Chapter 5: The Origin and Development of Property Rights: An Empirical Investigation with Implications for the Modern Theory of Private Property

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This chapter examines the origin and development of property rights (private, public, and other) to investigate the classically liberal hypothesis and the related claims laid out at the end of Chapter 2. This hypothesis is that only individualistic (i.e. non-overlapping non-collectivist) private property rights (including partnerships and corporations) are likely to develop by repeated application of the appropriation and transfer principles; other forms of property rights, such as overlapping, partly or fully collectivist, and government ownership of the whole of a territory are extremely unlikely to develop without aggressive interference with individualistic private property rights. The central role of this hypothesis in propertarian theory was established in Chapter 2, and the lack of evidence propertarians have for it was established in Chapter 3.

The following discussion investigates the plausibility of the classically liberal hypothesis demonstrating not only that it is unproven, but also that it is clearly false and that quite the opposite is true. Property rights were not originally private, and in the absence of aggressive interference
they have not tended to become or remain fully private. Complex, flexible, overlapping, and at least partly collective resource rights have tended to develop in the absence of significant violations of the appropriation and transfer principles. We doubt that any anthropologists would disagree with the observation that in virtually all of the world, the origins of states predate the origins of anything fitting the modern, individualistic definition of private property. Early governments usually dispossessed earlier holders, but they seldom dispossessed people holding anything like private, individualistic property rights; the first state in an area nearly always supersedes people holding complex, flexible, overlapping, and at least partly collective resource rights. The institution of private property usually comes into existence, not by appropriation and voluntary transfer, but by aggressive private and government force—disappropriating people practicing much less individualistic property institutions.

If this reading of evidence is correct, it has strong implications for the historical application of the principles of natural property rights theory in terms of both who owns property and what kind of property rights structure is justifiable. There are at least three relevant groups who might have legitimate claims to property rights: titleholders who legally claim ownership of territory and other assets; governments who legally claim the power to tax, regulate, and redistribute property within their territory; and non-titleholders who might have been illegitimately dispossessed by either of the other two groups. This third group could be individuals dispossessed of individual private titles or groups of any size dispossessed of collective ownership or of other forms of rights over external assets that might not fit the typical modern Western conception of ownership.

Most propertarians are open to the possibility that at least some non-titleholders have a legitimate claim to redistribution in rectification for past violations of the appropriation and transfer principles. But they assume that any such redistribution will be private titles to private titles. Property rights, supposedly, can only be private. Because of the presumed truth of the
classically liberal hypothesis, whatever reparations are paid under the rectification principle and whatever claims legitimized into property rights under the statute of limitations principle must be private property rights. Rectification cannot come in the form of weakening the private nature of property rights, because supposedly the classical liberal hypothesis is true. But is it true?

If the classically liberal hypothesis is true, historical investigation would show that ownership tends to be private unless force is asserted over it. Resources tend to be appropriated as private property and/or they tend to become private property, and once they are private property, assets tend to remain private unless force is asserted over them. If a private property rights structure doesn’t exist in a particular society, then that society’s history should display a pattern of continually thwarted attempts to establish and maintain private property. Finally, it would show that attempts to establish other sorts of property rights regimes, such as those involving collectivist elements, tend to occur only as a means to assert control over privately created value in property.

Our historical and prehistorical investigation shows that virtually all of these claims are false. Propertarian principles provide no reason to favor an individualistic property rights structure over any other, because such a structure is less likely to develop via appropriation and voluntary transfer than a more complex and partly collectivist structure. It also shows that there is no reason to rule out governments, collectives, or ethnic groups as potentially justifiable landholders. Governments might have as much or more right to tax their land as landlords have to charge rent for theirs.

The historical investigation covers a very long period starting from the time in prehistory when all resources were unowned, continuing to the present as individualistic private property institutions are spreading to the last remaining parts of the globe.

At least one element of the relevant history is uncontroversial among everyone involved in the debate: at some point in time, most of the Earth was unowned. Certainly, before human
habitation there were no human territorial claims of any kind. Exactly when property claims—much less justified property rights—come into existence is controversial. But undoubtedly between then and now, there have been many violent conflicts, rights violations, and unjust transfers of ownership under almost any theory of rights. The investigation has to look for the actions that might have been justified under the principles of the theory, even if far more of the history of property consists in violations of principles.

Part 1 addresses the first candidates to be the “original appropriators,” hunter-gatherer bands, who preceded people living in other forms of social organization to the vast majority of the Earth’s land area. Part 2, moves on to the first agriculturalists, usually living in small-scale autonomous villages of 100 to 1000 people. Part 3 addresses the earliest societies with significant hierarchical power structures, chiefdoms. Part 4 shows that the earliest state societies still did not have property rights with much resemblance to the modern system. Part 5 discusses how the institution of private property spread around the globe well after state societies had established territorial claims to most of the world’s land area and almost always with the aggressive support of governments actively dispossessing indigenous people with non-individualistic property institutions to create individualistic private property institutions and to establish favored individuals as owners. Part 6 concludes with a discussion of the implications of this chapter’s findings for contemporary property rights theory. This investigation does not necessarily imply the complete rejection of the private property model. It implies the rejection of the beliefs that only individualistic private property is acceptable and that private property rights imply significant ethical limits on collective powers to tax, regulate, and redistribute private property titles.
1. Hunter-gatherer bands

People living as small-scale, nomadic hunter-gatherers (often called band societies) play a particularly important role in the natural rights justification of private property because they occupied most of the Earth’s land area before adopting larger-scale forms of social organization or (much more often) being overrun by people organized on a larger scale. This statement is true for almost all the land area of all the inhabited continents, and many islands, including New Zealand where people who had been living in larger-scale forms of social organization for centuries landed to find game so plentiful that they were able to adopt a nomadic hunter-gatherer lifestyle for several generations before reverting to larger-scale forms of social organization.

The prior occupation of hunter-gatherer bands implies that they should be taken seriously as candidates to be “original appropriators.” Unfortunately for propertarians, bands don’t fit the propertarian model of appropriators, nor do their property institutions have much resemblance to the kind propertarians portray as “natural.” This section discusses hunter-gatherer bands as potential “original appropriators” and then discusses the difficult implications doing so has for propertarian theory.

Most propertarian appropriation criteria, including first claim, first use, and first occupancy, favor nomadic hunter-gatherers over all other humans as the original appropriators most of the world’s land area, except for Antarctica, some remote islands, mountain tops, deserts, and so on. However, these same criteria might also favor non-human animals as even earlier appropriators. Most non-human apes live in foraging groups with well-defined, well-defended territories that are clearly understood by their neighbors. In fact, they tend to define and defend their territories much more rigidly than human hunter-gatherers.² Beavers, bees, and ants transform the land with their labor. Without at least some qualification, appropriation theory would imply a duty to respect a great deal of animal property rights around the world. I know of no property rights
advocates who are willing to do so or who have paid much attention to the possibility. Perhaps they believe it goes without saying that appropriation requires sentience. Even so, it might be difficult for property rights advocates to define sentience in a way that excludes all animal property rights and includes all human property rights.

