludwig von Mises Institute.
- Rothbard, M. ([1962] 2009). *Man, economy and state* (Scholar’s Edition). Ludwig von Mises Institute.
- Rothbard, M. (1969). Confiscation and the homestead principle. *Libertarian Forum*, 1, 3–4.
- Rothbard, M. ([1973] 2006). *For a new liberty. The Libertarian manifesto* (Scholar’s Edition). Ludwig von Mises Institute.
- Rothbard, M. ([1982] 2002). *Ethics of liberty*. New York University Press.
- Scanlon, T. (1998). *What we owe to each other*. Harvard University Press.
- Sheinman, H. (2005). Are trade-offs between justice and welfare possible? Calabresi and Dworkin on the normative foundations of law and economics. *Maryland Law Review*, 64, 250–302.
- Simmonds, N. (1986). *Central issues in jurisprudence: Justice, law and rights*. Sweet & Maxwell.
- Sinnott-Armstrong, W. (1999). Begging the question. *Australasian Journal of Philosophy*, 77(2), 174–191.
- Steiner, H. (1994). *An essay on rights*. Blackwell Publishers.
- Sumner, W. (1996). *Welfare, happiness, and ethics*. Clarendon Press.
- von Mises, L. ([1949] 1998). *Human action: A treatise on economics* (Scholar’s Edition). Ludwig von Mises Institute.
- Wight, J. (2015). *Ethics in economics*. Stanford University Press.
- Woodard, C. (2013). Classifying theories of welfare. *Philosophical Studies*, 165, 787–803.
- Wysocki, I. (2021). *An Austro-Libertarian Theory of Voluntariness: A Critique*. Toruń: Wydawnictwo Wydziału Nauk o Polityce i Bezpieczeństwie UMK.
- Wiśniewski, J. (2019). Austrian welfare economics: a reply to Wysocki and Megger. *Ekonomia – Wrocław Economic Review*, 25(3), 25–28.
- Wysocki, I., & Megger, D. (2019). Austrian welfare theory: a critical approach. *Ekonomia – Wrocław Economic Review*, 25(3), 25–28.
- Wysocki, I., & Megger, D. (2020). Rejoinder to Wiśniewski on the Austrian welfare economics. *Ekonomia – Wrocław Economic Review*, 26(2), 103–109.

# *How Does Justice Relate to Economic Welfare? A Case Against Austro-Libertarian Welfare Economics*

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*This paper argues—contra some Austro-libertarians—that whether a given exchange is welfare-enhancing or welfare-diminishing does not depend on whether that exchange is just or unjust, respectively. Rather, we suggest that in light of our two thought experiments, Austro-libertarianism has at least a pro tanto reason to conceive of justice and welfare as two logically distinct ideals. This would in turn, most interestingly, predict the possibility of (a) just but welfare-diminishing exchanges and (b) unjust but welfare-enhancing ones. Upon considering possible rejoinders to our points, we suggest that Austro-libertarians abandon a justice-based notion of welfare.*

**Keywords:** Austrian welfare economics; demonstrated preference; libertarianism; justice; voluntariness; free market.

## 1. *Introduction*

According to Austro-libertarians,<sup>1</sup> the free market is conceived in terms of property rights. Most characteristically, the main Austro-libertarian

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<sup>1</sup> The two welfare theorems discussed below is the crux of the Rothbardian welfare economics, which was followed—with some minor twists—by numerous Austrians: e.g. Hoppe (1990), Gordon (1993), Herbener (1997, 2008) or Hülsmann (1999). To avoid the tediousness of our prose, we shall henceforth refer to them simply as *Austro-libertarians*. However, in all fairness, we cannot but mention that

argument for the free market regime is of moral rather than economic nature. To see that consider, for example, the following quote from Rothbard ([1973] 2006: 48–49):

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 it is not, to the libertarian, the prime reason for his support of this system. That prime reason is moral and is rooted in the natural-rights defense of private property we have developed above. Even if a society of despotism and systematic invasion of rights could be shown to be more productive than what Adam Smith called ‘the system of natural liberty’, the libertarian would support this system. Fortunately, as in so many other areas, the utilitarian and the moral, natural rights and general prosperity, go hand in hand.

Here, Rothbard makes it most explicit that the “prime reason” why libertarians support the free market is moral. The fact that the regime under consideration happens to be the most productive sort of economy is only “a fortunate utilitarian result.” That property rights are central to the Austro-libertarian understanding of the free market (or capitalism) and various other institutions is further evinced by the following citation from Hoppe ([1998] 2010:18):

Next to the concept of action, *property* is the most basic category in the social sciences. As a matter of fact, all other concept [...]—aggression, contract, capitalism and socialism—are definable in terms of property: *aggression* being aggression against property, *contract* being a nonaggressive relationship between property owners, *socialism* being an institutionalized policy of aggression against property, and *capitalism* being an institutionalized policy of the recognition of property and contractualism.

However, even though Austro-libertarians at large endorse the free market regime primarily because it respects property rights, they also set themselves an additional task of proving that it is the free market that always increases social utility. They want to achieve it by resorting to the concept of demonstrated preference and the Unanimity Rule. The concept of demonstrated preference refers to the actual choice that “reveals, or demonstrates, a man’s preferences; that is, that his preferences are deducible from what he has chosen in action.” (Rothbard [1956] 2011: 290) On the other hand, the Unanimity Rule has it that “[w]e can only say that ‘social welfare’ (or better, ‘social utility’) has *increased* due to a change, if no individual is worse off because of the change (and at least one is better off).” (Rothbard [1956] 2011:

Rothbardians are not exhaustive of Austro-libertarians. After all, one can easily point to many prominent Austrians of more or less libertarian persuasion. Suffice it to say that both Mises ([1922] 1962, [1949] 1998, 2002) and Hayek ([1960] 1978) shared a broadly construed libertarian world-view. Furthermore, it is worth noting that what singles out Rothbardians is their uncompromised adherence to absolute private property rights (see: Rothbard [1982] 2002). Still, bear it in mind that non-Rothbardian Austro-libertarians are outside the scope of the present paper.

314) Briefly stated the idea is that the concept of demonstrated preference and the Unanimity Rule can show, without passing any ethical judgements,<sup>2</sup> that (1) the free market always increases social utility<sup>3</sup> and that (2) no governmental intervention can ever increase it. In other words, the above two statements have it that just exchanges are always mutually beneficial and that unjust exchanges can never be welfare-enhancing.<sup>4</sup> Following Kvasnička (2008: 49), we can call claim (1) the first welfare theorem and claim (2) the second welfare theorem.<sup>5</sup>

<sup>2</sup> The reason Austrians employ the Paretian Unanimity Rule—instead of the notion of Marshall efficiency—is precisely because they disown the idea of interpersonal comparisons of utility. It is Marshall’s idea of efficiency, but not the Paretian, that is committed to passing a judgement on whether social utility increased or not in situations wherein one party to an exchange benefits, whereas the other loses. For an excellent analysis of Marshall efficiency, see e.g. Friedman (1990, 2000).

<sup>3</sup> As one anonymous reviewer observed, it must be added that it is *the ideal free market* (i.e. the one on which there are no invasions of property rights) that allegedly ensures welfare-maximization. And indeed, in his famous essay, Rothbard ([1956] 2011: 320) writes that “[t]he free market is the name for the array of all the voluntary exchanges that take place in the world.” And, as remarked by Prychitko (1997: 438), “[b]y this definition, the free market excludes invasive acts.” Incidentally, we are going to elaborate on the rights-based concept of voluntariness, as adopted by libertarians, in the forthcoming parts of this essay.

<sup>4</sup> To avoid the tediousness of the prose we shall use “mutually beneficial” as elliptical for “mutually beneficial *ex ante*” or “mutually beneficial *in expectation*”.

<sup>5</sup> As sharply spotted by an anonymous referee, Rothbard’s two welfare theorems, as dubbed by Kvasnička, do not quite coincide with two main theorems of standard welfare economics. For, in standard welfare economics, *the first theorem* has it that under such conditions as perfect information, complete markets (characterized by every single asset having a price and no or negligible transaction cost) and with consumers and firms being price takers (i.e. with nobody having market power), all market outcomes are going to be Pareto-efficient. That is to say, what the market—under the said assumptions—is going to lead to is the situation wherein we cannot render *anybody* better off without simultaneously rendering *somebody else* worse off. This, as might be noted, bears some resemblance to Rothbard’s first welfare theorem, which, recall, has it that the free market always increases social utility. However, the two theorems differ in one crucial respect. After all, Rothbard ([1956] 2011) is interested in *Pareto-superior moves* (i.e. the exchanges benefitting at least one party, while not decreasing anybody’s well-being) rather than in the state of Pareto-efficiency, in which no further mutually beneficial exchanges are possible. Still, Rothbard’s second welfare theorem is completely dissimilar to the second theorem of standard welfare economics. The *second welfare theorem* of mainstream economics, on the other hand, turns the first one around. To wit, whereas the first welfare theorem submits that any market allocation is Pareto-efficient, the second welfare theorem says that any Pareto-efficient allocation can be achieved by the market under the same set of assumptions as the ones under which the first welfare theorem holds. Or, more technically, for all  $x$ ’s,  $x$  being a Pareto-efficient outcome, there exists  $y$ ,  $y$  being a distribution of initial endowments, such that the market will bring about  $x$ , given  $y$ . Needless to say, these considerations are totally unrelated to the Rothbardian second welfare theorem. Incidentally, for an excellent elaboration on the fundamental theorems of standard welfare economics, see e.g. Greenwald and Stiglitz (1986).

The present paper argues against both of these claims. Additionally, it makes a positive argument for market inefficiencies and mutually beneficial injustices, and hence for the position that justice and welfare should constitute two independent ideals within the Austro-libertarian framework. This in turn predicts that there can indeed be (a) just but welfare-diminishing exchanges and (b) unjust but welfare-enhancing ones.

The agenda of the present paper is as follows. Section 2 produces a thought experiment attempting to demonstrate that there are indeed such exchanges that should be most aptly classified as just but welfare-diminishing. Section 3, by contrast, introduces another thought experiment designed to show that we can conceive of unjust but welfare-enhancing exchanges. We believe that the said two imaginary scenarios do no violence to original Austro-libertarian methodological tools of demonstrated preference and the Unanimity Rule so that no questions are begged. Section 4 preempts possible rejoinders to our position. Section 5 concludes.

## 2. *Just exchanges are not necessarily welfare-increasing*

Let us start with a paradigm example of exchanges that are both unjust and welfare-diminishing. We believe that the classical highwayman's proposal "Your money or your life" is such an example. This proposal has the following biconditional structure:

### *Highwayman*

- (1) If you pay me (demand), I won't kill you (relative benefit).
- (2) If you don't pay me (refusal), I will kill you (threat).

First, since the threat element promises an action that would violate the recipient's rights, the actor's payment would result in an unjust distribution.<sup>6</sup> Second, the payment, although unjust, is an exchange, that is, an instance of action. Finally, it is intuitively obvious that the recipient's welfare diminishes *ex ante* by paying under these conditions. Now the crucial point is that this welfare-diminishment cannot be relative to what would have happened, had he failed to pay. Since his payment was an action, he must have benefited relatively to the option foregone, that is, being killed. Otherwise, he would not have paid but rather been killed.<sup>7</sup> Hence, his welfare-diminishment cannot be understood in relative terms but must be explained in accordance with an

<sup>6</sup> That illegitimate threats result in unjust outcomes and that legitimate threats result in just outcomes is most clearly evidenced by Block's (2013) treatment of blackmail.

<sup>7</sup> To this effect says Mises ([1949] 1998: 351): "First, valuing that results in action always means preferring and setting aside; it never means equivalence." From this statement we can deduce that in Highwayman, as long as the highwayman's victim chooses to pay, he must prefer parting with the money to being killed.

absolute baseline. In other words, the recipient's welfare diminished compared to the situation wherein the highwayman would have nothing to do with the recipient at all. This sort of comparison involved in the idea of absolute welfare-diminishment makes perfect intuitive sense: the recipient seems to be rendered worse off when compared to the situation in which the gunman would have nothing to do with the recipient at all. It therefore follows, interestingly, that the fact that the recipient benefits relatively by handing the money to the gunman seems to be irrelevant to the estimation of his overall welfare. Since the victim's welfare obviously diminishes, welfare-diminishment cannot be explained in terms of relative benefits but must be explained in absolute terms of what would have happened if the highwayman had had nothing to do with the victim. Hence, *Highwayman* clearly represents an exchange which is both unjust and welfare-diminishing even if it, being an action as it was, benefited the victim relatively.

To provide a still more informative context, let us also consider a paradigm exchange which is just and welfare-enhancing at the same time. Suppose that the car dealer makes the following proposal to the customer:

#### *Car Dealer*

- (1) If you pay me (demand), I will sell you a car (relative benefit).
- (2) If you don't pay me (refusal), I will not sell you a car (threat).

First of all, since the threat element promises an action that would not violate the recipient's rights, the customer's payment would result in a just distribution. Second, since the payment is an action, the customer must have benefited relatively by paying. Otherwise, he would not have paid. However, contrary to the above example with the highwayman, the customer also benefited in absolute terms because he would have been worse off when compared to the situation in which the car dealer had had nothing to do with him at all. This exchange would therefore be just and welfare-enhancing in both senses of welfare-enhancement, that is, in relative and absolute sense.

Having spelled out crucial characteristics of, on the one hand, a paradigm case of unjust and welfare-diminishing exchanges and just and welfare-enhancing ones on the other, we are in a position to introduce our first thought experiment. Suppose that a blackmailer makes the following proposal to the blackmailee:

#### *Blackmail*

- (1) If you pay me \$1.000.000 (demand), I will let your reputation remain untarnished (relative benefit).
- (2) If you don't pay me (refusal), I will gossip about your secrets (threat).

First of all, since the threat element promises an action that would not violate the criminal's rights, the blackmailee paying the blackmailer \$1.000.000 would result in a just distribution. To see that, consider the following assessment of justice of blackmail proposals by Block (1999: 124), who has it that in blackmail scenarios "a valuable consideration is demanded, under the threat of doing something entirely licit, something that everyone would agree is legitimate if it occurred in any other context." Moreover, our author also notes that under blackmail "money is usually the valuable consideration demanded" and that "the threat is to engage in entirely legal gossip."<sup>8</sup>

Second, since the blackmailee paying the blackmailer is an action, the blackmailee must have benefited relatively by transferring money. Otherwise, he would not have paid. However, contrary to *Car Dealer*, the blackmailee did not benefit in absolute terms because he would have been better off when compared to the situation in which the blackmailer had had nothing to do with him at all (since then he would preserve his reputation for free). Thus, in this respect, the blackmailee is in the same position as the highwayman's victim in *Highwayman*. That is, he benefits only relatively but not absolutely. The only relevant difference between the two cases is justice of the threat element and, therefore, of the subsequent distribution. Hence, blackmail exchanges would be just, although welfare-diminishing in the relevant sense. Thus, we have a case that seems to run counter to Rothbard's first welfare theorem that just exchanges always increase social utility.

To illuminate further why we contend that blackmail exchanges do not increase blackmailees' welfare, we should come back to our distinction between benefitting relatively and benefitting absolutely. We might also call benefitting relatively benefiting in a weak sense, whereas benefitting absolutely benefiting in a strong sense. Now let us define benefitting in a weak sense as maximizing one's welfare under a newly imposed budget constraint. In fact, little wonder this sense of benefitting is weak. For we should bear in mind that every instance of human action benefits its doer at least in the weak sense. Whatever economic agents do, they maximize their expected welfare under the occurrent circumstances, whether welcome or not. However, were Austro-libertarians to adopt the weak sense of benefitting in their defence of the presumed social-welfare-enhancing character of blackmail exchanges, they would at the same time prove too much. For then, it would transpire that the gunman's proposal "Money or your life" is welfare-enhancing too. After all, whatever the gunman's victim happens to choose under the thus imposed constraint will automatically increase his expected welfare.

<sup>8</sup> Moreover, in this context it is worth remembering that for libertarians, the justice of arising distributions depends on the legitimacy of antecedent proposals and whether proposals are legitimate or not depends solely on the legitimacy of the threat element (see e.g. Block 2013). It is for that reason that libertarians would find the distribution of endowments arising after the blackmailee's buying off the blackmailer just.

In other words, the victim can still benefit relatively, even in such dire straits. Yet, it is a matter of course that no Austro-libertarians would be ready to bite the bullet and thus concede that the victim's exchange with the gunman constitutes a Pareto-superior move. Besides being extremely counterintuitive, this move would violate the second welfare theorem, which has it that no unjust exchanges ever increase social utility. Hence, the exchange under consideration is correctly believed to amount to a paradigm case of welfare diminishment. But if so, then, clearly, we are not warranted in inferring welfare-enhancement from the fact of benefitting relatively. In fact, as the doctrine of opportunity cost attests, benefitting relatively sweeps over the whole realm of human action and as such it is, of course, powerless to distinguish between welfare-enhancing and welfare-diminishing exchanges.

Therefore, since resorting to the weak sense of benefitting can in no way be supportive of the claim that blackmail proposals increase social utility, what is left to show is that they do not increase welfare in absolute terms. To see that, let us remind ourselves that benefitting absolutely is benefitting strongly, that is, not only given the constraint on the actor but also compared to the situation in which the constraint-maker had nothing to do with the actor. Thus, to establish whether the blackmailee actually benefits from the blackmailer's proposal we should compare this situation to a merely possible situation in which the actual blackmailee does not have to deal with the actual blackmailer at all, everything else equal. It seems quite clear that the actual blackmailee would be better off if no blackmailer were around, for in this situation the former would not even have to pay to preserve his reputation. By contrast, once the blackmailer appears on the stage and makes his blackmail proposal, there is no chance for the blackmailee to preserve his good reputation *and* keep the money. Therefore, it stands to reason that the blackmailee does not benefit absolutely when given a blackmail proposal. And, rather unsurprisingly, the same remark applies to *Highwayman*. The highwayman's actual victim would have been better off had he had nothing to do with the highwayman at all in the first place. Once confronted by the highwayman, the victim can no longer preserve his money and his life.

To summarize, since the idea of benefitting relatively may be rightly discarded as a criterion of welfare-enhancement and because the comparison involved in the notion of benefitting absolutely shows that blackmail proposals are welfare-diminishing, Rothbard's first welfare theorem seems to be challenged. For blackmail proposals, while being welfare-diminishing, are clearly just, as additionally admitted by Austro-libertarians themselves. Hence, the entire argument put forward in this section can be reduced to the following *modus tollens* reasoning. If the first welfare theorem is true, then blackmail proposals, being just as they are, are welfare-enhancing. However, blackmail proposals are not welfare-enhancing. Therefore, the first welfare theorem is false. Additionally, the blackmail proposal, although opposite morally,

is economically analogous to the highwayman's proposal because both proposals make their respective recipients lose in the absolute sense. That is why, Austro-libertarians are caught in a dilemma. If they want to preserve the intuition that the highwayman's proposal is welfare-diminishing, then they are committed to regarding blackmail proposals as welfare-diminishing too, which in turn would run against the first welfare theorem since blackmail proposals are—by their lights—just. If, on the other hand, they wanted to deem blackmail proposals welfare-enhancing in order to preserve the first welfare theorem, then they would be committed to regarding the highwayman's proposal welfare-enhancing too, which would in turn run against the second welfare theorem since the highwayman's proposal is unjust.

### *3. Unjust exchanges are not necessarily welfare-diminishing*

As already mentioned, the so-called Rothbard's "second welfare theorem" (see: Kvasnička 2008: 49) has it that "*no act of government whatever can ever increase social utility*" (Rothbard [1956] 2011: 323). In order to show that it is not the case, let us propose the following thought experiment, which is designed to illuminate a possibility of there being unjust and yet welfare-enhancing exchanges.

#### *Fridge*

Suppose A has an old broken fridge in his backyard, which is an economic bad for him. He would like to get rid of it, but it takes disposing of it in a faraway junkyard. Selling it would also be burdensome for him due to high transaction costs. So, the fridge just sits there in the backyard spoiling its owner's view. One day he sees, to his delight, a thief absconding with the fridge. Having realized his fridge is thus being removed for free, he decides not to interfere.

First of all, this exchange of an old fridge for the satisfaction of having it removed is unjust. Clearly, our thought experiment stipulates that person A holds a property right in the fridge. Additionally, the above scenario assumes that A has never waived his ownership rights. However, there is a worry that the putative theft cannot count as right-violating simply because A welcomes it, which might translate into a tacit waiver. But this charge is unavailable for Austro-libertarians, who repudiate the juridical significance of tacit or implicit consent.<sup>9</sup> As

<sup>9</sup> The following citation from Hoppe (2006: 389–390) is most representative: "Orthodox, i.e., statist, political theorists, from John Locke to James Buchanan and John Rawls, have tried to solve this difficulty through makeshift "tacit," "implicit," "conceptual" agreements, contracts, or state constitutions. All of these characteristically tortuous and confused attempts, however, have only added to the same unavoidable conclusion drawn by Rothbard: That is impossible to derive a justification of government from explicit contracts between private property owners, and hence, that the institution of the state must be considered unjust, i.e., the result

pointed out by Williamson M. Evers (1977: 193), the notion of tacit consent “is an overbroad extension of consent that makes it meaningless as a criterion of legitimacy.” To this effect Evers quotes Gough (1957: 139), who commenting on John Locke’s idea of tacit consent supporting the creation of government says that “[i]f consent could be watered down like this, it would lose all value as a guarantee of individual liberty, and the most outrageous tyrant could be said to govern with the consent of his subjects.” Thus, we are justified in concluding that the exchange analyzed in our thought experiment is illegitimate, for resorting to the idea of tacit consent in order to claim that there was a tacit waiver of the fridge owner’s rights is blocked for Austro-libertarians.<sup>10</sup>

Second of all, the above thought experiment assumes that the exchange in question involves an action on the part of A. After all, A omitted to interfere with the process of stealing and as Mises ([1944] 1998: 13) famously contended, all omissions are actions:

of moral error”. See also Nozick (1974: 287) saying that “tacit consent isn’t worth the paper it’s not written on”. Additionally, see Rothbard ([1982] 2002: 164–166); Barnett (1986: 317); Evers (1977). However, see the caveat in the footnote below.

<sup>10</sup> At this point, an anonymous referee made an ingenious point trying to reduce our argument ad absurdum. For, as he or she claims, if libertarians indeed do not recognize tacit consent at all, why shaking somebody’s hand without his or her *explicit* consent should not count as right-violating too? In other words, would not a handshake without explicit consent be involuntary? However, clearly, libertarians would not like to deem a handshake without explicit consent involuntary? But if so, this indeed calls for making room for tacit consent at least in some situations. But then, a critical problem arises: if we do concede that libertarians must recognize tacit consent in some situations, why should our *Fridge* not involve tacit consent too? What can we offer at this point is, first, the observation that—as it follows from our examples including the alleged insignificance of tacit consent—libertarians do not recognize the legitimacy of tacit consent when it is the government that is apparently consented to. Second, we believe that it is social conventions that help us establish whether consent is given or not. For instance, libertarians would accept that a person entering a taxi and saying “Take me to the city centre” *agrees* to pay upon arrival. They would also concur that a person ordering coffee in a café agrees to pay upon drinking it. Moreover, and crucially, we contend that once we take heed of *social conventions* we should conclude that our *Fridge* scenario does not involve tacit consent, as keeping unused things in one’s backyard does not *conventionally* communicate that one is ready to give up one’s ownership of the said items. And it is for that reason that another person’s taking of the fridge counts as a theft rather than original appropriation. Now a few words are due about the referee’s counterargument involving a handshake as allegedly right-violating. We submit that whether a handshake amounts to a right-violating act again depends on the context. If two friends meet, then, most certainly, their shaking hands would be a voluntary act as the tacit consent to shake each other’s hands holds between the two, as they are, after all, *friends*. However, if a man menacingly approached a woman from behind and shakes her hands, we would not be warranted in speaking of the woman tacitly consenting to such a handshake. Rather, this sort of a handshake would constitute nothing short of an act of battery. For an illuminating analysis of how social conventions are evidentiary of whether consent was given or not, see e.g. Husak and Thomas (1992).

Praxeology consequently does not distinguish between “active” or energetic and “passive” or indolent man. The vigorous man industriously striving for the improvement of his condition acts neither more nor less than the lethargic man who sluggishly takes things as they come. For to do nothing or to be idle are also actions, they too determine the course of events. Wherever the conditions for human interference are present, man acts no matter whether he interferes or refrains from interfering. He who endures what he could change acts no less than he who interferes in order to attain another result. A man who abstains from influencing the operation of physiological and instinctive factors which he could influence also acts. Action is not only doing but no less omitting to do what possibly could be done.

Moreover, due to the fact that A acted, our thought experiment side-steps the so-called “fallacy of psychologizing” (Rothbard ([1956] 2011: 296). For by acting in the form of omitting, he thereby demonstrates his preference for non-interference over interference. Whatever the reason A is now acting on, it remains apodictically true that, everything considered, A prefers getting his fridge stolen to intervening and thus preventing the thief from taking possession of it.

Third, since A acted, he must have benefited relatively. That is, given the thief’s presence, A prefers non-interference with his fridge being stolen over being stuck with it in his backyard. But more interestingly, A also benefited in absolute terms because if there were no thief around, A would still be stuck with his fridge. Hence, we should conclude that the exchange in question was welfare-enhancing. Since it was also unjust, it follows that it then constitutes a counterexample to Rothbard’s second welfare theorem.

Finally, what is important to note is that our thought experiment is also true to the Unanimity Rule, adopted by Rothbard. This is a crucial issue, for if we were to find out that at least one party to the above exchange were rendered worse off, the determination of whether the exchange was on balance welfare-enhancing or welfare-diminishing would have to rely on the interpersonal comparison of utility—an anathema to Austro-libertarians. Yet, our thought experiment seems to escape unscathed in this respect too. Clearly, the thief seems to maximize his welfare at least in expectation when he is stealing A’s fridge as compared to anything else he saw as a possibility.

#### 4. *Involuntariness charge*

Trying to put ourselves in Austro-libertarians’ shoes, we can think of one truly critical objection to our position. It is for this reason that we are going to attempt to preempt it. The objection in question appeals to the notion of voluntariness, as understood by Austro-libertarians. Thus, let us first clarify what this understanding is. As Nozick famously put it (1974: 262):

Whether a person’s actions are voluntary depends on what it is that limits his alternatives. If facts of nature do so, the actions are voluntary. (I may voluntarily walk to someplace I would prefer to fly to unaided.) Other

peoples' actions place limits on one's available opportunities. Whether this makes one's resulting actions non-voluntary depends upon whether these others had the right to act as they did.

Following Nozick, we can say that Austro-libertarians' understanding of the notion of voluntariness is rights-based. To put it simply, if A constrains B's options legitimately (i.e. while violating no rights of B's), B reacts voluntarily. If, by contrast, A constrains B's opportunity set illegitimately (viz., while violating B's rights), B reacts involuntarily. As a consequence of this theory, for example, since libertarians, as we remember, consider blackmail proposals morally permissible, they view the act of buying the blackmailer off as a voluntary payment.<sup>11</sup> On the other hand, since Austro-libertarians deem extortion or robbery proposals (e.g. "Give me your money or I will kill you") morally impermissible, they would deem such payments involuntary. This Austro-libertarian idea of rights-based voluntariness is further evidenced by, for example, the following quotations from Rothbard ([1956] 2011: 320) for whom, on the one hand, "[t]he free market is the name for the array of all the voluntary exchanges that take place in the world" while "rooted in the natural-rights defense of private property," on the other (Rothbard 2006: 48). After all, for Rothbard (2006: 50) the very idea of freedom is rights-based. As he points out, "Freedom is a condition in which a person's ownership rights in his own body and his legitimate material property are not invaded, are not aggressed against.... Freedom and unrestricted property rights go hand in hand."

