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CAN YOU OWN YOURSELF?

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ABSTRACT. This article answers the title question in the affirmative. Self-ownership comes in two forms: one, negative, which denies that anyone else owns me; and the other, positive, which asserts that one has a right to dispose of oneself in any way that does not infringe on the like right of others. The notions of property, ownership and rights are explicated in ways that make the self-ownership thesis coherent and defensible. It is concluded that the notion of self-ownership entails that one may voluntarily enslave oneself.

Keywords: possession, self-ownership, voluntary enslavement, property, rights, obligations

Can you own yourself? For many people this will seem a strange and perhaps meaningless question. You can own a pen or a bicycle or, if you’re lucky, an iPad but what could it possibly mean to own yourself? Our paradigm examples of ownership all appear to involve a physical or metaphysical distinction between the entity that owns and the entity that is owned. That being so, would the notion of self-ownership perhaps commit us to a mind or soul/body dualism with the mind or soul being the owner and the body that which is owned? Or would it commit us to an even stranger form of dualism between me, on the one hand, and my self, on the other? This latter dualism is scarcely comprehensible, much less defensible, and even the former kind of dualism (which has the merit of being comprehensible) is not one that we would necessarily want to commit ourselves to if it was necessarily implied by a coherent notion of self-ownership.

In fact, self-ownership need give rise to no insoluble metaphysical perplexities if it is taken to be simply the reflexive and limiting case of the relationship of an entity capable of ownership to itself. Just what this reflexive relationship consists in, however, is another and more complex matter. In particular, one uncontroversial way of parsing the self-ownership claim definitely involves no dubious metaphysical assumptions. This occurs where the self-ownership claim is given a third party orientation and becomes tantamount to the denial that anyone else owns me, whether because as a matter of fact I am unowned by someone else or because I cannot be owned by anyone else. We might call this the ‘negative’ self-ownership thesis.

Negative self-ownership has a strong intuitive appeal. Attracta Ingram writes, “the great intuitive appeal of self-ownership lies in the fact that it responds to fears of unrestrained power, enslavement and latterly, of spare-part cannibalization of bodies, as well as to ideas about being in control of our own lives, determining and pursuing our own ideas of the good life.” The late, great socialist thinker G. A. Cohen also finds the notion of self-ownership intuitively plausible. In his very influential Self-Ownership, Freedom, and Equality he notes sardonically that “In my experience, leftists who disparage Nozick’s essentially unargued affirmation of each person’s rights over himself lose confidence in their unqualified denial of the thesis of self-ownership when they are asked to consider who has the right to decide what should happen, for example, to their own eyes.”

A positive conception of self-ownership would be that in which it not only imposes a duty on others of non-interference with you or your activities but also permits you a perfect right (more properly, a liberty) to dispose of yourself in whatever way you choose, subject only to the condition that you may not violate the similar rights (or liberties) of others to dispose of themselves. In the extreme case, this notion of self-ownership as a matter of self-disposition might include the liberty to enslave yourself voluntarily or to commit suicide. This positive conception of self-ownership as liberty of disposition includes while transcending the negative form of self-ownership as non-interference by others.

Kant notoriously denies the possibility of positive self-ownership. He writes that “someone can be his own master but cannot be the owner of himself ... since he is accountable to the humanity in his own person.” This is consistent with the negative conception of self-ownership as self-ownership thus conceived imposes duties of non-interference upon others in respect of me but does not imply a corresponding liberty or absence of duties in me. From the Kantian perspective, you have a right to commit suicide inasmuch as others have a duty not to interfere with you in the commission of such an act but you are not at liberty to commit suicide inasmuch as you have a duty, a self-regarding duty to continue living.

In order to make sense of the notion of ownership in general, we must come to terms with the central ideas of property and rights. In daily speech, property is taken to be things such as cars and
bicycles, houses and TV sets – robust physical entities of various kinds. While it is colloquially in order to talk like this, to do so is nonetheless to risk mistaking the material for the formal. Properly speaking, property is not so much a bunch of things such as cars or TVs but rather a set of rights to dispose, completely or partially, of such things in whatever ways one sees fit. Jeremy Waldron defines property as “a system of rules governing access to and control of material resources,” and Ingram says that “the owner of an object is the person who does not require the consent of others to use it and whose consent others must seek if they want to have access to or control of it.” If ownership is a complex of rights, full ownership, the unfettered control of all the elements in the complex, is what is usually in question when one refers to self-ownership. There can, of course, be conceptions of self-ownership which are less than full.

