

# Eleutheric-Conjectural Libertarianism: a Concise Philosophical Explanation

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## Abstract

*The two purposes of this essay. The general philosophical problem with most versions of social libertarianism and how this essay will proceed. The specific problem with liberty explained by a thought-experiment. The positive and abstract theory of interpersonal liberty-in-itself as 'the absence of interpersonal initiated constraints on want-satisfaction', for short 'no initiated imposed costs'. The individualistic liberty-maximisation theory solves the problems of clashes, defences, and rectifications without entailing libertarian consequentialism. The practical implications of instantiating liberty: three rules of liberty-in-practice, 1) initial ultimate control of one's body, 2) initial ultimate control of one's used resources, 3) consensual interpersonal interactions and resource transfers. These rules are economically efficient and maximise general want-satisfaction. Private property and legal remedies are additional practical institutional aspects, but to which 'initiated imposed costs' then apply prima facie. Libertarian law is often mistaken for complete libertarianism. Moral explanations are a separate issue. The three main moral theories imply libertarianism, but it can be morally posited independently of them. Critical rationalism and its application. No empirical or argumentative support for theories. An important ambiguity with 'justification'. How the epistemology applies to the theory of liberty and its application but remains separable in principle. Conclusion: there are further published explanations but this should be enough to generate useful criticism. Appendix replying to some comments.*

**Key words** *libertarianism, liberty, theory of liberty, critical rationalism, property, law, legal remedies, morality*

## Introduction

This essay has two main purposes. First, to explain a particular philosophical theory of social liberty in a far more precise and concise manner than has been achieved hitherto: it contains all of the main elements made much clearer compared to the three earlier books<sup>1</sup> and various additional articles, plus some important new elements. This appears to be needed because less-focussed and longer explanations of it have evoked some confusion about what the theory is really asserting and how the various parts fit together. In any case, the theory has partly become clearer in response to the criticisms that it has so far received.<sup>2</sup> Second, this explanation is intended to encourage further and more relevant criticisms.

## The general philosophical problem and its general solution

The central social-libertarian insight is that private property both protects people and their projects and promotes productivity for all. However, orthodox private-property libertarianism is severely philosophically confused. It conflates theories of rights, property, consequences, and so-called 'supporting justifications'. And this is all done without an explicit theory of liberty: an eleutherology (from 'eleutheria', an Ancient Greek term for, and personification of, liberty). This is as absurd as if utilitarianism were to have no explicit theory of utility.<sup>3</sup>

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<sup>1</sup> Lester, J. C. *Escape from Leviathan: Libertarianism Without Justificationism* (Buckingham: The University of Buckingham Press, [2000] 2012); Lester, J. C. *Explaining Libertarianism: Some Philosophical Arguments* (Buckingham: The University of Buckingham Press, 2014); Lester, J. C. *Arguments for Liberty: A Libertarian Miscellany* (Buckingham, England: The University of Buckingham Press, [2011] 2016).

<sup>2</sup> Strictly speaking, even the slightest elaborations of a theory or attempts to make it more precise could be said to produce what logically must be a different, if very similar, theory. But, loosely speaking, it is convenient to refer to it as fundamentally the same theory unless and until one of its crucial aspects is jettisoned, or radically reinterpreted, or overwhelmed by some important new addition. And none of these things appears to have occurred.

<sup>3</sup> In fact, it has several: pleasure, happiness, and preference-satisfaction are the three main contenders.

Therefore, this essay first gives a very brief explanation of a positive<sup>4</sup> theory of abstract liberty (liberty-in-itself) and what it generally and normally entails if applied (liberty-in-practice). This is philosophically deeper than theories of libertarianism that start with proprietarian<sup>5</sup> or normative<sup>6</sup> assumptions, or which merely list things libertarianism is supposed to be about<sup>7</sup> (however accurate, as far as they go, these approaches may sometimes be). There is then a brief explanation of critical-rationalist epistemology and how it applies. These two, logically independent, parts comprise eleutheric-conjectural libertarianism: the full solution to the general philosophical problem.

## **Abstract liberty, its stages of practical application, and morality**

### *The specific philosophical problem with liberty*

Libertarianism—and classical liberalism generally—entails (or presupposes) a specific, but implicit, conception of liberty.<sup>8</sup> Imagine two lists of property-rights: one list is all those that currently appear to be<sup>9</sup> libertarian (self-ownership, property acquired by use of natural resources, property acquired by consensual exchange, etc.); the other list is all those that currently appear not to be libertarian (aggressively imposed slavery, property acquired by theft or fraud, property acquired by coerced transfers due to welfare claims, etc.). What determines into which list a property-right is to be assigned? If libertarianism is really about liberty, then the determining factor must be whether the property-right somehow fits what liberty is in a more abstract sense than property. It greatly clarifies matters to have an explicit theory of this entailed conception of abstract liberty and how it relates to its practical application and to morality.

