

**Walter  
E. Block****RUSKI RULET  
– ODGOVOR ROBINSU****RUSSIAN ROULETTE;  
REJOINER TO ROBINS**

**SAŽETAK:** U ovom radu nastoji se razumjeti i razraditi libertarijanska teorija kažnjavanja. Potpuno je nesporno, čak i među libertarijancima, da počinitelja kažnjivog djela treba prisiliti da vrati žrtvi ono što joj je oteo. Uz to, jednako je tako nesporno, bar među libertarijancima, da kazna za počinjeno djelo mora biti proporcionalna tom djelu. To najčešće podrazumijeva da ono što je počinitelj učinio žrtvi, treba učiniti i njemu. Na primjer, ako osoba A ukrade automobil osobi B, treba prisiliti osobu A da vrati automobil osobi B, a potom još dati osobi B automobil koji posjeduje osoba A. No što ćemo s činjenicom da je osoba A preplašila osobu B kad je izvršila taj kukavički čin? Treba li teorija kažnjavanja uzeti u obzir i tu činjenicu? Ako da, kako? Upravo to je predmet ovog rada.

**KLJUČNE RIJEČI:** ruski rulet, kažnjavanje, kažnjivo djelo, libertarijanizam

**ABSTRACT:** This paper is an attempt to understand and elaborate upon libertarian punishment theory. It is completely non-controversial, even amongst non-libertarians, that the criminal must be forced to return his ill-gotten gains to the victim. At least among libertarians, it is agreed upon, in addition, that the punishment for the criminal must be proportionate to his crime. This, typically, implies that what he did to the victim should be done to him. For example, if A steals a car from B, A must be compelled to return that automobile to B, and, then, to give B a vehicle owned by A. But what about the fact that A scared B when he committed his dastardly crime? Should punishment theory take that into account too, and, if so, how? That is the subject of the present paper.

**KEY WORDS:** Russian roulette, punishment, crime, libertarianism

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Robins (2012, 67) ne spori da treba prisiliti počinitelja da nadoknadi žrtvi, kako bi se povratila “prvotna cjelina”; na primjer, da vrati ukradenu imovinu, plati liječničke račune i dr. Isto tako, Robins ne prigovara ideji da počinitelj mora biti podvrgnut kazni, tako što će mu se “vratiti istom mjerom”. Do ovdje, dakle, nije sporno.

No što ćemo s činjenicom da je počinitelj preplašio svoju žrtvu? Ne bi li trebao odgovarati i za to? Ne bi trebao, prema Robinsu, bar ne u slučaju kada ga se natjera da zaigra ruski rulet. I to takav u kojem bi broj metaka i odjeljaka za metke odgovarao težini počinjenog nedjela. Zbog čega ne bi trebao odgovarati? Robins (2012, 58) piše: “Ovdje nastaje prvi problem. Strah je, kao i ostale emocije, subjektivan; ne možemo reći u kojoj mjeri je žrtva *zaista* bila preplašena i kako u istoj mjeri preplašiti počinitelja.”

Autor ovdje točno zaključuje. Strah i ostale emocije su zaista subjektivne. Austrijski ekonomisti idu još dalje i drže da se gotovo sve u životu može dobro opisati na taj način.

Hayek (1979, 52-53) je napisao: “Vjerojatno nije pretjerano reći da je svaki značajan napredak u ekonomskoj teoriji u posljednjih stotinu godina bio daljnji korak u dosljednoj primjeni subjektivizma.” No kako u većini pojava postoji makar mrvica subjektivizma<sup>1</sup>, zbog čega izdvojiti jedan i dovesti ljude u situaciju da se boje kritike i tresu? Robinsovu analizu ne možemo smatrati definitivnom, zbog toga što se potpuno isto može primijeniti i na restituciju (potpuno obeštećenje, povratak u prijašnje stanje) i na retribuciju (kaznu). Pretpostavimo, na primjer, da je kradljivac morao vratiti ukradeni automobil, ali je potom bio prisiljen oštećeniku dati i svoj automobil. I u ovom scenariju subjektivnost je velika. Jedan ili obojica mogu uživati psihički dohodak iz tih vozila. Uz to, jedan od te dvojice može pridavati veću sentimentalnu vrijednost automobilu od drugog. Ne možemo reći za koliko bi ta sentimentalna vrijednost bila veća, s obzirom da se to ne može mjeriti ni izračunati.<sup>2</sup> Riječ je o tome da Robins

Robins (2012, 67) does not quarrel with forcing the criminal to make restitution to the victim, in an attempt to make the latter “whole;” e.g., returning the stolen property, paying medical bills, etc. Nor does this author cavil at the idea that retribution must take place for criminals, “having their crime visited back on them.” So far, so good.