Relying on sentience creates another problem for propertarians, because it implies property does not begin with a person performing an appropriative act on a previously unused resource. The first fully sentient being must have lived in a foraging group that already had a delineated foraging territory. It is very unlikely that this being would also have established a new territory for her group. Perhaps then, the first property began with the receiving an inheritance from non-sentient ancestors rather than with the act of appropriation. We set these issues aside, and examine appropriation theory on its own terms, which seem to assume (for whatever reason) that only humans can appropriate property.

Many diverse anthropological studies show that observed bands tend not to establish anything like individual private property in land. Common access rights to land have been noted in band societies in southern Africa, eastern Africa, South America, Australia, India, the North American plains, Labrador, the Arctic and many other places. Among both human and non-human foraging primates, no individual can claim exclusive use of any piece of land, and no individual can be excluded from resources she needs to maintain her existence.

Lee and Daly write, one “characteristic common to almost all band societies (and hundreds of village-based societies as well) is a land tenure system based on a common property regime…. These regimes were, until recently, far more common world-wide than regimes based on private property.” Martin Baily examined anthropological observations of more than fifty hunter-gatherer bands and autonomous villages, and found that they all had at least partially collective claims to territory. Many foragers, including many famous cases like the Ju/hoansi, have systems of
collective land “ownership” in which rights to land access are guaranteed by complex systems of memberships in groups, clans, moieties, sodalities, and through networks of individual reciprocity. Some contemporary hunter-gatherers, such as the Mbuti Pygmies of central Africa and the Nayaka of southern India, believe land is “not an object that can be owned but something that people can be closely associated with and related to.” The Inuit of arctic North America and the Hadza of east Africa have no exclusive territoriality at all. Woodburn writes “The Eastern Hadza assert no rights over land and its ungarnered resources. … they do not even seek to restrict the use of the land they occupy to members of their own tribe.”

Band societies have something more like private property rights in food and tools, but the incidents they hold are far weaker than full liberal ownership. Their ownership is seldom exclusive and not usually appropriated by individualistic labor mixing. Gathered food and small game are usually consumed by the person who obtained it or by her immediate family. Big game, however, is usually shared with all members of the band regardless of who was involved in the hunt. Property ownership in hunter-gatherer bands is subject to “demand sharing,” meaning that members have a strong obligation to share what they have (including food and tools) when they have more than they can use and/or more than other members of the band. Interestingly, band members have little reciprocal obligation to produce. Hill and Hurtado write about the Ache of South America, “Property was never really private, and sharing was the most important aspect of the behavioral code.” According to Kristen Hawkes, “Among modern tropical foragers, … [a] hunter cannot exclude other claimants, nor can he exchange portions of meat with other hunters (or anyone else) for obligations to return meat (or anything else).” Morton Fried writes, “in a simple egalitarian society the taking of something before it is offered is more akin to rudeness than stealing.” Therefore, the incidents of individual ownership in band societies were fewer and weaker than full liberal ownership. This observation is true even of items, such as food and tools, which clearly
meet the Lockean “labor mixing” criterion, in which the practical value of a resource is increased by the expenditure of human labor.

A propertarian clinging to the story in which individuals appropriate and collectives interfere might be tempted to argue that this evidence does not disprove the classically liberal hypothesis; it merely shows how quickly collectives violated individual property rights. Perhaps the collective’s treatment of land, tools, and big game as common property is an example of early collectivist aggression against individual private property rights? To make such a claim based on the discussion so far would be, at best, wishful thinking. And with a closer look at the evidence, we can see that it is not merely unsupported; it is substantially contradicted.

The following evidence indicates that nomadic hunter-gatherers have almost invariably exercised individual choice to create and to live under largely collectivist property rights structures. All known hunter-gatherer bands (in all climates and geographies from the arctic to the tropics) had common property regimes.\textsuperscript{14} We know that all hunter-gatherers are free to leave the band. Barring accidents, a skilled hunter-gatherer could live on their own for some time, and a very small group of hunter-gatherers could start their own band with whoever wanted to join.\textsuperscript{15} Six to ten adult hunter-gatherers are enough to start a viable band. If any group this size wanted to start a community that recognized the hunter’s “natural” right to exclusive ownership over the kill, no one from their previous bands would have interfered with them. Yet, although we know that hunter-gatherer bands split for many other reasons, we don’t know of any that split because someone wanted to start a private property rights system. Although many band societies have been observed on all inhabited continents, none practice individualist private property institutions—even those made up of outcasts from other bands.\textsuperscript{16}

Therefore, we must conclude that individuals in hunter-gatherer societies choose to establish common property regimes. As the original appropriators, it is their right to do so. The
group’s decision appears to be an informal contract. Those who camp with us accept that many centrally important incidents of ownership are held at the band level. The exact terms of any informal contract are unclear, but the general terms are obvious, clearly enforced, and demonstrably voluntary by the ease at which any dissenter from the agreement could camp elsewhere and practice other rules.

Furthermore, most hunter-gatherers prefer to hunt for big game, which unlike small game, is treated as common property. Anthropologists disagree about why hunters do so, but some combination of social approval, prestige, competition for mates, and the feeling of accomplishment seem to be adequate incentives to get individuals to provide large game for the whole band. They have a choice to hunt under more or less individualistic rules, and they tend to prefer the less individualist rules.

This evidence contradicts Hasnas’s portrayal of Lockean rights as “empirical natural rights” and Epstein’s claim that “first possession … [has] enjoyed in all past times the status of a legal rule.” Here we have people performing appropriative acts and choosing not to establish the kinds of rules that supposedly have existed in all times and places. I doubt that any people in band societies would find individual first possession or individual land to be natural in any sense at all. This observation is extremely important when we consider that hunter-gatherer bands were the first and longest established forms of socio-political organization throughout most of the inhabited world.

As mentioned in the introductory chapter, it is not safe to assume that contemporary people with similar technologies to ancient peoples had similar social and political institutions as those ancient people. But we shouldn’t resist all generalizations either, especially if the evidence tends to point in one direction. Three observations suggest that small-scale nomadic hunter-gatherers of the deep past had similarly non-individualistic property institutions.
First, ethnographically observed nomadic hunter-gatherers separated by thousands of miles for thousands of years unanimously practice partially collectivist property institutions when they were free to have chosen otherwise. This observation seems to imply that sharing land is an extremely useful institution for people living in this manner. If not—that is, if the institution were sustained only by some form of cultural momentum—it would have to go back to a very ancient shared root. It’s unlikely that such otherwise diverse groups of people would experience cultural shift in preferences.