### *The abstract theory of interpersonal liberty*

‘Liberty’ in its general sense means ‘absence of constraint’ (a relevant contrast to ‘constraint’ is ‘assistance’). The issue here is interpersonal liberty: the absence of constraints on people by each other (not any natural constraint, whether *intrapersonal* or external). But what is it, most generally, that we want other people not to constrain? That general thing appears to be the satisfaction (i.e., fulfilment or achievement, *not* a psychological sensation) of our wants, or preferences, themselves. However, simply failing to assist someone’s want-satisfaction (not providing a benefit or gain) is not equivalent to initiating a constraint on that want-satisfaction (initiating a cost or loss). Therefore, this abstract liberty can be theorised as ‘the absence of interpersonal initiated constraints on want-satisfaction’. But for brevity we may use ‘no (initiated) imposed costs’ to mean the same thing.<sup>10</sup> This also solves the problem of what, in abstract principle, constitutes ‘(inflicted) harm’ from a libertarian viewpoint. This eleutherology is the theory of abstract perfect, or complete, interpersonal liberty-in-itself that libertarianism implicitly presupposes. This is a descriptive *theory* of libertarian liberty that is falsifiable by counterexample or sound criticism (e.g., showing that it is somehow incoherent, or that it cannot explain some aspects of libertarianism, or that another theory of liberty fits libertarianism better). It is not a definition (as the non-philosophical, in particular, may mistakenly view it), whether stipulative, persuasive, or about usage. However, any theory can also be used as a definition.

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<sup>4</sup> As opposed to the philosophical sense of ‘normative’: referring to morals and values.

<sup>5</sup> See, for instance, the many publications by Walter Block.

<sup>6</sup> As is famously the case in Nozick, R. *Anarchy, State, and Utopia* (Oxford: Basil Blackwell, 1974): “Individuals have rights, and there are things no person or group may do to them (without violating their rights)” (p. ix).

<sup>7</sup> E.g., Zwolinski, M. “Libertarianism”, *Internet Encyclopedia of Philosophy* (undated): “libertarians are generally united by a rough agreement on a cluster of normative principles, empirical generalizations, and policy recommendations” (a list of eight examples then follows).

<sup>8</sup> There will be no discussion of non-libertarian theories of liberty and how they might relate to property, or to its absence. That would be a digression, and probably a lengthy one.

<sup>9</sup> It is as they “currently appear to be” (rather than, dogmatically, ‘what they certainly are’) because it may be necessary to revise or qualify our lists to some extent once we arrive at an explicit theory of liberty.

<sup>10</sup> For a long time ‘proactively imposed cost’ has been used instead of the original ‘initiated imposed cost’ (and with ‘initiated’ usually being implicit). However, to some readers ‘proactive’ appears to connote intention, knowledge, or foreseeability of the consequences. As none of these things is meant to be implied, this essay uses ‘initiated’ as being slightly clearer. See the original article: Lester, J. C. 1997. “Liberty as the Absence of Imposed Cost: The Libertarian Conception of Interpersonal Liberty.” *Journal of Applied Philosophy* 14 (3), pp. 277-288.

### *The individualistic liberty-maximisation theory*

There are three general theoretical problems with applying this account of perfect liberty: clashes, defences, and rectifications. 1) What if our want-satisfactions clash? I want to do something which, unintentionally, would initiate imposed costs on you (e.g., my starting a fire would cause you obnoxious and hard-to-avoid smoke), but to stop me would also initiate imposed costs on me (I want a fire for warmth and cooking). The most libertarian option is to minimise overall initiated imposed costs, with situation-specific compromise or compensation. Thus, we see the error in assuming that libertarianism is absolutist: that individual liberty can always be perfect and without any infractions. 2) How far can one go to defend oneself from initiated imposed costs? Not so far as to initiate them by overall exceeding any that are threatened (e.g., putting landmines in one's garden to stop children using it as a shortcut). 3) If an initiated imposed cost occurs, then what would rectify it? Restitution matching the degree of cost,<sup>11</sup> including retributive-restitution and any risk-multiplier proportional to the chance of evading rectification.<sup>12</sup> Therefore, we see that some broad interpersonal comparisons of normal initiated imposed costs are sometimes necessary to solve these problems. But these three solutions are only about the liberty of the people directly affected, although that could be indefinitely many people. They do not amount to collective libertarian consequentialism (with the local-knowledge problem and perverse incentives probably causing self-defeating unintended consequences). This is an individualistic liberty-maximisation theory.