But what about the fact that the malefactor scared his target; should he not be held responsible, also, for that imposition? Not for this scholar, at least not if the law-breaker is to be forced to play Russian roulette with himself, where the number of bullets and chambers are proportionate to the severity of the crime committed. Why not? Robins (2012, 68) writes: “The first problem arises here: fear and other emotions are subjective: we cannot tell to what degree the victim *was* scared, nor how to equally scare the criminal.”

To be sure, our author is correct in this claim. Fear and other emotions are indeed subjective. Austrian economists go further, and maintain that just about everything in life is well described in this manner.

Stated Hayek (1979, 52-53) “And it is probably no exaggeration to say that every important advance in economic theory during the last hundred years was a further step in the consistent application of subjectivism.” But if there is at least a tinge of subjectivity to most phenomena<sup>1</sup> why single out placing people in fear and trembling for criticism? Robins’ analysis cannot be held to be definitive, for the very same thing applies, also, to restitution and retribution. For example, after returning the stolen car, suppose the criminal is forced to give to his victim an automobile owned by himself. Subjectivity rears its head in this scenario too. One or both of them might enjoy psychic income from these vehicles. And one may place more sentimental value on them than the other. Nor can we say by how much, since these things are not subject to measurement or calculation.<sup>2</sup> The point is, Robins rejects penalties for scaring since they are subjective, but supports restitution and retribution, even though they, too, admit of

odbacuje mogućnost da se kazni zastrašivanje, s obzirom na to da je strah subjektivan, no podržava restituciju i retribuciju, kažnjavanje čina otuđenja, premda su i one podložne subjektivnosti. Autoru ovog članka logika ne dopušta da zauzme vrlo različita stajališta o istim pojavama. Da, “isti *fizički* čin može se provesti nad počiniteljem” (Robins, 2012, 68), no zbog subjektivnosti to može proizvesti potpuno različito ljudsko iskustvo. Kad bi Robins nastavio istom logikom, morao bi također odbaciti restituciju i retribuciju, što on ne čini, jer i one uključuju subjektivnost. Ukoliko subjektivizam unaprijed isključuje zastrašivanje počinitelja kaznenog djela, isto bi trebalo primijeniti kako na restituciju, tako i na retribuciju. U tom slučaju držimo da nikakva kazna nije ni potrebna, što nikako nije libertarijanska pozicija.

Pretpostavimo da netko upadne u vašu kuću, uperi u vas pištolj i ode, a da nije ukrao nijedan predmet. No, lišio vas je dostojanstva i vašeg osjećaja zaštićenosti i sigurnosti. Prema Robinsu, ovdje ne bi bilo opravdano tražiti restituciju i retribuciju, jer vas je počinitelj samo preplašio. Na osnovi subjektivizma, tu nema mjesta kazni. Što god mislili o ovakvoj analizi, ona nije ni blizu libertarijanizma.

Neću reći ni da se to svodi na čisti pacifizam, jer Robins ne razmatra samoobranu ili bilo kakvu drugu obranu. Međutim, ukoliko nastavi istim pravcem ili, pak, ukoliko možemo dovoljno zaključiti iz tog naglašavanja subjektivizma, logično ćemo zaključiti da se tu radi o pacifizmu. Uzmimo sljedeći primjer: zaustavimo li počinitelja prije izvršenja kaznenog djela, možda će njegovi subjektivni osjećaji biti više povrijeđeni nego što bi bili osjećaji žrtve da je njegov napad uspio. Drugim riječima, povrijeđeni osjećaji i fizička povreda napadača koju je zadobio u napadu dok se žrtva branila mogu prevagnuti nad samoobranom žrtve. Subjektivizmu naprosto nema mjesta u kaznenom pravu. Uz to, subjektivizam je također – subjektivan. Kad bi kazneno pravo u velikoj mjeri uzimalo u obzir ovaj fenomen, ne bi moglo funkcionirati. Robins odbacuje kompenzaciju