Second, historical records kept by people from state societies who came into contact nomadic hunter-gatherers throughout history indicate that they also practiced partially collectivist property institutions—implying that if individualistic property institutions did develop among nomadic hunter-gatherers, they tended to have been abandoned before the approach of larger-scale societies.

Third small-scale, nomadic hunter-gatherers in the deep past are archaeologically very similar to observed band societies. They lived in similar-sized groups, ate similar foods, moved throughout the year in similar ranges, hunted in similar ways, brought back food to similar central locations, and so on. It’s hard to imagine how they could be similar in these ways without having at least somewhat similar views on land tenure and ownership. If there were any primordial individual landowners, they would have been ordering their employees to hunt, gather, and bring back food in very much the same way contemporary hunter-gatherers do without any boss to tell them to do it.

These observations are not proof, but it would have taken a massive worldwide change of preferences for nomadic collectivism to have sprung from an individualistic root, which if it existed, left no trace. Although we cannot prove there were no individualistic property institutions
in prehistoric band societies, there is no reason—other than wishful thinking—to suppose that small-scale nomadic collective landholders dispossessed some prior individual landholders.

If we are correct to reject the hypothesis of small-scale nomadic hunter-gatherers established individualistic property institutions, the “natural right” to individual private property was not seen as natural at all for most of the time humans have been on Earth. The institution of private property, in the sense of all of Honoré’s incidents of ownership being held privately, was apparently rejected by most people exercising individual choice for at least the first 150,000 years of our existence as humans; it is not practiced by our closest primate relatives;\textsuperscript{18} and there is no reason to believe it was practiced by humans or our hominin ancestors during the 2 million years separating humans from other primates. As later sections will show, people in some parts of the world have never practiced this institution in their history, and few if any people around the world have ever practiced the extremely individualistic versions of private property institutions that many propertarians portray as something that needs to be restored.

The supposedly natural right of private property contravenes what some anthropologists have found to be a far older principle: the belief that wild places could not be appropriated by any individual.\textsuperscript{19} To say that individual private property is an “empirical natural right” requires ignoring the entire nomadic hunter-gatherer period, as if all humans exercised their free will by choosing to live unnaturally for most of our existence as a species.

Many propertarians deal with hunter-gatherer bands either by ignoring them entirely or by employing an appropriation criterion designed to exclude bands’ territorial claims. Although first claim, use, and occupancy all seem to favor bands as original appropriators, most people using those criteria simply ignore band societies. Few of them seriously address band societies or the property institutions they create as something that is justified by their criteria.
The desire to rule out nomadic hunter-gatherers as first appropriators could be why propertarians who explicitly address foragers tend to assert the first labor criterion in combination with the assumption that hunter-gatherers (unlike agriculturalists) do not transform land with labor. Locke specifically defined the first-labor criterion explicitly to rule out most indigenous peoples as candidates for appropriation.\textsuperscript{20} Merely using a resource in labor as not enough to appropriate it; the appropriator’s labor has to \textit{transform} the resource itself. Therefore, people using the first-labor principle have asserted, a hunter appropriates their kill, but not the land on which they killed it.\textsuperscript{21} Therefore, supposedly no matter how many generations hunting and gathering peoples might have labored \textit{on or with} land they never obtain the right to keep hunting and gathering on that land. Later-arriving agriculturalists are free to dispossess them without disappropriating them under the theory.\textsuperscript{22} This principle has been used as an excuse for imperialism: no matter how much colonial invaders might look like they’re aggressively interfering with indigenous peoples, as long as they confine themselves to seizing hunting grounds, it is the native resistors who are the aggressive, even “warlike” violators of the interference principle.

The appeal of individual private property rights supposedly relies on the appeal of freedom from interference. If you are the first one to use a resource, no one can stop you from what you’re doing; no one can judge you or impose their way of life on you. The endorsement of the farmer’s and the miner’s right to aggressively interfere with hunter-gatherers runs contrary to that appeal and the supposed connection between propertarianism and negative liberty.

If the endorsement of the settlers’ right to interfere with nomadic people were not essential to the argument, propertarians could restore the theory’s appeal by disavowing it, and argue that the disappropriation of hunter-gatherers was a violation of their rights. But it appears that counting hunter-gatherers as owners of land implies that collective property rights preceded property rights in most of the land on Earth and that actual original appropriators display a distinct preference for
establishing at least partly collectivist claims and strong rules about sharing. To maintain the belief that property is necessarily individual and private, property rights advocates either have to come up with some story why land, initially appropriated by collectives, must necessarily find its way into the hands of individuals, or they have to accept that the endorsement of the aggressive interference involved in the worldwide dispossession of hunter-gatherers is a fundamental part of their theory.

Unfortunately, many philosophers have dealt with the difficult empirical fact of hunter-gatherer dispossession as they have with many other difficult facts—by ignoring it in favor of mythmaking. The mere assertion of the first-labor principle is not mythmaking; it’s a first-best a priori moral theory. It’s possible to accuse adherents of choosing to believe this first-best principle because it gives them the result they want: the right of settlers to seize land from indigenous peoples, but the kind of mythmaking we’re focusing on involves the assertion of dubious empirical claims.

This kind of mythmaking subtly appears in two empirical claims that propertarians regularly present as if they were obviously true and needed no examination or confirmation by actual evidence.

First, propertarians since Locke have claimed that farmers (and other people who make and improve the productivity of land) do not take but actually give land to hunter-gatherers. This claim both helps explain why the transformation of resources is included in the first-labor criteria and backs up the claim that the Lockean proviso is fulfilled. This giving of land is a theoretical possibility. Many more people can live on the same amount of land as farmers than as hunter-gatherers. But it is also a historical falsehood. As we’ll see below, large-scale farming tends to develop in a relatively small area. Over time the population and technological capability of people in regions with large-scale farming greatly surpasses that of hunter-gatherers and swidden
agriculturalists. Then at least some large-scale farmers eventually decide to make war on the hunter-gatherers and swidden agriculturalists, aggressively seizing the land those groups had occupied for hundreds, thousands, or even tens of thousands of years.

The *theoretical possibility* that agriculturalists could effectively give land to hunter-gatherers is irrelevant in a world where the *empirical reality* is that the transition from hunting, gathering, and small-scale swidden agriculture to large-scale agriculture and commercial societies in most of the world was an aggressive process of dispossession, oppression, and murder. This is so, at least if we take proponents of the theory seriously when they claim to be concerned with “historical inquiry,” in which “[j]ustice … depends on what actually has happened,” and “[w]hat is in fact the case carries moral weight.”