### *The immediate practical implications of instantiating liberty*

If such liberty were to be observed in a state of nature, then what general things would this entail? Primarily, people want to have initial ultimate control of the bodies that they more or less are. They do not initiate imposed costs on other people by having this, unless trivially and reciprocally by merely existing and being composed of resources now unavailable to other people. Therefore, liberty-maximisation entails that they have this initial ultimate control of their bodies. Next, people want to have initial ultimate control of any unused resources they start using, and thereby closely involve in their want-satisfactions (the resources they use for clothing, tools, habitation, etc.). They do not initiate imposed costs on other people by having this, unless trivially and reciprocally by their chosen use and those resources now being unavailable to other people. Therefore, liberty-maximisation entails that they have this initial ultimate control of their used resources. Otherwise, and consequently, all interpersonal interactions and resource-transfers need to be consensual or they are likely to significantly initiate imposed costs. These three principal, positive, *prima facie*, libertarian rules of liberty-in-practice fit abstract liberty-in-itself almost perfectly. They maximally internalise externalities with respect to want-satisfaction, and are thereby economically efficient (in the sense of maximising general want-satisfaction). To break any of these three positive rules infringes interpersonal liberty *prima facie*. However, problematic cases may require the abstract or maximisation theory.

### *Private property and legal remedies are additional aspects*

In a hypothetical world of perfect libertarians, those three practical rules and three solutions to application problems might be enough for libertarianism to function. But in order to better protect and promote liberty-in-practice in the real world, these positive rules and solutions can be instituted as enforceable private property<sup>13</sup> and legal remedies. As a result—strictly speaking—self-ownership, such private property, and such legal remedies are not *inherently* liberty-in-itself or even liberty-in-practice (as propertarian theories of libertarianism sometimes appear to assume<sup>14</sup>). Otherwise, we risk conflating liberty and property into an unfalsifiable theory (or even a mere stipulative definition). Nevertheless,

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<sup>11</sup> Within reasonable limits to deal with exaggerated claims, the pathologically passionate, and to stop the (self-defeating) evolution of “utility monsters”; on which, see Lester [2000] 2012, pp. 65, 69, 77, 159, 160.

<sup>12</sup> See Lester, J. C. “[Libertarian Rectification: Restitution, Retribution, and the Risk-Multiplier.](#)” *Journal of Value Inquiry* 34 (2/3): 287-297 (2000).

<sup>13</sup> One added sophistication is similarly derivable intellectual property. See Lester, J. C. “[Against Intellectual Property: a Short Refutation of Meme Communism](#)” and “[Intellectual Property, the Non-Aggression Principle, and Pre-Propertarian Liberty: New-Paradigm Libertarian Replies to some Rothbardian Criticisms](#)” (both in Lester [2011] 2016).

<sup>14</sup> Many publications by Walter Block say they are about libertarianism and liberty, but property-rights appear to be placed first and last with libertarianism being held to be a theory of law.

once libertarian legal principles have been thus derived, then ‘initiated imposed costs’ can normally be interpreted in terms of breaching them: there is no need to return to the abstract theory and pre-legal implications except for philosophically problematic cases. This is why private-property libertarianism alone has so much intuitive verisimilitude and cogency; and it is, therefore, sometimes mistaken for the necessary and sufficient totality of libertarianism.

### *Moral explanations are a separate issue*

It is a further completely separate and normative matter whether this overall positive system of liberty-in-practice is moral, just, rights-observing, valuable, etc. Only after deriving the positive account is it possible to ask normative questions about it. As a result—strictly speaking—self-ownership, such private property, and such legal remedies are not *inherently* moral, just, rights-observing, valuable, etc. (as moralised theories of libertarianism sometimes appear to assume<sup>15</sup>). Otherwise, we risk conflating libertarian property and morality into an unfalsifiable theory (or even a mere stipulative definition). Nevertheless, correctly interpreted—philosophically and empirically—deontology, consequentialism, and contractarianism (the three main moral theories) all point towards libertarian liberty-in-practice as the outcome: the real top of Derek Parfit’s moral mountain.<sup>16</sup> However, libertarianism can simply be morally posited and defended in itself without requiring that it follow from any allegedly more-fundamental moral theory.

### **Critical-rationalist epistemology and its application**

As critical rationalism explains, there are no ‘supporting justifications’.<sup>17</sup> Empirical theories have infinite implications, which finite and theory-laden evidence logically cannot support but can test. A counterexample, if true, logically refutes a theory (but all within the realm of provisional conjecture). So-called ‘supporting arguments’ face a trilemma: infinite regresses, or circularities, or dogmatic (‘axiomatic’) starting assumptions. Arguments are really conjectural explanations. Hence libertarianism, like all theories, is unjustifiable in the sense of unsupported. However, it can still be conjecturally explained and defended (and criticised and tested), both philosophically and social scientifically. And this needs to be in terms of theory, practice, and morals: three quite different things. Then, if it survives scrutiny, it can be a critically-preferred conjecture; rather than, at the other extreme, an uninformed, inchoate, and untested conjecture.<sup>18</sup>

Therefore, libertarianism can only be provisionally squared (or ‘justified’: a non-foundationalist homonym) with all currently known tests and criticisms. We might even say that a ‘supporting justification’ is logically impossible but a ‘squaring justification’ is provisionally possible. As even philosophers often conflate the two—and, therefore, think both senses are being rejected—that is one reason they might find critical rationalism baffling or even absurd. But if a heliocentrist need not eschew the use of ‘sunrise’ and ‘sunset’, then, *a fortiori*, a critical rationalist could in principle use ‘(squaring) justification’. However, unlike with heliocentrism, there is still a real risk of confusion or equivocation. And so promiscuous use of even the squaring sense is probably best avoided.