subjectivism. This author cannot logically be permitted to take very different stances on the same phenomena. Yes, the “same *physical* invasion (may be visited) upon the criminal” (Robins, 2012, 68), but thanks to subjectivism, these may be very different in terms of human experience. He rejects scaring criminals on the basis of subjectivism. Were he to carry through on a logical basis, he would also have to reject restitution and retribution, which he does not do, since they also admit of subjectivism. If subjectivism precludes frightening the perpetrator of crime, it should also do so for restitution and retribution, in which case we embrace the case for no punishment at all, surely not a libertarian position.

Suppose a trespasser comes into your house, waves a gun at you, and departs without stealing any objective item. All he robs you of is your dignity, and your sense of security and safety. According to Robins, no restitution and retribution would be justified, since all the criminal did was scare you, and, thanks to subjectivism, there can be no penalty for that. Say what you will about such an analysis, it is not clear that it can come anywhere close to libertarianism.

I will not say that this amounts to outright pacifism, since Robins does not discuss self or other defense. However, if he pushes hard enough, or we can deduce sufficiently from this emphasis on subjectivism, that is the logical conclusion he must draw. For, who is to say that the subjective feelings of the criminal will not be hurt more by stopping him, than the harm suffered by the victim of this attack? That is, self-defense on the part of the target may be outweighed by the hurt feelings and bodily injury thereby visited upon the attacker. Subjectivism simply has no place in the criminal law; it is too, wait for it, subjective. If the criminal law takes much cognizance of this phenomenon, it cannot function. Robins rejects compensation to the victim based on fear engendered because it is too subjective. But *everything* in life has a subjective element. To dismiss making the victim whole on this margin is to do so on *every* margin.

žrtvi na osnovi pretrpljenog straha, smatrajući da je to suviše subjektivno. No *sve* u životu sadrži element subjektivnosti. Oduzeti žrtvi pravo na potpuno obeštećenje i povrat u prijašnje stanje zbog subjektivne osnove znači oduzeti joj pravo na restituciju po *svakoj* osnovi.

Moje sljedeće neslaganje s ovim autorom je njegova tvrdnja (2012, 69): "... restitucijom se žrtva potpuno obeštećuje". Možda je to u rijetkim slučajevima istinito. Možda se dobrobit svih mazohista povećava kad postanu žrtvom počinitelja kažnjivog djela. No, među običnim ljudima rijetki su oni koji bi voljeli da ih se uznemirava i napada, da se moraju podvrgnuti volji drugoga, čak i kad bi nakon počinjenog djela dobili potpuno obeštećenje, a počinitelj bio kažnjen. To zaista mora biti cilj svakog pravednog zakona, iako se u stvarnosti rijetko može postići.

Robinson (2012, 70) najsnažniji argument protiv teze ruskog ruleta jest neproporcionalnost: kazna nije primjerena počinjenom djelu, nije odgovarala počinjenom djelu, nije proporcionalna djelu: "Ostaje činjenica da (žrtva) nije umrla, pa se tako... gubitak života ne može primijeniti na počinitelja kao naknada." Autor dalje nastavlja (2012, 71): "... kazna za to razbojstvo bila je smrt, što očito nije srazmjerna kazna." Ovo zvuči kao uvjerljiv argument protiv, ali nije. Prvo, nije točno da je "kazna za razbojstvo bila smrt", već je bila "mogućnost smrti". Istina, u tom slučaju, ako je kazna za strašenje žrtve ruski rulet s jednim metkom i stotinu odjeljaka za metke, u dužem razdoblju možemo očekivati da će 1% počinitelja dobiti smrtnu kaznu za relativno manja djela napada, premlaćivanja, silovanja ili razbojstava.<sup>3</sup> Ipak, moramo napraviti distinkciju između: "kazna za ovo razbojstvo bila je smrt" i "kazna za ovo razbojstvo bila je mogućnost smrti". Između to dvoje svakako postoji ključna razlika.

