

# The Principle of Fair Regard

## INTRODUCTION

**T**HE NON-AGGRESSION PRINCIPLE is a long standing staple among libertarians of many varieties, but especially among the right and the center, such as voluntaryists, on the right, and mutualists and Georgists in the center. In this short little essay, we will look at the nature of the non-aggression principle, some of its interpretations, and some of its shortcomings. Short of condemning it altogether, I will suggest a complimentary principle to non-aggression, which should act as a caveat or a proviso. This will be understood as the *principle of fair regard*.<sup>i</sup>

## THE NON-AGGRESSION PRINCIPLE

**T**HE NON-AGGRESSION PRINCIPLE simply suggests that the initiation of force, on a person or their rightfully-owned property, is unjust. The principle allows for force in the case that it is used in defense, but not when it is used to attack.

There are many debates centered around the principle of non-aggression. Some feel as though it is fair, because it protects person and property from unjust invasion, while others feel it is used to protect the property of the rich, and to justify oppressing the poor. Some libertarians, known by Kevin Carson as *vulgar libertarians*, use the non-aggression principle to defend property-owners against things like fairness standards, gentrification, unions, and more. These are your Wal-Mart libertarians. They fail to understand that the property of large corporations are not protected by the non-aggression principle, because the state has allotted them stolen property.<sup>ii</sup> A particular form of vulgar libertarian, that Dan Sullivan refers to as *royal libertarians*, also forget that property is not a matter of natural right or decree, so much as it is a matter of agreement or due claim. The non-aggression principle has not only been used by vulgar libertarians, it has also been used by voluntaryists, mutualists, and geoanarchists, who are decidedly anti-state.

I will not be going into detail on this matter, as I have in “Cost, Aggression, and Access to the Land,” partly because I have already done so, but also because it is unnecessary for understanding my point in this essay. For now, what is important to understand is that, whether the non-aggression principle is used to defend the possession of the mutualist, the property of the voluntaryist, or the land-claim of the Georgist, the non-aggression principle is a principle which is defensive in nature.

The defensive nature of the non-aggression principle is founded on a philosophy of negative rights. Negative rights are those rights to maintain, to defend, or to keep. They include those rights not to be affected by others. The non-aggression principle generally prevents against assault, theft, fraud, or vandalism of various sorts. On the contrary, positive rights are those rights to claim, to assert, and to take. They include the ability to affect others. The foundation in negative rights explains why people on the right and some in the center, such as voluntaryists, mutualists, and Georgists, are attracted to the non-aggression principle, while people on the left, like Marxists, anarcho-communists, and more, are in opposition to it. Negative rights philosophies are necessarily individualist in nature. Naturally, individualists, like voluntaryists, and compatibilists, such as Georgists and mutualists, will be attracted to it to varying degrees, while collectivists will not be.

While I am a supporter of the non-aggression principle, I believe it is important to understand its limits, and not to become polarized on the issue, lest we end up like Benjamin Tucker, defending the mistreatment of children in the name of the parents’ egoism. Non-aggression plays a wonderful role in

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<sup>i</sup> Fair regard is a popular term which I have been unable to find the original source for, or another formulation of, but which I believe suits quite well.

<sup>ii</sup> A thief, such as the state, never justly earned the title to give the stolen property away. A thief is an aggressor, and their “property” is not protected by the non-aggression principle, nor is a third-party recipient.

defining those kinds of behaviors that should be avoided in regard to others claims, but it does little to suggest what is fair to claim itself. An example of this shortcoming can be seen in many negative rights interpretations of John Locke's homestead principle, in which he makes the famous claim that working on the land is mixing one's labor with it, and is thus an extension of labor. Little known to the negative rights interpreters is Locke's proviso to this statement, in which he suggests that claiming land is only fair so long as others may do so themselves.

Instead of holding on to a polarized view, it is my intention to see the non-aggression principle as part of a larger dialectic; before we find the synthesis, it is necessary to name the antithesis. Like all things in nature, ethics of property are governed by the laws of equilibrium. As the market is determined by supply and demand, and as capitalism is a production-oriented economy and communism a consumption-oriented one—whereby the monopolist controls supply or the monopsonist controls demand—, the principle of non-aggression, which necessarily protects the claims of the propertied, must be balanced by a principle which equally protects the claims of those without.

### THE PRINCIPLE OF FAIR REGARD

IT'S IMPORTANT TO REMEMBER that property rights are subject to the individual ego, and to society, and are only natural insofar as they are accepted to be true by their beholders. They are not absolute. Property rights are a social thing. Even the non-aggression principle ultimately depends either on its enforcement by a large percentage of, or the good will of, society. So long as a majority of society's members don't care to respect property rights, they don't really, in effect, exist. This is important, because property rights themselves are a form of fair regard. That is, in fact, their basis. This being so, my concepts should not seem so outlandish.