Consequently, the abstract theory of liberty, the stages of application, and their connections involve conjectural explanations that remain always open to potential criticism and testing. In principle, of course, one could adopt the abstract theory and its implications but reject critical-rationalist epistemology. That is why it is possible to explain the abstract and practical theory of liberty without mentioning epistemology.<sup>19</sup> And this was partly done here because there is a risk of conflating the two, or not clearly seeing the theory of liberty and its implications because of confusion about the

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<sup>15</sup> As we see in *Anarchy, State, and Utopia* (op. cit.).

<sup>16</sup> *On What Matters: Volume One* (Oxford University Press, Oxford, 2011), p. 419: “These people are climbing the same mountain on different sides”.

<sup>17</sup> For detailed explanations of critical rationalism see, for instance, Popper, K. R. *Conjectures and Refutations* (London: Routledge & Kegan Paul [1963] 1978) and Miller, D. W. *Critical Rationalism: A Restatement and Defence* (Chicago and La Salle, Ill.: Open Court, 1994).

<sup>18</sup> The idea that a theory can, at least, be ‘corroborated’ seems to be a justificationist error: for ‘corroborate’ means ‘support’ (etymologically, ‘strengthen’). But if a theory survives our best tests and criticisms, then it is logically coherent to ‘critically prefer’ it and conjecture that it might be true (i.e., it accurately describes or depicts).

<sup>19</sup> However, critical rationalism fits libertarianism in a variety of ways; although Karl Popper himself drew different conclusions: see Lester, J. C. [“Popper’s epistemology versus Popper’s politics: A libertarian viewpoint.”](#) *Journal of Social and Evolutionary Systems*, 18 (1): 87-93 (1995).

epistemology and its role. But if one does separate them, then one would still be left with the logically impossible task of attempting to provide ‘supporting justifications’.<sup>20</sup>

## Conclusion

This is conjectured to be a complete philosophical theory of social libertarianism, in outline at least. That is, its application offers solutions to all of the philosophical problems of social libertarianism that have been discussed in the literature *ad nauseam*. But its relatively heterodox and somewhat complex approach appears to be a barrier to understanding it or to taking it seriously. Perhaps this short essay can help to dispel some of the misunderstandings and dismissiveness. As a concise explanation, it is ineluctably philosophically terse. It thereby risks being opaque in at least some places, or suggesting obvious questions or criticisms that it does not answer. Fortunately, there is a more-detailed philosophical essay on this liberty-centred and critical-rationalist theory.<sup>21</sup> There is also an earlier book that goes into far more detail.<sup>22</sup> That initial book raises many additional and peripheral issues, but it often expresses the arguments with less clarity than has subsequently been possible (in light of receiving and responding to further criticism). Consequently, there are two further books—so far—with elaborations and defences.<sup>23</sup> However, there should be more than enough of an explanation here to stimulate criticisms. And some of those criticisms, whether by chance or skill, may reveal new unsolved problems, or even be partial or complete refutations.

## Appendix: replies to some comments

It has become apparent over the years that it is difficult to bring even libertarian philosophers to a broad understanding of this philosophical theory of libertarianism, or to understand that they do not yet understand it, or even to criticise it. The following comments (indented) are quoted on the basis that they do not appear to be unusual, and that the replies might help to alleviate the situation. Perhaps the greatest problem, but also the most easily solved, is that reviews often fail to quote the actual text or even to read it attentively. Instead, they criticise their own impressionistic interpretation or a few words taken out of context.

### *Quotations from “Comments to author” 1*

The first comments have oversights in reading but they are relevant and carefully thought-out.

First, I would put upfront that the piece is a concise summary of a view that has been elaborated at greater length elsewhere. I think it would really help readers figure out how to approach the article.

It is not only a “concise summary”, it is also far more precise than explained elsewhere. And both these points are now in the introduction: “to explain a particular philosophical theory of social liberty in a far more precise and concise manner than has been achieved hitherto”.

Second, even knowing that this is a sketch deriving from a larger work, ...

It is not “a sketch deriving from a larger work”. Now added: “it contains all of the main elements made much clearer compared to the three earlier books and various additional articles, plus some important new elements”.

... I don’t understand why the section about critical-rationalist epistemology was included at the end. I would say either to eliminate it, as I think it was answering a question I can’t see many people raising, or explain why that section is included.

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<sup>20</sup> See Lester, J. C. 2017. [“Arguing with ‘Libertarianism without Argument’: Critical Rationalism and how it applies to Libertarianism.”](https://philpapers.org/rec/LESAWQ) (https://philpapers.org/rec/LESAWQ).

<sup>21</sup> See Lester, J. C. [“The Heterodox ‘Fourth Paradigm’ of Libertarianism: an Abstract Eleutherology plus Critical Rationalism.”](#) *Journal of Libertarian Studies*, 23: 91-116 (2019).