Razmotrimo ipak one rijetke slučajeve u kojima ruski rulet završava smrću. No prije toga stavit ćemo to u kontekst i pretpostaviti da svaki vojnik u vojnim vježbama ponekad dobije mali dio

My next quarrel with this author is his statement (2012, 69) "... restitution makes the victim whole." Perhaps this is true on the rare occasion. And, it may be the case for all masochists that their well-being is improved by being victimized by a law-breaker. But for ordinary folk, it is the rare individual who would not prefer to remain unmolested, rather than being subjugated to another's will even if full restitution and retribution takes place after the fact. Yes, that must be the goal of all just law, but as a matter of reality this can rarely be attained.

Robins' (2012, 70) most powerful arguments against the Russian roulette thesis is disproportionality: the punishment does not fit the crime, did not match the crime, is not proportionate to the crime: "The fact remains that (the victim) did not die, and so no ... loss of life may be justly visited upon the criminal in recompense." Continues this author (2012, 71): "... the penalty for this robbery was death, clearly not a commensurate one..." This sounds like a telling case against the claim, but it is not. First of all, it is not true that "the penalty for this robbery was death." Rather, strictly speaking, "the penalty for this robbery was a chance at death." True, in the event, if the punishment for scaring was Russian roulette with one bullet and 100 chambers, we may expect over the long haul that 1% of criminals will suffer the death penalty for a relatively minor crime of assault and battery, or rape, or robbery.<sup>3</sup> But, still, we must distinguish between saying "the penalty for this robbery was death" on the one hand, and "the penalty for this robbery was a chance at death" on the other. Surely, there is a crucial difference between them.

Let us however consider that rare case when the Russian roulette ends up in a death. But before we do, let us put this matter in context and take note of the fact that sometimes in military practice each of the soldiers is given a small proportion of live ammunition to fire at other members of the same army (Bresnahan, 1999). Why on earth would any rational commander subject his troops

bojeve municije koju treba upotrijebiti pucajući u druge vojnike iste vojske (Bresnahan, 1999). Zbog čega bi uopće ijedan razuman zapovjednik podvrgnuo svoje trupe tako divljačkim i ludim postupcima? Pretpostavimo da će to, dugoročno gledajući, sačuvati više života kad se vojnici susretnu s pravim neprijateljima. Da, nekolicina će vojnika umrijeti za vrijeme tih manevara, ali će zbog tih opasnih vježbi vojnici poboljšati svoju sposobnost da “glavu drže dolje”.<sup>4</sup> Što možemo reći o konkretnom vojniku koji izgubi život tijekom takvog rigoroznog treninga? Ukoliko se cijela operacija izvede pravilno, njegova će smrt sačuvati druge u brigadi. No je li to bilo ubojstvo? Ne može se tako reći, ukoliko je to bila dobrovoljačka vojska. Na isti način je teško složiti se s Robinsovom ocjenom (2012, 71) da su “oni koji su natjerali počinitelja djela da zaigra ruski rulet i tako ga gurnuli u smrt – krivi za ubojstvo”. Proporcionalna pravda zahtijeva da za to umru. Da, ta konkretna smrt bila je daleko od svake proporcionalne kazne, recimo za krađu automobila. Međutim, počinitelj nije bi osuđen na smrt. Bio je osuđen na *lutriju*, u kojoj je jedino gubitak smrtonosan, dok je dobitak zastrašujuć. Kako bi se bolje vojnika moglo istrenirati da “drži glavu dolje”, nego tako da ga se podvrgne bojevoj municiji i mogućnosti da pogine?<sup>5</sup> Slično tome, nema drugog načina<sup>6</sup> ponoviti strah koji osjeća žrtva, nego počinitelju otvoriti mogućnost da doživi stvarno teško zlo, uključujući i smrt. Ako ga to ne osvijesti – ništa drugo neće.

Robins (2012, 69) na problematičan način vidi i odnos između utilitarizma i deontologije. On piše: “Retribucija ima mnoge dobrodošle *utilitarne* kvalitete, poput zastrašivanja, obeshrabrivanja od ponavljanja (u protivnom zločin uvijek ima pozitivnu očekivanu vrijednost), itd. Kao libertarijanci mi tražimo deontološko opravdanje da počinitelj kažnjivog djela iskusi isti agresivni čin koji je izvršio, što proizlazi iz samog tog čina.” Čini se da ovoj tvrdnji nema prigovora. Međutim, na osnovi Robinsovog cjelokupnog rada, ja to tumačim na sljedeći način: “Kao

