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ANARCHO-CAPITALISM, MINARCHISM, AND THE PARADOX OF DEONTOLOGY: RESPONSE TO WÓJTOWICZ*

INTRODUCTION

In his rejoinder titled “Libertarianism, Individual Rights, and the Paradox of Deontology: Rejoinder to Dominiak and Wysocki on Minarchism” (WÓJTOWICZ 2025, 1769–86) to our paper “The Anarcho-Capitalist Case against the State as a Challenge to the Minarchist Libertarians” (DOMINIAK and WYSOCKI 2022), Stanisław Wójtowicz argues that (1) it is not the case, as we argued in our original paper, that “minarchists commit a simple error” (173) of falling into a contradiction in their support of the minimal state and that (2) the substantive reason for which the minarchist support is overall well-founded stems from “a libertarian version of the paradox of deontology” (171) in which, apparently, anarcho-capitalism is inextricably entangled. In what follows we concede to Wójtowicz insofar as the first point is concerned but

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stand our ground against his second charge. Regarding the first point, we argue that it is indeed possible to justifiably invade another's rights without running into standard libertarians worries about the status and the distribution of such violable rights. Arguing thus, we renounce our former position in this regard and partially accept Wójtowicz's criticism. We submit that there are no conceptual reasons for repudiating the minarchist position and that this fact creates a formal presumption in favor of the minarchists. However, it is a very long way from a formal presumption to proving a substantive point. It is one thing to show that there is no contradiction involved in the minarchist position, according to which it might be justified to invade individual rights for good reasons, but it is quite another to demonstrate that the minarchist position does offer such reasons. We take issue with this latter suggestion, while arguing that Wójtowicz's very insistence on minarchism as a political order committed to minimizing the number of rights violations presupposes rather than undermines the moral importance of side constraints, the latter being so characteristic of anarchism. Moreover, as far as substantive ethics goes, we show that our morality is superior to the one preached by Wójtowicz, as the latter deems some clear rights violations morally permissible as long as these violations prove to be preventive violations. By contrast, our position appears to be morally impeccable. To wit, even if by assumption more rights violations would occur once side constraints are obeyed, none of the said violations would be found morally permissible by our moral standard.

The present response is organized in the following way. Section 1 discusses the formal argument that it is a contradiction for minarchists to say that it might be justified to invade individual rights and rejects this argument, conceding thereby to a part of Wójtowicz's criticism. Section 2 takes up Wójtowicz's argument for minarchism from rationality and assesses it critically. Section 3 discusses the substantive question of whether Wójtowicz's original argument from the paradox of deontology provides sufficient reasons for the minimal state's invasions of individual rights so as to render them morally justified and rejects this argument. As a corollary, we show that our agent-relative morality trumps the morality advocated by Wójtowicz in that the latter still allows for rights violations, whereas ours does not. Finally, we offer conclusions.

1. THE RISE AND FALL OF THE FORMAL ARGUMENT AGAINST THE STATE

In our original paper (DOMINIAK and WYSOCKI 2022, 57) we reconstructed the anarcho-capitalist moral case against the state as more or less the following simple argument:

- (1) Individuals have rights.
- (2) Any design that invades these rights is unjustified.
- (3) The state is a design that invades these rights (via taxation and monopolization).
- (4) Therefore, the state is unjustified.

We further argued that there are only three ways in which minarchists could try to debunk this argument and that none of them is available to minarchists:

- (a) They could try to argue that individuals do not have rights.
- (b) They could try to argue that invading individual rights is sometimes justified.
- (c) They could try to argue that the state does not invade these rights.

In his rejoinder, Wójtowicz agrees that ways (a) and (c) are entirely closed for minarchists. He takes issue with our claim that way (b) is also closed.

The argument put forth in our original paper (DOMINIAK and WYSOCKI 2022, 58) in support of claim (2) that any design that invades individual rights is unjustified was based on the logic of rights to the effect that it is to misuse the words or fall into a plain contradiction to say that one has a right and at the same time that it is justified to invade this right. Let us call this argument *the formal argument* against the state. In its original form it went like this:

To have a genuine right (particularly, a genuine property right with which libertarianism is concerned) basically means that its violation is impermissible. For instance, when we say that A has a right not to be assaulted by B, we mean that it is impermissible for B to assault A, that B has a duty-moral or legal-not to assault A. To say that A has a right not to be assaulted by B and yet to say that it is permissible for B to assault A is to misuse the words or, what comes to the same thing, to fall into plain contradiction. And yet this is exactly what the deontic version of the minarchist answer does. Minarchists at the same time say that individuals have natural rights to life, liberty and property and that it is permissible for the state to violate these rights in order to avoid bigger violations. That cannot be done, one and the same action cannot be permissible and impermissible at the same time. Specifically, one cannot have conflicting duties correlative with property rights which are always overtopping duties as far as libertarianism is concerned.

