

# Justice as a claim to (social) property

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## ABSTRACT

Margaret Kohn argues for a reappraisal of early twentieth-century left-republican French political theory, known as 'solidarism'. Solidarism recognises private property as legitimate, but at the same time argues that the collective nature of economic production gives rise to a claim to *social property*. It is social property that should underlie the case for social justice and social rights, not the standard liberal claims to individual autonomy. This paper provides an appraisal of Kohn's recovery of solidarism, taking as its main theme the relation between property and social justice. The paper first offers a typology of four theories of justice (right- and left-libertarianism, luck and relational egalitarianism) and discusses the relation of each of these to the concept of property. Then it argues that solidarism is akin to left-libertarianism in the way it formulates justice as a claim to social property. Finally, it argues that solidarists cannot escape grounding their theory in a non-property based fundamental principle, which makes the theory much less distinctive from egalitarian theories of justice than may appear at first sight.

## Introduction

In two recent articles (one of which in this special issue) Margaret Kohn argues for a reappraisal of early twentieth-century left-republican French political theory, known as 'solidarism'. She presents it as charting a middle path between laissez-faire capitalism on the one hand and both welfare state capitalism and socialism on the other hand. Solidarism recognises private property as legitimate, but at the same time argues that the collective nature of economic production gives rise to a claim to *social property*. It is social property that should underlie the case for social justice and social rights, not the standard liberal claims to individual autonomy (Kohn, 2016, this issue).

This paper provides an appraisal of Kohn's recovery of solidarism, taking as its main theme the relation between property and social justice. Libertarian theories of justice, both in their left-wing and their right-wing variants, build their core principles of justice in terms of a notion of property. Egalitarian theories (as diverse as luck egalitarianism and relational egalitarianism) typically don't make property so central; for them property rights should be defined in a second step, by assessing instrumental considerations about which scheme of property rights best realises their egalitarian principles, which themselves aren't formulated in terms of property rights. I will argue that solidarism is akin to left-libertarianism in the way it formulates justice as a claim to social property. I will also argue that solidarists cannot escape grounding their theory in a non-property based fundamental principle, which makes the theory much less distinctive from egalitarian theories of justice than may appear at first sight.

The first part of the paper offers a conceptual exploration: do current theories of justice make property claims central to justice? I start from a diagnosis of right-wing libertarianism, in which a strong property claim is central. Its moral principle is the defence of self-ownership and free acquisition of property in external goods. Institutionally, this leads to a defence of a purely capitalist economy. The paper then zooms in on three alternative theories of justice: left-libertarianism, luck egalitarianism and relational egalitarianism. These theories make much less use of a notion of property, although there are important differences between them. On this basis, the second part of the paper assesses Kohn's plea for a revival of solidarism. First, I show that solidarism's claim to social property shares structural similarities with left-libertarianism, even if it also diverges from left-libertarianism on some points. Second, I assess the solidarist's criticism of liberal egalitarianism. I argue that on closer inspection solidarism must rely on similar considerations as egalitarians do when it defines the basis of its claim to social property. This basis for solidarists lies in one's membership in a given society, while for egalitarians it lies in a claim to individual autonomy. In both cases, a fundamental non-property based consideration lies at the roots of the claim to a share of social property.

### **Capitalism, private property and right-libertarianism**

Gerald Gaus puts forward the idea that capitalism can be understood as the system of 'maximally extensive property rights' along two dimensions (Gaus, 2010). First, property rights involve a number of different rights: rights to use an object, to exclude others from use, to modify or destroy an object, to sell the object, to earn an income from letting others use the object, etc. Lawyers call these the 'incidents' of ownership, and they consider full private property rights to be given where a person has the full bundle of all incidents of property (Becker, 1977, pp. 18–20; Honoré, 1987). Governments can limit each of these rights. A capitalist society grants as many rights to property owners as possible.

Second, property rights can range over more or less objects. A capitalist economy brings as many objects as possible into the system of private ownership. Here there are key roles for the commodification of natural resources (preventing tragedy of the commons), and the commodification of labour. In addition, all kinds of controversial goods can be brought into the realm of private property (e.g. commodification of body parts).<sup>1</sup> Using these two dimensions, one can plot economic systems by the extent to which they choose to restrict or expand property rights with respect to the bundle of rights and the objects of property (Gaus, 2010).

