Ino Augsberg's comment – a few remarks

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When we take a close look at a potentially interesting research object, we always realize that it is part of a web of symbiotic relationships. It is impossible to investigate all these relationships simultaneously. In order to conduct meaningful studies, we have to isolate one, or a few, features of the phenomenon at a time. From there, we can add such new knowledge to the already accumulated knowledge of the phenomenon, which in turn may lead to better insights into the web of relationships as a whole.

What it means to be the more energized perspective for study, i.e. what part of a phenomenon it is suitable to pick out and isolate for a deeper study, depends on many heterogeneous parameters (time, place, tradition, individual experience, etc.). For instance, when you repeatedly realize, both in the courtroom and in legal texts, how sensitively people tend to react to property interventions, the phenomenon stands out as an interesting research object. Independent of how you may view the purpose of the law – as a governing process, as a guaranty for human integrity, or as something else – it must be an advantage for the actors in the legal system to strengthen their knowledge of how people tend to react to the system's fundamental concepts. It is not radical to claim that the legal system could benefit from knowledge pertaining to how people reason. And as I read Ausberg's comments, he also grants legal relevance to knowledge generated in the life sciences and behavioral economics.

The ways in which we comprehend such knowledge as relevant for a normative system like the law is a question of how we valuate different factual consequences. Take an expression like this: "We ought to shape property law in a way that acknowledges fundamental human needs for stable and durable protection for possessions." One standard pro argument for such a statement is: "It will reduce the use of force needed to implement the law". One standard contra argument against such a statement is: "It will lead to fewer opportunities for distributive justice." In this case, the relevance of the argument depends on how different people value the outcome if the different arguments are realized. It is presumable, though, that most of the participants in the legal debate will find the first argument of some relevance. Accordingly, an investigation of the validity of the argument in different situations should also be of benefit.[1]

My text shows how "individual-psychological" findings in life science and behavioral economics may lead to a more differentiated view on how people comprehend various situations of possession. The analysis leads to a gradual model, questioning the strength of the "individual-psychological" argument in significant areas of the law. In short, the model deals with the differing degrees of significance that can be attributed to arguments derived from the possessor-object dimension relative to the arguments derived from the third parties-object dimension. This necessarily recognizes, not excludes, other arguments when we are confronted with a legal property problem. Augsberg seems to lose sight of this, as he is instead occupied by describing the model as "uncompromising essentialism" with a "narrowed perspective." I welcome "sociologically and social historically-oriented" arguments, as Augsberg calls for, along with all other valid and relevant arguments, both in discussions of property and in other areas of the legal sphere. During such discussions we should not claim any knowledge to be concrete, nor deny the possibility of multiple answers to a given problem, but rather give due consideration to every valid and relevant argument.

1 I here use the concepts of 'relevance' and 'validity' for normative arguments in accordance with *Arne Naess*, Communication and Argument: Elements of Applied Semantics (translated from the Norwegian by Alastair Hannay, revised and edited by Harold Glasser in cooperation with the author and with assistance from Alan Drengson), in: Harold Glasser (series editor), The Selected Works of Arne Naess, Volume VII (Dordrecht, 2005), pp. 84–95. For readers who master the Scandinavian languages, a discussion of the applicability of Naess' concepts to legal arguments is brought forward in *Geir Stenseth*, Om "relevans" og "vekt" – men manglende "holdbarhet" – for juridiske argumenter, Lov og Rett (Norwegian legal journal) 2003, pp. 131–145.