To say that it is permissible for the state to violate individual property rights to avoid some greater evil is to say that individuals do not have these rights. (DOMINIAK and WYSOCKI 2022, 58)

It is a great intellectual virtue of Wójtowicz that he took issue with this argument, despite its high consistency with the received libertarian view. Some time has already lapsed since we formulated this argument for the first time and Wójtowicz's rejoinder reminded us that we should probably take stock of what happened in the meantime. And indeed a lot has happened in the rapidly developing libertarian scholarship. However, before making concession to these recent developments and so, partially, to Wójtowicz's criticism, it pays to make clear what motivated the formal argument in the first place.

As we see it, there are two main reasons for granting a full inviolability to rights that are appealing to libertarians. First, there is *the prima facieness worry* expressed to some extent by such authors as Murray Rothbard (1998, 88) and Stephan Kinsella (1996, 317). The *prima facieness worry* is that unless a right overrides all other moral considerations, a conflict with some of these considerations might reveal that it is not a right at all. For example, unless a violator of a right is permissibly resisted with physical force and duly punished, what does the right in question come to? If the state can permissibly take one's property in order to avoid some greater evil (for example, more property takings), what does one's property right boil down to? It might seem that it is a right only insofar as it does not come into conflict with the state's prerogatives and so that it is not a right at all in this respect.

Second, there is *the impossibility worry*, expressed by such authors as Hillel Steiner (1994) and to some extent Hans-Hermann Hoppe (2010, 18–19), Kinsella (2008, 29) and Łukasz Dominiak in his earlier publications (2017, 114–28). There are various aspects of the impossibility worry but one of the principal aspects is that unless principles of justice grant inviolability to rights or distribute rights in a way that avoids all possible conflicts amongst them, a contradiction might ensue in such a system of rights. Now, for a rights distribution to be just, it must first be possible at all and a distribution that is contradictory does not fulfil this condition (STEINER 1994, 2–3). This worry quite often works via the permissibility theorem of the standard deontic logic. The permissibility theorem says that an action which is obligatory is also permissible. For example, it cannot be the case that it is obligatory not to tax because individuals have rights, and at the same time obligatory to tax because it allows to avoid more rights violations. Although a duty not to tax and a duty

to tax do not stand in a relation of direct contradiction with each other (since the negation operator binds the content of the latter duty, not the duty itself), by virtue of the permissibility theorem their relation entails contradiction since a duty to tax entails a permission—strictly speaking, a Hohfeldian liberty—to tax and a liberty to tax directly contradicts a duty not to tax.¹

At any rate, as things stand right now, we reject both of these worries and thus unsubscribe from the formal argument as well. The reason for that is mainly due to Matthew Kramer's (2005, 2014) analysis of rights—although other authors also very much influenced this shift of ours, for example, Thomson (1990), Williams (1973), Sinnott-Armstrong (1988)²—and our quite steep learning curve as since the publication of the paper targeted by Wójtcowicz we have already published quite a few papers rejecting the formal argument (e.g., DOMINIAK and WYSOCKI 2023 or WÓJTOWICZ, DOMINIAK, and WYSOCKI 2024). As to the prima facieness worry, we subscribe to Kramer's (e.g. 2005) point—the so called remedy principle—that what it takes for a right to be in force is to be accompanied by some remedy, not necessarily by a punishment remedy or a defense remedy as the aforementioned libertarians would like to have it. A right might be overridden (or better put, overtopped, using Kramer's idiom) by a stronger requirement and still exert its juridical force via a compensatory (or other) remedy. In other words, it might be impermissible to defend a right by physical force or to apply punishment for its violation when a stronger requirement is calling, but as long as the right in question is protected by a compensatory remedy, it is a genuine juridical right nonetheless. Otherwise, how would we explain the appropriateness of the compensatory remedy? As to the impossibility worry, we also subscribe to Kramer's (e.g. 2005, 2009) point that it is both perfectly possible and morally desirable to deal with the conflict of rights via the remedy principle rather than via the permissibility theorem. For example, if those in charge of a sloop, being in the process of keeping her moored to the dock of another in order to avoid losing the boat to the storm, bring about a damage to the dock, there is nothing impossible or immoral in the court's decision to grant compensation to the dock owner even though those in charge of the ship acted in accordance with the graver duty (*Vincent v. Lake Erie Transportation Co.*, 1910, 109 Minn. 456). Quite the

¹ On the relations between duties and liberties as well as other fundamental jural conceptions see HOHFELD (1913, 1917), KRAMER (2002), and STEINER (1994, 2002).