This scheme needs to be extended. Gaus' two-dimensional definition is symptomatic of a lot of writing in political philosophy, in its focus on property as private property (Christman, 1994; Munzer, 1990; Ryan, 1984; Waldron, 1988). His second dimension conflates the question whether something can become the object of property arrangements (of whatever kind) with the question whether this must be private property. It is one thing to argue that natural resources should be the object of some kind of property arrangement, it is quite another thing to assign this property to the state, a corporation, an individual, etc. Disentangling these two questions, we should recognise *three* dimensions on which to plot economic systems: the subjects of property, the objects of property and the scope of property rights. Capitalism is the system where property is held privately, every object can become property, and the bundle of rights is maximally extensive for the private owner (see Table 1).

Lawyers normally think in terms of an ideal-typical trichotomy of private, common and state property. Private property assigns the power to make decisions about the object to a particular individual, in exclusion to others. Common (or joint) property belongs to a group of people who can all make use of the object, without being able to exclude the other members of the group. Collective (or public/state) property also belongs to a group, but here decisions about the use of the object are made in the interest of the group as a whole. Individual members do not have free access to the object (Dagan & Heller, 2001, pp. 555–558; Lehavi, 2008, p. 139; Waldron, 1988, pp. 38–42). These are ideal types, and different regimes may be chosen for different objects, as will ordinarily be the case in mixed economies. Nonetheless, the ideal types provide organising ideas. Jeremy Waldron even linked preferences for these

**Table 1.** Dimensions of property.

	Question	Possible answers
(1a) Subjects	Who is allowed to hold property?	Private, common or state property
(1b) Objects	What can become object of a property right?	Controversies include: human beings (slavery), but also human organs (kidneys), ideas (intellectual property), plants, etc.
(1c) Prerogatives	What are owners allowed to do?	A 'bundle of rights': using, selling, managing, etc., one's property

types to distinct political positions: 'To put it crudely: socialists argue for a system of collective property, radicals for something like common property, and capitalists and their liberal ideologues for private property' (Waldron, 1988, p. 44). As we will see, the mapping of normative theories with economic systems is much more problematic than this quote suggests.

Right-libertarianism is the theory of justice that provides the philosophical defence of capitalism, as defined in this three-dimensional space. It does so by making two property claims central. First, right-libertarians invariably defend self-ownership: a person is the owner of his own body, energy, and talents (Mack, 2002; Narveson, 2001; Nozick, 1974). This idea implies a direct rejection of any claims of others upon my body, energy and labour. Self-ownership is widely accepted in so far as others should not be allowed to infringe upon our bodily integrity (through assaults such as rape). For present purposes the more relevant question is whether self-ownership also has consequences for the ownership of our talents and our labour, and from there to ownership of the fruits of our labour (the products we make exerting our talents upon some object). This question inevitably brings in the ownership of material things external to ourselves: self-ownership is a necessary but not sufficient condition for the justification of full private ownership in worldly objects. With respect to these external things, libertarians start from the idea that they are originally either owned in common by all men (e.g. as a gift from God, as in Locke) or unowned. Which of these two points of departure is chosen doesn't really matter – in both cases the libertarian theory defends a transition to individual ownership. Normally this step is defended by arguing that anyone mixing his labour with the resource comes to own it (Locke, 2003; Nozick, 1974).<sup>2</sup>

Taking self-ownership and labour acquisition together gives one the libertarian case for maximally extensive property rights.<sup>3</sup> The concept of property (in the self and external objects) stands at the heart of the libertarian theory of justice and leads more-or-less directly to an institutional defence of capitalism.

### **In search of solidarity: three alternative theories**

This section focuses on three alternative (families of) theories of justice – left-libertarianism, luck egalitarianism and relational egalitarianism – which have become important challengers to right-libertarianism. Each of them can be used to argue in favour of economic schemes that in one sense or the other aim to realise more 'solidarity' than right-libertarian's endorsement of pure capitalism.

*Left-libertarianism* concurs with right-libertarianism on the question of self-ownership, but diverges from it with respect to world-ownership (Otsuka, 1998; Steiner, 1994; van Parijs, 1995).<sup>4</sup> Individuals may not simply appropriate external resources as much as they can mix their labour with. Instead the ownership of external resources must be divided according to some egalitarian principle. Different variations are possible in terms of the exact principle used

for the distribution of external resources, e.g. in terms of strictly equal (or equally valuable) shares, or in terms of joint ownership. Their egalitarian position on world-ownership is due to left-libertarians taking more seriously than right-libertarians the Lockean proviso on the acquisition of resources: individuals can appropriate natural resources only under the condition that 'enough and as good' is left for others. What is enough and as good can differ, but it leads to a more egalitarian distribution of property than right-libertarians would allow.