Second, to say that hunter-gatherers do not transform their land through labor is another factual assertion that requires empirical investigation. Just because hunter-gatherers don’t clear and plant or dig and drill does not mean that they leave the land as they found it. Earth was very different in 10,000 BCE, after hunter-gatherers covered it than it was in 100,000 BCE, when human foragers were confined to a small part of Africa with perhaps the most major difference being the disappearance of most of the Earth’s megafauna (larger than human-sized animals). Human action was an important catalyst for much of that transformation. For example, some researchers believe that hunter-gatherers hunted many large animal species to extinction, some of which were dangerous predators. The hunting of at least some large animal species to extinction is documented in some cases, such as the Moa in New Zealand or the Steller sea cow of the Bering Strait. But even if hunting to extinction was not the main cause, loss of habitat with the arrival of hunter-gatherers was a contributing factor to many of the megafauna extinctions.

Permanently ridding the land of a predator or a competitor species must count as a serious transformation of the land—at least as much as opening a mine and probably more so than usual
labor-mixing criteria of clearing the land of trees, which can easily grow back. The human-caused extinction of megafauna might have been unwise from an environmental standpoint, but many ways private property holders transform land are also unwise from that standpoint. Therefore, the actual application of the labor-mixing criteria doesn’t do a good job of excluding hunter-gatherers as candidates for first appropriators not simply of their campgrounds or of their tools and food but of the whole of their hunting territory, forcing us to take seriously the kind of property institutions they put in place.

Propertarians apparently face a dilemma: accepting band societies as original appropriators accepts that property begins collectively—unlike the mythical stories they’ve repeated for hundreds of years—but rejecting bands as appropriators requires dubious empirical claims and/or questionable ethical claims that are at odds with their supposedly freedom-promoting theory.

But there might be a way out of this dilemma. Propertarians could argue that even if large-scale societies had respected small-scale property institutions, the now-familiar property institutions they wish to strengthen would have developed anyway. They could replace the claim that private individuals tend to appropriate and collective tend only to interfere with the claim that property tends to become private even if (as evidence appears to indicate) collectives tend to appropriate. An argument based on this claim would force propertarians into a much closer reading of the long history of property institutions than most seem interested in doing, preferring instead to trade on the presumption that there is some truth in the Lockean myth of an individualistic private appropriator clearing land in an unclaimed wilderness. It is plausible to suppose that people tend to choose to privatize land once they adopt agriculture, perhaps because private land is beneficial to agriculturalists.

Both the labor-mixing principle and the claim that private property would have developed even if nomadic peoples’ appropriation rights had been respected require us to look further into
the history of how private property rights developed. Whichever argumentative strategy propertarians might take, we have to look at the development of larger-scale societies to see whether propertarian theory actually leads to an individual property rights regime.

2. Autonomous villages

The oldest known sedentary communities appeared at least 15,000 years ago in areas in the Middle East, where hunting, gathering, or fishing was sufficiently abundant for people to support themselves by foraging without moving from place to place on a regular basis. It’s possible, even likely, that sedentary hunting and gathering began much earlier. It might have appeared, lasted for thousands of years, and disappeared again many times in various places throughout the globe as conditions changed. Archaeology might push the earliest probable date back, but we are never likely to have a definitive date for the original of sedentism.

By examining sites left behind by early settled peoples and comparing them to people with similar sites who were historically recorded or ethnographically observed, archaeologists and anthropologists have obtained at least some idea of how they lived sedentary hunter-gatherers lived.

Apparently, the oldest sedentary forms of political and social organization are also the smallest-scale sedentary ways of life, a form of socio-political organization at a scale of about 100 to 600 people most commonly called an “autonomous village,” as described in the introductory chapter. Many autonomous villages survived into the Twentieth Century and a few survive today, and therefore, they have been extensively studied by ethnographers. Observed autonomous villages tend to have little economic inequality, no explicit fixed rules, and virtually no trade or specialization, and archaeological evidence of peoples of the deep past living at this scale indicates that they were similar in all three respects. Observed village societies tend to have a nominal
headman with little or no authority to give orders. All individuals, (including headmen & religious leaders) produce their immediate family’s consumption. There are usually no fixed property rights in land; all members of the village are entitled to access to land, but not necessarily a particular plot.31

Autonomous villages were the first farmers and the first societies to assert land rights stronger than simple territoriality. However, in most of the world, they did not do it in the order supposed in the Lockean story. The oldest known agricultural villages appeared only 8,000 or 10,000 years ago, usually on sites that had already been occupied by settled hunter-gatherers, meaning that sedentism preceded agriculture by perhaps 5,000 to 7,000 years or more.33 The earliest agricultural societies seem to have very similar political, social, and economic institutions as their immediate hunting and gathering predecessors. The transition to sedentism, food storage, and/or to larger forms of social organization are usually more important than the transition to agriculture. Major changes in the institutions of property ownership or social organization, supposed in the Lockean appropriation story, might come thousands of years before or after the adoption of agriculture.34

This order might seem inconsequential, but it has important implications for propertarian theory, which is supposed to be based on a sober and realistic understanding of human nature, of who we are, of what we actually do, and of the rights we actually need. Lockeans assume any neutral observer would realize that when people transform the land with their labor by farming, they require a greater individual right to that land. Agriculture must, therefore, coincide with a great change in the kind of rights people want to hold in land. But apparently, as this section argues, this change in property rights was not something that the first agriculturalists thought they needed. They continued the same or similar non-propertarian institutions that their settled hunter-gatherer ancestors practiced.
The first farmers almost certainly practice swidden, “slash-and-burn,” agriculture, which sounds farm more environmentally damaging than it is. They would clear the land, farm it for a few years and move on, allowing the recently farmed land to grow back.

As candidates for original appropriation, the first farmers pose a significant problem for propertarian theory: the property rights structure they chose to establish was not the individualist one propertarian theory supposes all appropriators would establish. Individuals in most known autonomous villages seemed to be interested in individual use-rights in land within a system of community-based landownership or a common property rights regime. Many people in many farming communities practicing swidden agriculture have access to communal land that are not controlled by elites, although most small-scale farming societies are structured in ways in which land is accessed in some kind of commons, which is nominally “owned” by tribal elites who make decisions about who can do what with the land. The most important individual right in autonomous villages is not the right to exclude others from private land but the right of each member of the community to maintain direct and independent access to land and other resources with which they can secure their needs without having to work for someone else who controls access to resources.

Fried observes, “in most rank societies [his term for communities at this scale], the concept of title, of legally specific ownership, is absent.”