² Of course, none of these great authors bears any responsibility whatsoever for our missteps, abuses, misapplications or distortions—should they happen—of their brilliant arguments as we apply them in our writings.

contrary, it would seem to be a morally suboptimal solution if the court disregarded property rights of the dock owner by failing to grant the compensatory remedy, reasoning that since it was a duty of those in charge of the ship to keep her moored, they were therefore permitted to damage the dock, come hell or high water. Although overtopped by the calling of the “good judgment and prudent seamanship” (*Vincent*, 1910, 458), the dock owner’s property right, hardly being a merely *prima facie* right, cried for a real remedy.

Therefore, we concede to Wójtowicz’s (2025) point that although minarchists cannot argue for the state on the basis of the claim (a) that individuals do not have rights or the claim (c) that the state does not invade these rights, “in the case of the second type of argument [b], which suggests that even if the state does violate natural rights, it is justified for some reason, the issue does not seem so clear-cut” (172). More specifically, we agree with Wójtowicz’s criticism that “the minarchist position does not seem to be based on a trivial error, as Dominiak and Wysocki seem to suggest” (171), that is, we admit that it is not the case that the minarchist “reasoning is philosophically deeply confused” or that “minarchists commit a simple error” (173) consisting in misusing the words or falling into a plain contradiction. In other words, we submit that there is indeed a formal presumption in favor of minarchists stemming from the fact that no contradiction besets the minarchist position that it might sometimes be justified to infringe upon individual rights. However, although this formal battle seems to be won by Wójtowicz and his minarchist brothers in arms, it is a far cry from winning the philosophical war. For the substantive question of whether the minarchist reasons justifying such infringements are sufficient remains open. Wójtowicz offers his own battery of such reasons revolving around “a libertarian version of the paradox of deontology” (171), whereby since “anarcho-capitalism would lead to an increase in violations of the non-aggression principle—it is rational/moral for those for whom it is of significant value that rights should not be violated to conditionally ... support a minimal state in which there would be fewer such violations” (173). It is thus to these reasons that we are now turning.

2. ARGUMENTATIVE INADEQUACIES IN WÓJTOWICZ’S RESPONSE

First, we would like to commend Wójtowicz for his brilliantly spotting that the debate between us is not of classificatory nature. This author correctly preempts our possible rejoinder to the effect that we could deem his proposed

(and corrected) minarchist-styled *libertarianism* unlibertarian. For, as Wójtowicz rightly notes, “such an argument ... would be an ‘argument from definition’.” Granted, we cannot win a *moral* debate by merely classifying a certain moral verdict as libertarian or unlibertarian. Even assuming that there is indeed a fact of the matter which renders certain ethics *libertarian* or not, we believe that subsuming a moral conclusion under libertarianism or not does not provide us with *any* reason (let alone a conclusive one) to believe the said conclusion. Still, even though it seems that Wójtowicz makes all the effort to fight us on substantive moral grounds, his reasoning oftentimes suffers from similar argumentative inadequacies.

More specifically, Wójtowicz (2025) recurrently alludes to the apparent *irrationality* of deontological constraints. Most tellingly, says our author,

the minarchist view should be understood as a view that—since there are good reasons to believe that anarcho-capitalism would lead to an increase in violations of the non-aggression principle—it is rational/moral for those for whom it is of significant value that rights should not be violated to conditionally ... support a minimal state in which there would be fewer such violations. (173)

However, our learned adversary does not ever specify what counts as *rational* for him. To our mind, there are, broadly speaking, two possibilities open to Wójtowicz.

First, if it is *instrumental rationality*³ that he has in mind, his point against our anarchist position is moot. For, remember, what instrumental rationality

³ For the purpose of the present paper, we are going to use the concept of *instrumental rationality* more narrowly than normally. To wit, we conceive of an action that is *instrumentally rational* as such that the actor *believes* it constitutes a means to an end he cherishes. It is noteworthy that this idea of *rationality* is independent of the problem whether the actor’s beliefs are true or false. To reiterate, as long as the actor believes a certain action to be a means to satisfy his desires, instrumental rationality requires him to perform that action. Our idea of *instrumental rationality* coincides with Parfit’s (2011) concept of an action being *rational*. For, says Parfit, “suppose that, while walking in some desert, you have disturbed and angered a poisonous snake. You believe that, to save your life, you must run away. In fact you must stand still, since this snake will attack only moving targets. Given your false belief, it would be irrational for you to stand still. You ought rationally to run away” (34). And the author concludes that “what it would be *rational* for people to do depends on their *apparent* reasons, whether or not these reasons are real, or merely apparent” (35). However, in all fairness, instrumental rationality might be conceived of more broadly. For instance, as Kolodny and John Brunero (2023) have it, “what the agent has reason, or ought, to do or intend may depend not on what she *believes* her circumstances to be, but on something more ‘objective’.” What they have in mind is the so-called Objective Desire-Based Theory, “which says that agents have reason, or ought, to do or intend just what, given what their circumstances actually