*Luck egalitarianism* goes one step further than left-libertarianism in its divergence from right-libertarianism. Luck egalitarians concur with left-libertarians that every individual deserves an equal share of all external resources. For example, in Ronald Dworkin's island thought-experiment, all inhabitants get an equal bundle of clamshells (Dworkin, 2000). However, they diverge from both in their position on self-ownership. Luck egalitarianism – like relational egalitarianism, see hereafter – rejects the idea of self-ownership. Instead, the theory starts from the idea that the 'natural lottery' produces differences in talents which from a moral point of view, are arbitrary. This forms a basis for claims to compensation: unchosen differences are unjust and must be collectively insured.<sup>5</sup>

*Relational egalitarianism's* central principle is equality of standing between citizens. Relational egalitarians reject self-ownership (in contrast to both forms of libertarianism). However, relational egalitarians also reject luck egalitarians' focus on compensating for bad brute luck (Anderson, 1999, 2010). Their basic intuition is that justice is not a matter of compensating for bad fortune, but of providing citizens with equality in some other dimension, i.e. the intersubjective dimension of their standing in society. In practical terms, this is translated into a distributive principle for external resources, which can be more or less egalitarian. Some defend a sufficientarian principle, which focuses on a threshold level of resources or capabilities for all citizens (Anderson, 1999; Nussbaum, 2000), while others focus on a principle maximising the position of the worse off (Rawls, 1999).

All three theories propose a more egalitarian distribution of external resources than right-libertarianism. This implies a less-than-fully capitalist scheme of property rights. However, these theories present very different groundings for this claim. Left-libertarians work from the intuition that *external* resources, being originally owned by no one, belong to everyone equally. Their claim is primarily about the resources 'out there' and their rightful distribution. Luck egalitarians work from the moral arbitrariness of *internal* endowments. Their claim is primarily about individual responsibility and its limits, conceptualised along the lines of the choice/chance distinction. Relational egalitarians focus on the necessity of redistribution in order to attain equality of standing between citizens. Their focus is on an *intersubjective* state of equality (akin to republicans: being able to 'look each other in the eye'), and the necessary distributive preconditions for that intersubjective state.

Let's now connect these normative theories to the question of property. Right-libertarianism provides a more-or-less direct link with a capitalist economy

of maximally extensive property rights. The other theories exhibit an *increasing conceptual distance* from the concept of property. Left-libertarianism is, like right-libertarianism, conceptually organised around the concepts of self-ownership and world-ownership. Justice for both types of libertarians is about the distribution of property, albeit they each propose a different distribution. Luck-egalitarianism occupies a middle position. On the one hand, its argument about internal endowments is not couched directly in terms of property rights, since it doesn't claim that internal endowments are collective property (even if no one can help being born with more or less of them). Nonetheless, its treatment of internal endowments is akin to property, since differences in them do become the subject of claims of redistribution (via insurance). Although differences in endowments cannot be redistributed as property, monetary compensation for differences in endowments can. Finally, the relational egalitarian position does not conceive of justice as a claim to property. Its normative focus is on the structure of intersubjective relations. Of course claims to resources can be related to this normative claim by way of an empirical claim, but the link is more distant in conceptual terms.

The reason for these differences, I suspect, is that libertarian and egalitarian theories differ in one crucial respect: the former start from a puzzle about the ownership of resources, whereas the latter start from a normative conception of persons. This has profound consequences.

Libertarian theories, both in their right-wing and their left-wing forms, give pride of place to the problem of 'how to divide the pie'. They presuppose a picture in which persons with moral standing confront the fact that there are both internal and external assets whose rightful possession has to be assigned to individuals. The possible disputes about the ownership of these assets forces upon the agents the question 'who gets what?' Hence the question about property is central to these theories from the start. The central topic of a theory of justice simply is how to solve the problem of assigning property rights. The different conceptualisations of original property (self-owned, unowned, commonly owned) and just property assignments (where left- and right-libertarians split ways) should not detract from this underlying similarity. By contrast, egalitarian theories take off from a different description of the problem of justice, as about 'what persons owe to each other'. Being a member of the same group (political community) involves certain duties towards other persons in the group. Luck egalitarians argue that it is essential that no inequalities that were not under a person's control arise in a political community. Relational egalitarians argue that citizens in the same political community should stand in relations of equality with one another. In both cases an idea of the person's attributes compared to other person's attributes sets the theory in motion.