As property is a matter of egoism, there is tacit, or *de facto*, property—or possession—, which is taken or protected by force, and then there is expressed, or *de jure*, property, which is granted by decree. These match quite nicely with Max Weber's *authority* and *power*, with rights being a matter of authority, and possession being a matter of power. I believe these both to be vices. An interesting article which I stumbled upon one day, "Authority and Power," by a man named David Heywood—the rest of his work I am unfamiliar with—, suggests that the synthesis of these two is "leadership." He explains that authority is the ability to influence others by way of one's thought, like a Guru, but never actually getting anything done themselves. Power, on the other hand, is the ability to influence others by way of force or skill. Leadership is the harnessing of the complimentary nature of the two.

I believe a similar relationship of complementarity is to be found in equal property rights, positive and negative. Because this is so, I felt it necessary to propose a principle antimonious in some respects to the non-aggression principle, but, in other ways, strangely complimentary to it. I am reaching for a principle which will not disprove, cast aside, or otherwise derail the non-aggression principle, but one which will set limitations to it, in the manner that demand and supply limit one another in an efficient market, or a healthy ego is balanced by the struggle of mutual efficiency between the id and superego.

Where the non-aggression principle is the negative application of property rights, the *principle of fair regard* shall be its positive counterpart. Fair regard may otherwise be understood as *non-indifference*. Had I not wanted to find a positive counterpart to non-aggression, I would have kept this as the moniker for the principle instead of fair regard. Indifference is here defined as neglect of the well-being of another person or their rightfully earned property. Fair regard is the lack of such neglect. Where the non-aggression principle supports one's claim to previously claimed property, the principle of fair regard sets the ethical claim to property which one does not yet have, and which may even belong to someone else.

The principle of fair regard would protect people from, say, being passed by while needing help, starving on another's porch, or having one's things stolen while the neighbor watches. The principle also protects from non-aggressive, yet excessive, behavior. This includes acts of revenge (not to be confused with compensation) on accidents ("eye for an eye"), passivity in another's loss, and non-aggressive hate crimes. The principle of fair regard is the counterweight to the non-aggression principle, and keeps it in check.

Just as non-aggression limits force to reciprocal amounts (one cannot react more violently than acted upon), the principle of fair regard limits altruism to reciprocal limits (it's not altruism if the person must pay

back the losses). While the non-aggression principle suggests that force can only be applied to that degree it protects, preserves, or restores person or property, the principle of fair regard suggests that help can only be demanded to that degree it can be repaid. Any act performed according to the principle of fair regard would be subject to reimbursement. Those losses which are not reimbursable are not subject to the principle of fair regard. Help can be demanded to the degree it is absolutely necessary, and can be, and will be, paid back, but no more. Therefore, the fair regard principle does not impose life-threatening situations, or situations in which the person from which help is being demanded would face a greater loss than those whom they are helping. To take a morbid example, if someone is in a pool of sharks, and there are onlookers, the onlookers are held accountable only so far as they have not tried all known methods alternative to jumping in themselves, such as poles and ropes. If there are poles or ropes, and they are acknowledged, but are not used, this is an infringement according to the non-indifference principle. They can be sued by the family, or worse. While the principle of fair regard will certainly apply to emergency or accident situations, I also see the principles of non-aggression and fair regard as being applicable to the factors of production to various degrees.

The factors of production are *land*, *labor*, and *capital*. Land includes natural resources, labor is human work, and capital is the mixture of the two. As I have argued in many of my essays, land properly belongs in the commons. For this reason, positive claims to resources are strong. Unlike land, which has been given by Nature, labor, which is exhausting, boring, and generally undesirable, requires a human for its creation. For this reason, appeals to negative rights settle more clearly in regard to labor. The labor, except in cases of emergencies, should belong exclusively to the laborer. Capital, naturally, is a middle ground, or gray area, of sorts. This being so, outside of emergencies or accidents, labor and competitive capital will be left alone, and the non-aggression principle will be largely unrestrained by the principle of fair regard, while land will be heavily determined by it. It makes little sense to make a person hand over their freshly-baked cherry pie to the man on the street. It is right that they should want to enjoy the fruits of their efforts, and, for this reason, the principle of non-aggression applies. Instead, the solution resides in turning over land, firstly that which is unused and speculated on, for public claimancy or the sharing of its rents, so they may be productive and gain the means to their own pie. So long as land is made available, labor can remain untouched, and its fruits can be enjoyed with loved ones or alone. Except in times of emergency or dire need, land is protected primarily by the principle of fair regard, labor is protected by the principle of non-aggression, and capital is subject to both, to that degree to which it owes its existence to them. Locke's proviso is a statement of the principle of fair regard, while his homestead principle is a statement of non-aggression. This needs to be more universally understood, and applied, by humanity.