requires us to do is to act in a way that we believe is going to satisfy our desires. In other words, according to instrumental rationality, actions are rational, only given one's beliefs and desires. Hence, this sort of rationality is clearly insufficient to establish Wójtowicz's point. Granted, given his desire to minimize the overall number of right violations, it might be indeed the case that his favored minimal state would serve this purpose best.⁴ But at this point our reply should already appear obvious. For we might simply retort that it is under anarchism rather than minarchism that *respecting* rights is best achieved. To put the same point differently, we would say that since our desire is to *respect* rights ourselves rather than minimize the number of their violations by others, rationality requires us to favor anarchism.⁵ But if Wójtowicz does indeed employ this concept of rationality (i.e. instrumental one), then he certainly talks past us. After all, if he indeed invokes the concept of *instrumental* rationality in his exhortations, then he fails to address the central issue. For the quest on the part of Wójtowicz is to provide an independent reason for why we should want the minimization of rights violations by others. In other words, the point to establish is not that minarchism would work in that it would satisfy the desire for the minimization of rights violations by others. Rather, the point at issue is whether we should prefer the minimization of rights violations by others over our own violations of deontological side constraints. If the latter is indeed what should be settled, then instrumental rationality is clearly of no assistance.

Before we proceed, we in turn would like to preempt a possible rejoinder on the part of Wójtowicz. For, he might claim that we with our insistence on agent-relative⁶ deontological side constraints fall short *even* of instrumental

are, would best satisfy their strongest, present intrinsic desires taken as a whole." Hence, this sort of rationality (which, remember, the authors also classify under the label *instrumental rationality*) is more demanding than *instrumental rationality* as we understand it, in that the former also requires the agent to have true beliefs.

⁴ We assume that it is precisely minarchism that would work best towards this goal for the sake of discussion.

⁵ It is noteworthy that what instrumental rationality (as we understand it here), requires us to do is independent of whether our beliefs are true or false. Rather, instrumental rationality has, so to speak, a claim on our actions, *given* our beliefs and desires. For example, if we want to beat our opponent in a game of chess and we believe (even falsely) that the best way to do so is by moving our rook, then we *rationaly* ought to move our rook.

⁶ At this point, it might be worthwhile to illuminate the distinction between agent-relative and agent-neutral reasons (or norms). As pointed out by Nagel (1986, 152–53), an agent-neutral reason "can be given a general form which does not include an essential reference to the person who has it", whereas an agent-relative reason "does include an essential reference to the person who has it". Let us illustrate the distinction now. Under agent-relative deontology, for every x , x being a moral

rationality. For, if our desire is not to violate rights *ourselves* irrespective of what others would do as a consequence, then why not minimize the number of rights violations *within* our individual lives? It follows that, Wójtcowicz might appeal to the following possibility. Suppose that person *A* at t_1 is facing the following dilemma. (1) Person *A* either steals a wallet at t_1 never to steal anything again in the future or (2) person *A* abstains from stealing the wallet at t_1 only to steal five wallets in the future, *ceteris paribus*. Wójtcowicz's challenge now seems to assume the following form: if you agent-relative deontologists are so keen on not violating people's rights *yourselves*, then why shouldn't you prefer (2) to (1)? After all, choosing the outcome (2) seemingly satisfies the desire not to violate others' rights *oneself* better than choosing the outcome (1). So, in a nutshell, the charge is that our agent-relative deontological insistence on not violating rights *ourselves* at a given time may result in us violating more rights in the future than we would otherwise do. Hence, it seems that we would fail as far as instrumental rationality is concerned. To wit, our sticking to agent-relative deontological norms might as well prove counterproductive in the long run, for it is conceivable that us obeying a norm at t_1 *once* may mean us violating the norm *several times* in the future. However, we posit that even in the above-considered scenario we do not fall short of being instrumentally rational. After all, it is plausible that we desire to obey a deontological side constraint now at t_1 even though we are aware that it will result in *us* violating the same constraint multiple times in the future. There is nothing far-fetched about such a preference. And once we admit of its feasibility, it must be conceded that there is nothing instrumentally irrational about our conforming to agent-relative deontological norms *now*.

agent, *x* is under a duty not to (or has a reason not to) violate everybody else's rights. Now, pick up any three arbitrarily chosen agents, say, *a* and *b* and *c*. Any agent relative-morality would in this case hold that *a* has a reason not to violate *b*'s or *c*'s rights *himself*. Certainly, the same *mutatis mutandis* holds for both *b* and *c*. However, to say that *a*'s violating, say, *b*'s right is morally preferable to the outcome wherein both *b* and *c* violate somebody else's rights is to employ *agent-neutral* terms. In other words, the view that the world would indeed be morally preferable if it were only *a* to violate rights is a "view from nowhere". Then again, by contrast, under agent-relative morality, *a* would have a reason not to violate others' rights *himself*, *b* would be have a reason not to violate rights *himself* etc. The alleged fact, as envisaged under agent-neutral morality, that it would be morally preferable to have fewer rather than more rights violations overall (*whoever* is to commit them) does not give those individuals a reason to bring about this apparently morally optimal outcome, for that would run counter to the norm speaking to each individual *separately*; that is, "Do not violate rights of others."

