

# The Volokh Conspiracy

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## Cato Unbound Forum on Property Rights Continues

Ilya Somin • December 15, 2010 6:42 pm

The Cato Unbound forum on property rights and the state, which I blogged about on Monday, is continuing.

Lead author Daniel Klein has now replied to the response essays submitted by commentators David Friedman, Matthias Matthijs, and myself. He responds to Matthijs and Friedman [here](#), [here](#), and [here](#).

Klein's reply to me takes issue with my characterization of the modern left-liberal critique of property rights:

Ilya Somin speaks very nicely to a number of issues about rights and government policy, but he does not speak directly to the main idea of my essay, which is that vying systems of thought and semantics entail different configurations of ownership....

In my essay I am less concerned with refuting "creation and consent-based arguments for government control" than I am with showing how leftist talk about such things entails the collectivist configuration of ownership, or overlordship.

I posted a brief rejoinder:

There is only limited disagreement in this exchange between Daniel Klein and myself. We both favor strong protection for private property rights, and we both reject claims that the government should have largely unconstrained authority to override those rights because it supposedly "created" them or because the owners have consented to it.

However, I do continue to disagree with Daniel's claim that "leftist talk about [property rights and government] entails the collectivist configuration of ownership, or overlordship." I think

that is true of *some* left-wing rhetoric about these issues, but by no means all or even most of it. As I pointed out in my original reply essay, most modern liberal rhetoric justifies government intervention on consequentialist grounds, not on the basis that government owns everything....

This is not to say that the "collectivist configuration" Daniel attacks is a straw man. Ever since Plato, a variety of prominent political theorists and legal scholars (not all of them leftist) have espoused just that. It is certainly an important idea whose serious weaknesses are worth pointing out...

Categories: Property Rights

## 5 Comments

1.

### **Anthony says:**

Klein's response seems to be pretty much gibberish if you aren't already initiated in the terminology he's using, but based on his original essay I think I know what he's getting at, though I think he's wrong.

Basic thesis of the original essay appeared to have to do with social contract vs natural rights, with the conclusion that liberal attitudes towards property suggested that they were using a social contract theory. The social contract theory is probably more common among liberals, but the source of the right isn't really the defining issue. The main difference between the liberal and libertarian theory of rights is weighting: when two different rights conflict, how do you decide which one wins out? The liberal will generally have a much longer list of rights that trump property rights. (Quote)

December 15, 2010, 7:13 pm

2.

### **Howard says:**

**Anthony**, can you explain this passage?

*I believe that President Obama sees himself as the duly appointed officer of the overlord. This overlord is the collectivity called "the people" or "the state." It is one big voluntary club. Its officers are government officials. Its central apparatus consists of governmental institutions. Its official expression is government law: legislation, regulations, executive orders, and court rulings.*

*In a commencement address at the University of Michigan in 2010, President Obama explained: "[I]n our democracy, government is us. We, the people . . . [applause.] We, the people, hold in our hands the power to choose our leaders and change our laws, and shape our own destiny." [5]*

*The state's dominion is the entire polity. As long as you are in the United States, according to the progressives, it is your contractual obligation to abide by the rules. You believe in honoring contracts, don't you?*