<sup>22</sup> Lester [2000] 2012.

<sup>23</sup> See the relevant chapters in Lester 2014 and, to a lesser extent, Lester [2011] 2016.

It is somewhat mysterious that some reviews cannot understand the relevance of critical rationalism. The article itself explains both it and its relevance. First, the philosophical theory itself is “*eleutheric conjectural* libertarianism”: the “conjectural” part refers to critical rationalism. So, it would be an obvious omission not to explain it. But the explanation was placed at the end just to emphasise, as is stated in the article, that it is ‘only’ the epistemology and not part of the theory of *liberty* itself (as some criticisms err into assuming, despite explicit explanations to the contrary). The critical-rationalist approach is needed to explain why mainstream accounts of libertarianism must be mistaken in asserting that they are, or ever could be, ‘supporting justifications’ (or words to that effect). But it is also included to explain that the philosophical theory of liberty is not itself intended to be any kind of ‘supporting justification’ for libertarianism (as some criticisms err in assuming, despite explicit explanations to the contrary).

Third, I have questions about the content of the article, though I hesitate somewhat to ask them, as your answering them is something you have probably done elsewhere. Thus, I don’t want to waste your time.

Questions, comments, and criticisms are rarely a waste of time. At worst, they can indicate possible unclarity in the text that may need to be remedied. At best, they may be—or at least suggest—refutations.

On page 2, you write, “Imagine two lists of property-rights: one list is all those that are libertarian; the other list is all those that are not.” It would be helpful if examples of property-rights were given.

Some are now added. It had initially seemed best not to give such lists, as that might seem to suggest that doing so is unproblematic; so why is there a real problem? But that is now explained better in the article. And for readers with little or no grasp of libertarianism it might help to give the general idea.

E.g., “rights to that which you mix your labor with” – would that be an example of a property-right (presumably, on the libertarian side of the ledger)?

Yes, but “mix your labor” is a metaphor: there is no ‘labour substance’ that we literally “mix” with natural resources. It is clearer to be literal. We do modify and use natural resources. ‘Modify’ is a literal counterpart to “mix your labor”. However, it does not appear to be necessary or sufficient for a libertarian claim to property; unlike ‘use’.<sup>24</sup>

And “rights to enough material possessions so that you can meet your basic needs” – would that be an example of a property-right too (presumably on the non-libertarian side of the ledger)?

Yes, but we can’t always meet all of our “basic needs”; that is why we must eventually die (given current science and technology, at least). And potential medical interventions to meet “basic needs” to live only slightly longer often become overwhelmingly expensive as people approach their deaths. Hence, property claims based on ‘welfare’ might be clearer.

And what of those people who claim to believe in liberty, but who say “all property is theft”? Do they (nonetheless) believe in what you would call property rights (e.g., the right to use any material you find for your own purposes, as long as it respects other people’s projects, or whatever it is such people believe)? In other words, this is a request for clarification.

Perhaps this new footnote is an adequate clarification: “There will be no discussion of non-libertarian theories of liberty and how they might relate to property, or to its absence. That would be a digression, and probably a lengthy one”.

On page 3, you write, “Therefore, this abstract liberty can be theorised as ‘the absence of interpersonal proactively-imposed constraints on want-satisfaction’. But for brevity we may use ‘no proactively imposed costs’ or simply ‘no (proactive) impositions’. This also solves the problem of what, in abstract principle, constitutes ‘inflicted harm’ from a libertarian viewpoint.” I think the word “proactive” is supposed to be doing a lot of work.

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<sup>24</sup> See the section “My Comment on Lester’s Q&A2” in Lester, J. C. 2021. “Libertarian Philosophy versus Propertarian Dogma: a Further Reply to Block” *MEST Journal* 9 (1), pp. 117-118.

As the text now shows, and explains, this has been changed. ‘Proactively’ was supposed to be slightly clearer than the original ‘initiated’. The proactive-reactive (or initiate-respond) distinction explains how not all ‘constraints on want-satisfaction’ limit interpersonal liberty. Reactive or responsive constraints can rectify previous proactive or initiated ones. No one word bears the bulk of the burden of the theory: they are all required for the theory to make sense. Some very useful comments from David Burns, in email communications, have criticised the adequacy of each significant word within the theory (and in its various versions). But on each occasion, the criticism appeared to be taking the word out of the context of the whole theory. Each word modifies the others.

Imagine the following: I want person P to fall in love with me. P doesn’t want to fall in love with me. Is P constraining my want? Am I constraining P’s?

As it stands, this is not well-formed and clear enough to answer. There are several complicating factors that would better be dealt with in separate and simpler examples. Is this to assume that love is a choice (that “P doesn’t want”)? That does not seem true, and so the apparent counterfactual adds an unnecessary complication. Also, not giving wanted love must mainly—but not entirely—be failing to benefit someone. And is this to assume a scenario that is pre-propertyarian/act-libertarian (before self-ownership) or propertyarian/rule-libertarian (with self-ownership)? Why is this even asking about “constraining [a] want” rather than, from the theory of liberty, whether there is any *proactive* or *initiated* constraining of want-*satisfaction*?