Of course, this does not mean that libertarian theories do not contain a conception of the person, or that egalitarian theories do not contain ideas about the distribution of property. To argue for conclusions about self-ownership and

world-ownership, libertarians resort to some ideal of negative freedom. The person is seen as an independent individual who can claim non-interference from others. Property should be arranged so as to defend this claim. Reversely, egalitarians do argue about property. For example, Dworkin's conclusion about equality of external resources is an institutional translation of this moral view about the relevance of luck between persons. Nonetheless, the order is different. For libertarians the problem of property comes first, and the conception of the person is used in answering the question of property. For egalitarians the problem of justice is about persons, their attributes and mutual relations. The distribution of property serves to realise the desired ideal in terms of these attributes and relations.

Despite this split between egalitarian and libertarian theories, we should also keep in mind another split, between right-libertarianism and the other three theories. The latter all work – albeit in very different ways – with a dichotomy between 'individual' versus 'social' claims. All of them argue (on a different moral basis) that individuals have a claim on society to receive some resources, even though they haven't worked for them. This anti-capitalist social claim, however, *is not necessarily a claim of property*; it is an undifferentiated category, which may point to various institutional alternatives, with very different effects. It functions more like a metaphor, a stand-in for various alternative institutions, than a conclusion about the forms that anti-capitalist property would need to take (this is true for all three dimensions of property: who should be owning property, which rights should be given to property-owners, and which things should be allowed to be objects of property rights). Only left-libertarianism seems to interpret this social claim as a property claim (but see below in the last section).

With these differences in mind, let's now turn to solidarism, and see how it should be located amidst the theoretical landscape sketched so far. I will do so in two steps: first by comparing the similarities and differences between solidarism and left-libertarianism, then by analysing the alleged opposition between solidarism and egalitarianism.

### **Solidarism as a form of left-libertarianism?**

In the typology of four theories used in this paper, solidarism is closest to left-libertarianism. In this section, I will attempt a systematic reconstruction of the similarities and differences between both types of theory.

In Kohn's reconstruction (on which I rely here), solidarism rests strongly on Alfred Fouillé's argument against Locke. Fouillé argued that Locke's argument for private property had to be modified. The fact that a person mixes his labour with an external resource implies only private ownership to the extent of the labour one has invested. External resources have value, and this value remains social. Hence we need to recognise both individual and social property in the product, which is a mixture of labour and nature. If the individual appropriates all, he

dispossesses others of a part of nature that they can rightfully claim as theirs. This in turn becomes the basis for a claim to social rights funded by all (Kohn, 2016, pp. 607–610, this issue). This argument clearly follows the left-libertarian scheme of combining the self-ownership of my labour with the shared ownership of external resources. Kohn acknowledges the latter where she embraces an explanation of solidarism in terms of the world-ownership thesis (Kohn, this issue). However, as far as I can see there are three important departures from left-libertarianism.

First, as Kohn explains, the solidarists argued that ‘the self’ should also be seen as a social construction. Growing up to become a participant in society requires the caring work of others, thus one is born with a ‘debt’ to society. Also in many other ways, one’s own productivity depends on the linkages one has with others (externalities). All of these factors also form a basis for accepting an obligation to pay off one’s debts to society (Kohn, 2016, pp. 610–612). This is a very different line of argument, which is based on a luck-egalitarian intuition: that one cannot fully claim the fruits of one’s own talents, since they were not under one’s control.<sup>6</sup> This should be kept distinct from the idea that the common or equal ownership of external resources, even after labour has been used upon it, forms the proper basis for collective redistribution. Both lines of argument can of course be run in tandem (as luck egalitarians do when they also accept equality of external resources), but they are nonetheless distinct. (given the predominance of the social property thesis I will leave this part of solidarism out of consideration in what follows).

Second, Kohn provides a different *normative basis* for solidarism, namely in the fact of being member of a cooperative venture. It is the interdependence and proximity of citizens within a given society which gives each of them a claim upon others (Kohn, this issue). This stands in marked contrast to (at least some) left-libertarian theories which argue for an individual’s right to a share of all external resources on the planet (Steiner, 2005). In the latter, being a human being rather than being a member of a society is the basis for the individual’s claim.<sup>7</sup> However, this difference should not obscure the essential similarity between solidarism and left-libertarianism in its endorsement of the social property claim of individuals on all external goods (either within society or in the whole world). For both, this claim stands in contrast to liberal-egalitarian theories of justice. However, as I will argue in the final section, the membership claim does raise questions about the difference in the justification strategies used by solidarists and egalitarians.