Hence, having at their disposal this rights-based idea of voluntariness, Austro-libertarians could maintain that, for example, *Highwayman* involves the involuntary exchange due to the fact that the highwayman's victim's property rights are violated. Now since the highwayman exchange is involuntary, Austro-libertarians could try to claim that the reason for which it is welfare-diminishing is not the fact that the victim loses in absolute terms but exactly the fact that it is involuntary.<sup>12</sup> By

<sup>11</sup> See, for example, Rothbard's ([1962] 2009: 183) *Man, Economy, and State*, in which he says: "Similarly, blackmail would not be illegal in the free society. For blackmail is the receipt of money in exchange for the service of not publicizing certain information about the other person. No violence or threat of violence to person or property is involved." See also Block (2013).

<sup>12</sup> At this point, we would like to reassure the reader that for Rothbardians the standard of welfare-enhancement (and welfare-diminishment) is indeed justice-based rather than being rendered better off or worse off in *absolute* terms, respectively. First of all, consider the original Rothbardian ([1956] 2011: 320) attempt to argue for the free-market efficiency: "Let us now consider exchanges on the free market. Such an exchange is voluntarily undertaken by both parties. Therefore, the very fact that an exchange takes place demonstrates that both parties benefit (or more strictly, *expect* to benefit) from the exchange. The fact that both parties chose the exchange demonstrates that they benefit. The free market is the name for the array of all the voluntary exchanges that take place in the world. Since every exchange demonstrates a unanimity of benefit for both parties concerned, we must conclude that *the free market benefits all its participants*." However, as we remember, Austro-libertarians adhere to the Nozickian (1974: 262) rights-based

contrast, in the blackmail scenario, the agreement on the part of the blackmailee secured by the blackmailer's proposal is voluntary since there is no right violation looming in the case of the blackmailer spreading the unwelcome gossip. In other words, in the blackmail scenario, the blackmailer's threat is legitimate and it is for this reason that when the blackmailee agrees to pay, he does so voluntarily. Now because he agrees voluntarily, Austro-libertarians could try to argue that the exchange is welfare-enhancing, regardless of the fact that he loses in absolute terms. This sort of retort would not only establish an important difference between *Highwayman* and *Blackmail* in terms of their respective social utility but would also save the first welfare theorem against our thought experiment by showing that blackmail exchanges are both just and welfare-enhancing. The same criticism would of course apply to other cases considered in the present paper.

On the face of it, the critique pointing to the involuntary and voluntary character of the scrutinized exchanges, respectively, appears to be formidable. After all, it might seem to be the voluntariness of an exchange that secures mutual benefits, whereas the involuntariness of an exchange might be presumed to bring losses to at least one party. To appreciate it even more, we should yet again take heed of the fact

understanding of voluntariness. To reiterate, an exchange is deemed involuntary when it involves a right violation, whereas it is regarded as voluntary when it is rights-respecting. Couple those insights with all voluntary exchanges being mutually beneficial and all involuntary exchanges involving losses to (at least) one party and we end up with the ultimate standard of exchanges being mutually beneficial or not. That is, in final analysis, some exchanges are mutually beneficial by virtue of there being *just*, whereas some other exchanges are not mutually beneficial by virtue of their being *unjust*. Moreover, the idea that the welfare-enhancing and welfare-diminishing character of exchanges derives from their being just and unjust, respectively, is even more explicitly stated in Herbener (2008: 61), who has it that “[v]oluntary and involuntary interactions are defined in economics to recognize the distinction between cases in which it is possible to deduce that a person is better off from an interaction with another person and cases in which it is possible to deduce that he is worse off. Each person comes to an exchange with his naturally-owned property. A voluntary exchange occurs when neither trader uses or threatens violence against the property of the other. If the two persons trade the ownership of property without aggressive violence, then the exchange is voluntary. Given their natural ownership of property, each person chooses an alternative he prefers more than the non-interaction alternative. Both traders benefit. If one person violently aggresses against the property of the other person, then the exchange is involuntary. Given their natural ownership of property, the aggressor chooses an alternative that he prefers more than the non-interaction alternative and the victim is forced to choose an alternative that he prefers less than the non-interaction alternative. The aggressor benefits and the victim loses.” Clearly, since mutual benefits depend on voluntariness of an exchange, and since the exchange is voluntary due to its rights-respecting character, then, in the end, mutual benefits are attributed to the *just* nature of the exchange. The same reasoning applies, *mutatis mutandis*, to the exchanges failing to be mutually beneficial. Ultimately, their failing to be mutually beneficial is due to their being *unjust*. Needless to say, this justice-based standard of welfare-enhancement and welfare-diminishment has nothing to do with being rendered better off or worse off in absolute terms, respectively.

that the concept of voluntariness, as employed by Austro-libertarians, is rights-based. Moreover, it must also be borne in mind that the free market, which libertarians are so keen on defending, is first and foremost about respecting rights. Hence, all these arguments combined might support the conclusion that market exchanges are mutually beneficial because they are rights-respecting and therefore voluntary, whereas all non-market exchanges are not mutually beneficial because they are rights-violative and therefore involuntary. This argument would obviously run counter to our position.

To further elucidate how the above argument could contradict our position, let us represent it in a syllogistic form:

- (1) All rights-respecting (market) exchanges are voluntary exchanges
- (2) All voluntary exchanges are mutually beneficial
- (3) Therefore, all rights-respecting (market) exchanges are mutually beneficial

And, *mutatis mutandis*, the argument goes analogously for involuntary exchanges:

- (1) All rights-violating (non-market) exchanges are involuntary exchanges
- (2) All involuntary exchanges fail to be mutually beneficial
- (3) Therefore, all rights-violating (non-market) exchanges fail to be mutually beneficial

However, against the above reasoning we can point out that if an exchange's rights-respecting (or market) character implies its voluntariness, and if its voluntariness in turn guarantees mutual benefits, then in the end, it is the rights-respecting character of an exchange that guarantees mutual benefits. Therefore, it seems that we do not have two separate cases for the free market but only one, that is, the case based on the rights-respecting character of the free market. After all, the fact that the free market increases welfare ultimately depends on the fact that it is rights-respecting. But remember, Austro-libertarian ambition was to make two independent cases for the free market, not one. Thus, that would mean that they failed to argue for the free market on two counts: moral and economic. After all, as pointed out by Rothbard (2006: 48–49), it is only “a fortunate utilitarian result of the free market,” that it “is by far the most productive form of economy.” Decidedly, it is not “the prime reason for his support of this system,” for the “prime reason is moral and is rooted in the natural-rights defense of private property.” Thus, if Austro-libertarians wanted to employ the above reply to our position, they would have to drop the ambition of providing two separate arguments for the free market. But that is not the only problem they would face.

For why should the standard of voluntariness precisely fit a just distribution of rights? In other words, why should only rights-respecting exchanges be voluntary and *vice versa*? Consider our fridge owner in *Fridge* yet again. Although his rights were violated due to the fridge

being stolen, the fridge owner was clearly not coerced by the thief. He was not even pressurized or motivated by any sort of threat or offer. To claim that he nonetheless was coerced only due to the fact that his property rights in the fridge were violated would hardly make any sense. Moreover, he was keen on getting rid of the fridge in the first place and so he welcomed the theft. The fridge owner had a choice over interference or non-interference and given his preferences and lack of any pressure, he decided not to interfere. To resort to some formalization, our point against Austro-libertarians' idea of rights-based voluntariness as a possible counterargument to our position can therefore be expressed as the following *modus tollens* reasoning:

- (1) All rights-violating exchanges are involuntary<sub>libertarian sense</sub> exchanges.
- (2) All involuntary<sub>libertarian sense</sub> exchanges are involuntary exchanges.<sup>13</sup>
- (3) The exchange in *Fridge* is a rights-violating exchange.
- (4) Therefore, the exchange in *Fridge* is an involuntary<sub>libertarian sense</sub> exchange.
- (5) But, the exchange in *Fridge* is not an involuntary exchange.
- (6) Therefore, it is not the case that all involuntary<sub>libertarian sense</sub> exchanges are involuntary exchanges.
- (7) Therefore, it is not the case that all rights-violating exchanges are involuntary exchanges.

<sup>13</sup> We are very grateful to an anonymous referee for drawing our attention to the fact that the previous formalization of the above argument suffered from the problem of equivocation. Originally, the argument read:

All rights-violating exchanges are involuntary.  
 The exchange in *Fridge* is rights-violating.  
 Therefore, the exchange in *Fridge* is involuntary.  
 But, the exchange in *Fridge* is not involuntary.

Therefore, it is not the case that all rights-violating exchanges are involuntary.

Indeed, this version of our argument, as it stood, equivocated between involuntariness in the libertarian sense and involuntariness *simpliciter* or as understood pre-theoretically, or intuitively, or voluntariness as a matter of fact, if you will. It is precisely the referee's insight that enabled us to draw the distinction between involuntariness in the libertarian sense and involuntariness *simpliciter*, which in turn, we believe, rendered our argument both valid and more penetrating. Our improvement over and above the previously made argument involved adding premise (2). This particular premise states nothing short of the libertarian pretension of capturing all involuntary exchanges in terms of their rights-based standard of involuntariness, something we now call involuntariness in the libertarian sense. However, what our *Fridge* exchange is designed to show is that this particular exchange is indeed involuntary in the libertarian sense but still voluntary as a matter of fact, the observation which in and of itself is sufficient to undermine premise (2), the libertarian rights-based standard of assessing involuntariness. To wit, since we feel strongly about *Fridge* being a voluntary (as a matter of fact) exchange and since *Fridge* involves right violation, this *ipso facto* casts doubt upon the libertarian contention that all exchanges that are involuntary in the libertarian sense are involuntary *simpliciter*.

And so we cast doubt upon the premise (2) and on the libertarian pretence that all rights-violating exchanges are involuntary *simpliciter*. In other words, via *modus tollens*, we contend that since the argument's conclusion is implausible, the Austro-libertarian standard of rights-based voluntariness is to be jettisoned. For if the owner benefits by being deprived of his fridge, then there is probably some flaw to rights-based voluntariness. To reiterate, what rights-based voluntariness achieves is that it links (a) just exchanges with mutual benefits and (b) unjust exchanges with Pareto-inferior moves. However, both (a) and (b) were challenged by our thought experiments.

## 5. Conclusion

The aim of this paper was to argue that there is a good reason for Austro-libertarians to recognize justice and welfare as two fully distinct ideals. To bolster this claim, we launched two thought experiments designed to show the plausibility of the two types of exchange (hitherto denied by Austro-libertarians), that is, (a) unjust but welfare-enhancing and (b) just but welfare-diminishing. While proceeding with the said scenarios, we tried to do no (or as little as possible) damage to the Austro-libertarian methodological edifice. In particular, we took the original Rothbardian conceptual framework of demonstrated preference and the Unanimity Rule for granted. And it is on these grounds that we claim that the plausibility of the above-mentioned two sorts of exchanges follow. Therefore, if our thought experiments count for something, then Austro-libertarians' contention to the effect that the free market always increases social utility and that unjust exchanges never increase social utility seems unfounded.

Having thus made a *prima facie* case for unjust but welfare-enhancing exchanges and for just but welfare-diminishing ones, we tried to preempt a possible criticism appealing to the concept of voluntariness. However, as it transpired, this move is of no avail to Austro-libertarians as it simply reasserts the link between justice and welfare, something our thought experiments were supposed to undermine. And finally, given the avowed *prima facie* plausibility of our imaginary scenarios, it seems that it is the rights-based standard of voluntariness that needs revising, at least for the purposes of Austro-libertarian welfare economics.

## References

- Barnett, R. 1986. "A Consent Theory of Contract." *Columbia Law Review* 86: 269–321.
- Block, W. 1972. "Blackmailer as Hero." *Libertarian Forum*: 1–4.
- Block, W. 1999. "Blackmailing for Mutual Good." *Vermont Law Review* 1: 121–141.
- Block, W. 2013. *Legalize Blackmail*. New Orleans: Straylight Publishing, LLC.

- Block, W. and G. Anderson. 2001. "Blackmail, Extortion and Exchange." *New York School Law Review* 44 (3–4): 541–561.
- Block, W. and R. W. McGee. 2001. "Toward a Libertarian Theory of Blackmail." *Journal of Libertarian Studies* 15 (2).
- Evers, W. 1977. "Social Contract: A Critique." *Journal of Libertarian Studies* 1 (3): 185–194.
- Friedman, D. 1990. *Price Theory: An Intermediate Text*. Cincinnati: Southwestern.
- Friedman, D. 2000. *Law's Order: What Economics Has to do with Law and Why It Matters*. Princeton and Oxford: Princeton University Press.
- Gordon, D. 1993. "Toward a Deconstruction of Utility and Welfare Economics." *The Review of Austrian Economics* 6 (2): 99–112.
- Gough, J. 1957. *The Social Contract*, 2nd ed. London: Oxford University Press.
- Greenwald, B. and J. Stiglitz. 1986. "Externalities in Economies with Imperfect Information and Incomplete Markets." *The Quarterly Journal of Economics* 101 (2): 229–264.
- von Hayek, F. A. ([1960] 1978). *The Constitution of Liberty*. Chicago: The University of Chicago Press.
- Herbener, J. 1997. "The Pareto Rule and Welfare Economics." *The Review of Austrian Economics* 10 (1): 79–106.
- Herbener, J. 2008. "In Defense of Rothbardian Welfare Economics." *New Perspectives on Political Economy* 4 (1): 53–78.
- Hoppe, H.-H. [1988] 2010. *A Theory of Socialism and Capitalism*. Auburn, Alabama: Ludwig von Mises Institute.
- Hoppe, H.-H. 1990. "Review of *Man, Economy, and Liberty*." *Review of Austrian Economics* 4: 249–63.
- Hoppe, H.-H. 2006. *The Economics and Ethics of Private Property*. Auburn: Ludwig von Mises Institute.
- Husak, D. and G. Thomas. (1992). "Date Rape, Social Convention, and Reasonable Mistakes." *Law and Philosophy* 11: 95–126.
- Hülsmann, J. 1999. "Economic Science and Neoclassicism." *The Quarterly Journal of Austrian Economics* 2: 3–20.
- Kvasnička, M. 2008. "Rothbard's Welfare Theory: A Critique." *New Perspectives on Political Economy* 4 (1): 41–52.
- von Mises, L. [1922] 1962. *Socialism. An Economic and Sociological Analysis*. New Haven: Yale University Press.
- von Mises, L. [1949] 1998. *Human Action: A Treatise on Economics. The Scholar's Edition*. Auburn, Alabama: Ludwig von Mises Institute.
- von Mises, L. 2002. *Liberalism in the Classical Tradition*. San Francisco–New York: Cobden Press, The Foundation for Economic Education.
- Nozick, R. 1974. *Anarchy, State, and Utopia*. Oxford: Basil Blackwell.
- Prychitko, D. 1997. "Expanding the Anarchist Range: A Critical Reappraisal of Rothbard's Contribution to the Contemporary Theory of Anarchism." *Review of Political Economy* 9 (4): 433–455.
- Rothbard, M. [1956] 2011. "Toward a Reconstruction of Utility and Welfare Economics." In: *Economic Controversies*. Auburn: Ludwig von Mises Institute, 289–333.

- Rothbard, M. [1970] 2009. *Power and Market*. In: Murray N. Rothbard, *Man, Economy, and State with Power and Market*. Auburn, Alabama: Ludwig von Mises Institute: 1047–1369.
- Rothbard, M. [1973] 2006. *For a New Liberty. The Libertarian Manifesto*. Auburn: Ludwig von Mises Institute, Scholar's Edition.
- Rothbard, M. [1982] 2002. *Ethics of Liberty*. New York and London: New York University Press.
- Wertheimer, A. 1989. *Coercion*. Princeton: Princeton University Press.

# The problem of indifference and homogeneity in Austrian economics: Nozick's challenge revisited

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## Abstract

The pivotal point in the Austrian literature on homogeneity, choice and indifference was constituted by Nozick's *On Austrian Methodology*. Nozick provoked a long debate on the above notions within Austrianism. The aim of this paper is to elaborate such an account of *homogeneity* that would take the sting out of Nozick's challenge and allow for non-trivial formulation of the law of diminishing marginal utility. Hence, we shall first take a closer look at the debate on indifference within the Austrian camp, while defending and building upon the Hoppean account vis-à-vis Block's criticism. Our justification of the Hoppean position shall consist in showing that his account of the correct description of an action is not an *ad hoc* move aimed at solving just one problem of indifference but is highly intuitive and widely applicable. We conclude by restating the above-mentioned law, thus demonstrating that the Nozickian objection can be successfully addressed.

## Keywords

indifference, choice, homogeneity, Nozick's challenge.



## 1. Introduction

In 1977, Nozick wrote his seminal paper *On Austrian Methodology* (Nozick, 1977) thereby levelling a challenge at the entire Austrian school of economics. Nozick's critique pertained to all sorts of claims Austrians made, ranging from acting on strict preference vs weak preference, through the doctrine of sunk cost and Austrian avowed apriorism, to their theory of time preference. However, it was Nozick's claim<sup>1</sup> that, logically speaking, Austrian's formulation of the law of diminishing marginal utility must rely on the notion of indifference that stirred a long-lasting and still inconclusive debate on the role of the said concept in Austrian economics. This indictment by Nozick (1977, pp.370–371) is so important for the entire Austrian edifice<sup>2</sup> that it merits being quoted in full:

Indeed, the Austrian theorists need the notion of indifference to explain and mark off the notion of a commodity, and of a unit of a commodity. If everyone or one person prefers one homogenous batch of stuff to another homogenous batch of the same shape of the same stuff (perhaps they like to choose the left-hand one, or the one mined first), these are not the same commodity. They will have different prices. Particular things  $x$  and  $y$  will be the same commodity (belong to the same commodity class) only if all persons are indifferent between  $x$  and  $y$ . Without the notion of indifference, and, hence, of an equivalence class of things, we cannot have the notion of a commodity, or of a unit of a commodity; without the notion of a unit ('an interchangeable unit') of a commodity, we have no way to state the law of (diminishing) marginal utility.

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<sup>1</sup> This claim was even dubbed as Nozick's challenge by Hudik (2011).

<sup>2</sup> As we are about to see, it is the very formulation of the law of diminishing marginal utility and the universal law of time preference that logically depends on the notion of indifference.

Nozick's view is that the statement of the law of diminishing marginal utility presupposes the employment of the notion of indifference (or the one of the same commodity<sup>3</sup>). Therefore, it seems that homogeneity of economic goods is no mere epiphenomenon playing no role in praxeology as such. Quite the contrary, the notion of indifference is purportedly *essential* for understanding the logic of human action. To appreciate the disagreement between Nozick and Austrians, it would suffice to realize that the Austrian dogma—adhered to by some of its most prominent figures, e.g. Rothbard and Block themselves—was that indifference is praxeologically irrelevant, and as such it cannot make any difference to human action. Or, in other words, man does not act on indifference. More specifically, Austrians of orthodox persuasion (Rothbard and Block<sup>4</sup>) relegate indifference to the realm of mere psychology. Those insights were most tellingly captured by Rothbard (2011, p.304) in the following passage: “Indifference can never be demonstrated by action. Quite the contrary. Every action necessarily signifies a *choice*, and every choice signifies a definite preference. Action specifically implies the *contrary* of indifference. The indifference concept is a particularly unfortunate example of the psychologizing error.” It is also Hoppe (2005) that wants to banish the concept of indifference out of the realm of human action. And it is precisely this relation of logical equivalence between indifference and no choice that constitutes the crux of the Hoppean (2005) solution. To put his point in still different terms, suppose we take a set of various economic means and the equivalence relation (that of indifference) on this set. The relation of indifference would divide our original set into mutually disjunctive equivalence classes, which means that all the units in each class are the units between which the economic actor

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<sup>3</sup> The relation between the two is to be probed later.

<sup>4</sup> Block (1999, pp.22–24) conceives of indifference as “vague, psychological category”.

is indifferent. This in turn would mean that the actor cannot choose between the units within those equivalence classes. Conversely, if he can choose between any two units, these units must belong to distinct equivalence classes. Incidentally, we will revisit the original Hoppean solution when defending his account vis-à-vis Block's criticism in the forthcoming part of the present paper.

However, let us not precipitate things at that introductory stage. Instead, let us conclude the present section by setting the agenda for what is to follow. The present paper proceeds in this manner: section 2 takes the task of elucidating such critical concepts as *indifference*, *homogeneity* and *same good*, with the relations between them being heeded too. Section 3 is dedicated to the detailed analysis of Nozick's challenge concerning the alleged necessity of the adoption of the concept of indifference within Austrianism. The burden of section 4 is to show the inadequacies of Block's attempt to deal with Nozick's problem. Section 5 tries to show the superiority of the Hoppean account of choice and indifference over Block's, while at the same time dispelling a possible objection to the effect that the Hoppean solution is simply an ad hoc conceptual move designed to obviate one particular problem. Section 6 tries to extend Hoppe's conceptual framework in order to reformulate the law of diminishing marginal utility in a way that apparently obviates Nozick's challenge. Section 7 concludes the paper.

## 2. Mapping the conceptual terrain

Before we move on to analyze the Nozick's challenge and to subsequently revisit the debate on indifference, as it unfolded within the Austrian camp, we need to clarify some critical concepts and straighten out possible misconceptions.

First and foremost, there is a subtle terminological distinction that needs elucidating. So far, we have been using the words *indifference*, *homogeneity* or *same commodity* (or *same good* for that matter) in a rather cavalier fashion and the inquisitive reader might wonder whether we treat them synonymously or there are possibly some more interesting relations between them. First, let us note that Austrians, as pretty much all economists, are concerned not with things (or physical objects) as such but with economic goods and the latter are only in the eye of a beholder. The relation between things (the ones being able to satisfy potential human needs) and economic goods is that of inclusion. In other words, all economic goods are physical objects but not vice versa. What it takes then for a physical object to count as an economic good is that it must be valued positively; or, it must be *believed*<sup>5</sup> to

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<sup>5</sup> This very caveat related to the actor's *beliefs* is of utmost importance here. It is because we maintain that Austrians, with their commitment to radical subjectivism, ought to reject the Mengerian (2007, p.52) contention that a thing can be ranked as a good only when it has "such properties as render the thing capable of being brought into a causal connection with the satisfaction of this need." This is too strong a requirement. If I deal with some units that I believe (even if falsely) satisfy the same list of ends, I would be inclined to price them identically. Moreover, I would believe that giving up one unit of this apparent supply would mean the resignation from the satisfaction of the least pressing need they are all believed to satisfy. Therefore, I should not have any preference for giving up any particular (marginal) unit over any other. We contend that these implications are sufficient to find such units the ones of the same good. Incidentally, this radical subjectivism reflected in conceiving of things as means, that is in the contention that the sufficient condition for a thing to become a means is that the economic actor *must merely believe* that it can serve his

be able to satisfy an *actual human need* (or to use the parlance of neoclassicals: it must have positive utility). Therefore, economists are concerned with *only this* subset of things which are economic goods. And for a thing to constitute an economic good, what it takes is at least one economic actor that believes (falsely or not) that the physical object in question is able to satisfy at least one of his actual needs. Incidentally, note that given Austrian extreme subjectivism, no case can be made for any entailment between physical sameness and indifference (economic sameness). Machaj's (2007, p.232) celebrated example was that a ring (of a specific physical constitution) on one's fiancée's finger is not *economically* identical with a physically identical ring "given to her by a total stranger on the street." So, it looks as though physical sameness does not entail economic sameness. In other words, even if  $x$  and  $y$  are physically indistinguishable,  $x$  and  $y$  do not *necessarily* constitute *economically* homogeneous units. Or to use a different jargon referring to *the same fact*, even if  $x$  and  $y$  are physically identical (down to the level of particles), there may be some actor who may not be indifferent between the two. Instead, he may strictly prefer one over the other.<sup>6</sup> Nor does indifference entail physical sameness. This statement is even more incontrovertible for it is readily imaginable that two units are *slightly* physically different and yet, this difference cannot translate (by the lights of the economic actor) into an economic difference. In fact, we do not need to be so cautious with our examples here once we subscribe to the view that for units  $x$  and  $y$  to be subsumable under the rubric of the same economic

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end, was aptly captured by Mises (1998, p.92): "Goods, commodities, and wealth and all the other notions of conduct are not elements of nature; they are elements of human meaning and conduct. He who wants to deal with them must not look at the external world; he must search for them in the meaning of acting men."

<sup>6</sup> In other words, numerical identity might matter even in the absence of any qualitative differences between two objects.

good, it is enough that they are *believed* to be equally serviceable in the eye of the economic actor doing the valuation. Suppose our actor believes (correctly or not) that—relative to his needs—an apple juice and mineral water are equally good; that is, he believes that there is no such end that an apple juice would satisfy but mineral water would not and vice versa. Granted, there are *actually* many non-overlapping needs that apple juice and mineral water can satisfy but why should the economic actor care about it. These may not figure in his value scales either by virtue of the fact that the actor is unaware of these possible services the two goods might render or he might not value them at all. Such an actor would be prone to regarding apple juice and mineral water as *economically* indistinguishable. If he were forced to give up a unit of apple juice or the one of mineral water, he would be indifferent between the two. And crucially, given his beliefs, he would price them equally. Having established that physical sameness is logically independent of economic sameness, what is still left to explain is the relation between *indifference* and *homogeneity*. Here, following a common parlance, we submit that one would be ill-advised to treat them synonymously. It appears to be intuitively clear that *homogeneity* is a relation between *economic goods*, whereas *indifference* is a mental state (a belief) of an actor. Specifically, *indifference* has such a propositional content (believing *that x and y are economically identical*) that it cannot motivate an actor to act on it. By contrast, *homogeneity* is a relation holding between *economic goods*. However, remember that *economic goods* are not mere physical goods. The former are in the eyes of an economic actor.<sup>7</sup> So, the question

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<sup>7</sup> There are mind-boggling complications involved in counting the number of economic goods supervening on physical objects. Let us take the Rothbardian (2009, pp.73–74) example with eggs and modify it slightly to illustrate our point. Suppose we have 3 eggs and let 1 egg serve the end of throwing it at our enemy's window (we have 3 of them, so we can throw one egg at one enemy's window). With 2 eggs we might already

arises: under what conditions would two physical units constitute the same economic goods? The answer seems all too obvious: only when an actor is indifferent between the two. So, the relation of equivalence appears to hold between an actor being indifferent between physical units  $x$  and  $y$  and these units being economically *homogeneous*. In other words, when an actor is indifferent between physical units  $x$  and  $y$ , this fact *entails* that  $x$  and  $y$  are exemplary of *the same commodity* (*the same economic good* or *economic homogeneity*). And vice versa, when physical units  $x$  and  $y$  are *economically homogeneous*, this fact *entails* that there is an economic actor who would be indifferent between these two. Note that Nozick's requirement for the same commodity is too strong. He demands that "all persons are indifferent between  $x$  and  $y$ ." This however, given Austrian subjectivism, would be a massive coincidence. To settle the issue that physical units  $x$  and  $y$  are a part of the same supply, it would take establishing that literally all the persons are indifferent between the two—the sheer impossibility. Instead, Austrian economists must perceive the same supply as *relative* to a given economic actor. Physical objects  $x$  and  $y$  might be

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prepare scrambled eggs (which is our second most valued end) and with 3 eggs we might make an omelet. How many economic goods (given our value scale) do we have having 3 eggs? It looks as if we already have 3 of them since we can use all of them in order to annoy our enemies. Additionally, we have 3 distinct 2-egg combinations to make scrambled eggs (although there seems to be one *type* of economic good here, with the marginal unit being a 2-egg combination). So, do we already have 6 economic goods or four of them? The unit of 3 eggs put together constitutes a separate economic good for it is only that large a marginal unit that allows us to prepare an omelet. So in the end, how many economic goods do we have? Seven of them? The difficulty in counting seems to consist in two problems: a) do we count token economic goods or types of economic goods? and b) should we, when counting, add up *all* marginal units (1 egg, 2 eggs and 3 eggs)? After all, all these units are not *jointly* possible. In fact, if we decide to use all of our eggs to make an omelet, all other ends cannot be satisfied (no throwing eggs at windows, nor preparing scrambled eggs) as we would be left with no eggs. All in all, for the time being, we prefer to remain agnostic on these issues although they definitely merit a separate paper.

considered the same economic good by person A but person B might as well consider them economically distinct. What is more, person C might find them both economic bads. Having said that, let us now proceed to interpret what putative formidability of Nozick's challenge consists in.

