

Arguing with “Libertarianism without Argument”: Critical Rationalism and how it applies to Libertarianism

J C Lester
(17-11-17)

Abstract

This is a response to “Libertarianism without Argument”. Various misunderstandings in that text are given replies. Both critical rationalism and how it applies to libertarianism are elucidated and elaborated.

Introduction

This reply appears late because Powell 2012 (P12)¹ was not noticed by the author of Lester 2012 (L12)², etc., at the time. It will proceed by quoting P12 as relevant (virtually all of it) and then responding immediately after the quotations, following the order of P12’s very brief “critique” (605 words).³

Quotations and Refutations

The title of P12 suggests that L12 is advocating “Libertarianism without Argument”. Nothing could be further from the truth. Arguments are needed to explain the libertarian ideology and to attempt to rebut any criticisms. But all arguments rest on assumptions. Any attempt to make an argument ‘support’ some conclusion will entail an infinite regress, or circularity, or dogmatic (‘self-evident’) starting assumptions. Therefore, arguments cannot provide epistemological support, or justification, for the libertarian conjecture. The common sense idea that there can be such things as ‘supporting arguments’ that somehow transcend assumptions—and offer protection from refutation—is not merely false but actually illogical. (One can still, of course, argue ‘in favour’ of a thesis or be its ‘supporter’, i.e., advocate it.)

The subtitle of P12 asserts that it

critiques J.C. Lester’s argument tha[t] critical rationalism is the basis of libertarianism.

L12 does not—and could not consistently—argue that “critical rationalism is the basis of libertarianism”. Rather, it argues that there cannot be a “basis” or foundation: for we cannot escape the realm of conjecture and criticism. People can still have a critically-preferred conjecture to explain the desirability of libertarianism (liberty in itself, rights, consequences, flourishing, social contract, etc.). And it is a very common error, even among philosophers, to assume that such a conjectural explanation just is a ‘supporting justification’ when one happens to agree with it. But such an explanation cannot give libertarianism support stronger

¹ Powell, A. R. 2012. “Libertarianism without Argument.” Libertarianism.org blog. <https://www.libertarianism.org/blog/libertarianism-without-argument>

² Lester, J. C. 2012. “Critical-Rationalist Libertarianism.” Libertarianism.org blog. <https://www.libertarianism.org/blog/critical-rationalist-libertarianism>

³ This reply has benefitted by critical input from Mark Brady, David McDonagh, and Ray Percival.

than assumption, which is no support at all. And it can't in itself rule out, or answer, any unrelated criticisms or refutations of libertarianism.

P12 has “two questions ... about how [L12] applies Popper to libertarianism”. However, the issue is about applying the epistemology of critical rationalism to libertarianism. Karl Popper (1902-1994) was not a libertarian, although his epistemology better fits that ideology than he thought (as is explained in Lester 1995⁴). Popper argued that his epistemology fits liberal democracy.

Of its “two questions,” P12 tells us that the

first deals with the system for falsifying theories.

Critical rationalism is not a “system”: there is no set method of coming up with conjectures or of particular ways to criticise them. And it is not only about “falsifying theories” in empirical ways.

The second is about the strategic value of critical rationalism.

If critical rationalism is the true epistemology, and if flouting the true epistemology is not a good strategy, then it cannot be a good strategy to flout critical rationalism. But it is an even better strategy to state that libertarianism is necessarily a conjecture (as are all theories, however well they might have survived tests and criticisms so far), and then invite and attempt to answer any and all criticisms. It cannot be a good strategy to ignore or dismiss peoples' actual criticisms of libertarianism and, instead, present a putative ‘supporting justification (or argument)’ that critics are supposed to study until they agree with it. Unfortunately, that is what—sometimes tacitly, sometimes explicitly—justificationists often do.

We are then given the section title,

“Can Libertarianism Be Falsified?”