I’m guessing you would say, “P’s not wanting to fall in love with you is not a proactively imposed cost. Instead, it’s a reactively imposed cost, which doesn’t count as a violation of your liberty.”

We can adapt the example to be somewhat more precise, clear, and realistic: to be made less want-satisfied either by unrequited love or unwanted love. Then, a libertarian pre-propertyarian scenario appears to imply this: in each case the existence of the other person proactively imposes a cost (or initiates an imposed cost); but there may be nothing that can be done in either case without proactively imposing to a greater extent. However, a libertarian propertyarian scenario appears to imply this: once self-ownership, etc., is derived (as being liberty-maximising rules), proactive/initiated impositions are only counted when they flout libertarian property or legal remedies, which they don’t do here.

But what about the following: my want is for P to be unhappy, and P knows this, and P also wants me to be unhappy, and one of the ways P can make me unhappy is by seeming happy? [...] In this case, wouldn’t P’s wanting me to be unhappy, and so appearing to be happy, constitute a proactive imposition of a cost?

Don’t try to run before you can walk. It is a bad idea to attempt deliberately difficult and multi-part problems before clarifying the solutions to simpler and separate problems. And are we supposed to assume a pre-propertyarian or a propertyarian scenario? Enough should already have been said to leave the problem as an exercise.

On page 3, you write, “[...] The most libertarian option is to minimise overall proactive impositions, with situation-specific compromise or compensation [...]” Here I ask: why is the most libertarian option to *minimize* overall proactive impositions?

*Ex hypothesi*, we have clashing proactive (or initiated) impositions. The closest we can approximate to liberty is to minimise them, i.e., maximise liberty. How could this not be “the most libertarian option”? (And, realistically, it might well *maximize* overall impositions to place all of the loss on one side.)

That sounds consequentialist to me. Don’t get me wrong, a libertarian theory could, for all I know, be one that maximizes overall liberty within a society (or that minimizes liberty-infringements), but why that? Why not something more deontological?

There is confusion about the theory here. Maximising liberty in the event of a clash between individuals, is not a direct attempt at maximising liberty *collectively* in society (although it probably does have this outcome). As the article explicitly says, this does “not amount to collective libertarian consequentialism”. And, of course, the theory of liberty and its application is not itself a moral one.



Nevertheless, the theory does have what might be called a ‘deontological structure’: liberty is protected and promoted by normally adhering to the derived legal property rules and remedies. If these legal rules and remedies appear to fail to promote liberty, then we resort to the “abstract theory of interpersonal liberty” and the “individualistic liberty-maximisation theory”. But this is always to resolve clashes among individuals and not to maximise liberty by sacrificing the liberty of some people solely in order to increase the liberty of other people.

On page 4, you write, “Therefore, we see that some broad interpersonal comparisons of normal cost-impositions are necessary to solve these problems.” This seems right to me, but is this supposed to be a dig at those libertarians who claim that interpersonal utility comparisons are impossible (e.g., Rothbard, Block, and Gordon, among others)? If so, you might want to footnote who you’re responding to.

The article is primarily supposed to be an impersonal statement of the philosophical theory. It is not in itself a response to other texts or people, although some are mentioned for context. That it is inconsistent with innumerable other texts is a logical consequence but not very relevant. And to start to footnote all the texts that it is even only significantly inconsistent with could make for some very long footnotes. It might also invite the irrelevant criticism that the specific arguments in those texts have not been examined and refuted in the article.

Alternatively, maybe I’m mistaken in equating “utility” with “normal cost-impositions”, but if I am, it *still* seems like you’re responding to someone, because otherwise why bring up this consequence of your theory? So, who are you responding to?

It is part of this libertarian theory that interpersonal “normal cost-impositions” sometimes need to be broadly assessed or compared (for damages, minimising clashes, etc.). This is brought up simply because it is necessary to explaining how the theory works. But “utility” generally is not relevant, let alone in any way that entails some covert overall utilitarianism or, at least, libertarian consequentialism (although both are common misreadings of the theory). For some years now, all the published texts appearing as authored by the same “J. C. Lester” have responded to no person (as far as is practical); as is the case in this reply also. They have been either stand-alone articles or responses to other texts. Writing impersonal text helps to avoid any mistaken impression of *ad hominem*s, which also risks provoking real *ad hominem*s. Scholarly science and even social science articles tend to avoid a personal essay-type style. Why should scholarly philosophy articles not do the same?

On page 4, you write, “This is an individualistic liberty-maximisation theory.” So, it’s only the people in the particular interaction over whom we’re maximizing liberty.

Yes, but as it says that “could be indefinitely many people”.

OK, an [sic] two questions: (1) why just the individuals involved in the exchange? Why not try to maximize liberty overall?