It is wrong to say that people living in autonomous villages had no property rights at all. The group often held land rights against outsiders. If it was farming community, individuals usually had excludability in crops; each family keeping what they produced. Sometimes different individuals held different use-rights over the same land. Autonomous village land rights have been described as “ambiguous and flexible” or “overlapping and complex.” In Honoré’s terms, the incidents of ownership were dispersed: some incidents held by various members of the community, some incidents held by the community as a whole, and some or all incidents could be subject to
revision by the group. It is perhaps the complexity and ambiguity that makes for so much misunderstanding of indigenous land tenure among outside observers—political philosophers included. Indigenous land rights often do not fit into the narrow range of property rights systems that people in large-scale, contemporary state societies have conceptualized. Although full, liberal ownership rights are absent, these societies are neither primitive communists nor Lockean individualists. Autonomous villages, bands, and many small chiefdoms around the world are simultaneously collectivist and individualist at least in the extremely important sense that the community recognizes all individuals are entitled to direct access to the resources they need for subsistence.

A “headman” in an autonomous village was sometimes spoken of as the “owner” of his group’s real estate, but he most often acted more like the administrator of his group’s possessions, and he did not have exclusive control over resources. Either way, the headman presents a difficulty for propertarian theory. If he was the owner, the original appropriator was also the government of the village as in hypothetical history 2. If he was an administrator, the original appropriator was the village collective as in hypothetical history 1. Neither interpretation implies that the original appropriator was an individual private property holder as in the many permutations of the Lockean hypothetical history.

Again, a propertarian might be tempted to interpret this situation as an example of original individual appropriators being victims of group interference. But again, such wishful thinking is contradicted by evidence. Like hunter-gatherer bands, autonomous villages were voluntary associations. Most autonomous villages were in areas of low population density, and they tended toward habitually under-using resources. These factors make it possible to settle disputes by splitting. As in band societies, individuals were free to leave and set up a society with a private property regime. The thousands of village societies known to ethnographers, archeologists, and
historians overwhelmingly exercised collective control over land, even though they were free to do otherwise. The reasonable conclusion is that the first farmers voluntarily chose to hold land collectively. As the full owners under appropriation theory, they had, of course, the natural right to do so.

Once again, this observation has great importance for property rights theory. Supposedly, what we really care about are the normative principles underlying appropriation theory. These principles lead us to respect individual private property only because—supposedly—individuals exercising their natural rights without interference from others will spontaneously create this institution. Instead, we find the original appropriators established something very different than individual private property. Thus, the appeal to the farmer’s original appropriation—that propertarians have relied on for hundreds of years—actually gives us no reason to favor individual over at least partially collective overlapping claims to property.

Why did the earliest agriculturalists tend to be largely collectivist? Baily argues that land simply isn’t very valuable to the earliest farmers with the simplest, swidden techniques. What they needed at any given moment was access to some land, not permanent exclusive control over any piece particular piece of land. Stronger individual claims to land come when they make sense economically, often with fertilization, irrigation, substantial scarcity, or simply at a larger-scale.45

This observation provides a possible way out for propertarians. They might argue that for a criterion that places appropriation even later than Locke supposed; not with first labor-mixing, but with more sophisticated techniques, when land is transformed so much that exclusivity and greater permanence of settlement becomes more appealing. This strategy has four difficulties.

First, by the time societies reach that scale, collective claims over the land have usually been long established. Individual holders would have the responsibility to observe the rules imposed by the collective.
Second, to say the claims of autonomous villages are not really rights would involve the endorsement of a second round of colonial interference with indigenous people: not only was it permissible for colonialists to force hunter-gatherers off the land, it was also permissible for them to force most small-scale agriculturalists off the land as well. The very idea of recognizing rights is supposed to preclude such actions.

Third, as discussed below, in the cases where early agricultural people introduced major transformative projects, such as irrigation, those projects tended to be community operations.\textsuperscript{46}

Fourth, this strategy involves giving up most of the popular, propertarian appropriation criterions (first labor, first claim, first use, first discovery, and so on), and it’s hard to come up with a criterion that rules out autonomous villages without it sounding like an excuse. For example, the person wanting to establish individualistic property rights might say (as some settlers have) that even though indigenous people discovered, claimed use, and mixed their labor with this land before anyone else, but they failed put up hedgerows to mark their territory; therefore, any neutral observer would say that new settlers can take this land.

Individuals in autonomous villages do compete with each other for wealth, power, and prestige—especially in regions where the population of a region is dense enough to make splitting difficult or impossible—but the aim of the competition is usually to have greater influence in the decision making over land that remains the property of the clan or village.\textsuperscript{47} Sometimes this kind of competition develops into a “Big Man” system in which one person (apparently always male) becomes the leader of the village. Still in these cases, the leader’s wealth is the group’s wealth. Big men may rise like businessmen,\textsuperscript{48} but they seek governmental powers over village lands and villagers including—in some cases—the power to exact tribute, the power of conscription, the power to regulate trade, and the privilege of being treated like royalty.\textsuperscript{49} Most importantly for the issue at hand is that at this higher level of population density, “Access to land is tightly controlled
through kin groups.” The kin groups were large extended families including many sets of in-laws and fictive kin making them closer to a small society than a nuclear family. No individual had the power to alienate the group’s holdings.

Propertarians might yet suppose that unfettered private property would inevitably develop at some point, but the beginnings of agriculture not a promising starting point for someone hoping find that outcome. We have passed the point where almost all appropriation criterion imply that appropriation has happened, but are a long way from the point at which anything recognizable as private property becomes common. We need to look to larger-scale societies to see how individual property tends to develop.

3. Chiefdoms

For our purposes, a “chiefdom” is a slightly larger-scale political unit, consisting of at least several villages brought under some kind of political unity with a population in the “low thousands to tens of thousands.” Chiefdoms have many of the characteristics of states, depending on one’s definition of a state. Political theorists usually define a state as a sovereign political unit with a single decision-maker or a single, fixed decision-making process. Anthropologists define states as having a city. Political units large than a signal village but without cities might be controlled by a single paramount chief, but they might be controlled by a group of partially competing chiefs with no fixed decision-making process.

The first evidence of chiefdoms in the archeological record dates back at least 7,000-to-10,000 years, and it is possible that at least some people lived at this scale much earlier without leaving evidence that archaeologies have (yet) been able to find. Many chiefdoms survived into the Nineteenth and Twentieth Centuries, and a few are still not fully incorporated into nation-states today. Chiefdoms can support some economic specialization. Archaeological evidence shows that
the oldest known chiefdoms had the earliest signs of socio-economic differentiation and inequality. They were the earliest and smallest-scale known forms of social organization in which some individuals were excluded from direct access to the resources to sustain life. They were the first to have permanent specialist rulers who did not produce their own food. Chiefdoms sometimes maintained large joint projects such as irrigation, flood control, and temple or monument building.