Libertarianism is an ideology. Consequently, it has both descriptive (factual) and prescriptive (moral or value) implications. Some parts of the descriptive implications will be empirically testable and thereby falsifiable. Other parts will not but might still not be beyond criticisms of various kinds, and some of these criticisms might amount to falsifications (or refutations). Some parts of the prescriptive implications will be criticisable rather than empirically testable. However, if we can only have a moral obligation to do what it is possible to do (as Kant held, ‘ought’ implies ‘can’), then a moral implication can be empirically falsified by showing that what is morally required, or implied, is not empirically the case or not possible. So although you can't derive moral theories from factual theories (as Hume held, you can't derive an ‘ought’ from an ‘is’), you can sometimes refute moral theories with factual theories (if they are classified as true).

P12 then explicitly reveals the main confusion behind the “critique”:

⁴ Lester, J. C. 1995. “Popper's epistemology versus Popper's politics: A libertarian viewpoint”. *Journal of Social and Evolutionary Systems* 18 (1): 87-93. <https://philpapers.org/rec/LESPEV>

The basic idea of falsification is that a theory cannot be *proved* (there could always be some piece of evidence waiting out there that would contradict it) but it can be *falsified* (a piece of evidence is found that contradicts it).

This is mistaking falsificationism for critical rationalism. The basic idea of falsificationism (or falsifiability) is that a universal scientific theory cannot be in any way supported by finite evidence, but it can and must have possible observable counterexamples. An actual falsification is an observation that is inconsistent with a scientific theory. However, empirical falsifiability is only the criterion that Popper offers to distinguish science from non-science: it explains the necessary and sufficient role of empirical evidence in science. That scientific epistemology was Popper's original insight. By contrast, critical rationalism (as developed by Popper and various other philosophers) 'extrapolates' this scientific epistemology to a comprehensive epistemology: we can only conjecture and criticise, and all within a framework of conjectures (but one where not everything can be criticised at the same time; some 'background' assumptions are needed). Even mathematics and logic have to use this epistemology. And, consistently, this epistemology is itself a conjecture subject to criticism. (This is unlike falsificationism which, as a philosophical theory, need not apply to itself and be empirically falsifiable.)

P12 continues,

If critical rationalism applies to libertarianism, it must be true, if nothing else, that libertarianism is subject to falsification.

If critical rationalism applies to libertarianism, then libertarianism must be a conjecture that is subject to criticism. And it ineluctably is. Some interpretations of libertarianism (such as an a priori Austrian economics version) might be able to rule out empirical falsifications. But they cannot rule out that they have assumptions and that those assumptions might be refuted by as-yet-unknown criticisms. (Strictly speaking, the assumptions of Austrian economics' are clearly not all necessarily true and they are, in any case, more accurately seen as conjectures that are towards the a priori end of a continuum with a posteriori propositions.)

P12 asks,

What would that look like? Does libertarianism make predictions that are subject to falsification?

There are different interpretations of libertarianism. One general interpretation goes as follows. Comprehensive private-property rights—non-impositionally acquired, owned, and transferred—will strongly tend to avoid externalities: the owner controls any benefits and bears any costs. Consequently, this is the best known way to protect and promote two very important things at once. Interpersonal liberty: people not initiating constraints on each other's preferred outcomes. And economic efficiency: the maximal productivity that benefits one and all. Whatever the various 'official' libertarian theories, this seems to be the key insight—or, at least, presupposition—that is behind them. This general interpretation is both empirically testable and theoretically criticisable in all sorts of ways.

P12 continues,

It's true that free market economics makes predictions. We might say that a policy of protectionism will harm our own economy. If protectionism turns out to *not* harm the economy, then (that principle of) free market economics is falsified.

There are many empirical implications that might be drawn, and tested, from free-market economics' argument against protectionism. But drawing these implications will involve a lot of theory, and that theory itself will not be beyond criticism. One such criticism is that Austrian economics implies that such an 'empirical test' makes about as much sense as empirically testing whether $2 + 2 = 4$. There are also the issues of what constitutes "harm" or "*our own* economy", and whether it is even an "economy" as it is not an organisation (but a catallaxy, as Hayek called it), and so on. The general point is that some theoretical interpretations will allow for empirical tests, but no interpretation can escape criticism. And either approach might be sufficient to achieve an apparent refutation.