### 3. The analysis of Nozick's challenge

First and foremost, Nozick's challenge may be construed as a *purely logical* objection to Austrian repudiation of indifference. After all, remember, the gist of Nozick's objection was that without the concept of indifference, Austrians would be unable to formulate the law of diminishing marginal utility. Indubitably, in this respect Nozick is right. The law of diminishing marginal utility<sup>8</sup> has it that when we deal with a supply of economically same units, each additional unit we value less; or, in other words, each additional unit is of lower utility. To put it formally,  $n+1^{\text{th}}$  unit of a given supply is of lower utility than  $n^{\text{th}}$  unit. And conversely,  $n-1^{\text{th}}$  unit of a given supply is of higher utility than  $n^{\text{th}}$  unit thereof. This in turn means that the utility of the marginal unit in a smaller supply is higher than the utility of a marginal unit in a bigger supply of the same commodity.<sup>9</sup> Hence, Nozick correctly notes that this law craves for an *independent* understanding of the notion of homogeneity. For suppose, an Austrian

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<sup>8</sup> Rothbard (2009, p.25) states the law of marginal utility very succinctly and very clearly indeed. His definition assumes the following form: "Thus, for all human actions, as the quantity of the supply (stock) of a good increases, the utility (value) of each additional unit decreases."

<sup>9</sup> In fact, this is the reason why Rothbard (2009, pp.21–23) speaks of *the law of marginal utility* instead of the law of *diminishing* marginal utility. After all, as shown above, marginal utility may increase once the supply of a good shrinks.

proponent objects that there is no such logical requirement and that the notion in question may be defined *within* the very law somehow along these lines: we can easily establish whether  $x$ ,  $y$  and  $z$  are units of the same economic good and we would do so by checking whether these units obey the law of diminishing marginal utility. So, generally speaking, what an Austrian adherent would effectively say is that units of the same good are such units that obey the law of diminishing marginal utility. Incidentally, similar remarks would apply to Austrian formulation of the universal law of time preference.<sup>10</sup> Austrians hold that for one (and the same!) end,<sup>11</sup> each actor would prefer to achieve it sooner rather than later. Note, this law also presupposes the notion of the same good—but this time in a sort of *atemporal* way for it is the same economic good that is carried over time (we may obtain *it* at  $t_1$  or at  $t_2$ ). When asked how we should understand the concept of the same good presupposed by the universal law of time preference, an Austrian economist might reply<sup>12</sup> in a similar fashion: we can easily learn whether  $x_1$  (some economic good at  $t_1$ ) and  $x_2$  (some economic good at  $t_2$ ) are the units of the same good. We would do so by checking

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<sup>10</sup> Then again, we believe there is no clearer exposition of the said law than the following passage from Rothbard (2011, p.15): “A fundamental and constant truth about human action is that *man prefers his end to be achieved in the shortest possible time*. Given this specific satisfaction, the sooner it arrives, the better. This results from the fact that time is always scarce, and a means to be economized. The sooner any end is attained, the better. Thus, with any *given end* to be attained, the shorter the period of action, i.e., production, the more preferable for the actor. *This is the universal fact of time preference.*”

<sup>11</sup> Note that since we value means instrumentally (that is only as much as they contribute to the satisfaction of our ends), the universal law of time preference must *derivatively* apply also to means. Since for any given end, we would rather achieve it sooner rather than later, we *must* also prefer to employ (or come into possession of them) necessary means sooner rather than later.

<sup>12</sup> As brilliantly observed by an anonymous reviewer, the following analysis of the law of diminishing marginal utility does not imply that Austrians failed to formulate the law in non-trivial terms. This would indeed be uncharitable. Yet, our point is more

whether an actor would *now necessarily* prefer  $x_1$  to  $x_2$ .<sup>13</sup> But these two apodictically true statements come at a price. For the consequence of the lack of the independent (of the laws in question) notion of the same good, would turn those laws into concealed tautologies. Consider yet again,

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modest. We claim that the law under consideration would be necessarily tautological unless we independently elaborate on the notion of homogeneity (same good), which is precisely what is going to be done in the forthcoming parts of the paper.

<sup>13</sup> In fact, it was Rothbard (2011, pp.15–16) himself who resorted to this tautologous defense of the universal law of time preference, which is evidenced by the following passage: “*Time preference* may be called the preference for *present satisfaction* over *future satisfaction* or *present good* over *future good*, provided it is remembered that it is the *same* satisfaction (or “good”) that is being compared over the periods of time. Thus, a common type of objection to the assertion of universal time preference is that, in the wintertime, a man will prefer the delivery of ice the next summer (future) to delivery of ice in the present. This, however, confuses the concept “good” with the material properties of a thing, whereas it actually refers to subjective satisfactions. Since ice-in-the-summer provides different (and greater) satisfaction than ice-in-the-winter, they are *not* the same, but *different* goods. In this case, it is different satisfactions that are being compared, despite the fact that *physical* property of the thing may be the same.” Whereas in the body of the text we considered the possible Austrian rejoinder in the form of saying that the same good can be conceptualized as the one that obeys the universal law of time preference, Rothbard merely contraposes by saying that if there is an apparent preference for a future good (ice cream in summer) over a present good (ice-cream in winter now), these two cannot constitute one and the same economic good. So, not only is the Rothbardian solution clearly circular, but also it gives the impression of fudging the notion of the same good. It may seem that whatever counterexamples to the law of time preference one may possibly come up with, Rothbard would rebut it by claiming that his critic invokes two distinct economic goods. This is yet another indication that an *independent* concept of the same good is logically required.

- 1) (*the law of diminishing marginal utility*<sup>14</sup>): a supply of economically same goods constitutes such a collection of units that each additional unit therein is valued less than the previous unit, and
- 2) (*the definition of a supply of economically same goods*): what we here *mean* by a supply of economically same goods is such a collection of units that each additional unit is valued less than the previous unit.

Since any good definitions are equivalences and the *definiens* may be substituted for *definiendum salva veritate*, let us substitute for “a supply of economically same goods” in 1) our *definiens* in 2). We would end up with

- 3) A collection of units that each successive unit is valued less than a previous unit constitutes such a collection of units that each successive unit therein is valued less than the previous unit.

Now, it is clearly visible that 3) is a tautology in its open form. Incidentally, if we were to understand the same good as the one that obeys the universal law of time preference, then this law in turn would be rendered equally uninformative. A concealed tautology would turn into a tautology in its open form via exactly the same reasoning (see: steps 1-3 above). So, the main thrust of Nozick’s objection can be interpreted as saying that without an *independent* notion of indifference,

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<sup>14</sup> We take the liberty of providing our own (and not Rothbardian) formulation of the law of diminishing marginal utility only because our version makes the ultimately tautologous character of the reasoning under consideration more conspicuous. Moreover, as conceded in footnote 12 above, the (explicitly) tautologous formulation of the law cannot be attributed to any particular Austrian.

the law of diminishing marginal utility<sup>15</sup> would be simply trivial. It would not state an interesting (and non-trivial) relation between *two different properties* of units in question; 1) that of *belonging to the class of economically same goods* and 2) that of *being valued less and less on the margin* once the class in question has fewer and fewer members. By contrast, a tautology would state a trivial truth: a property is identical with itself. In our case: the property of belonging to the class of economically same goods is the same as the property of belonging to the class of economically same goods. This, however, is a far cry, to say the least, from stating a meaningful economic law.

Second, we must also concede to Nozick that pricing of the commodity also seems to rest on the notion of indifference. Then, if Austrians fail to somehow accommodate indifference into their theory, this would have disastrous consequences for their entire conceptual edifice. After all, it must be borne in mind that the market (equilibrium) price of a given product is a function of supply and demand. And the demand curve is but a reflection of the diminishing marginal utility of a given product. That is, the demand curve—rather unsurprisingly—slopes downwards because the more we have (of a given product), the less we value marginal units. And it is precisely why we are ready to buy *more* (of pretty much anything) *only when* the successive units of the product in question cost less and less. Therefore, it is clear to see that the demand curve reflects the logic of diminishing marginal utility. Hence, Nozick is right. If we fail to reconcile the notion of indifference with the law of diminishing marginal utility, then, while having a distorted notion of the law, our idea of the demand curve would be flawed too. And this in turn would adversely affect the concept of the market price since the market price is a function of the demand

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<sup>15</sup> As demonstrated in passing above, Nozick's objection would apply with the equal force to the universal fact of time preference too.

curve. Yet, we believe that all these problems can be overcome once we make the concept of indifference a function of the correct description of an action,<sup>16</sup> very much in the vein of Hoppe (2005). And it is the building upon this author's account (simultaneously defending it against Block's objections) that we shall now turn to.

#### 4. Why Block's account of indifference is inadequate

The first Austrian to recognize the force of Nozick's challenge was Walter Block. This is evidenced in the way Block (1980, p.423) acknowledges the gravity thereof before he even tackles indifference: "I consider Nozick's next attempt to show the necessity of indifference as one of the most brilliant and creative criticisms that has ever been levelled against any aspect of Austrian theory." But how does Block try to take the sting out of Nozick's objection? Since we are going

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<sup>16</sup> As suggested to me by an insightful anonymous reviewer, the word "correct" in the Hoppean (2005) phrase "correct description of an action" does not refer to any normative standard. Rather, it is ultimately a matter of fact. Indeed, "correct" description of an action captures the *mentalist* (or *internal*) aspect of action; that is, *how* the actor herself conceives of what she is doing. Still in other words, the correct description of action picks up only those elements which were chosen and which were thus strictly preferred to perceived alternatives.

to suggest a more satisfactory solution than the ones hitherto ventured within the debate on indifference,<sup>17</sup> Block's (1980, pp.423–424) wrestling with the challenge merits being quoted in full

Suppose that, for example, a person has a stock of some commodity. This means, of course, that he considers each unit equally useful, desirable, serviceable. . . . Let us presume that he has 100 lbs. of butter and now for some reason desires to give up one of these units of butter. And let us say, further, that he arbitrarily picks one such unit, say, the 72<sup>nd</sup> one. Nozick would say that 'the person does not prefer giving up this one to giving up another one' [. . .]. But this interpretation is clearly unsatisfactory. For if the person didn't really prefer to give up this (72<sup>nd</sup>) one, why did he pick it to be given. So we are forced to conclude that the butter units were not really interchangeable from the point of view of an actor involved in the selection process. Thus, we seem to be forced to deny that there is ever any such thing as a commodity, surely a ludicrous position.

And we concur. Surely, it is a ludicrous position; yet, it is precisely what Block's account is doomed to conclude for it is inherently unable to square the two apparent facts: 1) that those units of butter are *really* (*ex hypothesi*) "equally useful, desirable, serviceable" and 2) that 72<sup>nd</sup>

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<sup>17</sup> There were many contributors to the debate on indifference within Austrianism, regardless of whether they *directly* address the Nozick's challenge or not. These include—among others—Block (2009a,b); Block with Barnett (2010); Hudik (2011); Rothbard (Rothbard, 2011). Moreover, less characteristically within Austrianism, there is a dissenting view to the effect that praxeology should embrace acting on *weak preference* (rather than strict one), and thus possibly also on *indifference*. This view is represented by, e.g., Machaj (2007); O'Neill (2010). The reason the present paper focuses on the discussion between Block and Hoppe is that, first, these two authors are particularly eloquent in presenting their respective (and contrasting) views; and second, they by far contributed most to the entire debate in question.

one was ‘picked up’.<sup>18</sup> As we are about to see, the whole problem trades on the concept of ‘picking up’. Block seems to be lured into thinking that the imagined actor *does* pick up the 72<sup>nd</sup> unit where he says: “For if the person didn’t really prefer to give up this (72<sup>nd</sup>) one, why did he pick it to be given”. Fair enough, if we *assume* that he did pick up<sup>19</sup> this very unit, he must have preferred giving up this one to giving up any other, which simply logically follows from the concept of ‘picking up’ employed herein. And yet, why should we beg any questions? It is to be established first that the actor *does indeed* pick up the 72<sup>nd</sup> unit. For settling this issue has a bearing on whether he prefers giving this unit to any other or he does not. And this in turn determines whether the actor conceives of the 72<sup>nd</sup> unit as the unit of the same supply (with all the other units of butter) or he conceives of the stock before him as consisting of two distinct classes: a) a homogeneous class of 99 units (still intact) and b) a singleton containing the very pound of butter given up.<sup>20</sup> Therefore, it seems that something has to give here: either 100 units were not in fact

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<sup>18</sup> Now, we must make a slight concession in order to avoid begging any questions at this point. The concept of ‘picking up’ does not conveniently play on the equivocation between preference and indifference since it unambiguously suggests the former. Our point, by contrast, is to say that somehow (in a sense) 72<sup>nd</sup> unit of butter was ‘picked up’ but this notion of picking up is sort of *non-preference implying* (or, positively speaking, indifference-implying). As noted, however, the notion of ‘picking up’ (as commonly used) A over B implies that we prefer A to B; after all, we want preferences to guide actual choices. As it will transpire, what captures the above scenario (with pounds of butter) much better is the description that 72<sup>nd</sup> unit was not chosen (or picked up for that matter) at all. Yet, let us not precipitate things. We will come to this issue once we tackle Hoppe’s account.

<sup>19</sup> Then again, the notion of ‘picking up’ invoked here is the normal *preference-implying* one.

<sup>20</sup> We still hasten to add that ‘given up’ here should not imply that the very item was dispreferred. The correct description of the action in case (and that is the point we shall press in the forthcoming part of the paper) all 100 units were perceived as equally serviceable is that the actor could not—logically speaking—choose between them.

perceived as equally useful or they indeed were but the actor did not (in a relevant sense) choose to give up the 72<sup>nd</sup> unit. So, Block cannot have it both ways. But before we embark on further considerations, let us cite the apparent solution Block (1980, p.424) offers:

I think that this problem can be reconciled as follows. *Before* the question of giving up one of the pounds of butter arose, they were all interchangeable units of the commodity, butter. They were all equally useful and valuable to the actor.

But then he decided to give up one pound. No longer did he hold, or can he be considered to have held, a homogeneous commodity, consisting of butter pound units. Now there are really two commodities. Butter<sub>a</sub>, on the one hand, consisting of 99 one-pound units, each (of the 99) equally valued, each interchangeable from the point of view of the actor with any of the other in the 99-pound set: on the other hand, butter<sub>b</sub>, consisting of one pound of butter (the 72<sup>nd</sup> unit out of the original 100 butter units, the one, as it happens, that he chose to give up when he desired to sell off one of his pounds of butter). In this case butter<sub>a</sub> would be preferable to butter<sub>b</sub>, as shown by the fact that when push came to shove butter<sub>b</sub> was jettisoned and butter<sub>a</sub> retained.

We will offer two interpretations of the above passage. One perusal will construe of what Block seems to mean literally, whereas the other will attempt to interpret him charitably, thus rendering Block's statement true but irrelevant. So, as hinted at above, Block seems to imply that *the choice* constitutes a sort of breaking point, after which there are no longer homogenous units but the formerly homogenous collection is now divided into two sets: in one of them we still have homogenous units and the other set is a singleton, with the element not being homogenous with the remaining elements in the previous set. The problem with this contention is that Block must either invalidate

his assumption that they were homogeneous before the choice in order to explain why the choice (i.e. picking up the least preferred unit of butter, as opposed to the remaining ones) took place. Alternatively, if he maintains that the units in question are indeed equally useful, then he cannot explain why this particular unit of butter was picked up because they were assumed to be equally valuable in the first place. Nozick's challenge comes with vengeance to Block and the reason is precisely that the latter author has a distorted idea of choice.<sup>21</sup> To appreciate this indictment of ours more clearly, let us press the problem of choice (and *what exactly* is chosen) a bit harder. What prompts Block to believe that it was the 72<sup>nd</sup> unit—as opposed to just *a* unit—that was given up in the above-considered scenario? We would like to venture a hypothesis that Block (however implicitly) could have believed that whatever made the sentence “72<sup>nd</sup> unit was exchanged for money” true (with the truth-maker in question being the entire action-token in which all the details are provided: there was a particular unit exchanged for a particular banknote at a particular time and space via particular bodily movements etc.) *is the same* as the propositional content of the actor's intention. But this is highly improbable. This would predict that—at least in this case—there was only *one possible* (and extensionally defined) *state of affairs* which would satisfy the actor's intention. If Block were to think so, he would wind up advocating perfect heterogeneity of means, being left with no hope of intelligibly conceiving of *the same commodity*. After all, choices reflect strict preferences and if everything (down to the level of the most minute details) is chosen, then at least for this actor, the supply of the same commodity is an empty category.<sup>22</sup>

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<sup>21</sup> This idea of choice is going to be remedied by Hoppe (2005), as we are about to see.

<sup>22</sup> Strictly speaking, the equivalence classes of the same commodity would be always singletons.

However, it seems quite obvious that the actor's desire can be satisfied in an almost infinite number of ways. If we want to buy bread in a local supermarket, it might be the case that we are indifferent even between supermarkets (because, say, they are equidistant and almost qualitatively identical) or between types of bread etc.—not to mention that it would be absurd to claim that we choose every single detail of our route to a supermarket.<sup>23</sup> So, there are infinitely many bodily behaviors and infinitely many routes that would do equally well from the actor's perspective. Now, combing these two infinities would yield a Cartesian product, with every member thereof being equally good for that actor. In other words, any combination of a particular route and a particular bodily behavior under consideration would do as well as any other *relative to the satisfaction of his particular intention*. Concluding, it would be a fatal mistake to confuse *a particular state of affairs* (as specified in extensional terms) which actually occurred with *a content of the actor's intention*, with the latter being almost always intensionally specified. Granted, the content of the latter is propositional but the proposition (*that* this or that happens) is normally satisfied by infinitely many particular states of affairs—but not by only one. And because the actor's intention can be satisfied in so many various ways, he *must* be indifferent between some aspects of this multitude of states of affairs. And because he is indifferent between them, he does not choose between them. Having established that this

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<sup>23</sup> The same—rather commonsensical—point was pressed by Davidson (1963, p.688): “If I turned on the light, then I must have done it at a precise moment, in a particular way—every detail is fixed. But it makes no sense to demand that my want be directed at an action performed at any one moment or done in some unique manner. Any one of an indefinitely large number of actions would satisfy the want, and can be considered equally eligible as its object.”

possible retort Block might have availed himself of would not succeed either, let us move to the second perusal of the above-cited fragment from Block.

On the second reading, Block's position may be rendered true but then it would amount to the mere restatement of the law of marginal utility. In other words, what Block might mean is that *after the choice*<sup>24</sup> of a particular unit of butter out of 100 of them we deal with a new supply of 99 units thereof. Before any action was taken, the marginal value of each of those units was the least important goal each of them could satisfy. Now, whichever unit was gotten rid of, the marginal value of the remaining units must have increased. Hence, if Block ends up with 99 units of butter, it is a matter of course that now the value of each of them (that is of a marginal unit) is higher than what it was when he had 100 of them at his disposal. Yet, as indicated above, this is tantamount to the mere restatement of the law of marginal utility and therefore irrelevant.<sup>25</sup> Specifically, it yet again fails to explain why the choice—as Block claims—of this particular unit took place. Having said that, it is about time to go on to consider the Hoppean account of choice and indifference.

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<sup>24</sup> But now, it is rather a choice between having an exchange (of a unit of butter for money) or refraining from it.

<sup>25</sup> Note that if Block's response is read as the mere restatement of the law of marginal utility, then it might be argued that it is not only irrelevant to the problem at stake but also question-begging: the response is called upon to vindicate the law of diminishing marginal utility against Nozick's challenge, yet it depends for its success on the restatement of the law as a valid one. Furthermore, as we shall argue towards the end of the paper, the law in question is best understood, when grounded in the Hoppean correct description of an action and supplemented by sound counterfactual reasoning.

## 5. Hoppe's account as a remedy for Block's shortcomings

In this section, we are going to argue for two points: a) not only can a choice be modelled in such a way as to logically exclude the possibility of choice under indifference and b) there are additional reasons why we should endorse the Hoppean correct description of an action. We are going to stress on multiple occasions that it is not the case that the Hoppean account is just an *ad hoc* proposal aimed at solving the problem of indifference, for if it were so, it might be claimed that Hoppe does not solve the problem of indifference and apparent choice among the units of the same supply but simply assumes it away: after all, Hoppe suggests understanding choice as such that it necessarily excludes indifference.

Let us now try to determine whether the Hoppean (2005) account fares any better when confronted with Nozick's challenge. First and foremost, it must be noted that—unlike Block's solution—it involves both doing justice to indifference<sup>26</sup> (at least admitting that a man can be genuinely indifferent between some options) and barring it steadfastly from the realm of choice. Briefly speaking, Hoppe (2005) maintains that one *cannot* make a choice under indifference. This “cannot” is definitely of logical nature and so, the truth of the proposition that a man cannot choose when indifferent derives its truth solely from its constituent concepts. Specifically, Hoppe *defines* choice in such a way that it entails the lack of indifference. That is, if man chooses  $x$

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<sup>26</sup> It should be constantly borne in mind that, after all, according to the majority of Austrians, indifference is not a praxeological concept (see: footnote 17). This is due to the fact that indifference cannot be demonstrated in action, as is usually reiterated by Austrians (see Block, 2009a; Block and Barnett II, 2010; Rothbard, 2011). By no means can we deduce from any actual choice whether we were confronted with the units of the same good or with the ones of distinct goods.

over  $y$ , he is not (and, logically speaking, *cannot*) indifferent between the two. And conversely, he defines indifference in such a way that the very fact that the actor is indifferent between  $x$  and  $y$  implies that he does not (and *cannot*) choose between the two.<sup>27</sup>

Based on the original Hoppean account just adduced, the following two relations must hold:

1. an actual choice between units  $\rightarrow$  strict preference for one of the units;
2. indifference between units  $\leftrightarrow$  no possible choice between the units.

At this point, we would do best to obviate one possible objection that might be raised against Hoppe. Note that it might be claimed that it can surely be the case that one cannot choose  $A$  over  $B$  *even if* one is not indifferent between the two and the reason might be that  $A$  is unavailable. Then it would look as though it is only indifference that entails the impossibility of choice, whereas the impossibility of choice

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<sup>27</sup> Then again, if this were all there is to the Hoppean account, it would hardly count as a solution to Nozick's challenge. By contrast, Hoppe does indeed appeal to Searle's (1984) distinction between internal-mentalist and external-behaviourist aspect of one's action, which definitely provides an independent reason counting in favour of the former's solution to the problem of indifference (vis-à-vis choice) in Austrian economics. In the forthcoming part of this section, we are going to build upon and thus sharpen Hoppe's (Searle's) insight by demonstrating that there is a deep distinction between *a description of one's action under such an aspect that makes it intentional and the description of what one did* (whether intentionally or not). As we shall argue, the former captures not only the idea of what is chosen but also accounts for which maxim one acts on, thereby making it very useful in the assessment of the moral worth of one's actions. Briefly speaking, our agenda henceforth is to show that the Hoppean solution involving the correct description of an action is a powerful explanatory device shedding light on many aspects of human life, while not being a mere stipulative *ad hoc* move (the definitional exclusion of indifference from the realm of choice) aimed at saving Austrian economics from Nozick's challenge.

would fail to entail indifference. However, this merely psychological (in the absence of action) fact that an actor prefers *A* over *B* would be of no interest to Austrian economics with its commitment to the doctrine of demonstrated preference (see *inter alia* Rothbard, 2011). Simply stated, the actor's preferences that cannot be demonstrated in action are not part and parcel of this school of thought. Therefore, whenever we speak of the possibility of choosing *A* over *B*, this presupposes that both *A* and *B* are available. And that is why the only reason why an actor cannot choose (given our presupposition) between *A* and *B* is that he is indifferent between them. And this is why it is the relation of equivalence that holds between indifference between some units and an inability to choose between them. Having preempted this possible rejoinder, let us cite some textual support confirming that Hoppe (2005, p.91) indeed perceived the relation between choice and difference in the way reconstructed above:

Likewise, a mother who sees her equally loved sons Peter and Paul drown and who can only rescue one does not demonstrate that she loves Peter more than Paul if she rescues the former. Instead, she demonstrates that she prefers *a* (one) rescued child to none. On the other hand, if the correct (preferred) description is that she rescued Peter, then she was not indifferent as regards her sons.

Clearly then, if the mother chose (the preferred description) to save Peter, she thus demonstrated the strict preference for him over Paul, which exemplifies relation 1) cited above; whereas the relation 2) is most tellingly (however indirectly) elucidated with the proverbial Buridan's ass wavering over two identical bales of hay (Hoppe, 2005, p.91):

Lastly, consider Buridan's ass standing between two identical and equidistant bales of hay. The ass is not indifferent and yet

chooses one over the other, as Nozick would have it. Rather, it prefers *a* bale of hay (whether it is the left or the right one is simply not part of the preferred choice description), and thus demonstrates its general preference of hay to death.

The relation 2) can easily be inferred therefrom: the ass being indifferent between these two bales of hay, did not *choose* between them; rather, he chose *a* hay over death, which, eventually, implies its preference for the former over the latter. Having said that, it is high time to ask what are the merits (or demerits?) of the Hoppean account? And in particular: why is the Hoppean account superior to Block's and how does former address Nozick's challenge? To test Hoppe's position, let us apply it to the scenario of giving up a pound of butter cited above.

There are two logical possibilities here. If the actor views all 100 units of butter as genuinely equally serviceable, then all of them fall into the rubric of the same economic good. Then *any* correct description of his action would not involve any choice *between these units*. It is certainly the case that it is strict preference that guides the actor's choice; yet, this choice is not between the units assumed to be equally serviceable.<sup>28</sup> It is this very point that Block does not concede, thereby running into all the above-mentioned conceptual problems. So, positively speaking, how to account for the transaction that occurred? The solution seems fairly straightforward: since the actor *did* indeed give up the 72<sup>nd</sup> pound of butter (while holding all of them equally serviceable), he must have preferred giving up *a* unit of butter for some pecuniary equivalent. In other words, the actor preferred one unit of butter less, but some increment of money to retaining his entire

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<sup>28</sup> Remember, all these units would then fall into the same equivalence class (with indifference between the equivalence relation dividing all economic means into mutually disjoint classes) *within which* an actor does not (and cannot) choose.

stock of butter but depriving himself of an opportunity to earn this money. The second possibility is that the correct description of an action is that the actor really dispreferred that 72<sup>nd</sup> unit that he actually gave up. If so, that unit was not the same economic good as all the other units in the first place and therefore, trivially, the original supply of 100 units was heterogeneous. At the very least, there were at least two classes of economic goods involved as the unit actually given up was *ex hypothesi* (due to the correct description of the action) valued less than any other.