Now, given the above considerations, it would be no less than an appeal to *object-given reasons*⁷ that would constitute a saving grace for Wójtowicz's minarchist project. In other words, Wójtowicz would have to demonstrate that there is indeed something inherently good about the minimization of rights violations by others. Even more, he would have to somehow show that minimizing the number of rights violations by others by violating rights ourselves morally trumps our omitting to violate rights ourselves even though more rights would be—by assumption—subsequently violated by others. So, as opposed to weaker demands of instrumental rationality, when we are in the realm of object-based reasons, we are invited to show what makes something desirable or worth acting upon rather than merely how we should act, given our desires. In our case, Wójtowicz is invited to demonstrate that there is something desirable about minimizing right violations by others, even something of such significance that it trumps agent-relative morality advocated by principled anarchists. We submit that in this respect Wójtowicz is not up to task either.

Let us substantiate our view now by analyzing whether Wójtowicz's use of "rational" might succeed in establishing an object-based reason for minimizing rights violations by others, the reason that would trump our advocacy of anarchism. Sadly, throughout his exquisite essay, Wójtowicz just predicates rationality of minimizing rights violations by others and accuses us, the agent-relative deontologists, of irrationality. Just to cite one (and probably the most telling) example, in the section dedicated to a thought experiment called "The leader of a libertarian party", our author considers the worlds M (minarchist) and A (anarchist), between which the leader of the party is supposed to choose. In world M "he and his partisans violate the rights of individuals, but the sum of the violations of those rights is small," whereas in A "he and his partisans violate no one's rights, but the sum of the violations of those rights is much larger" (WÓJTOWICZ 2025, 174). Now, in the course of arguing for supporting

⁷ According to Parfit (2011, 45), "there are certain facts that give us reasons both to have certain desires and aims, and to do whatever might achieve these aims. These reasons are given by facts about the *objects* of these desires or aims, or what we might want or try to achieve. We can therefore call such reasons *object-given*." Note the contrast with instrumental rationality explained above. As far as instrumental rationality goes, we have reasons to do what we believe (or what actually) will satisfy our desires. In other words, an action is rational, given our desires (and beliefs for that matter). By contrast, object-given reasons are such that they rationalize having certain desires in the first place. To put it still differently, instrumental rationality tell us what to do, given what we already desire. Object-given reasons tell us what we ought to desire, or, what to find desirable, if you will. That is, if there is a reason to desire something, it is necessarily an object-based reason.

a minimal state, Wójtcowicz resorts to premise (c), which reads as follows: “X has a moral/rational reason to prefer world M to world A” (175). While excusing Wójtcowicz for his pleonastic use of “rational reasons”,⁸ we charge that, most ironically, here our scholarly adversary seems to be falling for a trap he was explicitly warning himself against. That is to say, he tries to tip the balance in favor of minarchism by definition. Put differently, we submit it is futile to merely classify the strategy of us minimizing rights violations by others *rational*. Unless we show *what* there is to such a minimizing strategy that we have a reason to implement it, no definitional moves would enable Wójtcowicz’s argument to get off the ground. As such, his argument resembles what Herbert Hart (1968, 5) aptly labelled “definitional stop”.⁹ After all, if the minimization of rights violations by others is to be *rational*, there should be *a reason* offered for *us* minimizing these rights violations. Even more, Wójtcowicz is required to give us *a reason* for his preference for us preventing others from violating rights even at the cost of violating rights ourselves. And then again, merely calling this minimization policy *rational* is to define the problem away. For, in other words, this minimizing *rationality*, as advocated by Wójtcowicz, is precisely the point at issue. Since our point is to adhere to agent-relative deontology, it is simply question-begging to stick to agent-neutral morality instead. For it is *only* in the denial of our agent-relative deontological morality that the secret to Wójtcowicz’s utilitarianism of rights lies. However, if this author’s endorsement of calculating rationality involves a flat denial of our position, then we are offered no grounds whatsoever to buy into the sort of libertarianism Wójtcowicz envisages.

Now, having demonstrated the question-begging character of Wójtcowicz’s resort to the concept of *rationality* (be it instrumental or object-based), we are ready to make a stronger claim. In the next section, therefore, we are going to argue, following Burtoft (2020), that Wójtcowicz’s overall agenda is self-

⁸ After all, any sort of rationality is about reasons—be it instrumental, object-given or what have you.