P12 rightly recognises that

Popper fully admits that, given the fallibility of humans and the instruments they use to examine evidence, we probably shouldn't toss out a theory based on a single piece of contradictory evidence. After all, the evidence might be bad. We might have read our meter wrong. And so on. We shouldn't give up on a theory too easily, in other words. So it'd take more than one instance of protectionism working before we throw Adam Smith and Bastiat out the window.

This is no more than consistent, of course. If it is useful to have empirical tests, then it is useful to empirically test our tests as well. It only needs to be added that some tests might sometimes be better dealt with by theoretical criticisms (whether from the realm of economics, philosophy, game theory, or whatever). And that is broader than empirical falsificationism but it is still part of critical rationalism.

P12 spies a potential problem:

The trouble might be, however, that this wiggle room proves too much—that, when we're talking about theories like libertarianism or socialism or free market economics or protectionism, there's just no way to come up with the kind of evidence needed to pronounce something false.

It is implied by critical rationalism that we cannot *definitively* "pronounce something false". We never know what error or potential conjecture we may have overlooked. However, we can consistently *classify* something as false given the current state of the critical debate. And some refutations will be impressively clear and cogent. With Marxian socialism⁵ the economic calculation argument,⁶ which is more theoretical than empirical, does appear to be just one such clear and cogent refutation.⁷ Marxian socialism needs but does not have a non-market solution to the problem of economic scarcity. With libertarianism, etc., there is no end of possible ways that either an empirical or theoretical refutation might be possible. One obvious empirical way is to compare the effects of some aspect of libertarianism (such as drug liberalisation, or private roads, or education without the state) where there are before-and-after consequences (sometimes looking back to history) in the same country, or where this occurs in some countries but not others. It only needs one genuine counterexample to refute the universal theory that libertarianism is always preferable to state-intervention (but an apparent counterexample may be the result of other state-interventions). However, as with

⁵ Marxian socialism entails the abolition of money and markets in favour of some alternative, and superior, way of allocating resources.

⁶ Monetary pricing is the only known way of determining relative scarcity in a mass market. We need to know relative scarcity if we are to allocate resources efficiently.

⁷ Or, at least, an unavoidable and blocking problem for which there is no known solution.

Marxian socialism, there are possible refutations that draw on theory too. If some economic theory could convincingly explain how markets are inherently unstable—with intrinsic booms and busts—and how governments can have superior knowledge, benign motives, and are able to intervene without doing more harm than good, then that would refute libertarianism (in its universal form, at least). Such theories have been tried but found wanting; or so libertarians argue. Nevertheless, in principle, empirical or theoretical matters might produce a refutation just as impressive as the economic calculation argument against Marxian socialism. In the meantime, the big picture—as we look across the world and back through history—is that people are more free and more thriving to the extent that they are subjected to less political intervention.

P12 gives us an example:

Take the stimulus. Clearly the impact of it counts as evidence against economic theories. But evidence of what? And against which theories? Paul Krugman might argue that the stimulus failed to spark the kind of growth we hoped because it wasn't big enough—and had it been smaller, we'd be in much worse shape than we are. My Cato colleagues, on the other hand, might argue that the stimulus never could've worked in the first place, and so it was, by definition, too big. Furthermore, each side is perfectly capable of modifying their underlying theories to allow even fully interpretable evidence. Maybe there was something really special about this particular time for stimulus that made it not work when it otherwise would, or work when it otherwise wouldn't.

This is not much of a criticism of the principle that we ought to try to refute theories; whether with empirical evidence, or theoretical arguments, or both. If what P12 says is true, then this implies that we can be stuck in incommensurable theories and that any argument is a complete waste of time (which is at odds with the implied criticism in its own title). It seems more hopeful and more true to say that we need to try harder to make any refutation more obvious. After all, some people are argued out of stimulus positions (and some people are argued into them as well: perhaps they did not start with a clear grasp of free-market economics). Critical rationalism does not imply that all refutations are going to be easy, obvious, and universally convincing. In any case, the only alternatives to attempted refutations are dogmatism and coercion, which are the opposites of science and reason.

P12 then moves onto philosophy itself:

These sorts of questions become even more difficult to deal with when we're talking about abstract political philosophy ideas like liberty or equality. If I adopt a high liberal position, for instance, and do so because I value equality over liberty, what sort of evidence might prove me wrong?