For the time being, let us return to the celebrated Hoppean thought experiment with mother saving either Peter and Paul from drowning and let us suppose that Block could still argue that the mother could not be indifferent between Peter and Paul under any circumstances once she saved Peter. The bone of contention then would be *the act of saving Peter* and whether the fact that the mother (at least according to one description of her action) did save Peter in turn implies that the mother did indeed choose to save Peter. Let us analyze more closely this tack that Block might try. Block's point against Hoppe would be decisive if the act of *saving a particular child* (under this description) instead of another were inherently *preference-implying*. That is, Block would succeed if we can infer from *the fact* of saving a particular child (or from bringing about the event of a particular child being saved) that this particular child was preferred to the other. Yet, there is a deep distinction favored by Davidson (2001) between *what an actor does* (including his primitive action consisting in his bodily movements up to everything they cause) and what he does *intentionally*. As Davidson (2001, p.45) put it: "[...] although intentionality implies agency, the converse does not hold." Therefore, it would simply beg the question to say that by the act of saving Peter the mother demonstrated her preference for Peter over Paul. As established above by alluding to

the Davidsonian insight, from the event that the mother authored, we cannot infer *which aspects thereof were informed by her preference*. Therefore, not to beg any questions, we should treat the act of saving Peter in *the non-choice*—(and hence also non-preference)—*implying* sense. Alternatively, just to remain neutral on whether the mother did actually choose to save Peter or chose to save *a* child, we could say that what the mother *in fact did* was to save Peter. After all, to say that the mother saved Peter is only *to attribute her agency* to this event (in other words, it is to say that she *authored* the event of Peter having been saved), which does not imply that she saved Peter *intentionally*. And this is the key insight which, in our view, counts in favor of the Hoppean account. Just to reiterate, there is a distinction to be drawn between the authored event (Peter being saved) and this description of the mother's action that makes it intentional (e.g. saving *a* child). It is only the latter description that accounts for what the mother intended to do, and hence chose. Therefore, we can easily conclude that it is only *some aspects* of the authored event that an actor intentionally brings about or chooses to bring about. For example, assuming that the latter description is a correct one, the mother was not choosing between her children, although it is true what she *in fact did* was to save Peter. Finally, authored events are defined in extensional terms (with all minute details being fixed), whereas the actor's intentions (strictly speaking, their propositional content) is envisaged in intensional terms. And it is what Hoppe (2005) hints at throughout his paper: it is the idea that what the actor genuinely *chooses* is reflected in his (from his privileged first-person point of view) preferred description of the action.

To further reinforce the Hoppean point of the correct description of an action, we can also resort to Parfit's (2011, p.289) incisive

remarks (though literally located within the context of Kant's philosophy) related to the issues of adequately describing on what maxims people actually act:

Whether some act is wrong, Kant's formulas assume, depends on the agent's maxim. Of the maxims that Kant discusses, most involve some policy, which could be acted on in several cases. Two maxims may be different, though they involve the same policy, because they involve different underlying motives or aims. Two merchants, for example, may both act on the policy 'Never cheat my customers'. But these merchants act on different maxims if one of them never cheats his customers because he believes this to be his duty, while the other's motive is to preserve his reputation and his profits.

This quote could aptly illustrate our (and Hoppean) intuition that two identical behaviors could then translate into two distinct actions, depending on the way we frame our goals. Or to use Parfit's language, the actor's observed particular behavior cannot unambiguously point to a maxim he is acting upon for the former may be compatible with practically infinitely many varieties of the latter. After all, the relation between a maxim and behavior is many-to-many. A given maxim an actor is acting upon may be instantiated in infinitely many behaviors and vice versa: as we say, a given behavior may translate into many maxims. And now, the way of getting to a correct description of an action was brilliantly illuminated by Parfit (2011, pp.289–290). The author considered acting on the following highly specific maxim: stealing some wallet from some woman dressed in white who is eating strawberries while reading the last page of Spinoza's *Ethics*. Ethical objections connected to acting on such rare maxims aside, the author suggested the following to determine which maxim is actually guiding our actor:

This objection can be partly answered. Just as it is a factual question what someone believes, or wants, or intends, it is a factual question on which maxim someone is acting. And real people seldom act on such highly specific maxims. When we describe someone's maxim, as O'Neill and others claim, we should not include any details whose absence would have made no difference to this person's decision to do whatever he is doing. In a realistic version of my example, I would have stolen from my victim even if she had been dressed in red, or had been eating blueberries, or had been reading the first page of *Right Ho Jeeves!* My real maxim would be something like 'Steal when that would benefit me.'

So now, do not the above considerations perfectly correspond with the Hoppean distinctions between choice, indifference and the correct description of an action? To put it more specifically, it should by now seem obvious that physical objects *A* and *B* cannot constitute two distinct economic goods when they do not figure in the correct description of an action. In other words, whether *A* or *B* is employed *cannot make a difference* to the actual maxim we are acting on. If our maxim (preferred description of an action) is to save *a* child, it simply follows that any child would do equally well. The mother cannot be rendered worse off when Peter (or Paul for that matter) is saved simply because both of these scenarios count as the satisfaction of the very same policy of ours. And that is the reason these two (only seemingly distinct) goods are actually the same economic good and it is precisely for the very same reason that we do not choose between them.<sup>29</sup>

Finally, let us note that Nozick's challenge leaves the Hoppean position unscathed. Nozick's point is simply irrelevant once we sub-

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<sup>29</sup> First, it appeared as if indifference between *A* and *B* analytically entailed the impossibility of choosing between *A* and *B* (what we christened Hoppe's stipulative move). Now it seems we found another reason why indifference between two units and the impossibility of choosing between them must go hand in hand.

scribe to the Hoppean account of choice. To conceptualize a supply, Austrians have to employ the notion of indifference—fair enough. Yet, whenever any two units are the units of the same commodity, they shall never figure in a description of one and the same action. In other words, once any two items represent the same economic good, there is no choice between them. Therefore, a choice under indifference—an anathema to Austrians—is rendered impossible now. We might also put the above point in the jargon of philosophers of actions, when two—economically identical—goods are at stake, our goal (maxim) is satisfied to the same degree regardless of whether one good or the other is employed. Since the correct description of an action might be mute on the employment of a *particular* good (as opposed to the use of a *type* of good), it follows that two *numerically* distinct physical items being equally serviceable in the performance of an action in question must count as the same economic good simply because *the satisfaction conditions* of our actions<sup>30</sup> do not discriminate between these two units.

## **6. Extending the Hoppean framework: stating the law of diminishing marginal utility**

Before we sharpen the formulation of the law of diminishing marginal utility, we need to take heed of one conceptual trap we might fall into. As we were pointing out throughout the paper, the meaningful (non-trivial) formulation of this law depends on the independent notion of the same economic good. Additionally, we posit that a given stock of units may be considered by an economic actor as a supply of *the same commodity* only relative to a given moment. Strictly speaking, it

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<sup>30</sup> These, of course, follow from the correct description of an action.

is a matter of course that human action is sequential (in a temporal sense) by nature; yet, an actor at  $t_1$  may envisage the way he is going to employ consecutive units at later times. This *double time indexation*—one standing for a given moment in which an actor envisages the employment of his successive means and the other standing for the *actual* time at which they are employed—is necessary. For suppose *arguendo* that our only time indexation is the time of the *actual* employment of the means for the satisfaction of our goals. Then, we submit, the hope of formulating the desired law would be forlorn. In fact, if we apply the said single index, we would observe that the marginal utility increases once we deal with fewer and fewer units. Certainly, it is impossible to still speak of the same commodity when the marginal utility varies. So, generally speaking, if we have  $n$  units of apparently the same commodity, and once we employ the  $n^{\text{th}}$  one, we end up with the supply of  $n-1$  units. The marginal utility of the latter supply is higher than in the original one. However, even the above statement is one not entirely correct. For, remember, to state that the marginal utility diminishes once the supply gets smaller and smaller, it must be *the supply of the same economic good*. As we can see, *the single indexation* would not enable us to formulate the law of diminishing marginal utility. Rather, it would depend on the very law we are trying to formulate. Note, our aim still is to develop a robust notion of a supply of the same commodity. Only then can we show that marginal utility would indeed increase once the said supply shrinks.

So, just to introduce our allegedly necessary double indexation, let us put forward the following notation. As promised, each unit is to be indexed for time twice in the following manner:

1. It is going to be indexed *for the time of its actual employment*, with the time being indicated in the subscript. So,  $u_{23}$  is to be read as *the second unit* employed at  $t_3$  (time 3).
2. Additionally, it is going to be indexed *for the moment in which an actor imagines its future employment*, with this moment being indicated in the superscript. So, adding to our previous example,  $u_3^1$  is to be read as how an actor imagines at  $t_1$  how the second unit is to be employed at  $t_3$ . Note, we allow the time variables in both indices to range from the present ( $t_1$ ) onwards up to the conceivable future. Yet, the time of envisaging the employment of the units must be earlier than the actual employment of the units. In other words, the natural number in the superscript must be lesser than the number in the subscript. After all, intuitively speaking, once a means was utilized, there is nothing to economize any longer.

So, armed with the above formal notation and having in mind the condition that given units can be viewed as constitutive of a supply of the same commodity only *relative to a given moment*, we can now state what it is for a given set of units to be perceived as economically identical. What would, for example, make  $u_1$  and  $u_2$  units of the same commodity, as viewed now (at  $t_1$ ) by an economic actor? Formally speaking, it would mean that for any  $t$  (in the subscript, which is the time of the actual employments of these units), the actor is indifferent (*now*) between  $u_1^t$  and  $u_2^t$ . To put it verbally, at least as of now, the actor believes that he can swap these units in any time in the future without any loss of utility (or satisfaction for that matter). Still in other words, he *now* believes that it is a question of indifference whether he employs  $u_1$  at any time instead of  $u_2$  at that time. Note that we can easily understand that a unit can preserve its *economic*

identity over time, which, incidentally, does not run counter to the universal fact of time preference. After all, we assume as a correct description of our consecutive actions that a given unit (say,  $u_1$ ) over certain time is equally serviceable as any other unit in our set. If an actor believes that  $u_1$  can be put to use at  $t_1$  as well as at, say,  $t_8$ , then there is no preference for the employment of this unit now to its employment later. By no means does that threaten the universal law of time preference. Quite the contrary, when we genuinely find (now) some set of units equally serviceable across a given range of time, then, logically speaking, these units are viewed as economically identical *across that time*. In other words, for any unit in that set, there is no preference for its use at any particular time over any other. When it comes to the satisfaction of ends, the situation is diametrically different. We do satisfy our ends in a descending order of their importance over time. Yet, our means are *believed* (correct description of an action) to be equally serviceable over that very time. By assumption then, any of the said units can be equally well employed at any time.

Let us represent our rather intuitive findings more rigorously and generally. Let  $S$  be a set of  $n$  number of units, which are believed to be equally serviceable. Let  $e$  be a number of ends each of the units is *believed* to be able to satisfy equally well. Let also  $n \leq e$ . The last requirement is important for if  $n$  were greater than  $e$ , then some of the units in  $S$  would not count as economic goods (for a proper subset of  $S$  would already satisfy all the ends the means are supposed to be able to satisfy). Now as long as we consecutively allocate any of these units to less and less important ends (starting from the most important one), then there are  $e!$  number of scenarios an actor would

be indifferent to.<sup>31</sup> Remember, the indifference relates to the means consecutively employed, but not the ends. The latter are obviously satisfied in the descending order of importance.

To conclude, let us show that the law of diminishing marginal utility firmly rests on correct description of (sequential) actions and does not depend on any *actual employment* of the units of the same commodity in question. Let us consider a set of units at time  $t_1$ . Suppose an actor has at his disposal three eggs, which he finds equally serviceable. For the sake of simplicity, let us assume each of these eggs can equally well satisfy three needs (in the descending order of importance):

1. Throwing one at one's enemy window;
2. Eating one hard-boiled;
3. Eating one soft-boiled.<sup>32</sup>

As established above, if our three eggs are *believed* to be able to equally satisfy these three needs, we would end up with 3! (which is 9) possible scenarios of satisfying these ends with our three economic goods among which our actor would be indifferent. The value of the marginal unit now is the third end since it is this end that one would not satisfy if one were to give up or lose one of his eggs. Now, we claim that the law of diminishing marginal utility (in a truly Austrian spirit) does not depend on the actual employment of our eggs. Rather,

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<sup>31</sup> The number of ends unsatisfied will be  $e-n$ . These will be the ends figuring at the bottom of the actor's value scale. Furthermore, as we can see, the Hoppean account can be given a temporal dimension. Now we can say not only that saving Peter is as good as saving Paul *now* but also that some (temporal) sequences of actions are considered as good as some other. In our case discussed above, there are  $e!$  of such equally good sequences of actions from the perspective of some economic actor.

<sup>32</sup> Also, for the sake of simplicity, let us assume that our marginal unit here is just one egg; that is, there no ends that are to be satisfied with either two or three eggs (put together) from the perspective of this actor.

the law should be conceived of *counterfactually*. That is, holding an actor's correct description of his ends and his relative value rankings fixed, we should imagine how the same actor would value a marginal unit of his shrunk supply. To illustrate, suppose an actor lost his third egg and is now (contrary to fact) left with only two of them. Then, the value of his marginal unit would be the second end (eating it hard-boiled) for if he were to lose either of the two remaining eggs, the need that would be then left unsatisfied would be eating an egg hard-boiled. So, we posit, while building upon the Hoppean correct description of an action, that the law of diminishing marginal utility can be derived solely from the Hoppean account coupled with purely counterfactual reasoning (by keeping the ends as envisaged at  $t_1$  as well the relative ranking thereof equal). To summarize, it seems that the original Nozickian challenge can be adequately replied by the Hoppean account. What is more, the latter accommodates indifference and keeps it steadfastly from the realm of choice—very much in line with the demands of praxeology itself. Finally, after developing the notion of the same economic good, the sharpened Hoppean theory enabled us to clearly formulate the law of diminishing marginal utility.

## 7. Conclusion

The ultimate aim of this paper was to reply Nozick's challenge. In the meantime, we spelled out the implications of Nozick's criticism, which led us to the conclusion that the independent notion of the same economic good is very much needed. Then, on our way to sharpening the Hoppean account, we defended Hoppe vis-à-vis Block's criticism.

We concluded that Block's position inherently fails to capture the notion of the same commodity, while Hoppe's fares very well in this respect.

Eventually, we developed a formal notation to elucidate the notion of economic sameness, having built up on the Hoppean correct description of an action. Sticking to the Hoppean insight that there is no choice within the class of economically identical goods, we identified the number of possible scenarios (of sequentially employing the means to less and less important ends) among which an actor must be indifferent once he conceives of the units he is about to economize as equally serviceable. We concluded by claiming that the law of diminishing marginal utility can be derived solely from the Hoppean account, aided by counterfactual reasoning.

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## Bibliography

- Block, W.E., 1980. On Robert Nozick's 'On Austrian methodology'. *Inquiry* [Online], 23(4), pp.397–444. Available at: <https://doi.org/10.1080/00201748008601918> [visited on 20 December 2021].
- Block, W.E., 1999. Austrian theorizing: Recalling the foundations. *The Quarterly Journal of Austrian Economics* [Online], 2(4), pp.21–40. Available at: <https://doi.org/10.1007/s12113-999-1029-4> [visited on 20 December 2021].
- Block, W.E., 2009a. Rejoinder to Hoppe on Indifference. *The Quarterly Journal of Austrian Economics*, 12(1), pp.52–59.

- Block, W.E., 2009b. Rejoinder to Machaj on Indifference. *New Perspectives on Political Economy*, 5(1), pp.65–71.
- Block, W.E. and Barnett II, W., 2010. Rejoinder to Hoppe on indifference, once again. *Reason Papers*, 32, pp.141–154.
- Davidson, D., 1963. Actions, Reasons, and Causes. *The Journal of Philosophy* [Online], 60(23), pp.685–700. Available at: <https://doi.org/10.2307/2023177> [visited on 20 December 2021].
- Davidson, D., 2001. Agency. *Essays on actions and events*. Second edition. Oxford: Clarendon Press, pp.43–61.
- Hoppe, H.H., 2005. Must Austrians embrace indifference? *Quarterly Journal of Austrian Economics*, 8(4), pp.87–91.
- Hudik, M., 2011. A note on Nozick’s problem. *The Quarterly Journal of Austrian Economics*, 14(2), pp.256–261.
- Machaj, M., 2007. A praxeological case for homogeneity and indifference. *New Perspectives on Political Economy*, 3(2), pp.231–238.
- Menger, C., 2007. *Principles of Economics*. Auburn AL: Ludwig von Mises Institute.
- Mises, L.V., 1998. *Human Action*. Auburn AL: Ludwig von Mises Institute.
- Nozick, R., 1977. On Austrian Methodology. *Synthese* [Online], 36(3), pp.353–392. Available at: <https://doi.org/10.1007/bf00486025> [visited on 20 December 2021].
- O’Neill, B., 2010. Choice and Indifference: A Critique of the Strict Preference Approach. *The Quarterly Journal of Austrian Economics*, 13(1), pp.71–98.
- Parfit, D., 2011. *On What Matters. Vol. 1*. Oxford: Oxford University Press.
- Rothbard, M.N., 2009. *Man, Economy, and State: A Treatise on Economic Principles; with Power and Market: Government and the Economy*. Auburn AL: Ludwig von Mises Institute.
- Rothbard, M.N., 2011. Toward a reconstruction of utility and welfare economics. *Economic controversies*. Auburn AL: Ludwig von Mises Institute, pp.289–333.
- Searle, J.R., 1984. *Minds, Brains and Science, Reith Lectures 1984*. Cambridge, MA: Harvard Univ. Press.

# Rejoinder to Block on indifference\*

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## Abstract

This paper is a rejoinder to Block's (2022) response to Wysocki's (Wysocki, 2021) essay on Nozick's challenge leveled at Austrian economics. Instead of merely reiterating Wysocki's (Wysocki, 2021) position, we try to highlight that the Blockean account of indifference and preference entails the views which are otherwise unwelcome, given his unyielding commitment to Austrian economics at large. To wit, we argue that Block's theory still fails to make sense of the law of diminishing marginal utility. Moreover, his extreme idea of choice, sadly, appears to jettison characteristically Austrian subjectivism and thus perilously verges on behaviourism. We conclude that, given all these predicaments the Blockean account is caught in, Block himself (*qua* Austrian) has a reason to embrace the Hoppean theory of preference and indifference.

## Keywords

choice, indifference, preference, Hans-Hermann Hoppe, Walter Block.

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## 1. Introduction: the points of agreement

Before we embark on criticizing Block's account of preference and indifference, it is vital to underline the points of agreement between us and our intellectual adversary. This is important as it will allow us to all the more sharply capture the real bone of contention. What we, most crucially, share with Block is the view that indifference cannot be demonstrated in action (see e.g., Block, 2009; Rothbard, 1997). Indeed, the very idea of action presupposes *some* preference. That is, as Mises (1998, p.97) put it:

Action is an attempt to substitute a more satisfactory state of affairs for a less satisfactory one... A less desirable condition is bartered for a more desirable. What gratifies less is abandoned in order to attain something that pleases more.

Granted, it is due to the fact that individuals judge a state of affairs that would obtain in the absence of their respective actions to be *less preferable* to the one that they believe would be brought about by these actions that they engage in acting in the first place. Or in other words, if an economic actor believed that her action would render her no better off than if she were not to act at all, she would refrain from acting. It is in this sense that action at the very minimum presupposes *some* preference. Sweeping indifference would result in no action whatsoever—no disagreement with Block just yet.

What we also concur on with Block is the relation between the concepts of choice, preference and indifference. We, quite much in the Blockean spirit, conceive of the relation between the impossibility of choice and indifference as that of logical equivalence. That is, formally, for all S's, S an economic agent, S is indifferent between  $x$

and  $y$ <sup>1</sup> if and only if S cannot choose between  $x$  and  $y$ . On the other hand, it takes S's *preferring*  $x$  to  $y$  for S to *choose*  $x$  over  $y$ . Technically, the fact that S chooses  $x$  over  $y$  implies that S (strictly) prefers  $x$  to  $y$ . And Block (2022, p.47) concurs, which is manifested in the passage wherein Block invites us to consider the case of a grocer endowed with a stock of one-pound packages of butter who “must choose one of these one-pound packages, to give to the thief/customer.” The grocer then, we are supposed to imagine, “chooses the first one.” Block’s conclusion is that “he is no longer indifferent.”

Clearly then, we are on the same page with Block as far as the view of choice as preference-implying is concerned. Furthermore, we take no issue with the characteristically Austrian contention to the effect that it is *some preference* rather than indifference that manifests itself in action. However, the devil is in the details. And so there are indeed subtle points of disagreement between our account and Block’s, the points to which we are now turning.

## 2. The real bone of contention

Although, as mentioned above, we side with Block as far as the thesis that choice implies preference goes, our more nuanced position concerning *individuating* alternatives subject to choice finally makes it the case that our account of indifference and preference diverges

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<sup>1</sup> The variables  $x$  and  $y$  are best treated as mere place holders, for they may stand for such various entities as states of affairs, physical objects, actions. After all, an individual may well be indifferent between (or have a preference for) particular states of affairs (e.g. whether it is raining or not), physical objects (e.g. tea of coffee) and between specific actions (e.g. whether to start playing tennis with the *left* or *right* hand—see Hausman’s (2011, p.27) “final preferences” defined as “preferences among the immediate objects of choice”).

from Block's dramatically. Just to remind the reader, our view is that if one is indifferent between  $x$  and  $y$ , then one cannot logically choose between them. Or still in other words, if one cannot choose between  $x$  and  $y$ , then  $x$  and  $y$  do not constitute economically distinct alternatives.<sup>2</sup> To illustrate our point, if an actor  $S$  values watching football most and he values going for a walk equally highly, whereas he values playing a game of chess less, while valuing having a nap just as much as a game of chess, we can represent his *choices* on the following value scale:

$V_1$

- (1) Watching football *or* going for a walk
- (2) Playing a game of chess *or* having a nap

As can be seen, there are only *two* economically distinct choices instead of four of them. And again, the reason is that since the stipulated actor  $S$  is indifferent between watching football and going for a walk as well as between playing a game of chess and having a nap, he cannot choose between watching football and going for a walk. Neither can he choose between playing a game of chess and having a nap. In conclusion, he chooses *only* between (1) and (2).

Equipped with this conceptual apparatus, we are now in a position to spell out a relevant difference between our account of choice and Block's. At this point, it is crucial to note that the individual's given

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<sup>2</sup> This sort of insight—with a slight modification—is also present in the mainstream theory of action. Says Broome (1991, p.103): “Outcomes should be distinguished as different if and only if they differ in a way that makes it rational to have a preference between them.” Hoppe (2005) advances a similar thesis. This author has it that alternatives subject to choice should be considered distinct if and only if they differ in a way that an actor *does actually* have a preference over them. And hence, if any two “alternatives” do not differ in any economically relevant sense according to the economic actor, then the two alternatives are not really alternatives. There is no choice between them.

behaviour *underdetermines* a value scale on which she has acted. Or, to put this point more technically, there is a one-to-many relation between a certain act-token and an underlying value (preference) scale. Still in other words, a given behaviour might be *evidential* of many value scales. That is, (infinitely) many value scales may manifest themselves in any particular act. For example, suppose we know nothing yet of how our stipulated actor S actually ranks the four “alternatives” stated above. Further imagine that S ends up watching football. We posit that from this fact alone we cannot infer a specific value scale guiding S’s action. For, S might as well have been indifferent between watching football and going for a walk. Alternatively, he might have (strictly) preferred watching football to anything else he saw as a possibility. If so, then his value scale might be the following:

V<sub>2</sub>

- (1) Watching football
- (2) Going for a walk
- (3) Having a nap
- (4) Playing a game of chess

And this is *precisely* where our account diverges from Block’s. For, it seems that according to Block action is a manifestation of preference *all across the board*. At this point, we cannot do better than quote Block at length. Says our author about the Buridan’s ass example:

Wysocki misconstrues Buridan’s ass in the same manner. This beast, let us say, chooses the bale of hay to the right. The correct interpretation of this is two fold: one, this creature preferred life to death, and, two, he favored the hay on the right to the hay on the left. In Wysocki’s correct interpretation of Hoppe, and his own, only the first is true. The second, amazingly, is not. But, but, but, the donkey moved to his right,

not his left! If this is not evidence that he preferred the right to the left bale, there can be no such thing as evidence, at least not in cases like this. (Block, 2022, pp.51–52)

First thing to note here is that Block is clearly strawmanning against Hoppe (2005) and Wysocki (2021). Neither of these authors claim that it is impossible for the Buridan's ass to *prefer* the right bale to the left. Rather, Hoppe's and Wysocki's point is that the fact that the donkey moves to his right is in and of itself insufficient to establish whether the donkey does *prefer* the right bale to the left one. For, the donkey might as well be indifferent between the two. In that case, the donkey *would not be choosing* between the two bales but indeed between something else—most plausibly, between eating or starving. Certainly, it is possible for the donkey to *choose* between the bales. But in that case, the donkey must have a *preference* for one over the other. All in all, how many choices the actor faces depends on the Hoppean (2005) *correct description of action* (or action under intentional description) and not on the actor's behaviour as extensionally described. Whereas the fact that the donkey moves to the right is, for Block, a decisive reason to conclude that the donkey *prefers* the right bale to the left one, we submit that this fact alone does not suffice to establish what the donkey prefers over what as it takes an *intentional* description of his action to be able to determine his preferences. Remember, we agree on one thing. The donkey's action most definitely is a manifestation of *some* preference, for otherwise the donkey would not engage in action at all. However, the donkey's particular behaviour underdetermines the value scale guiding his action. To summarize, the donkey's behavior being fixed (i.e. the animal moves to the right bale of hay and eats it), we contend that it is evidential of (at least) the following two value scales.

V<sub>3</sub>

- (1) Eat from a right bale of hay
- (2) Eat from a left bale of hay
- (3) Starve

V<sub>4</sub>

- (1) Eat from either a right *or* a left bale of hay
- (2) Starve

By contrast, Block avers that the donkey's behaviour unambiguously points to V<sub>3</sub> as an underlying value scale, which we can allegedly infer from the very fact that the animal moved to the right rather than to the left.

Having, hopefully, spelled out the difference between the Hoppean (and Wysocki's) and Block's account of preference of indifference, let us move now to consider why the Blockean theory leads to unwelcome consequences.