It is maximising the liberty of *everyone* affected by a *clash* (this could be many more than two “individuals” and there need be no “exchange”). It is necessary to solve the problem of clashing individual liberties; and maximising their combined liberties appears to be the most libertarian solution. When there is no clash of liberties, then there is no similar libertarian problem to solve; and, therefore, no need for “collective libertarian consequentialism (with the local-knowledge problem and perverse incentives probably causing self-defeating unintended consequences)”. That said, it does appear plausible that the theory’s ‘deontological structure’ just is the best way to “maximize liberty overall”.

(2) Assuming you have good reason not to maximize liberty overall, how do you figure out who is a party to an interaction? I worry here in particular about environmental pollution.

This changes from a theoretical problem to a practical problem, and one that is not peculiar to libertarianism. In practice with “environmental pollution” it may be efficient to have, for instance, class actions with lawyers on contingency fees advertising for affected people (as indicated by expert analysis, but applying *de minimis non curat lex*) who stand to gain compensation or have the pollution stopped. Exactly what would happen is unpredictable in any detail just because the market itself is the



discovery process. However, having a clearer theory of liberty and its application might assist this process.

On page 4, you write, “Next, people want to have ultimate control of any unused resources they start using. [...] all interpersonal interactions and resource-transfers need to be consensual or they are likely to significantly proactively impose.” I wonder: couldn’t there be some kind of middle-ground? When people starve to death, a lot of their wants [g]o unfulfilled.

Extreme poverty, up to and including starvation, is rapidly disappearing thanks to relatively free trade, greater division of labour around the world, and technological progress; and no thanks to state interventions. Popular books—for instance, by Julian Simon, Bjorn Lomborg, Steven Pinker, and Hans Rosling—now more or less illustrate these things (but usually without much explanation from economics and even less from philosophy).

Maybe there could be a kind of “libertarianism of emergencies”? So: when your not having certain resources means you will die, or, even stronger, when your not having certain resources means you will not have your basic needs met, then there has to be a consensual interaction between you and the person who has the resources to save your life/meet your needs? That’s still very strong, but it’s weaker than a kind of common property regime, where any use of any resource has to be agreed upon first.

As we have already seen, taken literally and universally, resource claims based on avoiding death or having “basic needs met” are impossibly strong. And this looks more like *abandoning* libertarianism in emergencies. But those emergencies appear in reality to be caused by flouting libertarian principles. So, this is suggesting a ‘solution’ that is more of the cause of the problem, which can only exacerbate it.

Or is your response simply, “look, it may be that it would be *morally* bad to refrain from taking some people’s property in order to save the lives of others. In fact, it may even be that a government should take some people’s stuff to help others! That’s fine! But it’s irrelevant, because I’m talking about what makes a government libertarian. Redistributing wealth to prevent starvation may be what a government should do, but doing it makes it less libertarian.” Is that the view?

No. It is true that the philosophical theory being explained is only about what is non-normatively libertarian. However, as the section on morals asserts—but cannot take space to explain or defend—“Correctly interpreted—philosophically and empirically—deontologism, consequentialism, and contractarianism (the three main moral theories) all point towards libertarian liberty-in-practice as the outcome”. In realistic terms, it looks as though any so-called “libertarianism of emergencies” must be via state-controlled foreign aid. But then there are the devastating criticisms of this, notably by Peter Bauer.

Finally, I think coming up with an independent theory of liberty is important. I’m not sure that no one has ever tried to do this before, and I’m not sure yours succeeds, but it was quite intriguing, and helped me clarify the relationship between libertarianism, property, and morality!

With luck, these responses add further clarification.

#### *Quotations from “Comments to author” 2*

At the outset of this response, it ought to be noted that comments that are uninformed by any apparent background in philosophy or even any serious attempt at a careful reading are of limited usefulness as regards responding to a philosophy text. The following quoted comments appear to fall squarely within this category. It might be thought that any response to such comments is a waste of time. However, as there are often such non-philosophical (anti-philosophical?) and careless-reading responses, it seems worth pointing out where and why they are in error.

You never make it clear what a theory of liberty might look like...

It is precisely specified. The slightly amended version follows: “this abstract liberty can be theorised as ‘the absence of interpersonal initiated constraints on want-satisfaction’. But for brevity we may use ‘no (initiated) imposed costs’ to mean the same thing”.

...or why it would be essential to understanding libertarianism.

Why it “greatly clarifies matters” (rather than being “essential”) is explained: “orthodox private-property libertarianism is severely philosophically confused. It conflates theories of rights, property, consequences, and so-called ‘supporting justifications’. And this is all done without an explicit theory of liberty: an eleutherology”. And without that theory it is unclear how we assess property-rights or remedies as being libertarian or not libertarian.

Later on you wave around the topic of critical rationalism, ...

The relevance is explained: it is an epistemological error to seek supporting justifications, as many libertarian texts do.

...though again it is not clear how this relates to an abstract theory of liberty, ...

It is explained: it is not part of the abstract theory of liberty but the applied epistemology.