to such a wild and crazy seeming practice? This is, presumably, because it will save more lives in the long run, when the actual enemy is encountered. Yes, a few of the home team’s soldiers will die during these exercises, but they will be better at “keeping their heads down”<sup>4</sup> because of these dangerous exercises. What can we say about a given specific combatant who perishes under such rigorous training? His death will save others in the brigade, if this is done correctly. But was it murder? Hardly, assuming a volunteer army. In like manner we find it difficult to agree with Robins’ (2012, 71) assessment that “those who forced the criminal to play Russian roulette and so caused his death are guilty of murder, and commensurate justice requires that they die for it...” Yes, this specific death was way over and above any proportional punishment for, say, the crime of car-jacking. However, the criminal was not sentenced to death. Rather, he was sentenced to a *lottery*, where only losing is deadly, while winning is frightening. How else can a soldier be better trained to “keeping his head down” other than by being subjected to live ammunition, and thus a chance of perishing?<sup>5</sup> Similarly, there is no other way<sup>6</sup> of replicating the fear felt by the victim than by perpetrating upon the wrong-doer a possibility that he may come to real grievous harm, up to and including death. If that does not concentrate his mind, nothing will.

Robins (2012, 69) also locates the relationship between utilitarianism and deontology in a problematic manner. He writes: “Retribution has many *utilitarian* salutary qualities such as deterrence, discouragement of repetition (otherwise crime always has a positive expected value), etc.; as libertarians we are concerned with the deontological justification for visiting upon the criminal his aggressive act, which comes from the act itself.” As it stands, this is unobjectionable. I interpret him, however, based upon his overall contribution, as thinking that “as libertarians we are concerned *only* with the deontological justification” since it is surely on



libertarijanci mi tražimo *samo* deontološko opravdanje.” Naime, izvjesno je da Robins samo s tog stajališta ne dopušta da se strah uključi kao čimbenik u odmjerenje kazne koja bi bila spojiva s libertarijanstvom. Nitko ne može prigovoriti ruskom ruletu tvrdeći da rulet neće smanjiti kažnjiva djela. Jedino racionalno stajalište bilo bi – smanjit će, ali to je tek utilitarni argument, nebitan za libertarijanizam.

Kako, dakle, libertarijanci vide odnos između utilitarizma i deontologije? Moramo li potpuno zanemariti utilitarnost i zajedno s Robinsom prigrbiti deontologiju? Ne bih se mogao složiti. Po mom mišljenju, gruba utilitarnost služi kao svojevrсна spona s realnošću. Pretpostavimo, na primjer, da svemoćni Marsovci pošalju zrakom poruku na Zemlju da će raznijeti čitav planet ukoliko netko od nas ne ubije nedužnu osobu, Joea. Ukoliko to ne učinimo, nestat će svi, pa i Joe. Čisti deontološki libertarijanski odgovor bio bi: “Bombardirajte, prokleti bili, vi sramotni, pokvareni Marsovci.”<sup>7</sup> No utilitarni element u libertarijanstvu, a on postoji, inzistira da to nikako ne može biti kraj priče. Mora biti nešto više u toj filozofiji od toga da Marsovcima dopustimo da rade što hoće. Utilitarijanizam ovdje služi da se izbjegne izravno suočavanje s problemom. Zahvaljujući toj filozofiji, *znamo* da ne trebamo, da ne smijemo radosno i pokorno pristati na uništenje cijelog planeta.<sup>8</sup> Moja tvrdnja je da Robins isuviše brzo odbacuje tragove utilitarijanizma iz svoje analize. Deontologija je svakako najbolji dio libertarijanizma. Ako se nešto ne može podvesti pod ovu rubriku – ne spada u libertarijanizam. No utilitarijanizam, bar u ovoj gruboj verziji, ima ovdje svoju ulogu: ukoliko ruski rulet dà vrlo velik utilitarni doprinos smanjenju kažnjivih djela, neophodno je duboko se zagledati u taj problem, a ne ga, poput Robinsa, prezirno odbaciti.