### 3. Block's *ad hoc* after-action/before-action distinction

It is precisely Block's distinction between the time *before* an action and *after* it that constitutes the crux of his response. Block's (2022, p.52) discussion of his famous thought experiment involving a seller endowed with 100 units of butter shall serve as a good illustration of our intellectual adversary's viewpoint. Block appears to be relegating indifference entirely outside the realm of action as he believes that the said butter seller is indifferent between the units of his stock *only before* some action involving those units is taken. Says our author: "At time t<sub>1</sub>, before any choice was made, yes, all units of butter were

‘equally serviceable.’ Their owner was indifferent between all of them. They were homogeneous as far as he was concerned.” However, when at  $t_2$  the seller encounters a customer who is willing to buy one unit of the commodity supplied by the former, and the seller gives up 72<sup>nd</sup> unit, then this very fact, according to Block, establishes that he indeed disprefers *this* (i.e. 72<sup>nd</sup>) unit to any other. Or, in Block’s words, “[if] this does not establish that he valued this particular one, the 72<sup>nd</sup> unit, less than the others, then there is no such thing as choice, utility, economic theory, common sense.”

We, by contrast, contend that the inference from the fact of giving up *a particular* unit to the conclusion that this very unit must have been dispreferred to any other is rather, if anything, a travesty of common sense. After all, why *should* it be the case that the seller indeed *chooses* to give up the 72<sup>nd</sup> unit? Why does Block draw this conclusion? Merely because the *extensional description* of the seller’s action is that he gives up this very unit? Fair enough. As far as the extensional description goes, it is a rather accurate one. However, it is still a far cry from establishing the seller’s action *under intentional description*, for we do not know from this action alone between *what* the seller was choosing. Just to resort to value scales, the seller’s action might have been guided by (at least) these two distinct value scales.

V<sub>5</sub>

- (1) To earn money by giving up the 72<sup>nd</sup> unit of butter
- (2) To earn money by giving any other unit<sup>3</sup>

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<sup>3</sup> This value scale and the following one—unlike others invoked in the present paper—apart from the actor’s ends include also the means. However, this illustrates the point that the actor—as in Block’s example—might clearly have a preference for particular means, with his end being fixed. After all, Block’s point is precisely that, the seller’s end being equal, she prefers to give up the 72<sup>nd</sup> unit of butter to giving up any other.

or indeed by  $V_6$

- (1) To earn money by giving up *any* unit of butter
- (2) To preserve all the units and earn no money

Then again, our position is that the seller's action underdetermines a value scale guiding it. That is, for example, it might be  $V_4$  or  $V_5$  that make sense of the seller's behaviour. By contrast, according to Block, the fact that the seller gave up (as extensionally described) the 72<sup>nd</sup> unit *exclusively* points to  $V_4$  as the scale guiding his action. But why should that be a *correct description of the seller's action*? We claim that the actor in question might as well be indifferent between *all the units* of butter involved. Granted, when it came to the seller's action, he must have been guided by *some* preference but this fact by itself cannot establish that he was guided—among other things—by the dispreference for the 72<sup>nd</sup> unit of butter. And, we submit, it is all the more natural to assume that the seller was guided by the preference for some money over *any* particular unit of butter. And this preference will do for classifying the seller's behaviour as action. There is no need at all to claim that the actor *also* dispreferred the actual unit given up to any other.

Now, it is crucial to note that it is precisely Block's contention that from the act of giving up a particular unit we can infer a dispreference for that very unit that leads him to the weird eponymous after-action/before-action distinction. Remember, Block believes that the seller starts with indifference among all the units of butter. However, since he believes that the actor's act of giving up a particular unit implies a dispreference for that unit, he must *now* posit that the actor is no longer indifferent among all the units of his commodity. Sadly, Block never explains why there is this sudden change in the actor's mental state. By contrast, the Hoppean account does not need to resort

to the before-action/after-action distinction at all to explain the seller's act. If, by assumption, the actor is indifferent among all the units of butter, then his act does not (and cannot) demonstrate dispreference for the actual unit given up. But this does not prevent us from making sense of the actor's act. If the actor is genuinely indifferent among all the units of butter, his action might be still conceived of in terms of—among other possible explanations—the preference of giving up *a* unit of butter rather over preserving all of them but earning no money (see: V<sub>5</sub>). That is, in the Hoppean account, it is, most naturally, the actor's preference guiding the actor's action: if the actor prefers *x* to *y*, he chooses *x* over *y*, whereas if he is indifferent between *a* and *b*, he does not choose between *a* and *b*. More concretely, if he is indifferent between particular units of butter, then he does not choose between them. If he prefers some money to *any* unit of butter, then he chooses to give up *a* unit of butter for some money. There is no need to postulate *any* arbitrary change in the actor's state of mind to understand his resultant behaviour. Block, by contrast, is powerless to explain the actor's *choice*, for how can he *choose* to give up the 72<sup>nd</sup> unit if the actor was *ex hypothesi* indifferent between all of them. For Block to conclude that the said economic agent *chose* to give up that very unit, it must be assumed that he was not indifferent between *that unit* and any other one; viz., that he dispreferred precisely the 72<sup>nd</sup> unit. But if Block were to embrace this assumption, he could not in turn make sense of the supply of the same economic good. Thus, Block seems to be caught in an unenviable dilemma. On the one hand, if he wants to stick to his idea of action as demonstrating *preference all across the board*, he has to compromise the notion of the supply of the same good. Alternatively, if wants to keep the robust notion of

the supply of the same commodity, he would need to make a major concession to Hoppe. To wit, he would have to concede that the seller does *not* disprefer the 72<sup>nd</sup> of butter when he gives it up.

To illustrate further the dilemma the Blockean framework faces, let us test how it fares when given the task of capturing the law of diminishing marginal utility. Suppose, Block starts out with a stock of three apples ( $A_1, A_2, A_3$ ), which he finds equally serviceable. Further, Block envisages exactly three ends that he believes *each* apple can satisfy. The ends are (in the descending order of importance):

1. Eating an apple
2. Giving it to a friend
3. Throwing it for distance

Now, in Block's preferred vernacular, here is Block "before action", equipped with three units of the same commodity. He finds them all "equally serviceable" and thus he is indifferent between all of them. Now it is time for Block to satisfy his consecutive ends by means of the apples. Naturally, Block eats his *first* apple, which satisfies his most pressing end. Say, he eats  $A_2$ . This, however, according to Block already implies that *in fact*  $A_2$  was not equally serviceable as the remaining two apples. Nay,  $A_2$  was dispreferred to the two apples remaining. So, it magically turns out that Block's act of eating one apple demonstrates that he was dealing not with a homogeneous set of apples but with *two* distinct classes of economic goods: (1) with the dispreferred apple he actually ate and (2) a homogeneous set of two remaining equally serviceable apples. Secondly, Block quite reasonably gives one apple to his friend. Say, he gets rid of  $A_3$  for that purpose. Now, since Block indeed gave up  $A_3$ , this means that he dispreferred it to the remaining apple (i.e.  $A_1$ ). So, in the end, contrary to the original assumption, Block's subsequent actions demonstrate

that in fact the three apples were not economically homogeneous. More, Block's inference is that they were *all* heterogeneous. However, remember, the three apples were, *by assumption*, homogeneous. After all, we were after illustrating the law of diminishing marginal utility using Block's preferred framework. As can be seen, Block's account of preference and indifference completely fails. In the above scenario of employing three apples, Block's theory predicts that there is *only one* preferred way to economize them over time; that is, the one that actually obtained; viz, *first* A<sub>2</sub>, *second* A<sub>3</sub>, and *finally* A<sub>1</sub>. However, as demonstrated by Wysocki (2021, p.41), we should expect 3! (which is six) ways to economize those three apples. After all, since they are assumed to be equally serviceable, then it would be—by assumption—equally good for Block to, say, first employ A<sub>1</sub>, then A<sub>2</sub> and finally A<sub>3</sub>. The same applies to *any permutation* of the said three apples. How can it be otherwise when they are assumed to be equally serviceable? Finally, it is well-worth noting that the Hoppean account does not run into the same sort of problem, for, according to Hoppe, since the agent would be indifferent between three apples he would not choose *among* them. Still, he would *choose* between different ends each apple can satisfy. That is, as in the scenario above, the actor would first eat *an(y)* apple, then give *any* other of the two remaining apples to a friend, and finally throw the remaining apple for distance. Hence, the actor would be throughout the process indifferent between the apples (means employed), while at the same time demonstrating *some* preference (i.e. satisfying more pressing needs sooner later than later). Therefore, it is the Hoppean account and not Block's that does justice to both the fact that the agent was acting (i.e. there is *some preference* getting demonstrated) and to the law of diminishing marginal utility (i.e. the apples are deemed equally serviceable through the whole sequence of actions). Concluding, given the fact that Block *qua* Austrian fully

subscribes to the law of diminishing marginal utility, he would do better to drop his before-action/after-action distinction as it seems to jeopardize the said law, clearly too high a price to pay. Needless to say, the Hoppean account suffers from no such defects and so Block has all the reason to embrace it. Having said that, it is time to elucidate other problems the Blockean theory suffers from.

#### 4. Agency is not all about strict preference

Another problem haunting Block's response is not taking heed of the distinction between *agency* and what the actor does *under an intentional description*.<sup>4</sup> What motivates this distinction is that apparently an *extensional* description of the agent's action does not necessarily coincide with its *intentional description*. To wit, not every single aspect of the agent's external behaviour (at some level of description) is such that she intends it. To briefly illustrate the distinction yet again, let us analyse a rather typical script of entering a café to order coffee. So, as *extensionally* described, the customer normally enters a café with a particular foot (either left or right one is the *first* to enter the desired area). However, it certainly does not follow that *once* the agent enters the café with her left foot, she thereby demonstrates her preference for entering with this particular foot to entering with the other one. For, the *content* of the agent's intentional state (i.e. of *what* the agent *intends* to do) might be simply to enter the café with the ways of entering it being left unspecified. Similar remarks apply to the agent's ordering a coffee. Suppose, the waiter approaches our economic actor and the latter says: "I will have a large cappuccino." It definitely does not follow that the actor had some

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<sup>4</sup> The distinction being brilliantly illuminated by Davidson (2001).

preference for *this particular* wording of her order over any other. That is to say, as long as *any* wording constitutes a speech act of ordering a coffee, the actor might be perfectly indifferent between alternative ways of ordering the desired drink. Moreover, at still some finer-grained level of description, our actor's pronouncing her order necessarily has a suprasegmental property of having a definite pitch. For the actor might order a coffee by pronouncing her order at, say, a very high pitch. But then again, why should that follow that the agent did indeed intend to place an order at a high pitch. She might as well *simply* wanted to place an order (with the pitch remaining unspecified in her intentional state). But if so, then there is no reason to assume that the fact that the actor's order was delivered at a high pitch demonstrates her preference for *that* pitch over any other. By contrast, Block's position seems to predict that *since* the agent does indeed enter with, say, the right foot, this *ipso facto* is evidentiary of her preference for this particular way of entering the café. By the same token, the fact that the agent orders a cappuccino at a high pitch is, for Block, indicative of the agent's (strict) preference for *that* pitch over any alternative one. Yet, Block's conclusion is implausible. Clearly, one cannot apodictically infer a (strict) preference for such minute details of action-tokens as highly specific bodily movements or highly specific features of our linguistic behaviour. And the reason is that entering a café *with a particular foot* would not typically figure in the content of our intentional states. Rather, the most natural description of the actor's practical syllogism<sup>5</sup> is the following. She *desired to drink a coffee* and because she *believed* that by entering a (particular) café she can satisfy her desire, she *intended* to enter it. Under this description, the agent does not believe that it is *only* by entering a café

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<sup>5</sup> For an excellent elaboration on practical syllogism, see e.g. Moore (1993; 2020).

with a particular foot that she can ultimately satisfy her desire for coffee. Hence, neither does she *intend* to enter the place with a particular foot. She simply intends to walk in whether with her left or right foot. And because a particular way of entering (i.e. either with the left or right foot) is outside the content of the agent's *intentional states* (both her *belief* and *intention*), it would be far-fetched to infer the agent's preference for a particular way of walking in merely from the fact that the agent *in fact* does enter with a particular foot.<sup>6</sup> Such an inference would, to our mind, make a mockery of preferences. If the economic agent strictly prefers *A* to *B*, she values *A* higher than *B*. Why should it be apodictically true then that if our actor enters a café with her left foot rather than with right one, this demonstrates that she *values* this particular entrance (i.e. with the left foot) higher than the alternative entrance with the right foot? It is most implausible to claim that *this* particular valuation immediately follows. Surely, we are ready to concede that some differential valuation follows from the very fact that the agent is acting in the first place. As we insisted on above, action implies the demonstration of *some* preference but that is everything that follows with apodictic certainty from the fact that the agent acts. Block's conclusion is therefore illegitimate and clearly too strong. And just as entering a café with a left foot is not normally preferred to entering it with a right foot, so these two action-tokens do not normally—*contra* Block—constitute two distinct choices. And again, insisting that the agent *does choose* to enter a café with her right foot because she *actually* entered it with her right foot is to make

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<sup>6</sup> Note that the Hoppean (2005) account does not prevent us from saying that the agent described does indeed have a preference for a particular way of walking in. However, this preference does not, for Hoppe, follow automatically from the fact that the agent walks in with a particular foot. According to Hoppe, the ultimate test for agent's preference is the correct description of her action, which coincides with the Davidsonian (2001) *intentional description of an action*.

the same mistake as the one involving the inference to the actor's preference mentioned above. After all, the agent does not have to *conceive* of these two alternative ways of walking in as *relevantly* different. Either, she may well believe, will serve her end equally well.

Finally, let us have a look at Block's (2022, pp.50–51) analysis of the Hoppean example involving a poor mother who can rescue only one of her sons (i.e. either Peter or Paul) as the said analysis aptly illustrates the Blockean confusion between agency and intentional description of an action and allows us to raise our final objection to his theory. As expected, from the fact that the mother saves Peter Block draws an inference to the conclusion that she “places a higher value on Peter than Paul.” But then again, just as—as we already saw—one cannot infer the preference for entering a café with a right foot from the fact the agent does actually enter with that very foot, so we cannot infer the mother's preference for Peter over Paul from the very fact that Peter was saved. As we reiterated throughout this essay, the fact that the mother saves Peter (extensional description) underdetermines the value scale guiding the mother's action, for the mother might equally well frame her end as saving *a* child rather than saving Peter. And if the former is true, then saving Peter serves this end equally well as saving Paul. That is why, she can remain (before and after action) indifferent between the two of her sons. And it is precisely for that reason that she does not (and cannot) choose between the two. No contradiction here.

However, Block (2022, pp.50–51) protests: “She did rescue the former, when she could have chosen differently, and selected the latter for retrieval, did she not?” But this simply begs the question. We, following Hoppe, contend that the mother's action in and of itself is not determinative of the mother's value scale, for the mother might as well simply prefer rescuing *a* child to saving *none*. And if the mother

frames her ends in this way, then it logically follows that the mother does not choose between Peter and Paul. Rather, in this scenario, the mother is choosing between saving *a* child over saving *none*. And that is why Block's assertion does no more than beg the question.

Eventually, to add insult to the injury, Block (2022, p.51) adds that even if the mother "did this with her eyes closed, and just grabbed the nearest son", this would still indicate that the mother chose to save Peter. Yet, how can grabbing a certain son with one's eyes closed count as demonstration of preference for that son? If anything, it seems that under that scenario the mother prefers grabbing *any one* son over saving none. It appears as though the most charitable take on the Blockean idea of choice is that the author—his protestations to the contrary notwithstanding—embraces methodological behaviourism.<sup>7</sup> For, if the mother were to indeed "choose" to save Peter with her eyes closed (i.e. being completely unaware of who she is in fact saving), in what sense is this "choice" even driven by preferences or any other mental states for that matter. We are afraid, in none. Rather, with her eyes closed, the mother simply *happens* to save Peter. It is not the case, by stipulation, that she *believed* that she is saving Peter. Worse, Block even goes to such great lengths to say that the mother does not

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<sup>7</sup> Granted, Block may not be an ontological behaviorist. That is, he clearly does *not* deny the existence of mental states. Neither does he reduce them to behaviours or mere dispositions to behaviour. However, he seems to *model* (or define?) preferences in terms of the agent's external behaviour (Block, 2022, pp.54–55). This, to our mind, looks very much like *methodological behaviourism*, the view according to which positing mental states adds nothing to understanding the individual's external behaviour. As we are about to see to in the forthcoming part of the text, the Blockean construal of Peter-and-Paul scenario appears to abstract from the mother's preferences (as genuine mental states) completely and instead models the mother's apparent choice *solely* around her external behaviour. For an exposition of different senses of behaviourism, see e.g. Moore (2001).

even have to cherish an *intention* to save *either* of his sons for her act to count as an evidence that she *chose* to save Peter. Says Block (2022, pp.54–55):

we as praxeologists must note that you actually reached out and grabbed one of them, not the other. This is the essence of Hoppe’s error, with support from Wysocki. What might well have been on her mind had nothing to do with Peter nor Paul. It might well have been as Hoppe opined, she was just preferring to save one of her sons, rather than none. Who knows, she might have been thinking about ice cream, as far as we praxeologists are concerned. This does not matter in the slightest for the praxeologist. We see her grabbing Peter, not Paul, to safety, and we are compelled by praxis logic, e.g., praxeology, to note that she was not indifferent between her sons, she could not have been indifferent between them, given that she chose the one, not the other.

But this radical view comes perilously close to methodological behaviourism, for Block seems to dismiss the mother’s mental states completely. Note, even if the mother were to think “about ice cream”, she would still choose to save Peter in the event Peter would be ultimately saved. But this at a stroke gives up characteristically Austrian methodological subjectivism<sup>8</sup> and denies any role to the actor’s mental states (preferences and beliefs) as determining choices. Again, Block’s die-hard insistence on his radical idea of choice appears at the same time to compromise what he otherwise holds dearly, that is Austrian subjectivism with its insistence on *purposeful* behaviour. Given this, we again submit that for Block to disown his account of choice is to pay a relatively small price for saving what he *qua*

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<sup>8</sup> Let us not lose sight of Hayek’s (1952, p.31) famous dictum: “It is probably no exaggeration to say that every important advance in economic theory during the last hundred years was a further step in the consistent application of subjectivism.”

Austrian otherwise strongly believes. In other words, we claim that the most efficient way for Block to make his views coherent is to drop his problematic theory of choice, preference and indifference.

## 5. Conclusion

As we tried to show in this rejoinder, Block's account of choice, preference and indifference fails on three counts. First, Block's theory—despite his claims to the contrary notwithstanding—cannot make sense of the law of diminishing marginal utility. For it is precisely the Blockean radical idea of choice which predicts that allegedly homogeneous (i.e. equally serviceable) units ultimately prove to be heterogenous. Moreover, we demonstrated that Block's resorting to the before-action/after-action distinction is of no help. Not only is this distinction *ad hoc* but also it fallaciously predicts that  $n$  number of allegedly equally serviceable units can be economized in only *one* optimal way, something immediately running counter to the original assumption of the economic homogeneity of the said units.

Later on, we illuminated two more unwelcome consequences on the Blockean theory under consideration. The first of them is that Block's (2022) account fails to distinguish between what is attributable to the economic agent's *agency* and what the agent does *intentionally*. While trying to reduce Block's not observing this distinction to absurdity, we show that this author would have to conclude that *literally* any single minute detail of the actor's act-token is preferred (to some other minute detail) and therefore chosen. This conclusion, in turn, is most clearly implausible, which serves to repudiate the Blockean theory of choice *via modus tollens*.

Finally, we suggested that Block's theory dangerously verges on methodological behaviourism, the view that this author most definitely rejects *qua* Austrian. Given all these unwelcome consequences stemming from Block's insistence on his account of choice, preference and indifference, we claim that this author has a decisive reason to simply disown the said account. After all, as it seems, this particular theory of his is purchased at a huge cost of jeopardizing other vital aspects of Austrian economics, especially the law of diminishing marginal utility and overall Austrian insistence on methodological subjectivism rather than methodological behaviourism. Needless to say, embracing the Hoppean (2005) account of preference and indifference would be a right way for Block to go.

## Bibliography

- Block, W., 2022. Response to Wysocki on indifference. *Philosophical Problems in Science (Zagadnienia Filozoficzne w Nauce)*, (72), pp.37–62. Available at: <<https://zfn.edu.pl/index.php/zfn/article/view/578>> [visited on 25 September 2024].
- Block, W.E., 2009. Rejoinder to Hoppe on Indifference. *The Quarterly Journal of Austrian Economics*, 12(1), pp.52–59. Available at: <[http://mises.org/journals/qjae/pdf/qjae12\\_1\\_4.pdf](http://mises.org/journals/qjae/pdf/qjae12_1_4.pdf)> [visited on 15 September 2022].
- Broome, J., 1991. *Weighing Goods: Equality, Uncertainty and Time*. Oxford: Blackwell Publ.
- Davidson, D., 2001. Agency. *Essays on Actions and Events*. 2nd ed. Oxford: Oxford University Press, pp.43–62. <https://doi.org/10.1093/0199246270.003.0003>.
- Hausman, D.M., 2011. *Preference, Value, Choice, and Welfare*. 1st ed. Cambridge; New York: Cambridge University Press. <https://doi.org/10.1017/CBO9781139058537>.
- Hayek, F.A.v., 1952. *The Counter-Revolution of Science*. Glencoe: Free Press.

- Hoppe, H.-H., 2005. Must Austrians embrace indifference? *Quarterly Journal of Austrian Economics*, 8(4), pp.87–91. Available at: <<https://mises.org/library/must-austrians-embrace-indifference>> [visited on 15 September 2022].
- Mises, L.v., 1998. *Human Action: A Treatise on Economics*. Scholar's ed. Auburn AL: Ludwig von Mises Institute.
- Moore, J., 2001. On Distinguishing Methodological from Radical Behaviorism. *European Journal of Behavior Analysis*, 2(2), pp.221–244. <https://doi.org/10.1080/15021149.2001.11434196>.
- Moore, M.S., 1993. *Act and Crime: The Philosophy of Action and its Implications for Criminal Law*. Oxford: Oxford University Press.
- Moore, M.S., 2020. *Mechanical Choices: The Responsibility of the Human Machine*. Oxford, New York: Oxford University Press.
- Rothbard, M., 1997. Toward a Reconstruction of Utility and Welfare Economics. *The Logic of Action: I. Method, Money, and the Austrian School, Economists of the twentieth century*. Cheltenham [etc.]: Edward Elgar Publishing Limited, pp.211–254. Available at: <<https://mises.org/library/toward-reconstruction-utility-and-welfare-economics-1>> [visited on 9 January 2023].
- Wysocki, I., 2021. The problem of indifference and homogeneity in Austrian economics: Nozick's challenge revisited. *Philosophical Problems in Science (Zagadnienia Filozoficzne w Nauce)*, (71), pp.9–44. Available at: <<https://zfn.edu.pl/index.php/zfn/article/view/554>> [visited on 24 January 2022].

## Summary

### **Austro-libertarian theory of voluntariness: presuppositions, problems, and consequences.**

#### **Introduction**

To begin with, let us say up front that the present thesis investigates libertarianism, which is – quite incontrovertibly – a *political* doctrine. First of all, let us note that what makes libertarianism a *political* doctrine (rather than, say, just a moral theory) is the fact that libertarianism delineates the situations wherein the use of violence would be justified. And so, libertarianism does not only cover morally justified claims. Its aspirations are higher: it also takes a stand on the claims that should be also legally enforceable. And so libertarianism can justifiably be deemed a *strictly political* – rather than merely moral – doctrine.<sup>1</sup>

*Qua* a political doctrine, libertarianism takes a stand on the question of whether the state is justified. The default answer among libertarians is in the negative (see Nozick, 1974; Rothbard, 2006). More precisely, the two authors share a presumption of liberty and hence, it is the state that needs justifying. Rothbard's (2006) avowed anarchism finds any state unjustified. Nozick's (1974) minarchism makes some minimal room for state-like institutions but only as long as they are allegedly “immaculately” conceived (see: Rothbard, 2002); that is, by respecting individual rights in the process.

Moreover, that libertarianism is a political doctrine can be also appreciated from the fact that its underlying principles of justice project contours of a *political system*. More specifically, from the said principles we can to some extent deduce the shape of stateless (or minimal state) political system.<sup>2</sup> Now, let us touch upon the principles in question. First and foremost, the central normative tenet of libertarianism is the so-called self-ownership right.<sup>3</sup> Absent certain contracts (as well as crimes or torts), each human agent enjoys the self-ownership right. Moreover, libertarianism recognizes a property right in external objects.<sup>4</sup> In a nutshell, if certain natural facts obtain, a person may *acquire* a right in a thus far unowned external resource. Equally importantly, libertarianism acknowledges the so-called voluntary transfer. That is to say, as long as *A* owns a resource *x* and *B* owns a resource *y*, each is at liberty to engage in a

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<sup>1</sup> Generally, the distinction between legal and moral norms is elucidated in e.g. Ossowska (1960); Johnson (1975); Kramer (2024).

<sup>2</sup> As already alluded to, libertarians of various persuasions make different predictions as to *via* which steps a just political order is going to emerge. For example, according to Nozick (1974), people are going to exercise their liberty one way or another but since liberty is justice-preserving, a just political regime is going to emerge one way or the other. According to Hayek (1978), a political order is going to emerge spontaneously through a more or less evolutionary process. Although there is a dissenting view to the effect that the Hayekian spontaneous order is not necessarily libertarian, it is almost universally acknowledged that it is (see: Benzecry, 2024).

<sup>3</sup> An analysis of a right to one's body and of its apparent axiomatic character is to be found in Dominiak (2016).

<sup>4</sup> We are going to elaborate on the nature of the said rights and the natural facts on which they supervene in the forthcoming part of the text.

trade. Hence, as a result *B* may well end up with a right in *x* and *A* with a right in *y*. It is precisely this principle that accounts for a redistribution of rights.

It is clear to see that a certain shape of a stateless (or a minimal state) political system can emerge as a function of these three principles<sup>5</sup> applied recursively. Just to illustrate the point, apply the self-ownership rights first. *A* and *B* are born self-owners. This basically means that *A* holds a right to his body and *B* to his. But then the two engage in a voluntary transfer. Apply the voluntary transfer principle now. *A* gives up the right to his body and cedes it to *B* for some remuneration, or what have you. Now, *A* is *B*'s employee. By the same token and less simplistically, due to a recursive application of the libertarian principles of justice a just *political* system of one form or the other will emerge.

Generally, studies on the libertarian theories involve imagining how certain institutions would operate in a stateless society. Hence, it is no stretch to say that libertarian first principles of justice exhibit some predictive power as to which *political* or institutional order is compatible with them. For example, it is a received libertarian view that a stateless society would not recognize intellectual property rights. Given this, for example, no exclusive right to copy would be legally enforceable in a free society. But this is nothing short of making a certain political statement: that a certain claim would not be backed up by institutionalized force. So, it is in this sense that libertarian principles of justice purport to predict which political systems are compatible with them and which are not. Similarly, the principles enable us to decide which institutions can *justly* (by their recursive application) emerge in a free society and which cannot. This, we believe, satisfactorily accounts for the *political* character of libertarianism.

Now, what does the present thesis deal with in particular? It subjects the Austro-libertarian notion of voluntariness (i.e. the thematic core of the whole dissertation) to critical scrutiny. As already hinted at, it is through voluntary actions in general (and voluntary transfers in particular) that a shape of a just political order is determined. Hence, analyzing what counts as a voluntary exchange is of utmost importance, for what is at stake is precisely what is to be regarded as a just political order. In other words, by libertarian lights, voluntary actions (whatever they are) delineate a range of just political orders. It is in this sense that the former matter and so does the notion of voluntariness. On the other hand, the libertarian idea of voluntary actions carries certain presuppositions and entailments and these are in turn also investigated in the present work.