Third, Kohn argues that – in contrast to left-libertarians – solidarists focus less on maximising individual freedom, and more on fostering a shared ethos in society. Concretely, this means they endorsed public schools, public places and other forms of ‘collective consumption and experience’ (Kohn, this issue). The dispute here is about the form public expenditures should take once the social property claim has led to taxation of those who owe a debt to society (the



rich). One can either give everyone an individualised share of social property (the left-libertarian strategy) or provide collective, non-divisible goods (solidarism). However, it should immediately be noted that many social rights (such as a right to access to public services like education or health care) do take the form of individualised benefits. This, the solidarist cannot deny. On the other hand, liberal egalitarians can also argue for public goods provision as a necessary condition for the sustenance of a liberal society (Miller, 2004). Hence, while this feature differentiates solidarism from left-libertarianism, the difference with liberal egalitarians seems overblown.

In conclusion, solidarism does share a very important similarity with left-libertarianism, in its endorsement of a claim to social property. However, I have noted three important differences: in terms of the social origin of the self, the normative basis in social membership, and the preference for public goods provisioning as a means of developing a shared ethos. On each of these points, solidarism is less individualist, and indeed more 'social' (i.e. more concerned to theorise the embeddedness of an individual's existence in a social context, its prerequisites and its consequences) in its orientation than left-libertarianism. However, each of these points also brings solidarism closer to (at least some forms of) egalitarianism. Let's now bring out this comparison more systematically.

### **Solidarism versus liberal egalitarianism**

Solidarism is seen by Kohn as distinctively superior to the dominant left-wing theory opposing right-libertarian capitalism, which she refers to as welfare-state capitalism, or, provocatively, the 'welfare-as-state-charity-model'.<sup>8</sup> She identifies welfare-state capitalism with the normative theory of liberal egalitarianism and criticises this theory on substantive grounds. In this section, I will analyse this debate between egalitarians and solidarists on the most convincing basis for arguing for a welfare state.

In her first article, Kohn argues that the solidaristic theory, with its emphasis on social property and social debt, provides an alternative justification to this model, since it shows why taxation so as to provide social rights is not a matter of forcing charity upon the rich (those who pay the taxes), but reparation for what the rich have taken from the rest by their disproportionate appropriation of resources within the capitalist production process (Kohn, 2016, pp. 604, 622). Here the emphasis is very strongly on framing advantages of property claims: while charity is based upon moral claims to help those in need which are largely left to individuals' own assessment of what they owe to others, property claims are the basis of politically enforced redistribution. However, while I agree that framing the welfare state as a form of state charity renders the basis of welfare services rather weak, I do not see how one can claim that historically the left has argued for the welfare state on the basis of the idea of charity. Defending the welfare state was about making a claim about social rights from the start, as

Kohn implicitly agrees when briefly mentioning T.H. Marshall's famous defence of social rights (Kohn, 2016, p. 604). Her criticism of Marshall is that he didn't provide a normative foundation of such claims. In her second article, the argument takes a different turn. Here, she seems to grant that liberal egalitarian theories can argue for social rights to welfare (i.e. not mere charity), and discusses several egalitarians who have done so. Here, her argument is that the basis of these egalitarian claims lies in an ideal of individual autonomy (she focuses on the theories of Fabre [1998] and Gewirth [1996]), to which she objects on substantive grounds.

Kohn's argument is that given the assumption of individual autonomy, liberal egalitarianism makes individuals themselves responsible for providing for their own welfare. This leads to three problems. First, it is unclear how others – and in particular the state – can come in as duty bearers. After all, there are also other things individuals may need (such as love) which no one has a duty to provide. Second, to mark off how much others are obliged to help, we need to find out at which points individuals cannot any longer be held responsible for lacks in their welfare. This is highly indeterminate: how to make the distinction between the deserving and the undeserving poor? Overcoming this problem in order to be able to make decisions about social benefits requires a highly intrusive and paternalist state. Third, even if this would be successful in practice, Kohn still seems to have a problem with the conditional, residual scheme of rights this offers. Solidarism endorses a welfare state that not only avoids being intrusive and paternalist, but also offers much stronger, unconditional rights to everyone (Kohn, this issue). In sum, liberal egalitarians have problems with duty-bearers, threshold setting, and conditionality.