What kind of things are the rights that constitute the property relation? In two ground-breaking and enormously influential articles, Wesley Hohfeld presented an analysis of what he regarded as fundamental legal conceptions. His analysis is both complicated and controversial and almost one hundred years after its initial presentation no universally agreed judgment on its validity has emerged. I believe that the core of Hohfeld’s analysis is both correct and unassailable, especially if exhibited in a simpler and more perspicuous manner. The short account that follows is Hohfeldian rather than Hohfeld’s and makes no claim to interpretive accuracy. Such persuasive qualities as it may have rest on its intuitive appeal rather than its faithfulness to the Hohfeldian original.

The first point to grasp is that legal (or jural) relations obtain between people in relation to things (in the limiting case, themselves) and not directly between people and things. E. Adamson Hoebel takes a conventionalist approach to the concept of property, arguing that possessions only become property when recognized as such by society at large. Things don’t become property “until the members of the society at large agree, tacitly or explicitly, to bestow the property attribute upon the object by regulating their behavior with respect to it in a self-limiting respect.” On the other hand, Anthony de Jasay energetically disputes the idea that property is socially produced, which idea, if true, would imply that individual owners hold their property only by the grace and favor of the rest of society: “Property is not necessarily a social product. It can come about by individual effort totally isolated from society.”

It would seem that these positions cannot both be true at the same time and in the same respect yet there is something intuitively plausible about both of them. Hoebel’s conventionalist approach recognizes that rights are jural matters and are therefore embedded in a human social context. Ownership is not something that can be seen, heard or touched. It is a trilateral relationship among persons in relation to an object. In contrast, and I think incorrectly, Anthony de Jasay defines ownership as a simple bilateral relation between an owner and the thing owned, such that the owner is at liberty to use it, to concede specific rights in it to others, and to alienate it, as well as to exclude access to it by others except with his consent. Defined trilaterally, property has two aspects: the object owned, and the network of social relationships that establish the connection between persons and the object. On the other hand – and here, I think, de Jasay is correct – property rights are not, at least not initially, arbitrary social creations but in some sense a recognition by the members of a society of the validity of a pre-existing claim by one or more of its members.

I believe the intuitive core of both positions can be preserved if we can accept a notion of latent or virtual ownership. To grasp this point, consider the following. Suppose that, living alone on a desert island, you were to clear some ground, plant some carrots and give them the tender loving care that they need until they were ready to be picked and eaten. Wouldn’t you own the carrots? I would rather say that if you were to live in such radical social isolation, you would neither own nor not own the carrots: the question of ownership simply wouldn’t arise. But now, suppose another person were to appear and attempt to appropriate the carrots, what then? In that case, you would be in a position to make a counter-claim that, all things considered, would seem to be better grounded than that of the challenger. In so doing, you would be attempting to actualize a kind of latent or virtual ownership that pre-existed any actual claim or recognition of that claim by others but which nonetheless requires the presence of other possible owners in order to move from virtuality to actuality.

Ownership, however, is intrinsically different from possession. Possession is a perceptually possibly observable physical relation between a sentient entity and a thing. I can possess a bone and so can a dog. I own a television set and not possess it and I can (if I am a thief) possess it and not own it. To own something is to make a claim that one has a right to use something or other (a TV set, a watch) which claim is recognized by others as imposing an obligation on them not to interfere with that use. Rights and obligations come in two varieties; there are claims that one may make against specific individuals which, if accepted, impose obligations only on those individuals – these are positive rights. Because of the universal nature of natural rights, they are
negative in nature and require others merely to refrain from specific actions rather than requiring them positively to do something. So, for example, if I have a natural right to life, then this imposes a correlative obligation on others to refrain from deprivning me of that life but imposes no obligation upon them to do anything, even something trivial, to help me preserve life. Positive rights, by contrast, are established by agreement and impose obligations only on those who have voluntarily acceded to the agreement.

We then have two pairs of related concepts – (i) rights versus obligations and (ii) natural (rights and obligations) versus positive (rights and obligations). Rights and obligations are correlative concepts; someone can have a right if and only if someone else has an obligation.

\[ A(r) \leftrightarrow B(o): \text{ in English, A has a right if and only if B has an obligation, or, spelled out in full } A(r) \rightarrow B(o) \land B(o) \rightarrow A(r): \text{ if A has a right then B has an obligation AND if B has an obligation then A has a right. By contraposition, the negative version of the same relation is: } -A(r) \leftrightarrow -B(o): \text{ in English, A does not have a right if and only if B does not have an obligation, or, spelled out in full } -A(r) \rightarrow -B(o) \land -B(o) \rightarrow -A(r); \text{ if A does not have a right then B does not have an obligation AND if B does not have an obligation then A does not have a right.} \]

Property being what it is, who or what can exercise ownership? This question has, in effect, already been answered. Rational beings and only rational beings can exercise ownership. Ownership is normative; possession is factual. To own something you have to be able to grasp the idea of right and grasping ideas requires a conceptual capacity so that only beings with the requisite capacity, that if, only rational beings, can exercise ownership. A dog may possess a bone but he cannot own one.