This is using “liberal” in the modern, but particularly US, sense (with the state viewed more as a useful tool for enabling ‘positive liberty’ rather than as always more in danger of interfering with ‘negative liberty’, as classical liberals would see it). All kinds of empirical evidence and all kinds of theoretical criticisms are potential refutations: it partly depends on the various background assumptions—empirical, theoretical, moral, etc.—of the advocate. For instance, empirical evidence and economic theory might be explained to show that politically imposed movements towards equality make the poorest even poorer (by undermining economic calculation) or maintain poverty that would otherwise disappear in a generation or so. Does the advocate still want political attempts at equality if that is the case? That said, economic theory also explains how free markets have a strong tendency towards

equality to the extent that it is economically efficient: all above-average profits or wages will attract competition that erodes any disparities as far as is practical. Or a philosophical argument might explain how equality has no inherent value and that we should be more concerned with helping the worst off irrespective of whether that increases inequality. As stated, exactly what would refute an advocate of equality will depend on the specific advocate. It is a strength of critical rationalism that it addresses his particular assumptions, arguments, and criticisms. Presenting a necessarily spurious ‘justification’ of libertarianism would likely leave such an advocate quite unmoved.

The very section heading “*Spreading Liberty without Arguments*” suggests what is a practical impossibility. How could an ideology be promoted without using arguments? Some ideologies might use aggressive coercion as well. Ultimately, all *political* ideologies do, or aspire to do so. But even they will need to offer some conjectural arguments about what they are trying to achieve and why. Otherwise, people would see the unexplained aggressive coercion but remain unchallenged and unchanged in their existing ideologies.

P12’s interpretation here is to ask

what motivates non-libertarians to listen? It seems at least plausibly rational for high liberals, communitarians, or conservatives to say, “Sure I haven’t disproved your theory, but you haven’t given me any reason to believe it, either.”

A critical-rationalist libertarian will offer conjectural explanations—empirical and theoretical—of both what he thinks is right about libertarianism and what he thinks is wrong about his opponent’s non-libertarian alternative, and then invite the non-libertarian to respond. Failing this, he would not be applying critical rationalism. It is no impediment that he admits that libertarianism cannot transcend being a conjecture, and that his criticisms of the opposing ideology are not asserted to be definitive. On the contrary, that undogmatic approach is more likely to encourage a response.

P12 attempts to recast the question thus:

Put another way, does critical rationalist libertarianism rely upon libertarianism being the default position within political philosophy, one that must be proved wrong before we’re justified in believing anything else?

Whether or not this is an equivalent question, it is easily answered. Perhaps the “default position within political philosophy” is somewhere in the middle of the Overton window or ‘window of discourse’ (of politically viable ideas given current public opinion). Libertarianism is a bold conjecture and, as such, can hardly be the “default position”. However, it remains an unrefuted conjecture unless and until a refutation can be found. But in this respect it is just like all the other ‘political’ ideologies (although critical-rationalist libertarians would argue that refutations have been found for them).

We are, of course, *never* “justified in believing anything else” in the sense that our beliefs, or theories, are supported. All empirical theories have infinite implications that a finite amount of—in any case also theory-laden—evidence logically cannot amount to being any kind of a supporting justification. And all arguments and explanations rest on, and thereby amount to, assumptions. One could claim to have “justified” an ideology in a completely different sense: one has ‘squared’ it (i.e., made it fit, or reconciled it) with all the currently known tests and criticisms: by passing or withstanding them, or by faulting them. But that only amounts to an

assertion that it has escaped attempted refutation so far. That is no kind of support, basis, or foundation in an epistemological sense.

Select bibliography

- Lester, J. C. [2000] 2012. *Escape from Leviathan: Libertarianism without Justificationism*. Buckingham: The University of Buckingham Press.
- . [2011] 2016. *Arguments for Liberty: a Libertarian Miscellany*. 2nd ed. Buckingham: The University of Buckingham Press.
- . 2014. *Explaining Libertarianism: Some Philosophical Arguments*. Buckingham: The University of Buckingham Press.
- . 2017. *Two Dialogues: Introductions to Philosophy and Libertarianism*. Buckingham: The University of Buckingham Press.