...though we are told that there are unmentioned volumes which would explain this in greater detail.

Two volumes on critical rationalism are fully cited. But the relevant volumes are about the general theory; redacted to avoid self-citation.

A great deal more work would be needed for this to reach a standard worthy of publication.

A great deal more knowledge of philosophy and careful reading would be needed for these comments to reach a standard worthy of submission.

*Quotations from “separate correspondence” (presumably elaborations from 2)*

Having apparently been offered a chance to elaborate, 2 does not do any better.

Certainly the implication that utilitarianism appears to have something which libertarianism lacks in no way counts against the latter since it is the better theory.

How can it not matter that most libertarian texts are unable to give an account of the very thing they are supposed to be about? And if they cannot, then how is it possible to tell whether they have made progress towards it or not? Even if we assume that libertarianism “is the better theory” (in whatever way “better” is intended), of course it still “counts against it” that it has this glaring omission. But it ought to be clear enough that the analogy is not intended to suggest any kind of comparison between the two theories except in respect of the clarity of their fundamental subject matter.

Indeed much of the essay is proof that there is little to be said for trying to get clear at the outset as to what perfect liberty might amount to

This is common-sense dismissiveness of philosophical arguments. It makes an assertion without any clear location and explanation of where the text is supposed to be mistaken. An analogous anti-economics response to an economics text might say, ‘Indeed much of the essay is proof that there is little to be said for trying to get clear at the outset as to what perfect competition or economic efficiency might amount to’. Perfect competition and economic efficiency are useful explanatory theories in economics, but they are not realistic goals by which all markets should be judged and state-regulated. Perfect liberty is a useful explanatory theory in social philosophy, but it is not a realistic goal by which all interpersonal interactions should be judged and state-regulated. In any case, the essay explains fairly clearly how there is confusion about liberty in libertarian texts and how the theory of liberty can sort this out. Consequently, it is possible to deduce more libertarian solutions to problems and to answer philosophical criticisms. Of course, economics is generally more useful for explaining libertarianism but it has its limits; and then we turn to philosophy. Similarly, good nutrition and exercise are generally more useful for maintaining health but they have their limits; and then we turn to medicine.

although the writer keeps telling us that it [perfect liberty] is something we should strive for, [it] never becomes clear what it amounts to or how it might help us better understand libertarianism.

Examining a philosophical text armed only with dogmatic common sense is like examining a chess game informed only by the rules of draughts (checkers). The essay does not at any time assert that there is anything that “we should strive for”. It is a non-normative analysis. Moreover, perfect liberty is explicitly explained as being something that often cannot be achieved; liberty can only be maximised. In what way is the theory of liberty not “clear”? Under the heading “*The abstract theory of interpersonal liberty*” there is an explanation of just over 300 words. And “how it might help us better understand libertarianism” is just in the following various stages of explanation as to how the theory applies (in the subsequent sections). If the review does not engage with the philosophical arguments by quoting them and stating precisely what the problems are supposed to be, then there is no likelihood of comprehension.

Later in the discussion we get some handwaving in the direction of critical rationalism but it is not clear what bearing this has [on] the theory of perfect liberty which is supposedly essential to a proper understanding of libertarianism.

This combines superficial reading with strawman caricatures. The role of critical rationalism is precisely explained. It is the solution to the error of justificatory support (or foundationalism) that is found in much of mainstream libertarianism. Ironically, the criticism that this is only “handwaving” is itself only handwaving. The epistemology is clearly explained to be no part of the theory of liberty. And the theory of liberty is not alleged to be “essential to a proper understanding of libertarianism”. Rather, the more modest claim is that it “greatly clarifies matters to have an explicit theory of this entailed conception of abstract liberty and how it relates to its practical application and to morality”.

The writer admits in the conclusion that his attempt to characterize abstract liberty will be rather terse and opaque in places raising more questions than it answers.

But it is also explained in the conclusion why this attempt is necessary: the theory’s “relatively heterodox and somewhat complex approach appears to be a barrier to understanding it or to taking it seriously. Perhaps this short essay can help to dispel some of the misunderstandings and dismissiveness”. And it is also explained at the beginning: “to explain a particular theory of social liberty in a far more precise and concise manner than has been achieved hitherto [...] This appears to be needed because less-focussed and longer explanations of it have evoked some confusion about what the theory is really asserting and how the various parts fit together”. However, careful reading is still required to understand it.

As for what critical rationalism might have to offer to the problems of libertarianism, we are simply told that there are other books which go into more detail, though he fails to tell us which ones or why it is they might be of any assistance.

The role of critical rationalism is explained within the essay. The “other books” are about this philosophical theory of libertarianism. Their relevance is also explained: the “initial book raises many additional and peripheral issues, but it often expresses the arguments with less clarity than has subsequently been possible ... there are two further books—so far—with elaborations and defences”. As this was an anonymous submission, self-citation of those books was not allowed (as any competent reviewer should have realised).

Unfortunately, 2’s level of response is not unusual.