The chief and the elite group can have varying levels of authority depending on the size and complexity of the chiefdom. Some chiefdoms, usually the smallest ones, were only slightly less egalitarian than autonomous village societies. Others were extremely inegalitarian with powerful rulers, rigid class distinction, and sometimes slavery. In larger Polynesian island groups, chiefs commanded powers of life and death over their subjects. But in some chiefdoms many of the egalitarian practices of autonomous villages remain.

Although chiefdoms are presumably the earliest form of socio-political organization with people who can be clearly identified as individual owner, these original private property holders do not fit the model supposed by propertarians. The property owners were the chiefs, who were both owners and governors. Why were these powers combined? The answer probably lies in the economic scale of the society: the separation of different areas of power (economic, religious, political, etc.) only seems to have become possible in more complex, larger-scale economies.

It is through the political leaders we call chiefs that the development of private property begins. Timothy Earle writes, “In all cases, economic power was in some sense basic to the political strategies to amass [political] power.” And, “[T]he evolution of property rights by which chiefs control primary production can be seen as basic to the evolution of many complex stratified societies … the significance of economic control through varying systems of land tenure is a constant theme.”
Hawaii provides an excellent case study of complex chiefdoms, because chiefdoms existed there without contact with larger-scale societies until the late 1700s, and good historical records were taken in the early years of contact. But it is important to keep in mind that Hawaii had some of the most complex and hierarchical chiefdoms known. Smaller-scale chiefdoms had greater egalitarianism and more ambiguous and overlapping property rights. In general, the weaker the chief’s claim to the land, the stronger each individual’s claim to have access to land because of group membership.

In an in-depth study of Hawaiian chiefdoms, Earle finds that chiefs were the only people in pre-contact Hawaii who could be spoken of as owners: of colonizing canoes, of landholding descent groups, of irrigation projects, of the irrigated land, of particularly productive land. They did the things a Lockean appropriator is supposed to do. “[T]he environment was transformed into a cultural world owned by a class of ruling chiefs.” Chiefs financed the construction of irrigation canals, and thereby appropriated the most productive lands. They acted as managers of irrigation projects. And they apparently financed and led the expeditions that originally brought people to the islands in about 600CE. Therefore, chiefs claim to power could have been consistent with either hypothetical history 1 or 2, but of course, it’s more likely to expect that it would involve rights violations against previously existing autonomous villages or band societies.

Polynesians are also an interesting case, because they were, as far as we can tell, the first human inhabitants of all or most of the islands their descendants now inhabit, and they brought the institution of the chiefdom with them. Under natural rights principles, as long as individuals voluntarily joined the expedition, there is no issue of a colonization of truly uninhabited lands being an act of usurpation. Propertarian theory would make them original appropriators whether the criterion was first claim, first use, discovery, labor mixing, or about anything else in the propertarian literature.
Once the owners of the colonizing canoes established themselves as they owner-governors of Hawaii, the paramount chiefs treated their chiefdoms as for-profit businesses. They hired and fired community chiefs, who hired and fired konohiki (local managers), who allocated lands to commoners in exchange for labor. The konohiki also had the power to rescind land for nonpayment of labor. Earle writes:

In Hawai‘i, community chiefs allocated to commoners their subsistence plots in the chief’s irrigated farmlands in return for corvée work on chiefly lands and special projects. By owning the irrigation systems, and thus controlling access to the preferred means of subsistence, chiefs directed a commoner’s labor. Where you lived was determined by whose land manager ‘put you to work’. Earle finds corroborating evidence that various forms of ownership are based on chiefly power in other times and places, such as pre-Columbian South America, Iron-Age Denmark, Olmec Mexico, the pre-Columbian Mississippi basin, Bronze-Age Britain, and pre-Roman Spain. Other researchers have found a similar pattern in complex chiefdoms or simple states in Africa, but where land is plentiful enough political authorities seem to have been obliged to provide all individuals with enough land to meet their subsistence needs.

Propertarians could argue that the first chiefs probably took power by violent aggression. Although this much might be true in the vast majority of cases, establishing that the earliest chiefs were usurpers would be far from sufficient to support the conclusions property must there for be individualistic and private. The question is not whether chiefs usurped power, but who they usurped it from; what kind of structure existed before.
Propertarians ask us to assume that governments usurped power from individual property holders, but chiefs could not have taken power from any ownership class because no individual landholders predated chiefdoms. Chiefs are the earliest known people to hold full individual property rights in land—and perhaps in any durable external assets. The only preexisting entities that chiefs could have usurped power from—autonomous villages and hunter-gatherer bands—did not practice the institution of individual private property in land. The first chiefs could only have usurped landownership from collective landholding groups with—at most—overlapping and flexible individual claims to property. The individual proprietor, supposedly the “natural” property holding entity, appears to be completely absent from the early history of property rights.

The closest analogue in chiefdoms to a truly private titleholder is the konohiki, but the konohiki were not landowners but managers appointed by the chief to serve his interest. Thus, the relationship between government and small holders was the opposite of the relationship Nozick supposes in his imagined early governments. Instead of small holders with an appropriation-based claim to property appointing a government to serve the small holder’s interests (by protecting their claims), we see a government with a possible appropriation-based claim to property appointing small holders to serve its interests. The only connection that the konohiki have to original appropriation is through the government. The konohiki’s claim to hold some of the incidents of ownership in the land they claim is because the ultimate landlord, the paramount chief, chose to bestow those rights on the konohiki rather than someone else. Even if the chief’s ancestors illegitimately usurped power from someone, giving the chief’s ownership rights to his appointees would do nothing to rectify that wrong.

None of the potential claimants to be the original appropriator gives propertarians what they need. If chiefs are the original appropriators, natural rights theory implies monarchy as in hypothetical history 1. If autonomous villages or hunter-gatherer bands were the original
appropriators, natural rights theory implies that the people collectively own land as in hypothetical history 2. Either way, Hobbes’s claim that property originates with the arbitrary decision of the sovereign looks much more reasonable than the individual appropriation hypothesis. Instead of a limit on collective power over private titles holders, appropriation theory provides a justification for it.

If the institution of individual private property developed by strengthening the claims of people like the konohiki, the belief that government somehow infringes or interferes with private property holders with an appropriation-based claim to property is backwards. But to find out where the institution of individual private property emerged, we need to examine the development of full states.

4. Early states

States differ from chiefdoms in size; in the level of economic specialization; and in the power, stability, and unity of government. Sometime between 3000 and 2200 BCE (as far as archeologists can tell) some chiefdoms became sufficiently large, complex, and unified that they could be called states or empires.69 Although all early states were still primarily agricultural, they had relatively complex economies with specialist warriors, administrators, rulers, and professionals. They eventually became the first societies to leave behind historical records.70

All early states for which sufficient information is available were extremely hierarchical—politically, economically, and socially.71 They were ruled by kings with the aid of a small, powerful ruling group. The upper classes were no more than a few percent of the total population, but they controlled most of the surplus wealth, lived luxurious lifestyles, made all decisions about policy and administration, and justified their position by claiming special supernatural origin.72 Lower-class agricultural laborers, who were generally barred from social mobility, made up the bulk of
the population (probably well over 90 percent), and faced not even the pretense of equal protection of the laws.

