# Nine Objections to Steiner and Wolff on Land Disputes

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2003

Some objections to the idea that disputed territories should be auctioned.

In the July 2003 *Analysis*, Hillel Steiner and Jonathan Wolff (**?**) propose a framework for "resolving disputed land claims between competing nations or ethnic groups." The idea is that we should auction off the land, with the loser of the auction getting the money. While this might mean that the richer party will normally end up with the land, and this is normally not thought to be a good thing, if the auction is conducted as they specify "it will turn out that the other party ends up with something which, in the circumstances, it prefers to the land: lots of money."

Actually, it isn't so clear that this is what will result. Let's say we have a particular parcel of land that groups A and B want. They each want it quite strongly, but B has deeper pockets than A, so while A would be prepared to pay 8 for the land, B would be prepared to pay 12. For the auction process to function, there must be a minimum bid increment, I'll say it is ½. Assume that B has just bid 4, A must now choose whether to bid 4½ or accept B's bid. And assume for now that A is not bidding tactically, it only makes a bid if it would prefer to win the auction with that bid than accept B's bid. This assumption will be relaxed below.

So for now, A must decide whether it prefers to be given 4, or to get the land for 4½. Since it values the land at 8, and since it will give up 8½ to buy the land (the 4½ it will pay, plus the 4 it would have received from B) it may well decide to just accept the bid. But now it has ended up with something it definitely does *not* prefer to the land, since it just accepted a bid for 4. There are two assumptions at play here. One is that A doesn't bid tactically, which I shall return to a bit. The other is that how much A will pay for the land is not affected by receiving B's 4. That is, I assume that the marginal utility of money is relatively constant for A over the ranges of money at play in the auction. This assumption might be false if we're dealing with a very large or valuable body of land, but it's not unreasonable in most circumstances. (Space prevents a complete study of what happens if we take the declining marginal utility of money completely into account. Roughly, the effect is that some of my criticisms are *slightly* vitiated.) Now while these assumptions *might* be false, Steiner and Wolff give us no reason to be certain they are

false. So for all they've said we could have a situation just like this one, where the poorer party ends up with something it wants much less than the land. Hence

> **Objection 1**. There is no guarantee that the losing party will end up with something they prefer to the land.

While this contradicts an alleged benefit of Steiner and Wolff's plan, it might not be thought to be a deep problem. After all, A gets half as much as they wanted, and if they are only one of two equal claimants to the land, then this is a fair result. This *may* be true, but note that the assumption that each party has an equal claim to the land is doing a lot of work here. If A's claim is stronger, then only getting half of the value of the land is quite unfair. If the two claims are incommensurable, there may be no fact of the matter whether it is fair that A receives 4. If we cannot tell which of the moral claims is stronger, which is very often the case in land disputes, it may be impossible to tell whether A's receiving 4 is fair or not. Hence

> **Objection 2**. The proposal is only appropriate where each party has a genuinely equal moral claim to the land. This doesn't happen often, and it is quite rare that we know it happens.

While Steiner and Wolff note that they are leaving questions about enforcement and compliance to another place, so it isn't fair to press them too strongly on these topics, it is worth noting how this feature of their proposal makes compliance harder to enforce. If by participating in the auction both parties are tacitly agreeing that the other party has an equal claim to the land, and I think the above suggests they are doing just this, that will reduce the legitimacy of the auction process in the eyes of members of the losing group. And that will lead to enforcement difficulties down the line.

There is an administrative problem lurking around here. Since each party will end up with something from this process once the auction begins, we must have a way of determining whether the competing claims warrant an auction, or whether one party should receive the land, or whether some kind of negotiation is possible. And once we set up a process to do that, it could easily encourage relatively spurious land claims. Unless there is a serious cost to suggesting that one should be party to an auction of some block of land, there is a large incentive to get into these auctions wherever and whenever possible. Perhaps some method could be designed to offset this incentive, and perhaps even the desire groups have to be approved by the court of public opinion will offset it at times, but it seems to be a problem with the proposal as formulated.

To be sure, if A accepts B's bid, then both parties do end up with *something* from the auction. A gets 4, and B gets some land that it values at 12 for 4, a gain of 8. Note that B does much better out of the auction than A. If the auction stops when the richer party makes a bid at or above half the price the poorer party would pay, then the richer party will always end up with a higher 'utility surplus'. Hence

> **Objection 3**. If there's no tactical bidding the utility surplus is given entirely to the richer party.

Let's relax the assumption that A does not bid tactically. Indeed, let's make things as good as could be realistically expected for A. It knows that B values the land at 12 and does not bid tactically, so B will make bids up to 6, and accept any bid over 6. Hence the auction proceeds as follows: A bids 4½, B bids 5, A bids 5½, B bids 6, A accepts. Now things *could* go better for A, but it would require some luck and courage. A could bid 6½ and B could reply with a bid of 7, but since this requires B acting against its own interests (it is better off accepting the bid of 6½ after all), and hence also requires A making a risky move that will only yield dividends only if B acts against its own interests in just this way, such an outcome seems unlikely. So in practice the best case scenario for A is that B pays 6 for the land. In this case A ends up with 6, and B ends up paying 6 for land it values at 12, a gain of 6. Hence

> **Objection 4**. Among the realistic outcomes, the best case scenario for the poorer party is that it ends up with as large a utility surplus as the richer party.

Best cases don't often happen, so in practice we should normally expect a result somewhere between the 'no tactical bargaining' option, where B receives a larger share of the surplus, and this 'best case scenario' where the two parties get an equal share of the surplus. Hence in almost all cases, the richer party will get a larger surplus than the poorer party. This seems like a flaw in the proposal, but worse is to come. Most of the ways in which B can realistically increase its share of the surplus involve behaviour that we should not want to encourage.

Consider again A's decision to reject the bid of 5 and bid 5½. Assume, for simplicity, that A plans to accept a bid of 6, but drop the assumption that A knows that B will reject a bid of 5½, if it is made. So before A makes its decision, there are three possible outcomes it faces:

> *Accept the Bid*: In this case it receives 5.
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> *Bid 5½* and have it accepted: In this case it gets the land (value 8) for 5½, net gain 2½.
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> *Bid 5½* and have it rejected: In this case B bids 6, and A accepts, so it gets 6.

A's expected utility is higher if it bids 5½ rather than accepts B's bid iff its degree of belief that B will bid 6 is over $\frac{5}{7}$. If it is less confident than that that B will bid 6, it should accept the bid of 5. As it happens, B *is* going to reject a bid of 5½ and bid 6, so it is better off if A accepts the bid of 5. If A knows B's plans, this will not happen. But if A is ignorant of B's intentions, it is possible it will accept the bid of 5. Indeed, since A's confidence that B will decline must be as high as $\frac{5}{7}$ before it makes the bid of 5½, it might be quite likely in this case that A will just accept the bid.

Not surprisingly, we get the result that B is better off if its bargaining plans are kept secret than if they are revealed to A. That in itself may not be objectionable. But remember that the agents here are not individuals, they are states. And the decisions