In my response, I will grant that liberal egalitarianism is best reconstructed – along the lines of Fabre and Gewirth – as relying on a substantive concept of autonomy (for my elaboration of such a view, and its extension to the question of property, see Claassen, 2015, in press). Others may want to criticise Kohn for not realising that some forms of liberal egalitarianism do not rely on strong meta-physical commitments to autonomy (Rawls's political liberalism being the primary example), but can defend the welfare state on a thinner, allegedly politically neutral basis. Since I do not find these claims attractive, I will leave such criticisms to others.

Let's first address the issue of conditionality. The solidarist argument here runs the risk of attacking a straw man. It is unclear that liberal egalitarian theories that start from the idea that individuals have a right to the (material and other) preconditions for becoming individually autonomous beings, cannot accommodate the idea of unconditional public services. The template of cash benefits may here be misleading. Services in kind, such as public education and public health care, can very well be seen as services that must be provided unconditionally and equally to all citizens to help them be autonomous beings. Similarly, liberal egalitarianism could also defend an unconditional basic income as necessary for individual independence and autonomy. This only points to the

identification of theoretical space within liberal egalitarianism to accommodate Kohn's criticism more than she thinks it can. Another line of response would be to counter by asking whether conditionality is always wrong. This admittedly is a large debate, but I am not yet convinced that it always is a disadvantage when a theory makes some forms of welfare provisioning conditional on inability to work or other conditions.

Second, there is the issue of threshold setting. Conditionality requires distinguishing the deserving from the undeserving poor and this can only be done by turning the state into a punitive state. In response, one should note that egalitarians are split on this issue. Kohn rightly targets luck egalitarians for needing this distinction, but she doesn't note the influential counterattack by relational egalitarians, who have criticised luck egalitarianism on exactly this point (Anderson, 1999). I would like to go one step further, however, and note that relational egalitarians also rely on a threshold, marking who does and who does not get a claim to social rights, albeit a different one. For them the threshold is not set at the point where 'responsibility' or 'control' over one's actions starts or ends; but at some sufficiency threshold, however, defined (I restrict myself to sufficientarian versions of relational egalitarianism, see above). This suggests it is not so easy to escape defining some threshold to operationalise citizens' claim to a given set of social rights. Without such a threshold state provision would be limitless. Arguably, solidarism doesn't want to defend limitless claims, so it would also need a way to define a cut-off point, and would then be in the same boat as egalitarianism.

Third, the question of rights and duties. Why do some, but not other interests – with interests defined as things we need to reach an autonomous life – become the subject of rights, and hence the basis of a claim that others have a duty? Kohn claims the liberal tradition gives a tautological answer on this point. I think this question cannot be answered in general, since different theorists reconstruct the process of the generation of rights and duties differently. To confine myself to one of Kohn's targets, Gewirth, he gives a perfectly sensible account of how it is implicit in every person's stance as an agent, to claim that others ought not to interfere with one's conditions of agency, and in some cases, to help provide the conditions for agency. Duties are the basis, and rights are claimed as correlative to duties. In a second step, some but not all of these moral duties are then attributed to the state as institutional representative of the moral community as a whole (Gewirth, 1978). His argument for doing so is long and complicated, but more engagement with it – and with the arguments from other liberal authors – is necessary to establish that the liberal tradition is tautological in its defence of autonomy rights.

I hope these replies establish that egalitarianism does have the resources to counter Kohn's criticisms, and shows that both may be more closely connected than is sometimes realised. Finally, I want to address an important point about Kohn's membership justification for solidarism.

My worry is that the membership justification underlying the social property claim is either implausible or indistinguishable from liberal egalitarianism. Remember that the idea is to see society as a cooperative venture. This may be interpreted by solidarists as giving members a share of social wealth as a compensation for their contribution to society, due to them because their original, market-based compensation (e.g. wages) does not reflect the share of social wealth that they are owed. Kohn is very clear about rejecting this compensatory interpretation (Kohn, this issue). This seems sensible, but it does mean that one's membership in the cooperative venture must be understood very minimally, as one's mere presence in society (even if one does not contribute productively). But thus understood, one may wonder what the difference is with arguing that one deserves a share of social wealth simply because one is an individual with the capacities for autonomy? There is at least one normative theory that exactly makes this move. C.B. MacPherson famously argued for property in the means of production for all (Macpherson, 1973, pp. 120–140, 1985, pp. 76–85) and based this on a concept of positive freedom, of realising 'men's human powers, that is, their potential for using and developing their uniquely human capacities' (Macpherson, 1973, p. 4). For him this was both a property right and a human right, he deliberately fused both categories. This example shows how liberal-egalitarian theories may come to conclusions with respect to the distribution of social wealth similar to those of solidarists.