Bruce Trigger studied seven early civilizations across the world: the Aztecs, the Maya, Yoruba-Benin (of sub-Saharan Africa), the Inca, Egypt, Southern Mesopotamia, and the Shang (of China). He found that they all had kings who united religious, economic, and political power.\textsuperscript{73} Even the highest-ranking commoners were most often state employees, such as scribes, soldiers, and administrators.\textsuperscript{74} Some potential indicators of egalitarianism (such as little differentiation in the size of dwellings) exists in the Indus Valley civilization and in the earliest states in Peru, but these are also some of the states for which the least overall evidence is available, making any firm conclusions impossible at this time.

It appears that, in the earliest states, private property did not exist at all. A small upper class in each state controlled wealth and made policy decisions, but like Hawaiian konohiki, they were usually also government officials who received land as a revocable reward for government service.\textsuperscript{75} In the Americas, institutions owned land and assigned it to individuals in return for service. Revenue from these assignments “constituted a major source of revenue for the nobility, all of whose active male members were involved in some sort of state service.”\textsuperscript{76} Michael E. Smith finds considerable variation in the level of commercialization in ancient state economics, including more complex societies like Greece and Rome, but the most archaic states in his study (including Inka and Egyptian societies) had strong central control in all sectors of the economy.\textsuperscript{77}

In all early states for which adequate documentation exists, the legal system protected government property and upper-class privileges.\textsuperscript{78} Trigger writes, “A defining feature of all early civilizations was the institutionalized appropriation by a small ruling group of most of the wealth produced by the lower classes. … Farmers and artisans did not accumulate large amounts of wealth, although they created virtually all the wealth that existed in these societies.”\textsuperscript{79}
In some cases local kin groups continued to hold land collectively. Earle believes this practice was probably a holdover from earlier forms of social organization, such as those discussed in the last three sections. These kinds of arrangement gradually became less common over time.

Most experts in the development of early civilizations seem to agree that “private property is a recent innovation,” which did not exist in the earliest states. In early states, there are only two classes: the ruling (governing) elites and the workers. A third, merchant class, tends to develop only in later states, and at first it is “often attached in one way or another to the ruling class.” Taxation developed simultaneously with the transfer of land from collective property to private property: very much the opposite of the story propertarians tell in which collectives assert control over land that had been previously held by private individuals who were free from taxation.

Trigger argues that although private land cannot always be ruled out, there is “no evidence that such land existed in most early civilizations.” He does in fact rule out private ownership in five of the seven early civilizations in his study (the Aztecs, the Maya, the Yoruba, the Inca, and the Shang): “That leaves Mesopotamia and Egypt as early civilizations in which some land might have been privately owned.” In Mesopotamia, private land was a late development. Maisels finds that land in prehistoric and early-historic Mesopotamia was owned by temples, clans, or collectives. Land was held collectively prior to 3000 BCE, after which “increasing amounts of land fell under the control of temples or palaces, but some of it appears to have become the property of individual creditors. … It is less certain that private land existed in the Old Kingdom of Egypt.” Nevertheless, it goes too far to say that kings owned all the incidents of ownership in their territory. Kings often claimed ownership of all lands (perhaps an idea carried over from chiefdoms?), but in practice their actual hold over land was weaker than full ownership.
Something truly recognizable as an individual private ownership to land emerges only later and only in certain places such as Rome and late medieval northern Europe. Chinese civilization, for example, never evolved a strong sense of private property,\textsuperscript{89} except perhaps under the late 20\textsuperscript{th} and early 21\textsuperscript{st} Century communist regime. Some propertarians who portray private property as an ancient and ubiquitous institution appear to have been misled by beginning their analysis in late antiquity in Greece and Rome and skipping to the British common law tradition, but even the it involves ignoring much of that history (see the following section).\textsuperscript{90} Property in the earliest states looks much different, and it appears in a way that seems to support the hypothesis that the earliest private property holders were more like the konohiki than Lockean appropriators.

Michael Hudson and contributors to a volume he edited examine the process of privatization in the ancient Near East, finding a consistent trend in which individual private property begins from the top and works its way own. The first people to assert private property rights are kings; then the royal family; then high government officials and so down the hierarchy. One common source of private property was the use of it to reward soldiers after a successful military conquest. The actually history of private property looks much more like the Hobbesian story of the arbitrary distribution of the sovereign than like the Lockean story of individual appropriation.

Once again, the findings of this investigation have important consequences for natural property rights theory. Supposedly government control over property can be established only by interfering with private landholders, but there is very little evidence to support this supposition. Early states certainly interfered with someone, but individual landholders tended to be the beneficiaries rather than victims of that interference. And the institution of private, individual landholding owes its very existence to that interference. Any connection that private landholders have to the original appropriation seems to have come \textit{through} the state, and it is, therefore, directly
or indirectly dependent on the legitimacy of the state’s ownership of its territory. The following section further investigates this claim by examining how private property rights became ubiquitous around the world.

5. The spread of private property rights

In historical perspective, the modern Western land tenure and property rights system that has become ubiquitous around the world is both recent and unusual. It was still uncommon even in Europe only a few hundred years ago. This section will show that the waves of colonists who went out from Europe armed with ideas of Locke, Grotius, More, and significant military firepower asserted claims that were both outside of historical European traditions and not yet fully established in Europe itself.⁹¹

There are at least four possible ways that the institution of private property can spread once established. (1) People who practice the institution can go into previously uninhabited territory and establish it. (2) People who had not previously practiced the institution could voluntarily imitate those who do. (3) States could force more people within their borders to adopt the institution. (4) One group of people could colonize another and force them to adopt the institution.

Only possibilities 1 and 2 are consistent with the nonaggression principle that supposedly underlies propertarian respect for rights of any kind. Possibilities 1 and 2 probably happened somewhere at some time, but it’s hard to find a historical record of it, while—as this section shows—there are many historical records of the aggressive possibilities, 3 and 4, happening even as aggressors told themselves the benign Lockean story.

The extension of liberal property rights within Europe largely coincided with rather than preceded the expansion of liberal property rights in Europe’s overseas colonies. Overlapping and partially collective land claims survived in rural Europe until recent times.⁹² Feudal estates were
essentially chiefdoms in which the local lord governed the land and held some incidents of landownership while other members of the community held lesser, overlapping ownership or use rights to the land. The surviving words “landlord” and “title” reflect a time when land ownership was equated with local governing power.