Moj najveći problem s Robinsom (2012) jest što on zapravo tetoši počinitelje kažnjivih djela.<sup>9</sup> Ti necivilizirani barbari krivi su za najgnjusnije moguće ponašanje. Međutim, taj autor podržava restituciju i retribuciju, ali samo za fizičke manifestacije zločinačkog ponašanja. No često

that basis alone that he objects to taking fright into account in designing punishment compatible with libertarianism. No one could object to Russian roulette on the ground that it would not put a crimp in criminality. The only rational view would be that it would, but that this is a mere utilitarian argument, irrelevant to libertarianism.

What, then, is the proper relationship between utilitarianism and deontology for the libertarian? Need we totally ignore the former, and, with Robins, embrace only the latter. I demur. In my view, rough utilitarianism serves as a sort of connection to reality. For example, suppose the all-powerful Martians beam down a message to earth that unless one of us murders innocent person Joe, they will blow up our entire planet, and Joe along with everyone else will perish. The pure deontological libertarian response would be “bomb and be damned, you dirty, rotten Martians.”<sup>7</sup> But, the utilitarian element of libertarianism, and there is one, insists that this cannot possibly be the end of the story. There must be more to this philosophy than to give the Martians the go-ahead. Utilitarianism serves as a sort of fudging device. Thanks to this philosophy, we *know* that we need not, we must not, blithely acquiesce in the entire disappearance of the third planet.<sup>8</sup> My claim is that Robins too quickly dismisses all vestiges of utilitarianism from his analysis. To be sure, deontology is the be-all and end-all of libertarianism. If something cannot pass must under this rubric, it is not libertarian. But, still, utilitarianism, at least in this rough manner, plays something of a role: if Russian roulette will make a very strong utilitarian contribution to reducing crime, we are required to look deeply into it, not to dismiss it as cavalierly as does Robins.

My greatest problem with Robins (2012) is that he is in effect a coddler of criminals.<sup>9</sup> These uncivilized barbarians are guilty of the most heinous behavior imaginable. Yes, this author supports restitution and retribution, but only for the physical manifestations of the felonious behavior. But, often, it is the non-objective

su upravo neobjektivni elementi kaznenog djela najozbiljniji, i to baš oni subjektivni. Razbojnik upadne u vašu kuću, prijete vam pištoljem, zaveže vas, ukrade vaš automobil. U mnogim takvim slučajevima gubitak automobila je najmanje važan dio; važnije je poniženje koje ste pretrpjeli. Bili ste preplašeni,<sup>10</sup> slomljen vam je osjećaj vlastite vrijednosti, izgubili ste povjerenje u svoje sposobnosti, bojite se okoline, bili ste izvan sebe od straha. Ovakvi slučajevi ranjenog samopoštovanja često imaju gore posljedice od bilo kakvog objektivnog materijalnog gubitka. Pa ipak, Robins oslobađa počinitelja kazne za ove ključne elemente. Robins osobno može oprostiti onima koji ga tako oskrvnu, no teško je gledati kako libertarijanska teorija kažnjavanja na takav način ograničava žrtve.

Treba primijetiti da Robins ne nudi nikakva alternativna rješenja kojima bi se počinitelju vratilo ono strahotno što je učinio žrtvi. Robins tako brani ideju da strašenje žrtve ne treba uzimati u obzir kod kažnjavanja počinitelja. Kad pokušavamo u potpunosti obeštetiti žrtvu, zbog čega ne bismo smjeli počinitelju u potpunosti priskrbiti ono što je on priskrbio žrtvi? Bez obzira koliko je subjektivan, strah je tu važan element, element koji Robins u potpunosti zanemaruje.

elements of the crime that are the most serious, yes, the particularly subjective ones. A villain comes to your house, waves a gun at you, ties you up, steals your car. But the loss to you of this vehicle is many cases the least important of the indignities you have suffered. You were scared,<sup>10</sup> your sense of self-worth has taken a beating, you lose confidence in your ability, you are fearful of your surroundings, you were frightened out of your wits. Often, these damages to your self-esteem are far more injurious to you than any objective physical losses. And yet, with regard to these crucially important elements of the outrage, Robins lets off the criminal scott-free. Well, he can personally forgive those who abuse him in this way. But it is difficult to see that libertarian punishment theory must limit victims in any such way.