In conclusion, solidarism and other left-libertarian theories seem to share the same structural potential and problems as egalitarians, when arguing in favour of a more egalitarian society than right-libertarians argue for, characterised by the provisioning of social rights. In contrast to right-libertarians, all of them make what I have called a 'social claim' (see Section 2), which can be, but doesn't necessarily have to be, cashed out in terms of a concept of social property. If my last argument is correct, then the solidarist (and arguably also the left-libertarian) view that this is a property claim is not the final word, since this claim in the end goes back to a deeper principle to determine who has a property claim (such as autonomy or membership in a community). The solidarists' point that the value of the wealth we hold is socially determined to a much larger extent than we may be conscious of is a powerful one. But so is the point that the conditions for becoming an autonomously functioning individual are much more socially determined than we may normally realise. The idea of an isolated individual is a chimera on both counts and the potential force in terms of political rhetoric should be equally powerful. These ideas could – and I think should – be defended in tandem.

## Notes

1. More precisely, Gaus defines capitalism as the conjunction of three institutional elements: maximally extensive property rights, efficient markets and firms led

in the interests of their owners. But the latter two elements he derives from the idea of maximally extensive property.

2. As an alternative, first-occupation instead of labour-mixing may be the justificatory ground. (Narveson, 2001, p. 79). Conceptually, these appear close cousins, since 'grabbing' an object may be treated as mixing one's labour with it in a rather minimal sense.
3. I am not arguing this case is convincing, even on its own terms. Most importantly, a defence of capitalism doesn't follow as straightforwardly as presented here in the main text to the extent that (1) the libertarian theory includes a Lockean proviso, and/or (2) the principle of rectification is applied to rectify wrongful transfers. Many libertarians downplay these potential problems.
4. There has been debate about the coherence of the acceptance of self-ownership and the defence of an egalitarian distribution of world-ownership (Fried, 2004). However, let's assume a coherent position is possible.
5. Luck egalitarians differ on whether all differences in talents are unchosen, hence whether all economic differences arising from the exertion of talents should be equalised (Cohen, 1989, p. 922). Here for simplicity's sake I assume they are.
6. Kohn argues that one of the solidarists (Leon Bourgeois) used an explicitly luck egalitarian argument about choice and chance (Kohn, 2016, p. 616). This raises the question why in the second article Kohn distances herself from luck egalitarianism (Kohn, this issue). Whatever of that, I would argue that luck egalitarianism is implicit in the solidarists' endorsement of the socialisation (not just of external resources, but also) of the fruits of individual productive labour.
7. Kohn's argument here shares a lot with recent arguments to justify human rights to membership in society (Cohen, 2004). If membership is indeed central for Kohn, then it is not the claim to a share of the society's collective property itself which grounds a set of human rights (in particular here: social rights), as in Matthias Risse's theory of human rights (Risse, 2009, 2012). Rather, membership in a society comes first in terms of normative justification, and collective property, generated as a spin-off of social activity in that society, is a way of expressing the claims of membership.
8. Historically, solidarism was contrasted on the left-wing of the spectrum with socialism (Kohn, 2016, p. 604), but here I will follow Kohn in leaving this out of consideration and focusing on welfare state capitalism as the contemporary opponent of solidarism.

## Acknowledgements

I would like to thank audiences at the Workshop on 'Approaches to Public Goods: Solidarity and Social Justice' (Toronto, May 2016), at the Economic Ethics Network Meeting (Barcelona, July 2016) and at the Annual Conference of the World Interdisciplinary Network for Institutional Research (Boston, September 2016). In particular I would like to thank Margaret Kohn, Igor Shoikhedbrod and Avigail Ferdman, as well as two anonymous reviewers of this journal, for their comments. The Netherlands Organisation for Scientific Research contributed funding under project no. 360-20-390.

## Disclosure statement

No potential conflict of interest was reported by the author.

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