And so, to put it more technically, this dissertation examines (1) various logical consequences entailed by the libertarian notion of voluntariness; (2) the presuppositions (whether metaphysical or moral) of voluntary choices, as understood by Austro-libertarians; (3) the problems revealed by both what the notion of voluntariness entails and what it presupposes. First and foremost, what this dissertation identifies in particular is that the libertarian notion of voluntariness is moralized in the sense of its being *rights-based*. In other words, the concept of voluntary action, as employed by Austro-libertarians, *presupposes* libertarian individual rights. This particular presupposition has weighty *logical consequences*. For example, we spot that the

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<sup>5</sup> Just to anticipate a caveat forthcoming in later parts of the text, this thesis makes no use of restitutive principles of justice which also characterize libertarianism.

moralized notion of voluntary action (and that of coercion) tallies poorly with Austrian methodological postulate of *Wertfreiheit*. Moreover, adopting this notion in Austrian welfare economics begs the question of the free-market efficiency. It also falsely predicts that all blackmail exchanges should be legalized. Additionally, we discover that Austrians simply presuppose a contra-causal sort of freedom of the will, something apparently incoherent with the Rothbardian idea of ordinal value scales. Finally, we note that some Austrians (Block in particular) embrace such an idea of choice which seems in consequence to commit them to behaviourism, a rather unwelcome result.

However, before we will be able to elaborate on these consequences, problems and presuppositions more thoroughly, it is worth noting that the Austrian concept of voluntariness (in the context of voluntary exchanges) is a special case of voluntary or free action, as it is understood in libertarianism. So, we would be well-advised at this point to elucidate the idea of voluntary action according to libertarianism. Each economic actor chooses from what is known as an *opportunity set*. According to Nozick (1974: 262), whether the actor *A*'s action is voluntary is a sole function of whether *A*'s opportunity set was constrained legitimately or not by any other economic actor *P*. Certainly, the notion of *illegitimately* or *legitimately* constraining an opportunity set of an arbitrarily chosen economic agent *A* is normatively charged. More specifically, the said notion presupposes libertarian individual rights. Hence, if an arbitrary agent *P* acts in such a manner that *A*'s opportunity set is constrained so that *A*'s rights recognized by libertarians are necessarily violated, then *A*'s action resulting from the said constraint would be regarded by Austro-libertarians as *involuntary*. On the other hand, if *P* by means of making a certain proposal or as a result of a non-verbal action constrains *A*'s opportunity set in such a manner that no libertarian rights *A* holds are violated, then *A*'s resultant actions would be deemed *voluntary*.<sup>6</sup> In its turn, the above theory raises the question of the contours of libertarian individual rights.<sup>7</sup>

At this point, we should first and foremost notice that a starting point for any voluntary redistribution of rights among their respective holders is the so-called property right in one's body (self-ownership). The said right reduces to a right to exclusively possess or control one's body, with this right being by nature a negative right *in rem*. In other words, if any arbitrary agent *a* enjoys the self-ownership right, every other agent owes *a* a duty of non-interference. The right in question supervenes<sup>8</sup> on natural (non-normative) fact of possessing one's body. Furthermore, it is on other two natural facts (i.e. mixing one's labour with a scarce resource and taking first possession of it) that a property right to external objects supervenes.<sup>9</sup> This right is also negative and is held *in rem*. Certainly, property rights may be voluntarily redistributed due

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<sup>6</sup> Note that what follows trivially from Nozick's formula is that natural events cannot render our actions involuntary. After all, natural events by definition exclude human interventions. And if so, the presupposition of Nozick's formula would not be met: there would be nobody who would illegitimately constrain *A*'s opportunity set.

<sup>7</sup> In this necessarily brief exposition of libertarian individual rights, we are going to focus on the so-called first-order rights; that is, on such that are correlated with first-order duties, which already excludes, say, duties of rectification which result from failing to discharge relevant first-order duties.

<sup>8</sup> The idea of supervenience is brilliantly illuminated in e.g. Hare (1952); Kim (2010); Harrison (2013).

<sup>9</sup> For an elaboration on the said two natural facts on which property rights to external objects supervene, see e.g. Dominiak (2017).

to exchanges. And finally, it is also in consequence of voluntarily concluded contracts that a party thereto may give up certain Hohfeldian<sup>10</sup> liberties and thus incur some positive duties (with the other party thereby acquiring correlative positive rights). For example, *A* may agree to draw a painting for *B* in exchange for money. This promise would make – among other things – one party incur a positive duty to draw a painting. Still, as we said above, first-order positive duties arise in libertarianism only as a result of voluntarily concluded contracts.

The above sketch already gives us a hint as to what voluntary action (together with a voluntary exchange as a special case thereof), as it is understood in Austro-libertarianism, involves. Additionally, the notion of voluntary action presupposes a certain contour of individual rights. Austro-libertarian theory of voluntariness presupposes the existence of individual rights compatible with the libertarian theory of justice, the outline of which was presented above.

We can now see that the subject matter of the present thesis are various logical consequences stemming from the above-sketched moralized (i.e. *rights-based*) notion of voluntariness and their assessment in light of what we know otherwise. This in turn makes some room for our reasoning assuming the form of *modus tollens*. For example, if a moralized reading of voluntariness leads to the logical consequences which clearly contradict some already well-justified propositions within Austro-libertarianism, then it is most likely the very normative idea of voluntariness that should be revised. Similarly, we argue that if this understanding of voluntary exchange characterizing Austrian welfare theory begs the question of whether the free market is efficient, then it is most probably the moralized (i.e. presupposing the libertarian theory of rights distribution) concept of voluntariness that is flawed.<sup>11</sup> Before we go on to elaborate on specific problems generated by the assumption of the moralized idea of voluntariness, let us attempt to demonstrate the thematic and methodological unity of the present dissertation.

The central notion tackled by the present thesis is the **normative idea of voluntariness**, as it is understood in libertarianism. Chapter 1, bearing the title “Moralized presuppositions of the libertarian theory of voluntariness” and including **paper 1** (i.e. Megger, Dawid., Wysocki, Igor. (2023) “Coercion, Voluntary Exchange, and the Austrian School of Economics,” *Synthese* 201, 8.) and **paper 2** (i.e. Wysocki, Igor. (2024a). „Blackmail, Unproductive Exchanges, Fraud and the Libertarian Theory of Voluntariness,” *Polish Political Science Review* 12(1): 76–93.), identifies two main problems pertaining to the said moralized concept of voluntary actions. We demonstrate that since the Austrian school of economics (hereinafter also referred to as ASE) with its postulate of value-freedom is logically forced to accept a descriptive idea of (in)voluntary exchange and since coercion is a sufficient condition for an exchange to count as involuntary, then ASE is logically forced to embrace a purely descriptive idea of coercion. While working out this much desired account of coercion, we look to the speech act theory with its account of warnings, threats and offers. Moreover, we are building on Lamond’s (1996) theory of coercion (the theory in itself being almost entirely free

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<sup>10</sup> The analytic elaboration on fundamental legal relations is to be found in e.g. Hohfeld (1913); Kramer (2002); Hurd and Moore (2018); McBride (2021).

<sup>11</sup> It is in this sense that the method (or epistemology) assumed for the purpose of the present thesis is the one characteristic of *coherentism*.

of moralized presuppositions), only to finally develop a value-free account of coercion which tallies well with the Austrian methodological pronouncements.

Additionally, we point to another reason why the moralized understanding of voluntariness should be revised. We claim that the libertarian idea of voluntariness needs mending in light of certain findings as to the nature of *some* blackmail exchanges. We reason as follows. Some blackmail exchanges are concluded due to the blackmailee having been deceived. But if so, then such blackmail exchanges are fraudulent. Libertarians are adamant on banning fraud. Fraudulent exchanges are not the ones voluntarily concluded. However, libertarians permit all blackmail exchanges due to their moralized account of voluntariness, which construes voluntary action as *only* requiring the absence of coercion, or the absence of the threats promising the violation of the recipient's right, if you will. Hence, we submit that libertarians should adopt a stronger concept of voluntariness; that is, the one which – over and above the absence of coercion – also requires the absence of ignorance.

The next issue, raised throughout chapter 2, which bears the title “Metaphysical underpinnings of a free choice in ASE” and comprises **paper 3** (i.e. Wysocki, Igor & Łukasz Dominiak. (2021). “Dismantling Rothbard’s *Mantle of Science?*”, in *Austrian economics 150 years after Carl Menger, 10th International Conference The Austrian School in the 21st century*, Federico N. Fernández, Barbara Kolm, Victoria Schmid (eds.), Wien: Friedrich A. von Hayek Institut, 439–452.) and **paper 4** (i.e. Wysocki, Igor., Łukasz Dominiak. (2024a). “Austrian Economics and Compatibilist Freedom”, *Journal for the General Philosophy of Science* 55: 113–136.), is **metaphysical presuppositions of voluntary choices**. The said issue relates to the thematic core of our thesis inasmuch as a voluntary choice *presupposes* a free choice, that is such that is guided by the free will of an acting agent. The chapter in question deals with the following query: which sort of free will (libertarian or compatibilist) is Austro-libertarianism logically committed to embracing? Our point of departure is the Rothbardian version of Austrian economics with its reliance on ordinal values scales, which manifest themselves in human action. Since for Rothbard, in light of the resultant perfect alignment of actions and their underlying value scales, there is no conceptual room for counter-preferential choice, Rothbardians must jettison their avowed metaphysical libertarianism. After all, it is libertarian freedom that allows for doing otherwise, everything else equal and hence, in particular: with the value scale being fixed. Moreover, we demonstrate that embracing the truth of determinism and thus opting for the compatibilist sort of freedom of the will is no threat to human action at all. We can still meaningfully speak of, say, acts of persuasion, choosing and deliberating even if we were to come to terms with determinism.

Chapter 3 (i.e. “Normatively charged notion of voluntary exchange in Austrian welfare economics”), which comprises **paper 5** (i.e. Igor Wysocki, Łukasz Dominiak. (2024b). “Social Welfare, State Interventions, and Indeterminacy: In Defense of Rothbard,” *Philosophical Problems in Science* 76: 297–315.), **paper 6** (i.e. Wysocki, Igor. (2023). “Justice vis à vis Welfare: How Austrian Welfare Economics Should Fit in the Austro-Libertarian Framework”, *Economia Politica* 40: 445–467.) and **paper 7** (i.e. Igor Wysocki, Łukasz Dominiak. (2023). “How does Justice Relate to Economic Welfare? A Case against Austro-Libertarian Welfare Economics” *Croatian Journal of Philosophy* 23(67): 51 – 67.), probes the notion of a voluntary exchange, as it is understood in Austrian **welfare economics**, and

especially in its Rothbardian version. The analysis of what counts as a voluntary exchange is crucial since, as Austrian welfare economics submits, it is exclusively voluntary exchanges that increase social utility. **Paper 5** attempts to take the sting out of some important criticisms levelled at the Rothbardian version of Austrian welfare economics. Whereas this paper partly rehabilitates the Rothbardian welfare theory (i.e. vis-à-vis its specific critics), **paper 6** and **paper 7** in turn illuminate the theoretical problems implied by the moralized concept of voluntary exchange this particular theory embraces. It is worth stressing that Austrian welfare economics – especially in its Rothbardian version – is related to the thematic core of our dissertation (that is, to the normative idea of voluntary action) in this sense that it is – according to the theory in question – precisely a voluntary character of exchanges that constitutes both a necessary and sufficient condition of mutually beneficial exchanges. And the chapter in question (especially **paper 6** and **paper 7**) demonstrates what sort of difficulties the adoption of a moralized idea of a voluntary exchange in Austrian welfare economics brings. First and foremost, we demonstrate that conceiving of a voluntary exchange in a (moralized) way presupposing the libertarian ethic begs the question of whether the free-market is efficient. Granted, it is plausible to say that all voluntary exchanges are mutually beneficial at least *ex ante* (see: Rothbard, 2011b). However, if we define into the concept of voluntariness the libertarian ethic of property right, it is little wonder that it is only the exchanges which respect libertarian individual rights that turn out to increase social utility. But this definitional move achieves nothing. We can still ask the question of whether the exchanges respectful of libertarian rights *also happen* to be economically efficient. In **paper 6**, we suggest that Nozick’s productive exchanges might serve as a criterion for assessing whether social utility increased. Eventually, we conclude chapter 3 (i.e. in **paper 7**) by arguing that justice and welfare are two logically separate ideals. Hence, most interestingly, we can think of (1) just but welfare-diminishing exchanges and (2) unjust but welfare-enhancing exchanges. All in all, within Austro-libertarianism, Austrian prong could investigate the changes in social utility brought about by both legitimate and illegitimate exchanges. Conceived in this way, Austrian welfare economics would be most desirably divorced from the libertarian ethic.

The present dissertation is concluded by chapter 4 (i.e. “Choice vis-à-vis indifference in Austrian School of Economics”) comprising **paper 8** (i.e. Wysocki, Igor. (2021b). “The Problem of Indifference and Homogeneity in Austrian Economics: Nozick’s Challenge Revisited”, *Philosophical Problems in Science* 71: 9–44.) and **paper 9** (i.e. Wysocki, Igor. (2024b). “Rejoinder to Block on Indifference”, *Philosophical Problems in Science* 76: 459–479.). These two papers are thematically connected with the core issue of our thesis as long as they examine the very **conceptual foundations of choice as such**, especially in contrast with indifference. After all, probing the conceptual foundations of choice as such is *a fortiori* probing the conceptual foundations of *voluntary choice*. In chapter 4, we note that for Austrians to meaningfully state the law of diminishing marginal utility and the one of time preference, they must have at their disposal an independent notion of the same economic good. We work out this much needed definition by introducing a double time indexation of physical units which are believed to be equally serviceable in the eyes of a certain economic agent. What we thereby accomplish is to grant a proper role to indifference and to choice. That is to say, Austrians do indeed need the notion of indifference to make sense of units of the same good. And yet, we show that each action exhibits strict preference somewhere. For example, when we successively employ units of the same economic good, among which we are indifferent, we do so for the satisfaction of decreasingly pressing needs, among which we are not indifferent. Hence, the law of diminishing marginal utility depends for its formulation on both the concept of indifference

as well as on that of strict preference. Nozick's (1977) criticism was correct but the Austrian conceptual edifice remains unscathed. Finally, the dissertation is concluded with **paper 9**, the task of which is to further defend the account of choice and indifference (elaborated in **paper 8**) against the criticism levelled at it by Block (2022).

Thus, more concisely, the table of contents of our dissertation can be reconstructed in the following way:

## TABLE OF CONTENTS

### **Chapter 1:** Moralized presuppositions of the libertarian theory of voluntariness

**Paper 1:** Megger, Dawid., Wysocki, Igor. (2023) "Coercion, Voluntary Exchange, and the Austrian School of Economics," *Synthese* 201, 8.

**Paper 2:** Wysocki, Igor. (2024a). "Blackmail, Unproductive Exchanges, Fraud and the Libertarian Theory of Voluntariness," *Polish Political Science Review* 12(1): 76–93.

### **Chapter 2:** Metaphysical underpinnings of a free choice in ASE

**Paper 3:** Wysocki Igor, Łukasz Dominiak. (2021). "Dismantling Rothbard's *Mantle of Science*?", in *Austrian economics 150 years after Carl Menger, 10th International Conference The Austrian School in the 21st century*, Federico N. Fernández, Barbara Kolm, Victoria Schmid (eds.), Wien: Friedrich A. von Hayek Institut, 439–452.

**Paper 4:** Wysocki, Igor., Łukasz Dominiak. (2024a). "Austrian Economics and Compatibilist Freedom", *Journal for the General Philosophy of Science* 55: 113–136.

**Chapter 3:** Normatively charged notion of voluntary exchange in Austrian welfare economics

**Paper 5:** Wysocki Igor, Łukasz Dominiak. (2024b). "Social Welfare, State Interventions, and Indeterminacy: In Defense of Rothbard," *Philosophical Problems in Science* 76: 297–315.

**Paper 6:** Wysocki, Igor. (2023). "Justice vis à vis Welfare: How Austrian Welfare Economics Should Fit in the Austro-Libertarian Framework", *Economia Politica* 40: 445–467.

**Paper 7:** Wysocki Igor, Łukasz Dominiak. (2023). "How does Justice Relate to Economic Welfare? A Case against Austro-Libertarian Welfare Economics" *Croatian Journal of Philosophy* 23(67): 51 – 67.

### **Chapter 4:** Choice vis-à-vis indifference in Austrian School of Economics

**Paper 8:** Wysocki, Igor. (2021b). "The Problem of Indifference and Homogeneity in Austrian Economics: Nozick's Challenge Revisited", *Philosophical Problems in Science* 71: 9–44.

**Paper 9:** Wysocki, Igor. (2024b). "Rejoinder to Block on Indifference", *Philosophical Problems in Science* 76: 459–479.

The present dissertation is unified not only theoretically and topically, but also methodologically. One of the methods characterizing it is the one of *reflective equilibrium*, popularized by John Rawls (1971). For example, in the chapter dedicated to Austrian welfare economics (i.e. chapter 3), we demonstrate how counterintuitive consequences stem from the

assumption of the moralized concept of voluntary exchange. More specifically, assuming this conception predicts that buying off the blackmailer is mutually beneficial, whereas paying the same amount to the tax collector fails to constitute a mutually beneficial exchange. But now, since we cherish a well-considered judgement that the above exchanges are *economically* on a par, we thereby have a reason to cast doubt upon the moralized idea of voluntary exchange itself. It is worth mentioning that the method of reflective equilibrium relies on (if not reduces to<sup>12</sup>) the use of *thought experiments*. These involve designing such purely imaginary situations which, while abstracting from certain inconsequential variables, evoke in us certain strong intuitions in the domain of interest. Then again, a good example is the comparison between buying off the blackmailer *vs* paying the aggressor to avoid an illegitimate imprisonment, everything else equal, (the thought experiment we resort to in paper 1). With the thus designed thought experiment there emerges a strong intuition that the said two exchanges are economically indistinguishable, which in turn undermines the theory which predicts that the economic effects of the two transactions are diametrically different. By way of another example, we, rather interestingly, develop *Fridge* thought experiment in paper 7. This particular imaginary scenario is supposed to evoke in us the intuition that unjust but welfare-enhancing exchanges are indeed conceivable. Additionally, paper 4 resorts to multiple thought experiments envisaging an economic agent whose behaviour is guided by various values scales across different possible worlds. The thought experiments perform their role, as they abstract from all irrelevances, while focusing exclusively on the relation between the agent's behaviour and the values scales guiding it. In sum, thought experiments are meant to raise certain intuitions which in turn serve to test the scrutinized theories. Or, in other words, it is in light of certain intuitions that certain theories either get corroborated or call for revisions. And it is in this sense that thought experiments are part and parcel of the method of reflective equilibrium. Finally, let us note that this dissertation makes use of the Hohfeldian analysis of the fundamental legal conceptions or, more broadly speaking, of deontic logic. In the present thesis, we do not use the word *right* indiscriminately. Rather, we carefully distinguish (and this is of utmost importance) between, say, Hohfeldian *privilege* or *liberty* and Hohfeldian *claim-right*. Hohfeldian nomenclature permeates paper 2, wherein we attribute, for example, certain juridical positions of a blackmailer towards a blackmailee; that is the former's liberty to gossip and not to gossip vis-à-vis the blackmailee. Such analytic sharpness helps – among other things – avoid equivocations in our reasoning. Let us also add that some arguments herein are formalized in the form of syllogisms or by dint of propositional logic. It is, for example, paper 2 and paper 7 that rely on the syllogistic representation of otherwise verbal arguments.

Finally, a few summarizing words are due on what this thesis establishes and how it contributes to Austro-libertarian scholarship. First of all, this dissertation illuminates why the moralized notion of voluntariness, as employed by Austro-libertarians, is wanting. To this effect, we demonstrate, for instance, that embracing the said normatively charged notion of voluntariness leads Austrians to also adopting the moralized notion of coercion, which in turn tallies poorly with Austrian postulate of value-freedom. So, we argue that it is for the sake of theoretical coherence that Austrians should jettison the moralized notion of coercion and instead

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<sup>12</sup> After all, the fundamental ideas of *the original position* and *the veil of ignorance*, employed in Rawls' (1971) ground-breaking work, just *were* thought experiments.

embrace some descriptive account thereof. In paper 1, we elaborate on such a much-desired theory of coercion by building on both speech act theory and Lamond's (1996) account of coercion. Moreover, we identify another reason why the moralized conception of voluntariness is flawed. Since libertarians basically equate a voluntary action with an uncoerced action (i.e. with the actor receiving no threats promising inevitable right violations), this makes a false prediction with regard to certain blackmail exchanges. As we show, some blackmail exchanges meet the definition of fraud. But libertarians unyieldingly ban fraud. There would be no place for fraud in a free society. Fraudulent exchanges are deemed unjust. And since voluntary exchanges are justice-preserving, fraudulent exchanges would not be agreed to voluntarily. So then again, some blackmail exchanges (i.e. the ones involving deception as causally responsible for the blackmailee parting with his property) call for another revision of the moralized notion of voluntariness, as understood by libertarians.

Additionally, the thesis purports to establish that it is only the compatibilist conception of the freedom of the will that can be squared with the Austrian methodology, especially in its Rothbardian version. If there can be no mismatch between one's value scales and one's behaviour, then, given one's value scales, one could not have acted differently to the way one actually did. Hence, one's choices are determined by one's value scales (coupled with one's relevant beliefs), and the case for so-called metaphysical libertarianism collapses. Austrians do have a reason to embrace the compatibilist notion of free will.

In the penultimate chapter of the thesis, we illuminate what sort of problems are entailed within Austrian welfare economics by the adoption of the moralized idea of a voluntary exchange. We submit that Rothbardians, having employed the said notion, only beg the question of the free-market efficiency. Definitional moves aside, it remains yet to be established whether all rights-respecting exchanges are indeed mutually beneficial. We argue that there are conceivable scenarios in which rights-respecting exchanges prove to be, rather interestingly, welfare-diminishing. Similarly, we demonstrate a logical possibility of rights-violating and simultaneously welfare-enhancing exchanges. Thus, we seem to make a case for separateness of welfare and justice – *pace* Austrians. On a positive note, we make an effort to show that it is Nozickian productive exchanges that might serve as a criterion for judging increases in social welfare. It is to be noted that Nozick's criterion would not beg the question of whether the free market is efficient. For unproductive exchanges on the free market are at least *prima facie* thinkable.

In the final chapter, we take pains to analyze the Austrian idea of choice as such. This analysis matters especially given the fact that there are ongoing debates on choice vis-à-vis indifference in Austrian economics. Austrians standardly repudiate indifference as anathema to praxeology. However, Nozick compellingly demonstrated that the notion of a supply of a good (and hence the very formulation of the law of diminishing marginal utility) does depend on the concept of indifference. We show that Nozick's challenge can be answered. The agent's successive actions illustrating the law of diminishing marginal utility demonstrates strict preference (as Austrians would want) but there is some place (as Nozick would want) for indifference too. And crucially, we show that characteristically Austrian worries can be put to rest, as indifference does not figure in action *under intentional description*. After all,

Rothbardians are keen on stressing that action never demonstrates indifference (see Rothbard, 2011b). In sum, the last chapter ties up some loose conceptual ends in the otherwise coherent Austrian conceptual framework. Moreover, we seem to take the sting out of the Nozick's (1977) challenge present in his seminal paper involving criticisms levelled at Austrians.

Now, what remains to be said is that all the findings mentioned above amount to significant revisions of the Austro-libertarian political theory. After all, a couple of my papers making up this dissertation already sparked a scholarly debate. Namely, paper 7 ("How does Justice Relate to Economic Welfare? A Case against Austro-Libertarian Welfare Economics") has already been replied by Fegley and Israel (2024). Additionally, Block (2022, 2024) responded to my paper 8 and paper 9, respectively. It is also worth noting that some of the papers included in the present dissertation were published in apex journals. For example, paper 1 ("Coercion, Voluntary Exchange, and the Austrian School of Economics") was published in *Synthese* and paper 4 ("Austrian Economics and Compatibilist Freedom") in *Journal for General Philosophy of Science*, both world-famous journals dealing with philosophy of science. Furthermore, my various works on Austro-libertarianism were numerously cited. What one should take heed of is that in 2024 alone, my papers were cited as many as 51 times – mainly due to me co-editing with Walter Block a special issue of *Philosophical Problems in Science* (no. 76), with the issue being dedicated to philosophical foundations of economics. Interestingly and reassuringly enough, the majority of papers came from the Austrian economics quarters. This alone testifies to the fact that the Austro-libertarian scholarship starts burgeoning on the international arena, with its impact starting resembling the one it exerted back in the seventies. Moreover, research grants are awarded to the authors investigating libertarianism. For example, in 2020, Łukasz Dominiak's project "The Paradox of Blackmail: A Pro Tanto Solution and Its Implications for the Libertarian Theory of Coercion and Voluntary Exchange" received funding from the National Centre of Science, Poland. Similarly, in 2024, my project "Economic Analysis of a Libertarian Legal System" was granted funding by the same institution. What is worth stressing is that both projects deal with the libertarian political theory. Then again, the relevance of the present dissertation is particularly clear, given the said resurgence of the international interest in Austro-libertarianism and given the institutional support for researching libertarianism as such.

### References:

Benzecry, Gabriel. (2024). "The Conservative of the Spontaneous Order," *Journal of Libertarian Studies* 28 (1): 76–90.

Block, Walter. (2022). "Response to Wysocki on Indifference," *Philosophical Problems in Science* 72: 37–62.

Block, Walter. (2024). "Response to Wysocki's Rejoinder to Block on Indifference," *Philosophical Problems in Science* 76: 481–503.

Dominiak, Łukasz. (2016). "Problem Aksjomatyczności Zasady Autowłasności w Filozofii Politycznej Libertarianizmu," *Athenaeum. Polskie Studia Politologiczne* 49: 42–64.

- Dominiak, Łukasz. (2017). "Libertarianism and Original Appropriation," *Historia i Polityka* 22 (29): 43–56.
- Fegley, Tate, and K.-F. Israel. (2024). "A Defense of Austrian Welfare Economics," *Philosophical Problems in Science* 76: 19–42.
- Hare, Richard. (1952). *The Language of Morals*. Oxford: Oxford University Press.
- Harrison, Gerald. (2013). "The Moral Supervenience Thesis is not a Conceptual Truth", *Analysis* 73: 62–68.
- Hayek, Friedrich. (1978). *The Constitution of Liberty. The Definitive Edition*. Chicago: University of Chicago Press.
- Hurd, Heidi, and M. Moore. (2018). "The Hohfeldian Analysis of Rights," *The American Journal of Jurisprudence* 63(2): 295–354.
- Hohfeld, Wesley. (1913). "Some Fundamental Legal Conceptions as Applied in Judicial Reasoning," *Yale Law Journal* 23(1): 16–59.
- Johnson, Conrad. (1975). "Moral and Legal Obligation," *The Journal of Philosophy* 72(12): 315–333.
- Kim, Jaegwon. (2010). *Essays in the Metaphysics of Mind*. Oxford: Oxford University Press.
- Kramer, Matthew. (2002). "Rights Without Trimmings". In *A Debate Over Rights*, eds. M. H. Kramer, N. E. Simmonds, and H. Steiner, 7–112. New York: Oxford University Press.
- Kramer, Matthew. (2024). *Rights and Right-Holding*. Oxford: Oxford University Press.
- Lamond, Grant. (1996). "Coercion, Threats, and the Puzzle of Blackmail". In *Harm and culpability* eds. A. P. Simester & A. T. H. Smith, 215–238. Oxford: Clarendon Press.
- McBride, Mark. (2021). "The Dual Reality of No-Rights," *The American Journal of Jurisprudence* 66(1): 39–48.
- Megger, Dawid, and I. Wysocki. (2023) "Coercion, Voluntary Exchange, and the Austrian School of Economics," *Synthese* 201, 8.
- Nozick, Robert. (1974). *Anarchy, State, and Utopia*. Oxford: Basil Blackwell.
- Nozick, Robert. (1977). "On Austrian Methodology," *Synthese* 36: 353–392.
- Ossowska, Maria. (1960). "Moral and Legal Norms," *The Journal of Philosophy* 57(7): 251–258.
- Rawls, John. (1971). *A Theory of Justice*. New York: Cambridge University Press.
- Rothbard, Murray. (2002). *Ethics of Liberty*. New York and London: New York University Press.
- Rothbard, Murray. (2006). *For a New Liberty. The Libertarian Manifesto*. Auburn: Ludwig von Mises Institute.