Although Britain led the way in the establishment of what we now know as liberal ownership, even there, collectivist or partially collectivist land claims lasted in some areas into the 1800s. British peasants had held lands as a “semi-commons” since medieval times. The story of the “enclosure movement” is well known. Over a period of nearly 400 years the British government systematically interfered with and dismantled the traditional (collective and overlapping) property rights of British peasants to strengthen incidents of ownership held by landlords, whose titles often traced back to arbitrary assignment by William the Conqueror or later monarchs. Parliament often forced enclosure on unwilling peasants, paid little or no compensation, and left the individuals worse off than when they held rights to the commons.  

Similar transitions happened gradually throughout Europe.

Although Locke’s property theory isn’t directly addressed to enclosures, many scholars believe he included his lesser-known “waste proviso” as a rationalization for the dispossession of peasants as well as native peoples. It is also possible neither Locke nor the many people behind the enclosure movement thought the traditional peasant land-use rights were important, significant, real “property,” or real “rights.” Appropriation theory indirectly provided a rationalization for this outlook by portraying individual private property combining all 11 of Honoré’s incidents into one single proprietorship as if it were the only possible starting point for appropriated property. (CITE who was that?) If we think of the person (i.e. man) who holds the “title” as the natural “owner” of all 11 incidents, perhaps we should free him from peasant “traditions?”
Appropriation theory was more directly tied to colonial dispossession of native peoples than it was either to enclosure or to the original establishment of land tenure. As previous sections discussed, long before Europeans began colonizing other lands and long before Rome began its colonial project, virtually all the Earth’s habitable land was inhabited by people usually practicing very non-propertarian land tenure systems. Land that colonizers designated “terra nullius” and therefore open for appropriation was seldom truly “empty land,” but land that had no legally recognized owner. Before colonial appropriators could perform the actions Locke and his successors describe as establishing the property rights system they claimed to be natural, ruling authorities had to determine that colonized people did not count.\(^95\) The Romans initially declared race nullius over all land held by foreigners and eventually limited it to the land of conquered enemies.\(^96\) Many of the societies conquered by the Roman Empire would have been organized as chiefdoms or autonomous villages. Even once terra nullius was established, colonial appropriators did not always resemble Lockean farmers. In many cases, the Roman government then created private property in conquered lands by awarding Roman elites, including generals, whose acts of “appropriation” would have been the seizure of territory from people who were often far more collectivist than the Romans.

European colonialists had many rationalizations for declaring terra nullius. For example, the inhabitants were an inferior race; they had an inferior religion; they had no sovereign government; they were savages (whatever that means); they were warlike (an interesting claim coming from imperial invaders) they were nomadic; they failed to farm the land; or if they did farm, that they failed to clearly demarcate the boundaries of their plots. Colonizing European governments encountered few people practicing the institution of private property as most of us know it today. Europeans conquered people living in bands, villages, chiefdoms, and archaic states. As the previous sections have shown, to the extent that indigenous peoples had private
holdings, they were much more flexible and overlapping, and they were usually held within some kind of common group-based claim to land. Colonizing nations systematically seized these resources, turned them into private property, often awarding that property to privileged elites from the conquering nation, and their philosophers declare that institution “natural.”97

The stories of colonization and enclosure are so well known that this extremely brief recounting is worthwhile in this discussion only because the preceding history gives it new context. If the classically liberal hypothesis were true, the partially collective property rights discarded during enclosure and colonization would have been the product of some earlier government interference. If that were so, one could claim for all the disruption that enclosure and colonization caused, at least they restored the type of property rights regime that would have existed if property rights had been allowed to develop without rights violations. But it is not so; the well-recorded violent history of the spread of the institution of private property was not a restoration of anything. It was the aggressive establishment of a new property rights regime over the objections of people whose property institutions were far more similar to those established by the first people to discover, claim, use, or mix their labor with the land. And it was done to benefit people most favored by aggressive governments. To portray the current holders of the private property titles thus established as “victims” of government “interference” is historically inaccurate. Throughout the world, the existence of a rights structure involving strongly individualistic private property owes its very existence to forcible aggression on the parts of individuals and governments.

6. Implications

[I’m working on this section in another file.]

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1 For example, [Nozick, 1974 #53], 231.
2 {Boehm, 2001 #622]. , 29.

Fried classifies societies by social inequality rather than social organization, but his terms egalitarian and rank societies correspond loosely with band and autonomous village societies.
That is the belief that even propertyless people are better off in a society with private property rights than in a society with common land. For a thorough discussion of the claim that the Lockean proviso is fulfilled, see {Widerquist, 2017 #861}.

The three quotes are from, respectively, {Rothbard, 1982 #343}, 51; {Nozick, 1974 #53}, 152; and {Lomasky, 1987 #372} 130, emphasis original.

{Martin, 1984 #643}.

{Renfrew, 2007 #623}, 142; {Boehm, 2001 #622}, 3-4; {Lee, 1990 #628}, 236; {Wilson, 1988 #644}, 3.

{Roscoe, 2002 #645}.

{Boehm, 2001 #622}. {Fried, 1967 #528}, 129-130.

{Fried, 1967 #528}, 129-132, 177.


{Renfrew, 2007 #623}, 161.

{Renfrew, 2007 #623}, 142-145, 161; {Wilson, 1988 #644}, 3; according to {Binford, 1983 #701}, 202, sedentism preceded agriculture in parts of Asia, North Africa, and South America, but not in North America.

{Johnson, 2000 #728}, 91; {Renfrew, 2007 #623}, 161.

{Herskovits, 1965 #529}.

{Sahlins, 1974 #516}, 93; {Hann, 2005 #713}, 113; {Hann, 1998 #715}, 11-12.

{Fried, 1967 #528}, 177. Fried’s term “ranked society” overlaps significantly with the term “autonomous village society” that I use, even if the two do not correspond exactly.


{Earle, 2002 #517}, 326-327.

{Sahlins, 1974 #516}, 92-93.

{Banner, 1999 #782}.


{Fried, 1967 #528}, 117; {Harris, 1977 #635}, 69; {Johnson, 2000 #728}, 126.


The Harappa of the Indus Valley may have been an exception, but there simply is not enough evidence to make a firm conclusion.

{Possehl, 1989 #624}.
The history of European colonization is so extensive and so well studied, that I can only cite a small sample of sources. Here are just a few source dealing specifically with its effects on property rights regimes: {Hann, 1998 #714}; {Hann, 1998 #715}; {Wagoner, 1998 #720}; {Scott, 1998 #721}; {Banner, 1999 #782}; {Banner, 2000 #699}; {Levmore, 2002 #772}