⁹ To better appreciate the use of the word *rational* as ‘merely classificatory’ (NAGEL 1970, 109), consider the following passage from BROOME (2013, 2): “We can say that rationality requires people to intend to do what they believe they ought to do, and that it requires them to be disposed to do so ... it follows that the goats are not fully rational. This is a criticism to throw at the goats, but it is still ‘merely classificatory’.... It gives us an explanation of why rational people are disposed to intend to do what they believe they ought to do, which is that they would not be classified as rational if they did not. But it gives us no explanation of how, in rational people, this disposition works.” And, neither does Wójtcowicz provide us with an explanation of what facts make his minimizing strategy rational.

defeating, as his position in fact presupposes deontological side constraints, the very view he is keen on attacking.

3. THE MATERIAL ARGUMENT AGAINST THE STATE HAS NOT FALLEN YET

As promised, we are now going to make a case for the apparent self-defeating nature of Wójtowicz's project. While drawing on Burtoft (2020), we are about to argue that Wójtowicz's support for the policy of minimizing the number of rights violations derives its moral force precisely from deontological side constraints. In other words, we submit that the endorsement of utilitarianism of rights in fact presupposes the endorsement of side constraints.

To that effect, let us first analyze Wójtowicz's thought experiment going under the label "Poisoner Pharmacist". One of the inspectors in a pharmaceutical company "deliberately passes three poisoned tablets per million out of sheer hatred of humanity" (WÓJTOWICZ 2025, 182). The other one receives a spiteful offer from the vicious inspector, as the latter says that "he will stop his practice of passing three poisoned tablets per million if you pass one poisoned tablet per million" (182). Wójtowicz concludes that "all rational people would give hypothetical consent for you to agree to such an arrangement, because the expected moral gain (and a utilitarian gain, for that matter) from doing so would be greater than the expected moral gain from not accepting the arrangement"¹⁰ (182).

We posit that Wójtowicz's point derives its apparent plausibility—if it has any—either from (1) consequentialist morality and thus begs the question against our agent-relative deontological position or (2) the fact that the minimization of right violations by others presupposes side constraints rather than debunks them. As already mentioned, (1) cannot non-question-beggingly ground Wójtowicz's intuition about the case in question. Therefore, if his minimizing rationality indeed presupposes deontological side constraints, then his position is simply self-defeating and ours prevails.

Now, what are the reasons to believe that what grounds the intuition evoked by the above thought experiment is indeed the belief in side constraints? First,

¹⁰ It is worth noting that our previous accusation applies to the cited passage as well. That is to say, Wójtowicz seems to beg the question against our deontological position, while conceiving of *rationality* in terms of maximizing expected utility or minimizing an expected number of rights violations, with the latter being in most likelihood what he dubs "the moral gain".

the question arises of what is the ultimate reason for preferring fewer to more right violations. Specifically, why should Wójtowicz demand that we as a quality controller facing the dilemma should pass one poisoned tablet per million instead of the vicious controller passing three poisoned tablets per million? Our claim is that what best explains this moral intuition is a belief in side constraints. After all, isn't the outcome of us passing one poisonous tablet somehow desirable simply because in this scenario the vicious quality controller obeys side constraints? That is to say, once we pass one poisonous tablet, the vicious inspector does not violate, say, the rights of *a*, *b* or *c*. However, if Wójtowicz were to admit that this outcome is somehow desirable, he might concede this point for a quite particular reason. For he might well acknowledge that the vicious inspector does indeed have a reason himself not to violate *a*'s, *b*'s or *c*'s rights. But if so, this is to employ the agent-relative understanding of norms, something we embrace.

To make our point still clearer, what is the ultimate point in the first controller's *preventive violation*? And our fundamental answer—the one uncovering apparently the deepest reason—is that the vicious inspector is under a duty not to (or has a reason not to) violate the rights of three unknown individuals who are going to happen to consume poisonous tablets. In other words, it is side constraints limiting morally feasible actions on the part of the vicious controller that apparently warrant a preventive violation on the part of the inspector burdened with the dilemma. Hence, if Wójtowicz were to admit that it is the fact that the vicious inspector has a reason not to violate rights of others that grounds his intuition, he would not be undermining our agent-relative deontology but he would be presupposing it, thus playing into our hand.

Furthermore, it is worth noting that the demands of maximizing rationality, so favored by Wójtowicz, would indeed be fully met if all individuals separately were to unconditionally conform to absolute side constraints. To revert to the thought experiment presented above, it would indeed be best if neither controller passed any poisoned tablet at all. Our agent-relative morality says that each controller separately has a reason not to pass a poisoned tablet himself. Now, suppose that both defer to this agent-relative norm. If so, neither of them would violate rights of others and the number of right violations would be thus, quite trivially, minimized. So, Wójtowicz would obtain his favored minimization of the number of rights violations precisely by sticking to side constraints. For if each individual has a reason not to violate the rights of others and each of them acts on that reason, then, quite unsurprisingly, no rights are violated. Certainly, the very nature of a paradox of deontology forecloses that

possibility but this is neither here nor there. The point is that unconditionally conforming to deontological side constraints by every single moral agent would do full justice to the demands of minimizing the number of instances in which rights are violated.