Rothbard, Murray. (2011a). "The Mantle of Science". In: *Economic controversies* (pp. 3–23). Auburn, AL: Ludwig von Mises Institute.

Rothbard, Murray. (2011b). "Toward a Reconstruction of Utility and Welfare Economics." In: *Economic controversies* (pp. 289–333). Auburn, AL: Ludwig von Mises Institute.

Wysocki, Igor. (2021b). "The Problem of Indifference and Homogeneity in Austrian Economics: Nozick's Challenge Revisited", *Philosophical Problems in Science* 71: 9–44.

Wysocki, Igor. (2023). "Justice vis à vis Welfare: How Austrian Welfare Economics Should Fit in the Austro-Libertarian Framework", *Economia Politica* 40: 445–467.

Wysocki, Igor. (2024a). "Blackmail, Unproductive Exchanges, Fraud and the Libertarian Theory of Voluntariness," *Polish Political Science Review* 12(1): 76–93.

Wysocki, Igor. (2024b). "Rejoinder to Block on Indifference", *Philosophical Problems in Science* 76: 459–479.

Wysocki Igor, and Ł. Dominiak. (2021). "Dismantling Rothbard's *Mantle of Science*?", in *Austrian economics 150 years after Carl Menger; 10th International Conference The Austrian School in the 21st century*, Federico N. Fernández, Barbara Kolm, Victoria Schmid (eds.), Wien: Friedrich A. von Hayek Institut, 439–452.

Wysocki Igor, and Ł. Dominiak. (2023). "How does Justice Relate to Economic Welfare? A Case against Austro-Libertarian Welfare Economics" *Croatian Journal of Philosophy* 23(67): 51 – 67.

Wysocki, Igor, and Ł. Dominiak. (2024a). "Austrian Economics and Compatibilist Freedom", *Journal for the General Philosophy of Science* 55: 113–136.

Wysocki Igor, and Ł. Dominiak. (2024b). "Social Welfare, State Interventions, and Indeterminacy: In Defense of Rothbard," *Zagadnienia Filozoficzne w Nauce* 76: 297–315.

## Streszczenie

### Austro-libertariańska teoria dobrowolności: presupozycje, problemy i konsekwencje

#### Wstęp

Na wstępie należy zaznaczyć, że przedmiotem badań niniejszej rozprawy jest libertarianizm, który stanowi doktrynę polityczną. Zauważmy, że to, co czyni libertarianizm doktryną polityczną (a nie na przykład zwykłą teorią moralną) jest fakt, że aspiracją libertarianizmu jest określenie zbioru sytuacji, w których użycie przemocy byłoby uzasadnione. A zatem libertarianizm nie zajmuje się jedynie moralnie zasadnymi roszczeniami. Ambicje owej doktryny są wyższe. Zajmuje się ona bowiem roszczeniami, który powinny być również prawnie egzekwowalne. Dlatego też libertarianizm należy uznać za doktrynę *stricto* polityczną, a nie jedynie moralną.<sup>1</sup>

Jako doktryna polityczna libertarianizm zajmuje też stanowisko w kwestii tego, czy instytucja państwa jest uzasadniona. Libertarianie różnych proveniencji na tak postawione pytanie na ogół odpowiadają negatywnie (patrz m.in. Nozick, 1974; Rothbard, 2006). Mówiąc nieco precyzyjniej, obaj autorzy podzielają tzw. domniemanie wolności jednostki (*presumption of liberty*). Dlatego też to właśnie instytucja państwa wymaga uzasadnienia. Anarchizm Rothbarda (2006) uznaje jakąkolwiek formę państwa za nieuzasadnioną. Z kolei minarchizm Nozicka (1974) dopuszcza istnienie pewnych instytucji przypominających instytucje państwowe pod warunkiem, że te wyłonią się w sposób „niepokalany” (patrz Rothbard, 2002), czyli taki, który zakłada poszanowanie praw jednostkowych.

Tym, co dodatkowo wskazuje na to, że libertarianizm jest doktryną polityczną jest fakt, że libertariańskie zasady sprawiedliwości pozwalają zarysować kontury sprawiedliwego *reżimu politycznego*. Mówiąc nieco dokładniej, to z rzeczonych zasad możemy do pewnego stopnia wydedukować kształt bezpaństwowego (albo minarchistycznego) ładu politycznego.<sup>2</sup> Omówmy teraz pokrótce rzeczone zasady sprawiedliwości.

Główną normatywną zasadą libertarianizmu jest tzw. zasada autowłasności.<sup>3</sup> Jeśli abstrahować od pewnych umów (jak też od przestępstw czy deliktów), to każdej osobie przysługuje tzw. prawo autowłasności. Ponadto, libertarianizm rozpoznaje prawo własności do zasobów zewnętrznych.<sup>4</sup> W skrócie, jeśli zajdą pewne naturalne fakty, osoba może nabyć prawo

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<sup>1</sup> Rozróżnienie pomiędzy normami prawnymi a moralnymi wyjaśnione jest w m.in. Ossowska (1960); Johnson (1975); Kramer (2024).

<sup>2</sup> Jak już wspomnieliśmy, libertarianie o różnych przekonaniach mają różne przewidywania co do kroków, poprzez które wyłoni się sprawiedliwy system polityczny. Na przykład, według Nozicka (1974) ludzie zrobią jakiś użytek z przysługującej im wolności jurydycznej (*liberty*), a ponieważ wykorzystywanie swej wolności zachowuje sprawiedliwość (dystrybucji zasobów), pewien sprawiedliwy system wyłoni się z konieczności. Z kolei według Hayeka (1960), reżim polityczny wyłoni się spontanicznie w procesie ewolucyjnym. Chociaż istnieją pewne głosy, jakoby Hayekowski spontaniczny ład nie był z konieczności libertariański, panuje nieomal powszechna zgoda co do tego, że jednak byłby on taki (patrz Benzecry, 2024).

<sup>3</sup> Analizę prawa do własnego ciała oraz rzekomo aksjomatycznego charakteru tegoż przedstawia Dominiak (2016).

<sup>4</sup> W dalszej części tekstu przybliżymy naturę rzeczonych uprawnień oraz wymienimy (naturalne) fakty, na których uprawnienia te superwenują.

własności do dotychczas niezawłaszczonego zasobu. Co równie istotne, libertarianizm również rozpoznaje zasadę dobrowolnego transferu (tytułu własności). Zasada ta polega na tym, że o ile *A* jest właścicielem zasobu *x*, a *B* jest właścicielem zasobu *y*, to każdy z nich posiada wolność (jurydyczną) wymiany handlowej. Wskutek tejże prawo własności do *x* może znaleźć się w rękach *B*, a prawo własności do *y* w rękach *A*. Innymi słowy, to właśnie zasada dobrowolnego transferu wyjaśnia redystrybucję uprawnień.

Łatwo zauważyć, że konkretny kształt bezpieczeństwa (albo minarchistycznego) ładu politycznego może wyłonić się jako funkcja rekurencyjnego zastosowania trzech wyżej wymienionych zasad.<sup>5</sup> Zilustrujmy rekurencyjne stosowanie libertariańskich zasad sprawiedliwości prostym przykładem. Osoby *A* i *B* rodzą się autowłaścicielami. To oznacza, że *A* posiada prawo własności do swego ciała, a *B* do swego. Następnie między *A* i *B* może dojść do dobrowolnego transferu tytułów własności. Zastosujmy teraz zasadę dobrowolnego transferu tytułu własności. *A* zrzeka się prawa własności do swego ciała na rzecz *B* w zamian za wynagrodzenie ze strony *B*. Tym samym *A* zostaje pracownikiem *B*. W taki oto sposób przez długofalowe rekurencyjne zastosowanie libertariańskich zasad sprawiedliwości wyłoni się pewien sprawiedliwy system *polityczny*.

Ogólnie rzecz biorąc, badania w ramach teorii libertariańskich częstokroć polegają na wyobrażaniu sobie, jak pewne instytucje działałyby w ładzie bezpieczeństwa. Dlatego też śmiało można stwierdzić, że libertariańskie pierwsze zasady sprawiedliwości posiadają pewną moc predykcyjną. Przewidują one bowiem, jakiego rodzaju ład *polityczny* lub instytucjonalny jest z nimi spójny. Dla przykładu, w libertarianizmie na ogół przyjmuje się, że w ładzie bezpieczeństwa nie byłoby miejsca na prawa własności intelektualnej. Z tego z kolei wynika, że w wolnym społeczeństwie prawo autorskie nie byłoby egzekwowalne. To z kolei stanowi czysto *polityczną* deklarację: pewne roszczenia nie byłyby egzekwowane poprzez zinstytucjonalizowane użycie przemocy. To w tym sensie libertariańskie zasady sprawiedliwości przewidują, które systemy polityczne są z nimi spójne, a które nie są. Podobnie rzeczzone zasady pozwalają nam określić, jakie instytucje mogą sprawiedliwie (poprzez rekurencyjne zastosowanie owych zasad) wyłonić się w wolnym społeczeństwie, a które nie mogą. Wierzmy, że powyższa ekspozycja przekonująco zarysowuje *polityczny* charakter libertarianizmu.

Omówmy teraz, co w szczególności stanowi przedmiot badań niniejszej dysertacji. Tematycznym rdzeniem tej rozprawy jest austro-libertariańskie rozumienie dobrowolności. To właśnie to pojęcie niniejsza rozprawa poddaje krytycznej analizie. Jak już wspomnieliśmy, to właśnie poprzez dobrowolne działania (oraz poprzez dobrowolne transfery w szczególności) kształtuje się sprawiedliwy ład polityczny. Dlatego tak istotne jest przeanalizowanie tego, co stanowi dobrowolną wymianę. Stawką bowiem jest określenie tego, co może być uznane za sprawiedliwy system polityczny. Innymi słowy, według libertarian dobrowolne działania (między innymi) określają zakres sprawiedliwych systemów politycznych. To z tego powodu zbadanie natury dobrowolności jest istotne. Ponadto, libertariańska idea dobrowolnego

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<sup>5</sup> Niniejsza dysertacja abstrahuje od zasady restytucji, która to też charakteryzuje libertarianizm.

działania niesie za sobą pewne presupozycje oraz logiczne konsekwencje. Te również zostaną przeanalizowane w niniejszej rozprawie.

Ujmując rzecz nieco bardziej technicznie, można powiedzieć, że niniejsza rozprawa bada (1) rozmaite logiczne konsekwencje implikowane przez libertariańskie pojęcie dobrowolności; (2) presupozycje (czy to metafizyczne, czy moralne) idei dobrowolnego wyboru, tak jak się go rozumie w austro-libertarianizmie; (3) problemy implikowane przez to, co pojęcie dobrowolności logicznie pociąga oraz przez to, co ono presuponuje. Po pierwsze, niniejsza rozprawa w szczególności odkrywa, że libertariańska koncepcja dobrowolności jest zmoralizowana w tym sensie, że pojęcie dobrowolności zakłada pojęcie uprawnień (*rights-based*). Innymi słowy, pojęcie dobrowolnego działania, tak jak jest ono używane przez austro-libertarian, presuponuje libertariańskie prawa jednostkowe. Ta konkretna presupozycja ma ważne konsekwencje logiczne. Na przykład, zauważamy, że zmoralizowana koncepcja dobrowolności (oraz przymusu) nie jest spójna z austriackim metodologicznym postulatem wolności od wartościowań (*Wertfreiheit*). Ponadto, przyjęcie zmoralizowanego pojęcia dobrowolności w austriackiej ekonomii dobrobytu rozstrzyga kwestię w założeniu, jeśli chodzi o efektywność wolnego rynku. Poza tym, pojęcie to błędnie przewiduje, że wszystkie wymiany dokonane wskutek szantażu powinny zostać zalegalizowane. Dodatkowo, zauważamy, że austriacy przyjmują libertariańską (w metafizycznym, a nie politycznym sensie) koncepcję wolnej woli, co z kolei wydaje się niespójne z Rothbardowską ideą porządkowych skal wartości. Ostatecznie odnotowujemy, że austriacy (Block w szczególności) przyjmują taką ideę wyboru, która logicznie zobowiązuje ich do przyjęcia behawioryzmu, która to doktryna jest z kolei nie do pogodzenia z charakterystycznie austriackim subiektywizmem.

Zanim jednak skupimy się na owych logicznych konsekwencjach, presupozycjach oraz problemach implikowanych przez zmoralizowane pojęcie dobrowolności, warto by zauważyć, że austriacka koncepcja dobrowolności (w kontekście dobrowolnej wymiany) jest szczególnym przypadkiem dobrowolnego działania, tak jak jest ono rozumiane w libertarianizmie. Omówmy zatem teraz ideę dobrowolnego działania według libertarianizmu. Każdy podmiot działający wybiera z tzw. zbioru możliwości (*opportunity set*). Według Nozicka (1974: 262), to, czy działanie danego podmiotu jest dobrowolne jest funkcją jednej zmiennej: wszystko zależy od tego, czy zbiór możliwości rzeczono podmiotu został ograniczony prawnie (*legitimately*) bądź bezprawnie przez dowolnie wybrany inny podmiot działający *P*. Nietrudno zauważyć, że pojęcie bezprawnego bądź prawnego ograniczenia zbioru możliwości podmiotu działającego *A* jest normatywnie nacechowane. Mówiąc nieco dokładniej, rzeczono pojęcie presuponuje istnienie libertariańskich uprawnień jednostkowych. A zatem, jeśli dowolnie wybrany podmiot *P* działa w taki sposób, że zbiór możliwości podmiotu *A* jest ograniczony w ten sposób, że co najmniej jedno uprawnienie (rozpoznane przez libertarian) *A* zostanie z konieczności pogwałcone, wtedy działanie po stronie *A* wskutek rzeczono ograniczenia będzie ocenione przez austro-libertarian jako *niedobrowolne*. Z drugiej strony, jeśli *P* poprzez akt mowy albo wskutek pewnego niewerbalnego zachowania, ogranicza zbiór możliwości *A* w takim sposób, że żadne libertariańskie prawo jednostkowe przysługujące *A* nie zostanie pogwałcone, wtedy

działanie *A* będące reakcją na rzezone ograniczenie zostałyby uznane za *dobrowolne*.<sup>6</sup> Powyższa teoria z kolei rodzi pytanie o kształt libertariańskich praw jednostkowych.<sup>7</sup>

Teraz należy przede wszystkim zauważyć, że punktem wyjścia dla dobrowolnego transferu tytułu własności pomiędzy stronami transakcji jest ich prawo autowłasności (*self-ownership*). Prawo to jest prawem własności do swego ciała. Jednocześnie sądzi się, że jest ono uprawnieniem negatywnym *in rem*. Innymi słowy, jeśli jakikolwiek podmiot *a* cieszy się prawem autowłasności, wtedy każdy inny podmiot zobowiązany jest do nieingerowania w sposób, w który ten pierwszy robi użytek ze swego uprawnienia. Owo uprawnienie superweniuje<sup>8</sup> na naturalnym (i.e. nienormatywnym) fakcie posiadania własnego ciała. Ponadto, prawo własności do zasobów zewnętrznych superweniuje na dwóch naturalnych faktach (i.e. na mieszanii własnej pracy z rzadkim zasobem oraz na wzięciu zasobu w pierwotne posiadanie).<sup>9</sup> To uprawnienie jest również negatywne i jednocześnie *in rem*. Oczywiście prawa własności mogą być redystrybuowane wskutek dobrowolnych wymian. Również wskutek dobrowolnie zawartej umowy jedna ze stron tejże może zrzec się pewnych Hohfeldowskich<sup>10</sup> wolności i tym samym przyjąć na siebie pozytywne zobowiązania (co sprawiłoby jednocześnie, że druga strona umowy zyskałaby pozytywne uprawnienie). Na przykład, *A* może zgodzić się namalować *B* obraz za pewną sumę pieniędzy. Obietnica ta sprawiłaby że m.in. jedna ze stron przyjąłaby na siebie pozytywne zobowiązanie namalowania obrazu. Tak czy inaczej, należy pamiętać, że pozytywne zobowiązania pierwszego rzędu w libertarianizmie powstają jedynie na skutek dobrowolnie zawartych umów.

Powyższy zarys już daje nam pewne wskazówki co do tego, jak dobrowolne działanie (wraz z dobrowolną wymianą jako szczególnym przypadkiem tegoż) jest rozumiana w austro-libertarianizmie. Ponadto, jak już zdążyliśmy zauważyć, pojęcie dobrowolnego działania presuponuje istnienie uprawnień jednostkowych. Mówiąc nieco dokładniej, austro-libertariańska teoria dobrowolności zakłada istnienie uprawnień jednostkowych, których dystrybucja byłaby spójna z libertariańską teorią sprawiedliwości, której to zarys przedstawiliśmy powyżej.

Widzimy teraz, że przedmiotem niniejszej rozprawy są m.in. rozmaite logiczne konsekwencje wynikające z przyjęcia zmoralizowanego (*rights-based*) pojęcia dobrowolności oraz ich ocena w świetle tego, co wiemy skądinąd. To z kolei sprawia, że rozumowanie w niniejszej dysertacji częstokroć przybiera formę *modus tollens*. Na przykład, jeśli zmoralizowane rozumienie dobrowolności prowadzi do takich logicznych konsekwencji, które

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<sup>6</sup> Zauważmy, że to, że zdarzenia naturalne czynią nasze reakcje dobrowolnymi wynika trywialnie z formuły Nozicka. Ostatecznie przecież zdarzenia naturalne z definicji wykluczają ludzką interwencję. A zatem presupozycja formuły Nozicka nie byłaby spełniona: nie byłoby nikogo, kto bezprawnie ograniczyłby zbiór możliwości osoby *A*.

<sup>7</sup> W tej z konieczności krótkiej ekspozycji libertariańskich uprawnień skupimy się na tzw. uprawnieniach pierwszego rzędu, co automatycznie eliminuje np. obowiązki restytucyjne wynikłe z niewywiązania się z odpowiednich zobowiązań pierwszego rzędu.

<sup>8</sup> Idea superweniencji jest wyłożona m.in. w Hare (1952); Kim (2010); Harrison (2013).

<sup>9</sup> Rzezone dwa fakty (naturalne), na których superweniuje prawo własności do rzadkich zasobów zewnętrznych omawia e.g. Dominiak (2017).

<sup>10</sup> Analityczne wyjaśnienie fundamentalnych relacji jurydycznych znajduje się w m.in. Hohfeld (1913); Kramer (2002); Hurd and Moore (2018); McBride (2021).

przeczą już dobrze uzasadnionym sądom w obrębie austro-libertarianizmu, to najpewniej należy zrewidować właśnie zmoralizowane pojęcie dobrowolności. Podobnie argumentujemy, że jeżeli to rozumienie dobrowolnej wymiany charakteryzujące austriacką ekonomię dobrobytu przesądza w założeniu kwestię efektywności wolnego rynku, to znowu należy uznać, że to zmoralizowana koncepcja dobrowolności (i.e. presuponująca libertariańską teorię dystrybucji uprawnień) jest wadliwa.<sup>11</sup> Zanim zagłębimy się w konkretne problemy powstałe na skutek przyjęcia zmoralizowanej koncepcji dobrowolności, wykażmy tematyczną oraz metodologiczną spójność niniejszej dysertacji.

Centralnym zagadnieniem podejmowanym w naszej rozprawie jest **normatywna idea dobrowolności**, tak jak jest ona rozumiana w libertarianizmie. Rozdział 1, zatytułowany „Moralized presuppositions of the libertarian theory of voluntariness [Zmoralizowane presupozycje libertariańskiej teorii dobrowolności]” oraz zawierający **artykuł 1** (i.e. Megger, Dawid, I. Wysocki. (2023) “Coercion, Voluntary Exchange, and the Austrian School of Economics,” *Synthese* 201, 8.) oraz **artykuł 2** (i.e. Wysocki, Igor. (2024). “Blackmail, Unproductive Exchanges, Fraud and the Libertarian Theory of Voluntariness,” *Polish Political Science Review* 12(1): 76–93.), rozpoznaje dwa główne problemy związane z rzeczoną zmoralizowaną koncepcją dobrowolnego działania. Pokazujemy, że skoro austriacka szkoła ekonomii (do której również będziemy odnosić się skrótowcem “ASE”) ze swoim postulatem wolności od wartościowań (*Wertfreiheit*) zmuszona jest logicznie do przyjęcia deskryptywnej idei (nie)dobrowolnej wymiany oraz przymusu i skoro przymus jest wystarczającym warunkiem tego, aby dana wymiana okazała się niedobrowolna, to ASE jest również logicznie zobowiązana do przyjęcia deskryptywnej idei przymusu. W trakcie opracowywania pożądanej deskryptywnej teorii przymusu, posilkujemy się teorią aktów mowy (a w szczególności pragmatyczną teorią ostrzeżeń, gróźb i ofert). Ponadto, jako punkt wyjścia służy nam teoria przymusu Lamonda (1996). Teoria to już jest praktycznie całkowicie wolna od normatywnych presupozycji. Ostatecznie rozwijamy niewartościującą teorię przymusu, która spójna jest z metodologicznymi deklaracjami austriaków.

Ponadto, w omawianym rozdziale wskazujemy kolejną rację, dlaczego zmoralizowane pojęcie dobrowolności powinno zostać zrewidowane. Twierdzimy bowiem, że libertariańska koncepcja dobrowolności wymaga poprawek w świetle pewnych odkryć co do natury *niektórych* propozycji szantażu. Nasze rozumowanie przebiega następująco: libertarianie obstają przy zakazie oszustw. Wymiany wskutek oszustw nie są dobrowolnie zawarte. Jednak libertarianie są za legalizacją wszelkich wymian zachodzących na skutek szantażu, co wynika z przyjmowanej przez nich zmoralizowanej koncepcji dobrowolności, która to koncepcja interpretuje dobrowolne działania jako wymagające jedynie braku przymusu (albo też braku groźby z konieczności zapowiadającej pogwałcenie co najmniej jednego z uprawnień odbiorcy groźby). Dlatego też twierdzimy, że libertarianie powinni przyjąć silniejszą koncepcję dobrowolności, tj. taką która poza wymaganiem braku przymusu również wymagałaby braku ignorancji po stronie podmiotu działającego.

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<sup>11</sup> To w tym sensie metoda (czy też epistemologia) przyjęta na potrzeby niniejszej dysertacji jest charakterystyczna dla *koherencjonizmu*.

Następnym zagadnieniem, podjętym w rozdziale 2, zatytułowanym “Metaphysical Underpinnings of a Free Choice in ASE [Metafizyczne podstawy wolnego wyboru w ASE]” i zawierającym **artykuł 3** (i.e. Wysocki, Igor, Ł. Dominiak. (2021). “Dismantling Rothbard’s *Mantle of Science?*”, in *Austrian economics 150 years after Carl Menger, 10th International Conference The Austrian School in the 21st century*, Federico N. Fernández, Barbara Kolm, Victoria Schmid (eds.), Wien: Friedrich A. von Hayek Institut, 439–452.) oraz **artykuł 4** (i.e. Wysocki, Igor, Łukasz Dominiak. (2024a). “Austrian Economics and Compatibilist Freedom”, *Journal for the General Philosophy of Science* 55: 113–136.), są metafizyczne presupozycje dobrowolnego wyboru. Rzeczone zagadnienie o tyle wiąże się z centralnym zagadnieniem naszej dysertacji, o ile dobrowolny wybór presuponuje wolny wybór (*free choice*). Wolny wybór to taki, który jest spowodowany wolną wolą podmiotu działającego. Omawiany rozdział podejmuje następujące pytanie: do przyjęcia którego rodzaju koncepcji wolnej woli (libertariańskiej czy kompatybilistycznej) logicznie zmuszony jest austro-libertarianizm? Punktem wyjścia dla naszych rozważań jest Rothbardowska wersja austriackiej ekonomii, która to wersja odwołuje się do porządkowych skal wartości manifestujących się w ludzkim działaniu. Skoro według Rothbarda – wskutek perfekcyjnej harmonii pomiędzy działaniami, a skalami wartości kierującymi nimi – nie ma logicznie miejsca na wybór suboptymalnej opcji na skali wartości, Rothbardowska wersja ASE musi odrzucić wyznawany przez siebie metafizyczny libertarianizm. To bowiem libertariańska wolność pozwala na zachowanie się inaczej przy wszystkim innym równym – w szczególności przy tej samej skali wartości. Ponadto, pokazujemy, że przyjęcie determinizmu i tym samym optowanie za kompatybilistyczną koncepcją wolnej woli nie stanowi zagrożenia dla zjawiska ludzkiego działania. Dlatego też można sensownie mówić o np. perswazji, wyborze czy deliberacji nawet jeśli uznamy doktrynę determinizmu za prawdziwą.

