

Libertarian and conservative arguments on property takings: eminent domain and abortion ban

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Abstrak

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Two major justifications given for original property are effort and scarcity: John Locke emphasized effort of mixing labor with an object like clearing and cultivating virgin land while Benjamin Tucker looked at what is the purpose of property to solve scarcity problem. Based on the justifications, both land and human body can be regarded as private properties. Human body is definitely scarce and the body owner makes every effort to keep his/ her health, thus human body is his/ her property. Government's decisions to appropriate land and restrict the right of individual to freely use his/her body are both takings. America's Constitution definitely protects the property belonging to every individual, but why property takings are legitimated in the country? This thesis is to analyze the government's controversial takings in a case study of two corpora i.e. Kelo v.

New London and the Partial Birth Abortion Ban, which are argued from libertarianism and conservatism, while generating a theoretical concept of private property based on political and cultural viewpoints in American perspective.