Now, it follows as an interesting corollary that our agent-relative anarchism is a superior morality to that advocated by Wójtowicz. For note that it is our morality, as opposed to Wójtowicz's, that deems *all* right violations impermissible—even if *weakly* (KRAMER 2014, 4–6)—whereas Wójtowicz's morality absolves some violations as permissible. Thus, although it may be argued that there is indeed something to Wójtowicz's maximizing rationality, when his position is assessed from a moral viewpoint, it starts looking less and less impressive. Just to illustrate this accusation, let us revert yet again to Wójtowicz's Poisoner Pharmacist. Our agent-relative deontology yields the following proscriptions. The inspector facing the dilemma is *prohibited* from passing one poisonous tablet. And so is the vicious inspector, as our morality prohibits *all* right violations. Granted, by the very assumption of Wójtowicz's thought experiment in question, more rights will be eventually violated if the first inspector obeys the side constraints. For then the second inspector is going to pass as many as three poisonous tablets instead of the first inspector passing only one. However, this does not mean that our deontology finds the subsequent rights violations permissible. On the contrary, as we firmly stick to agent-relative deontological norms, we claim that the vicious quality controller also has a reason (or is under a duty) not to pass three poisonous tablets himself. However, if he does so, this act would be found morally impermissible by the light of our deontology. In conclusion, our morality finds either party passing a poisonous tablet *morally impermissible*. Fair enough, more rights violations are going to occur if the first inspector abstains from violating a right by assumption. However, none of these subsequent right violations would be regarded as permissible. Our morality is uncompromising on this point. By contrast, Wójtowicz's morality is to a certain extent immoral—if you allow us to play this oxymoron of immoral morality against Wójtowicz's pleonasm of rational reasons—as it would find the first inspector's apparent rights violation permissible. Wójtowicz's favored norm says to the first inspector: “Go ahead and pass one poisonous tablet, thus violating a right of its future consumer.” In other words, it regards this apparently right-violating action morally permissible. It goes without saying that this is hardly moral.¹¹

¹¹ So, perhaps Wójtowicz's 'rational/moral' eventually boils down to merely 'rational'.

In conclusion, Wójtcowicz's agenda seems to achieve the minimization of the number of rights violations only at the cost of regarding many clearly right-violating acts as morally permissible. We, on the other hand, would find the first inspector passing a poisonous tablet impermissible. It is in this sense that we seem to offer more impeccable morality, whereas Wójtcowicz sacrifices this sort of moral impeccability at the altar of maximizing rationality.

Now finally to Wójtcowicz's argument for a minimal state. As we remember, the rationale for the implementation of a minimal state was that this sort of state would ensure the minimization of rights violations. In turn, the reasons for the support for minimizing the number of rights violations could be, as noted above, twofold. First, the reasoning might be utterly consequentialist in nature, the position foreclosed to Wójtcowicz, given his proclaimed libertarianism, and so we dismiss it out of hand. Then, we submit that what grounds Wójtcowicz's adherence to the minimization of rights violations is a fundamental belief in rights as side constraints. For why, according to Wójtcowicz, should the state ever intervene? As he is adamant to underline, the state is allegedly justified to infringe upon people's rights in order to avoid more serious rights violations that would otherwise take place. But now, why should the state tax, say, *a*, *b*, *c*... and *w* to thereby prevent *x* from killing *y* (the killing that would by assumption occur under anarchy)? We presume that what drives the above moral intuition is the fact that it is *x* that has an agent-relative reason not to kill *y*. Or in other words, *x*'s pursuit of *x*'s utility is constrained by a norm proscribing killing *y* and anyone else for that matter. But then again, if this is indeed the rationale standing behind Wójtcowicz's intuition, with the consequentialist explanation aside, then rather than cast doubt upon side constraints Wójtcowicz presupposes them. It is in this sense that his agenda appears to be self-defeating. Since Wójtcowicz's end is to call side constraints into question but he ends up presupposing them, his agenda proves unsuccessful.

CONCLUSIONS

Our present paper started in a rather conciliatory manner. We conceded to Wójtcowicz his point that it is truly the case that minarchists do not simply misuse the language of rights. After all, it is indeed conceptually possible to speak of (weakly) permissible infringements of rights. For a right (weakly) permissibly infringed upon remains a right as long there is at least some remedy attached to it. Given this, we do not find anything conceptually

confused about Wójtowicz's idea of the state justifiably infringing upon people's rights.