Rozdział trzeci (i.e. “Normatively charged notion of voluntary exchange in Austrian welfare economics [Normatywnie nacechowane pojęcie dobrowolnej wymiany w austriackiej ekonomii dobrobytu]”), który składa się z **artykułu 5** (i.e. Wysocki, Igor, Ł. Dominiak. (2024). “Social Welfare, State Interventions, and Indeterminacy: In Defense of Rothbard,” *Zagadnienia Filozoficzne w Nauce* 76: 297–315.), **artykułu 6** (i.e. Wysocki, Igor. (2023). “Justice vis à vis Welfare: How Austrian Welfare Economics Should Fit in the Austro-Libertarian Framework”, *Economia Politica* 40: 445–467.) oraz **artykułu 7** (i.e. Wysocki, Igor, Ł. Dominiak. (2023). “How does Justice Relate to Economic Welfare? A Case against Austro-Libertarian Welfare Economics”, *Croatian Journal of Philosophy* 23(67): 51 – 67.), analizuje pojęcie dobrowolnej wymiany, tak jak jest ono rozumiane w austriackiej ekonomii dobrobytu, a szczególnie w jej Rothbardowskiej wersji. Analiza tego, co konstytuuje dobrowolną wymianę jest kluczowa, ponieważ – jak twierdzą austriacy – to tylko dobrowolne wymiany zwiększają dobrobyt społeczny (*social utility*). Artykuł 5 próbuje odeprzeć istotną krytykę wymierzoną w Rothbardowską ekonomię dobrobytu. O ile artykuł ten broni Rothbardowskiej teorii dobrobytu przeciwko konkretnym głosom krytycznym, artykuły 6 i 7 z kolei naświetlają teoretyczne problemy implikowane przez zmoralizowane pojęcie dobrowolnej wymiany, które rzeczona teoria przejmuje. Warto podkreślić, że austriacka ekonomia dobrobytu – szczególnie w jej Rothbardowskiej wersji – jest związana z tematycznym rdzeniem niniejszej dysertacji (tzn. z normatywną ideą dobrowolnego działania) w ten sposób, że podług rozważanej właśnie teorii

to właśnie dobrowolny charakter wymiany konstytuuje zarówno konieczny jak i wystarczający warunek tego, że wymiana okazuje się obopólnie korzystna. Ogólnie rzecz biorąc, rozdział 3 (a szczególnie artykuły 6 i 7) demonstrują, jakiego rodzaju problemy rodzi przyjęcie zmoralizowanej idei dobrowolnej wymiany przez austriacką ekonomię dobrobytu. Przede wszystkim pokazujemy, że pojmowanie dobrowolnej wymiany w zmoralizowany sposób, który przemycyca libertariańską etykę przesądza kwestię efektywności wolnego rynku w założeniu. Niezaprzeczalnym jest to, że przesłanka jakoby wszelkie dobrowolne wymiany były obopólnie korzystne przynajmniej *ex ante* (patrz Rothbard, 2011b) jest wiarygodna. Jednak jeśli przemycimy definicyjnie libertariańską etykę praw własności do pojęcia dobrowolności, to nie sposób się dziwić, że okazuje się, że to jedynie wymiany dokonane z poszanowaniem libertariańskich praw jednostkowych zwiększają użyteczność społeczną (*social utility*). Mimo to ten manewr definicyjny nie pozwala osiągnąć niczego, albowiem wciąż można zasadnie zapytać, czy wymiany dokonujące się z poszanowaniem libertariańskich uprawnień jednocześnie są ekonomicznie efektywne. W artykule 6 sugerujemy, że produktywne wymiany w sensie Nozicka mogą służyć jako kryterium oceny tego, czy poziom użyteczności społecznej się podniósł. Ostatecznym wnioskiem rozdziału 3 (wyciągniętym w artykule 7) jest to, że sprawiedliwość oraz dobrobyt konstytuują dwa logicznie odrębne ideały. Stąd też, co wydaje się interesujące, możemy wyobrazić sobie (1) wymiany sprawiedliwe, które jednocześnie zmniejszają dobrobyt społeczny oraz (2) wymiany niesprawiedliwe, które jednocześnie powiększają dobrobyt społeczny. Tak czy inaczej, w obrębie austro-libertarianizmu odnoga austriacka mogłaby badać zmiany w dobrobycie społecznym spowodowane przez wymiany zarówno sprawiedliwe jak i niesprawiedliwe. W ten oto sposób, austriacka ekonomia dobrobytu mogłaby być – co teoretycznie pożądanym – niezależna od libertariańskiej etyki.

Niniejszą dysertację zamyka rozdział 4 (i.e. “Choice vis-à-vis indifference in Austrian School of Economics [Wybór a obojętność w austriackiej szkole ekonomii]”), składający się z **artykułu 8** (i.e. Wysocki, Igor. (2021b). “The Problem of Indifference and Homogeneity in Austrian Economics: Nozick’s Challenge Revisited”, *Philosophical Problems in Science* 71: 9–44.) oraz z **artykułu 9** (i.e. Wysocki, Igor. (2024b). “Rejoinder to Block on Indifference”, *Philosophical Problems in Science* 76: 459–479.). Owe dwa artykuły są tematycznie związane z centralnym zagadnieniem niniejszej dysertacji o tyle, o ile zajmują się badaniem pojęciowych podstaw wyboru jako takiego, szczególnie w kontraście do pojęcia obojętności. Zgłębianie pojęciowych fundamentów wyboru jako takiego jest bowiem *a fortiori* zgłębianiem pojęciowych podstaw *dobrowolnego wyboru*. W rozdziale 4 stwierdzamy, że aby austriacy mogli nietautologicznie sformułować prawa malejącej użyteczności krańcowej oraz uniwersalne prawo preferencji czasowej, muszą oni wprzód posiadać niezależne pojęcie tego samego dobra ekonomicznego. W omawianym rozdziale wypracowujemy to niezbędne pojęcie, wprowadzając podwójne indeksowanie (w terminach czasu) fizycznych jednostek, które podmiot działający znajduje jednakowo użytecznymi. W ten sposób możemy przyznać stosowną rolę zarówno wyborowi jak i obojętności. Zauważamy bowiem, że austriacy rzeczywiście potrzebują pojęcia obojętności, aby skonceptualizować jednostki tego samego dobra ekonomicznego. Mimo to pokazujemy, że w każdym działaniu manifestuje się też preferencja (*strict preference*). Wyobraźmy sobie teraz że kolejno wykorzystujemy jednostki tego samego dobra ekonomicznego jako środki do realizacji naszych kolejnych celów. W tej oto sytuacji pozostajemy indyferentni wobec użycia konkretnych fizycznych jednostek (w

końcu każdą z nich uznajemy za jednakowo użyteczną). Z drugiej strony jeśli chodzi o cele, to ewidentnie każda kolejna jednostka użyta jest jako środek do zaspokojenia mniej pilnej potrzeby. Dlatego też prawo malejącej użyteczności krańcowej wymaga do swego sformułowania zarówno pojęcia obojętności jak i ścisłej preferencji (*strict preference*). Krytyka Nozicka (1977) wymierzona w austriaków była poprawna, ale austriacka teoria wychodzi z niej obronną ręką. Niniejszą dysertację zamyka artykuł 9, który podejmuje zadanie dalszej obrony teorii wyboru i indyferencji (opracowanej w artykule 8) wobec zarzutu skierowanego przeciwko niej przez Blocka (2022). Spis treści niniejszej dysertacji prezentuje się następująco.

## SPIS TREŚCI

### **Rozdział 1:** Moralized presuppositions of the libertarian theory of voluntariness

**Artykuł 1:** Megger, Dawid, I. Wysocki. (2023) “Coercion, Voluntary Exchange, and the Austrian School of Economics,” *Synthese* 201, 8.

**Artykuł 2:** Wysocki, Igor. (2024a). “Blackmail, Unproductive Exchanges, Fraud and the Libertarian Theory of Voluntariness,” *Polish Political Science Review* 12(1): 76–93.

### **Rozdział 2:** Metaphysical underpinnings of a free choice in ASE

**Artykuł 3:** Wysoki Igor, Ł. Dominiak. (2021). “Dismantling Rothbard’s *Mantle of Science*?”, in *Austrian economics 150 years after Carl Menger, 10th International Conference The Austrian School in the 21st century*, Federico N. Fernández, Barbara Kolm, Victoria Schmid (eds.), Wien: Friedrich A. von Hayek Institut, 439–452.

**Artykuł 4:** Wysocki, Igor., Łukasz Dominiak. (2024a). “Austrian Economics and Compatibilist Freedom”, *Journal for the General Philosophy of Science* 55: 113–136.

### **Rozdział 3:** Normatively charged notion of voluntary exchange in Austrian welfare economics

**Artykuł 5:** Wysocki Igor, Ł. Dominiak. (2024b). “Social Welfare, State Interventions, and Indeterminacy: In Defense of Rothbard,” *Zagadnienia Filozoficzne w Nauce* 76: 297–315.

**Artykuł 6:** Wysocki, Igor. (2023). “Justice vis à vis Welfare: How Austrian Welfare Economics Should Fit in the Austro-Libertarian Framework”, *Economia Politica* 40: 445–467.

**Artykuł 7:** Wysocki Igor, Ł. Dominiak. (2023). “How does Justice Relate to Economic Welfare? A Case against Austro-Libertarian Welfare Economics” *Croatian Journal of Philosophy* 23(67): 51 – 67.

### **Rozdział 4:** Choice vis-à-vis indifference in Austrian School of Economics

**Artykuł 8:** Wysocki, Igor. (2021b). “The Problem of Indifference and Homogeneity in Austrian Economics: Nozick’s Challenge Revisited”, *Zagadnienia Filozoficzne w Nauce* 71: 9–44.

**Artykuł 9:** Wysocki, Igor. (2024b). “Rejoinder to Block on Indifference”, *Zagadnienia Filozoficzne w Nauce* 76: 459–479.

Niniejsza dysertacja jest spójna nie tylko teoretycznie czy tematycznie, ale też metodologicznie. Jedną z metod charakteryzujących ją jest metoda równowagi refleksyjnej (*reflective equilibrium*), spopularyzowana przez Johna Rawlsa (1971). Dla przykładu, w rozdziale poświęconym austriackiej teorii dobrobytu (i.e. rozdział 3), pokazujemy, jak nieintuicyjne konsekwencje płyną z przyjęcia zmoralizowanej koncepcji dobrowolnej wymiany. Rzeczona zmoralizowana koncepcja przewiduje, że kupienie milczenia szantażysty jest obopólnie korzystne, podczas gdy zapłacenie poborcy podatkowemu już takie nie jest. Z kolei nasz przemyślany sąd wskazuje na to, że obie powyższe wymiany są ekonomicznie identycznie. Dlatego też mamy powód, aby odrzucić zmoralizowaną ideę dobrowolnej wymiany. Warto dodać, że metoda równowagi refleksyjnej polega na użyciu (o ile nie sprowadza się do<sup>12</sup>) eksperymentów myślowych. Te z kolei polegają na konstruowaniu czysto wyobrażonych sytuacji, które, abstrahując od wszelkich nieistotnych zmiennych, wywołują w nas pewne silne intuicje w interesującej nas dziedzinie. Stosownym przykładem z niniejszej dysertacji egzemplifikującym omawianą metodę jest porównanie płacenia szantażyście za milczenie do płacenia naszemu oprawcy, który grozi nam bezprawnym zniewoleniem, *ceteris paribus* (eksperyment myślowy, do którego odwołujemy się w artykule 1). Przy tak skonstruowanym eksperymencie myślowym wyłania się silna intuicja, jakoby obie wymiany były ekonomicznie nieodróżnialne, co z kolei podważa teorię, która przewiduje, że ekonomiczne efekty obu transakcji miałyby okazać się diametralnie różne. Innym przykładem jest eksperyment myślowy *Fridge*, który rozwijamy w artykule 7. Ten czysto wyobrażony scenariusz ma w nas wywoływać intuicję, jakoby do pomyślenia były wymiany, które zwiększają użyteczność społeczną, będąc jednocześnie niesprawiedliwymi. Ponadto, w artykule 4 odwołujemy się do kilku eksperymentów myślowych opisujących podmiot działający, którego celowe zachowania kierowane są różnymi skalami wartości w różnych światach możliwych. Te eksperymenty myślowe spełniają swą rolę o tyle, o ile abstrahują od elementów nerelevantnych, jednocześnie skupiając się wyłącznie na relacji pomiędzy zachowaniami podmiotu działającego, a skalami wartości kierującymi nimi. Krótko mówiąc, zadaniem eksperymentów myślowych jest ewokowanie pewnych intuicji, które z kolei służą do testowania interesujących nas teorii. Albo innymi słowy, to w świetle pewnych intuicji pewne teorie zostają albo dodatkowo potwierdzone, albo sfalsyfikowane. I to właśnie w tym sensie eksperymenty myślowe stanowią integralną część metody równowagi refleksyjnej. Odnotujmy też, że niniejsza rozprawa czyni użytek z Hohfeldowskiej analizy fundamentalnych pozycji jurydycznych czy też, szerzej mówiąc, z logiki deontycznej. W niniejszej dysertacji nie używamy słowa *uprawnienie* (*right*) wieloznacznie. Przeciwnie: rozróżniamy pomiędzy – co niezwykle istotne – Hohfeldowską wolnością jurydyczną (*privilege* albo *liberty*), a Hohfeldowskim roszczeniem (*claim-right*). Hohfeldowska terminologia przenika artykuł 2, w którym to przypisujemy pewne pozycje jurydyczne szantażyście w stosunku do szantażowanego. W tym wypadku, ten pierwszy cieszy się wolnością do ujawniania pewnych informacji oraz do nieujawniania tychże w stosunku do szantażowanego. Tak ostry aparat analityczny pozwala uniknąć m.in. błędu ekwiwokacji w naszym rozumowaniu. Dodajmy jeszcze, że pewne argumenty w niniejszej pracy są sformalizowane w postaci sylogizmów albo

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<sup>12</sup> Ostatecznie fundamentalne idee *sytuacji pierwotnej* oraz *zasłony niewiedzy*, zastosowane w przełomowej pracy Rawlsa (1971), były eksperymentami myślowymi.

za pomocą klasycznego rachunku zdań. Dla przykładu, artykuł 2 oraz artykuł 4 odwołują się do sylogistycznej reprezentacji argumentów, które są skądinąd werbalne.

Podsumujmy teraz tezy niniejszej dysertacji oraz omówmy wkład, który wnosi ona do austro-libertariańskiej literatury. Rozprawa ta przede wszystkim pokazuje, dlaczego zmoralizowane pojęcie dobrowolności, tak jak jest ono rozumiane przez austro-libertarian, jest wadliwe. Dla przykładu, aby dowieść powyższej tezy, pokazujemy, że przyjęcie normatywnego pojęcia dobrowolności prowadzi austriaków do przyjęcia zmoralizowanego pojęcia przymusu, co z kolei nie współgra z charakterystycznie austriackim postulatem wolności od wartościowania. Dlatego też argumentujemy, że austriacy powinni porzucić zmoralizowane pojęcie przymusu w imię spójności swej teorii. Zrezygnowawszy ze zmoralizowanej teorii przymusu, austriacy powinni przyjąć pewne deskryptywne rozumienie tegoż. W **artykule 1** wypracowujemy taką teoretycznie pożądaną teorię przymusu, odwołując się do teorii aktów mowy oraz do teorii przymusu Lamonda (1996). Ponadto, identyfikujemy kolejny powód, dlaczego zmoralizowana koncepcja dobrowolności jest błędna. Ponieważ libertarianie utożsamiają dobrowolne działanie z działaniem wolnym od przymusu (tj. przy braku gróźb zapowiadających nieuniknione pogwałcenia uprawnień strony zagrożonej), taka koncepcja dobrowolnego działania błędnie przewiduje naturę niektórych wymian dokonanych wskutek szantażu. Jak pokazujemy, niektóre wymiany dokonane na skutek szantażu spełniają definicje oszustwa (*fraud*). A libertarianie bezkompromisowo obstają przy zakazie oszustw. W wolnym społeczeństwie nie byłoby, normatywnie rzecz biorąc, miejsca na oszustwa. Wymiany oszukańcze uznaje się za niesprawiedliwe. A skoro dobrowolne wymiany zachowują sprawiedliwą redystrybucją zasobów, na oszukańcze wymiany nie można by się zgodzić dobrowolnie. A zatem, niektóre wymiany odbywające się wskutek szantażu (te które polegają na tym, że szantażysta podstępem doprowadza do tego, że szantażowany zrzeka się tytułu własności) wołają o zrewidowanie zmoralizowanego pojęcia dobrowolności, tak jak jest ono rozumiane przez libertarian.

Ponadto, niniejsza rozprawa ustala (**artykuły 3 i 4**), że jedynie kompatybilistyczna koncepcja wolnej woli jest do pogodzenia z metodologią austriackiej szkoły ekonomii – szczególnie w jej Rothbardowskim wydaniu. Skoro niemożliwy jest jakikolwiek rozdźwięk między zachowaniami a skalami wartości nimi kierującymi, to przy danych skalach wartości, podmiot działający nie może zachować się inaczej niż *de facto* się zachowuje. Stąd też nasze wybory zdeterminowane są przez nasze skale wartości (w połączeniu z relewantnymi przekonaniami) i to z tego powodu austriacy nie mogą, logicznie rzecz biorąc, przyjąć tzw. metafizycznego libertarianizmu. Austriacy mają zatem decydujący powód do przyjęcia kompatybilistycznej koncepcji wolnej woli.

W rozdziale 3 (**artykuły 5, 6 i 7**) niniejszej dysertacji naświetlamy, jakiego rodzaju problemy rodzi przyjęcie zmoralizowanego pojęcia dobrowolnej wymiany w austriackiej ekonomii dobrobytu. Twierdzimy, że Rothbard i jego zwolennicy, odwołując się do rzeczzonego pojęcia, rozstrzygają kwestię efektywności wolnego rynku w założeniu. Przemycenie libertariańskiej etyki do definicji dobrowolności przesuwają tylko problem na innym poziomie. Wciąż bowiem należy ustalić czy wymiany odbywające się z poszanowaniem libertariańskich uprawnień są obopólnie korzystne. Argumentujemy, że logicznie możliwe są scenariusze, w

których mamy do czynienia z wymianami odbywającymi się z poszanowaniem libertariańskich uprawnień i jednocześnie zmniejszającymi użyteczność społeczną. W podobny sposób pokazujemy, że logicznie możliwe są wymiany, które naruszają libertariańskie uprawnienia, ale jednocześnie podnoszą użyteczność społeczną. Tym samym – wbrew przekonaniu austriaków – konkluzywnie demonstrujemy, że dobrobyt i sprawiedliwość konstytuują logicznie niezależne ideały. Jeśli chodzi o pozytywne propozycje omawianego rozdziału, to próbujemy wykazać, że produktywne wymiany w sensie Nozicka mogłyby służyć jako kryterium do oceny tego, czy (i na ile) dobrobyt społeczny się podniósł. Warto odnotować, że kryterium Nozicka nie rozstrzygałoby w założeniu kwestii tego, czy wolny rynek jest efektywny. Wynika to z tego, że nieproduktywne wymiany na wolnym rynku są *prima facie* do pomyślenia.

W rozdziale 4 (**artykuły 8 i 9**) analizujemy austriackie rozumienie wyboru jako takiego. Analiza ta wydaje się istotna szczególnie w świetle faktu, że debata na temat wyboru w kontraście do obojętności wciąż się toczy wśród austriaków. Austriacy standardowo odrzucają kategorię obojętności jako niespójną z wyznawaną przez nich prakseologią. Mimo to Nozick przekonująco pokazał, że pojęcie podaży (a tym samym sformułowanie prawa malejącej użyteczności krańcowej) zakłada pojęcie obojętności. Zadaniem omawianego rozdziału jest udowodnienie, że wyzwaniu Nozicka stawianemu austriakom można podołać. Kolejne działania podmiotu działającego, które ilustrowałyby prawo malejącej użyteczności krańcowej ujawniają (ściśłą) preferencję (tak, jak chcieliby austriacy), ale też stwarzają pole obojętności (tak, jak chciałby Nozick). Co istotne, pokazujemy, że obawy austriaków przed obojętnością są nieuzasadnione, jako że obojętność nie figuruje w działaniu w *opisie intencjonalnym*. Ostatecznie przecież Rothbard i jego zwolennicy podkreślają, że obojętność nigdy nie ujawnia się w działaniu (patrz Rothbard, 2011b). Podsumowując, ostatni rozdział domyka pewne konceptualne luki w skądinąd już spójnej siatce pojęciowej charakteryzującej ASE. Poza tym udaje nam się odeprzeć krytykę Nozicka (1977) wymierzoną w austriaków.

Zauważmy na koniec, że wszelkie omówione powyżej tezy niniejszej dysertacji stanowią istotną rewizję austro-libertariańskiej teorii polityki. Należy bowiem odnotować, że niektóre z artykułów składających się na obecną rozprawę już zdążyły wywołać poważną debatę naukową. Na przykład, artykuł 7 (“How does Justice Relate to Economic Welfare? A Case against Austro-Libertarian Welfare Economics”) już doczekał się odpowiedzi ze strony Fegleya i Israela (2024). Z kolei Block (2024) odniósł się już do **artykułu 8** oraz do **artykułu 9** niniejszej rozprawy, w, odpowiednio, Block (2022, 2024). Warto również dodać, że niektóre z artykułów składających się na obecną dysertację zostały opublikowane w czołowych periodykach. Na przykład, artykuł 1 (“Coercion, Voluntary Exchange, and the Austrian School of Economics”) został opublikowany w *Synthese*, a artykuł 4 (“Austrian Economics and Compatibilist Freedom”) w *Journal for General Philosophy of Science*. Oba te pisma to światowej sławy periodyki zajmujące się filozofią nauki. Ponadto, moje rozmaite prace dotyczące austro-libertarianizmu były wielokrotnie cytowane. Warto odnotować fakt, że w samym roku 2024 moje artykuły były cytowane aż 51 razy – głównie z powodu ukazania się specjalnego numeru *Zagadnień Filozoficznych w Nauce* (nr 76), który to numer edytowałem wspólnie z profesorem Walterem Blockiem i który poświęcony był filozoficznym podstawom ekonomii. Co interesujące i jednocześnie krzepiące, większość artykułów tworzących rzeczony numer podejmowała problemy dyskutowane w obrębie austriackiej szkoły ekonomii. Sam ten fakt dobitnie świadczy o tym, że austro-libertariański paradygmat prężnie rozwija się na arenie

międzynarodowej. Rozkwit ten można porównać do tego, który miał miejsce w libertarianizmie w latach siedemdziesiątych poprzedniego stulecia. Ponadto, badaczom libertariańskim zaczęto przyznawać granty badawcze. Na przykład, projekt profesora Łukasza Dominiaka “The Paradox of Blackmail: A Pro Tanto Solution and Its Implications for the Libertarian Theory of Coercion and Voluntary Exchange [Paradoks szantażu: Rozwiązanie pro tanto i jego implikacje dla libertariańskiej teorii przymusu i dobrowolnej wymiany]” uzyskał w 2020 roku finansowanie przez Narodowe Centrum Nauki. Podobnie, mój projekt “Economic Analysis of a Libertarian Legal System [Ekonomiczna Analiza Libertariańskiego Systemu Prawnego]” w 2024 roku uzyskał finansowanie przez tę samą instytucję. Odnotujmy, że oba te projekty zajmują się libertariańską teorią polityki. Relewancja niniejszej dysertacji wydaje się szczególnie oczywista, gdy weźmiemy pod uwagę to, że międzynarodowe zainteresowanie libertarianizmem odżywa. Podobnie znamienne jest – jak widzieliśmy wyżej – instytucjonalne wsparcie badań nad libertarianizmem.

### **Bibliografia:**

Benzecry, Gabriel. (2024). “The Conservative of the Spontaneous Order,” *Journal of Libertarian Studies* 28 (1): 76–90.

Block, Walter. (2022). “Response to Wysocki on Indifference,” *Philosophical Problems in Science* 72: 37–62.

Block, Walter. (2024). “Response to Wysocki’s Rejoinder to Block on Indifference,” *Philosophical Problems in Science* 76: 481–503.

Dominiak, Łukasz. (2016). “Problem Aksjomatyczności Zasady Autowłasności w Filozofii Politycznej Libertarianizmu,” *Athenaeum. Polskie Studia Politologiczne* 49: 42–64.

Dominiak, Łukasz. (2017). “Libertarianism and Original Appropriation,” *Historia i Polityka* 22 (29): 43–56.

Fegley, Tate, and K.-F. Israel. (2024). “A Defense of Austrian Welfare Economics,” *Philosophical Problems in Science* 76: 19–42.

Hare, Richard. (1952). *The Language of Morals*. Oxford: Oxford University Press.

Harrison, Gerald. (2013). “The Moral Supervenience Thesis is not a Conceptual Truth”, *Analysis* 73: 62–68.

Hayek, Friedrich. (1978). *The Constitution of Liberty. The Definitive Edition*. Chicago: University of Chicago Press.

Hurd, Heidi, and M. Moore. (2018). “The Hohfeldian Analysis of Rights,” *The American Journal of Jurisprudence* 63(2): 295–354.

Hohfeld, Wesley. (1913). “Some Fundamental Legal Conceptions as Applied in Judicial Reasoning,” *Yale Law Journal* 23(1): 16–59.

- Johnson, Conrad. (1975). "Moral and Legal Obligation," *The Journal of Philosophy* 72(12): 315–333.
- Kim, Jaegwon. (2010). *Essays in the Metaphysics of Mind*. Oxford: Oxford University Press.
- Kramer, Matthew. (2002). "Rights Without Trimmings". In *A Debate Over Rights*, eds. M. H. Kramer, N. E. Simmonds, and H. Steiner, 7–112. New York: Oxford University Press.
- Kramer, Matthew. (2024). *Rights and Right-Holding*. Oxford: Oxford University Press.
- Lamond, Grant. (1996). "Coercion, Threats, and the Puzzle of Blackmail". In *Harm and culpability* eds. A. P. Simester & A. T. H. Smith, 215–238. Oxford: Clarendon Press.
- McBride, Mark. (2021). "The Dual Reality of No-Rights," *The American Journal of Jurisprudence* 66(1): 39–48.
- Megger, Dawid, and I. Wysocki. (2023) "Coercion, Voluntary Exchange, and the Austrian School of Economics," *Synthese* 201, 8.
- Nozick, Robert. (1974). *Anarchy, State, and Utopia*. Oxford: Basil Blackwell.
- Nozick, Robert. (1977). "On Austrian Methodology," *Synthese* 36: 353–392.
- Ossowska, Maria. (1960). "Moral and Legal Norms," *The Journal of Philosophy* 57(7): 251–258.
- Rawls, John. (1971). *A Theory of Justice*. New York: Cambridge University Press.
- Rothbard, Murray. (2002). *Ethics of Liberty*. New York and London: New York University Press.
- Rothbard, Murray. (2006). *For a New Liberty. The Libertarian Manifesto*. Auburn: Ludwig von Mises Institute.
- Rothbard, Murray. (2011a). "The Mantle of Science". In: *Economic controversies* (pp. 3–23). Auburn, AL: Ludwig von Mises Institute.
- Rothbard, Murray. (2011b). "Toward a Reconstruction of Utility and Welfare Economics." In: *Economic controversies* (pp. 289–333). Auburn, AL: Ludwig von Mises Institute.
- Wysocki, Igor. (2021b). "The Problem of Indifference and Homogeneity in Austrian Economics: Nozick's Challenge Revisited", *Philosophical Problems in Science* 71: 9–44.
- Wysocki, Igor. (2023). "Justice vis à vis Welfare: How Austrian Welfare Economics Should Fit in the Austro-Libertarian Framework", *Economia Politica* 40: 445–467.
- Wysocki, Igor. (2024a). "Blackmail, Unproductive Exchanges, Fraud and the Libertarian Theory of Voluntariness," *Polish Political Science Review* 12(1): 76–93.
- Wysocki, Igor. (2024b). "Rejoinder to Block on Indifference", *Philosophical Problems in Science* 76: 459–479.

Wysocki Igor, and Ł. Dominiak. (2021). “Dismantling Rothbard’s *Mantle of Science?*”, in *Austrian economics 150 years after Carl Menger, 10th International Conference The Austrian School in the 21st century*, Federico N. Fernández, Barbara Kolm, Victoria Schmid (eds.), Wien: Friedrich A. von Hayek Institut, 439–452.

Wysocki Igor, and Ł. Dominiak. (2023). “How does Justice Relate to Economic Welfare? A Case against Austro-Libertarian Welfare Economics” *Croatian Journal of Philosophy* 23(67): 51 – 67.

Wysocki, Igor, and Ł. Dominiak. (2024a). “Austrian Economics and Compatibilist Freedom”, *Journal for the General Philosophy of Science* 55: 113–136.

Wysocki Igor, and Ł. Dominiak. (2024b). “Social Welfare, State Interventions, and Indeterminacy: In Defense of Rothbard,” *Zagadnienia Filozoficzne w Nauce* 76: 297–315.