What things can be the object of ownership? In general, anything capable of being sufficiently demarcated from other things of its kind and other kinds of things can be owned. Radio frequencies are now matters of property; at an earlier time in our history, they were not. Uncontroversially, I think, inanimate objects such as pens, laptops, wheelbarrows, apples, houses are the kind of thing that can be owned. It is also the case that animate objects, such as cats, and dogs can be owned. In claiming to own such creatures, we are not concerned with their possibly rich if completely unknowable internal life, their cognitions or volitions. To own Winnie the Pooh’s friend, Eeyore the donkey, for example, you don’t have to know or be concerned with or be able to control his knowledge or his feelings – you just have to have the right to dispose of his services.

What about human beings? Can they be owned? To own human beings, you don’t have to know or be concerned with or be able to control their knowledge or their feelings – you just have to have the right to dispose of their services which, like the donkey’s, may be a matter of raw physical labor or may, unlike the donkey, be a matter of their performing some intellectual or artistic service. I am not, of course, raising the question of whether we should own or be able to own other human beings.

Perhaps our quick assertion above of the reflexive nature of the self-ownership relation hasn’t dispelled all doubts about its coherence. It could be objected, for example, that to own something is to have the power to alienate it. Pens, TVs, houses and the like are all alienable; you can give them away or sell them to someone else. But it would appear that you are not alienable from yourself so that, therefore, if alienability is a necessary conditions of ownership, you cannot own yourself.

In one sense, this is obviously correct. You can’t give yourself away from yourself as you can dispose of an unwanted CD. But in another, and in the relevant sense, you can alienate yourself. In the cases of TVs and houses we have physical separation between the owner and the thing owned but this physical separation isn’t essential to alienation. In alienating yourself through voluntary enslavement, the most extreme case, you don’t have to take a part of yourself and hand it over to another. Nor do you give up control of your inner life or somehow effect a separation between some kind of metaphysical inner self and your outer body – you simply give to another the right to order your comings and goings or your physical, artistic and intellectual services or whatever, thus becoming, in effect, a kind of superior donkey. As a matter of fact, we routinely alienate ‘part’ of ourselves – we do so any time we accept employment. Any employment requires us to put ourselves, our talents, our energies, our labor at the disposal of others. To be employed is precisely to be used. The only difference between ordinary employment and voluntary enslavement is that in voluntary enslavement, the disposal of one’s assets is complete. It is, as it were, the capital value of all our services, now and in the future.

James Grunebaum, for example, objects to voluntary enslavement on the Kantian grounds that it violates one’s autonomy. Some libertarians, such as Murray Rothbard, object to the notion of voluntary enslavement apparently because they believe other people cannot control one’s will. Rothbard writes that “there are certain vital things which, in natural fact and in the nature of man, are inalienable, i.e. they cannot in fact be alienated, even voluntarily. Specifically, a person cannot alienate his will, more particularly his control over his own mind and body.” But this seems to miss the point at issue here.
The point is not whether one can control another psychologically (though that might be possible in the future) but whether one has the right to use another. Psychological control might be desirable for a slave owner (and possible in the future) but it is not necessary, any more that one needs to control one’s cat psychologically before one could be said to own her.

Among libertarians, it would appear that only Walter Block and Robert Nozick are prepared to defend voluntary enslavement. Block writes that “The underlying point of the libertarian critique is that if I own something, I can sell it….If I can’t sell it, then, and to that extent, I really don’t own it.” That being so, it follows that “if I really own my liberty, then I should be free to dispose of it as I please, even if, by so doing, I end up no longer owning it.”¹³ Nozick asks whether a free system would allow an individual “to sell himself into slavery. I believe that it would” and he adds, “it also would allow him permanently to commit himself never to enter into such a transaction.”¹⁴ If we are really free, then we must be able to make binding arrangements concerning our property and those binding arrangements can, in principle, include ourselves and the disposal of our abilities. Denying that one may legitimately commit oneself to voluntary enslavement is itself a denial of autonomy.

Can you own yourself? Yes, both negatively and positively, and your positive self-ownership has the, perhaps, surprising consequence that you may, if you choose, dispose of your ownership of yourself in such as way as to voluntarily enslave yourself.

NOTES AND REFERENCES

2. Ibid., 26.
7. Both articles were published in Hohfeld, Wesley (1923), *Some Fundamental Legal Concepts as Applied in Judicial Reasoning*, New Haven, CT: Yale University Press.
10. Ibid., 141.