However, the conciliatory tone of our essay ends precisely at that, for the remainder of it constitutes a critique of Wójtowicz. First, we delve into his argument from maximizing rationality. We submit that Wójtowicz's argument resorting to rationality may be understood in two ways. If the concept of rationality is in the final analysis the one of *instrumental* rationality, then Wójtowicz's advocacy of minarchism is but a means towards the end he happens to desire: the minimization of rights violations. To this our reply was straightforward. If it is instrumental rationality that is at stake, we anarchists are also instrumentally rational, given our end. That is to say, if our end is indeed to endorse the norms of agent-relative deontology ourselves regardless of the number of rights violations committed by others, then anarchism would follow as a means to that very end. However, we are no less instrumentally rational than Wójtowicz, given our ends, respectively. If, on the other hand, we interpret Wójtowicz's use of 'rational' as resorting to object-based reasons, then his position amounts to a mere definitional stop. For Wójtowicz provides us with no reason why we should indeed favor minimizing the number of rights violations by others. He simply classifies this minimizing strategy *rational*, while never arguing for it, thus begging the question against our agent-relative position.

On the other hand, when it comes to Wójtowicz's substantive moral argument, we argued that this author's support for committing preventive rights violations presupposes rather than repudiates side constraints. Hence, Wójtowicz's argument appears to be self-defeating in the end. Finally, as an interesting corollary we showed that there is a hint of immorality to Wójtowicz's *moral* argument, as it permits clear rights violations as long as they serve to minimize the number of subsequent rights violations by others. By contrast, our position treats all rights violations as at least weakly impermissible, nothing short of impeccable morality.

We salute Wójtowicz for his bold and well-argued effort. However, we concede to this author only partly. His resort to rationality is question-begging, while his substantive moral point both presupposes side constraints, the view he was keen on attacking, and reveals commitment to inferior morality which vindicates rights violations. Hence, we believe that the onus is still on Wójtowicz to demonstrate the alleged supremacy of minarchism over anarchism.

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ANARCHO-CAPITALISM, MINARCHISM, AND THE PARADOX OF DEONTOLOGY:
RESPONSE TO WÓJTOWICZ

Summary

The present paper addresses a minarchist criticism of anarcho-capitalism based on the so-called paradox of deontology. The paper argues that minarchists are right in contending that minarchism does not run into a contradiction by recognizing individual rights and at the same time allowing their violations by the minimal state. However, the minarchist idea that the existence of the minimal state might be justified due to the paradox of deontology in which anarcho-capitalism is allegedly entangled is rejected. The whole discussion is conducted in the context of the exchange between Stanisław Wójtowicz's rendition of the minarchist position as expressed in his recent paper "Libertarianism, Individual Rights, and the Paradox of Deontology: Rejoinder to Dominiak and Wysocki on Minarchism" (this issue) and Łukasz Dominiak and Igor Wysocki's defense of anarcho-capitalism as presented in the target paper of Wójtowicz's rejoinder, "The Anarcho-Capitalist Case against the State as a Challenge to the Minarchist Libertarians", recently published also in *Roczniki Filozoficzne*.

Keywords: libertarianism; anarcho-capitalism; minarchism; paradox of deontology

ANARCHOKAPITALIZM, MINARCHIZM I PARADOKS DEONTOLOGII.
ODPOWIEDŹ WÓJTOWICZOWI

Streszczenie

Artykuł podejmuje problem minarchistycznej krytyki anarchokapitalizmu wysuwanej z punktu widzenia tak zwanego paradoksu deontologii. Autorzy zgadzają się z tą krytyką w tej mierze, w jakiej minarchizm twierdzi, że z jednej strony przyjmując istnienie praw indywidualnych, z drugiej zaś dozwalając na ich naruszenia przez państwo minimalne, nie wklęła się on w sprzeczność. Tym niemniej minarchistyczna idea jakoby państwo minimalne było uzasadnione w związku z tak zwanym paradoksem deontologii, w który ma z kolei wklęć się anarchokapitalizm, zostaje odrzucona. Dyskusja rzeczonych zagadnień prowadzona jest w kontekście wymiany intelektualnej pomiędzy najnowszym artykułem Stanisława Wójtowicza „Libertarianism, Individual Rights, and the Paradox of Deontology: Rejoinder to Dominiak and Wysocki on Minarchism” (niniejszy numer) a jego celem polemicznym, czyli tekstem Łukasza Dominiaka i Igora Wysockiego „The Anarcho-Capitalist Case against the State as a Challenge to the Minarchist Libertarians” opublikowanym w ostatnim czasie także na łamach *Roczników Filozoficznych*.

Słowa kluczowe: libertarianism; anarchokapitalizm; minarchizm; paradoks deontologii