Note that Robins does not offer any alternative means of visiting upon the perpetrator what he has done to the recipient of his horrid behavior in this regard. He thus defends the notion that scaring should not be taken into account when punishing the criminal. Why ever not, given that we are attempting to make the victim “whole,” trying to do, fully, to the criminal what he did to the victim. Fright, no matter how subjective, is an important element of this, one unjustly ignored by Robins.

## BILJEŠKE

\* *Eminent scholar* i *Endowed chair*, vrlo prestižne titule na američkim sveučilištima, uvedene 1979, koje se dodjeljuju istaknutim redovnim ili izvanrednim profesorima za njihov znanstveni i nastavni rad. Financiraju se iz posebnih fondova. (*Op. prev.*)

<sup>1</sup> Vidjeti o tome Barnett, 1989; Buchanan i Thirlby, 1981; Buchanan, 1969, 1979; DiLorenzo, 1990; Kirzner, 1986; Mises, 1998; Rizzo, 1979; Rothbard, 1979, 1997; Stringham, 2008.

<sup>2</sup> Ne postoje “utili”, odnosno “jedinice sreće”.

<sup>3</sup> Ne postoje “manja” kažnjiva djela. Ona su zaista vrlo ozbiljna. “Manja” su samo u usporedbi s ubojstvom.

<sup>4</sup> I poduzeti druge akcije da se zaštite.

<sup>5</sup> Tekst prenaglašava ovaj problem. Postoje i drugi načini da se to riješi. No, ne može se poreći da je to jedna od metoda za postizanje tog cilja.

<sup>6</sup> I ovdje ponovno prenaglašavamo probleme u tekstu. Svakako su otkriveni i drugi načini odvratanja prijestupnika, na primjer pomoću droge, hipnoze, bilo čega. No, ono što nije sporno jest da će i ruski rulet postići taj cilj. U prošlosti je to vjerojatno bio jedini način da se počinitelju vrati upravo ono što je on učinio žrtvi.

<sup>7</sup> Prvi dio ove fraze podsjeća na čuvenu rečenicu u slučajevima ucjene: “Objavi i budi proklet!” Vidjeti Block (2013).

<sup>8</sup> Za libertarijansko rješenje izazova Marsovaca vidjeti Block (2002, 2004, 2006).

<sup>9</sup> Naravno, u cijelom ovom eseju i Robins i ja usredotočujemo se na prave zločine u kojima ima žrtava: ubojstvo, silovanje, razbojstvo, krađa, palež, otmica itd. Kao libertarijanci svakako se ne bismo zalagali za kažnjavanje čina među odraslim suglasnim osobama u kojem nije bilo žrtava, a tiče se droge, seksa, kockanja i sl.

<sup>10</sup> Čak se i Arnoldi Schwarzeneggeri u svijetu boje biti s pogrešne strane cijevi pištolja.

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<sup>1</sup> See on this Barnett, 1989; Buchanan and Thirlby, 1981; Buchanan, 1969, 1979; DiLorenzo, 1990; Kirzner, 1986; Mises, 1998; Rizzo, 1979; Rothbard, 1979, 1997; Stringham, 2008,

<sup>2</sup> There are no “utils” or units of happiness.

<sup>3</sup> These are not “minor” crimes. They are very serious indeed. They are only “minor” compared to murder.

<sup>4</sup> And taking other evasive action.

<sup>5</sup> The text somewhat overstates the matter. There may be other better ways of doing this. However, it cannot be denied that this constitutes one method of reaching this goal.

<sup>6</sup> Again, we somewhat overstate matters in the text. There may well be discovered other ways of frightening the malefactor, such as with drugs, hypnotism, whatever. But what is not debatable is that Russian roulette will also accomplish this goal, and at least in the past may well have been the only way of perpetrating on the criminal what he did to his victim.

<sup>7</sup> The first part of this phraseology echoes the famous “publish and be damned” in blackmail cases. See on this Block (2013).

<sup>8</sup> For a libertarian solution to the Martian challenge, see Block (2002, 2004, 2006).

<sup>9</sup> Throughout this essay, both Robins and I are of course focusing on real, not victimless crimes: murder, rape, theft, arson, kidnapping, etc. As libertarians, we would certainly not advocate any punishment at all for victimless crimes between consenting adults regarding drugs, sex, gambling, etc.

<sup>10</sup> Even the Arnold Schwarzeneggers of the world are fearful of being on the wrong end of a pistol.



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