

Vallentyne 2010 and Zwolinski 2008 on “Libertarianism”: Some Philosophical Responses to these Encyclopaedia Articles¹

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(As the text indicates in various places, a version of this essay is now a chapter in a book: Lester, J. C. 2014. *Explaining Libertarianism: Some Philosophical Arguments*. Buckingham: The University of Buckingham Press.)

Abstract

Vallentyne 2010 and Zwolinski 2008 are internet encyclopaedia articles on “libertarianism” which include various serious faults. Vallentyne 2010 has the following ones. It does not properly explain mainstream libertarianism or consider criticisms of it. Instead, it mainly discusses self-ownership and natural-resource egalitarianism. Every aspect of the alleged “strict sense” of “libertarianism” is dubious, at best. So-called “left-libertarianism” is not made sense of as any kind of liberty-based libertarianism. Problems arise because self-ownership is assumed to be libertarian without an explicit theory of libertarian liberty. The replies to “five important objections to full self-ownership” are confused and mistaken; both as regards philosophical analysis and as regards empirical assumptions. The long discussion about various ways to “Appropriate Natural Resources” is rendered muddled and barren by the lack of a clear libertarian theory of liberty, the mere presumption of some form of egalitarianism, and the inclusion of various non-libertarian criteria. The remaining sections are largely uninformed by any relevant libertarian literature. It reaches a justificationist conclusion that cites mistaken welfare concerns and ignores the productivity of free markets. Zwolinski 2008 shares some errors with Vallentyne 2010, but also includes the following ones. It is even less clear about what libertarian liberty is. It fails to understand that libertarianism (private-property anarchy and, possibly, minarchy) is a subset of classical liberalism. It asserts that libertarianism is about “the proper role of government.” It assumes (illogical) justificationist/foundationalist epistemology and does not mention critical-rationalist libertarianism. It eventually faults justificationism and unwittingly assumes something approaching critical rationalism. Finally, it embraces John Rawls’s “overlapping consensus” as a “justification” (i.e., defence) of libertarianism in ignorance of the similar position in Lester 1996 and 2000.

Introduction

There are two internet philosophy encyclopaedia entries on libertarianism that include various serious faults: Vallentyne 2010 and Zwolinski 2008. As innocent members of the public are at risk of reading these accounts of libertarianism, some critical responses seem appropriate. This essay begins with Vallentyne 2010 as the one on which there is by far the most to say.

¹ I thank Mark Brady and David McDonagh for invaluable critical comments on this essay.

Vallentyne 2010's "Libertarianism"

This is a criticism of Vallentyne 2010: the *Stanford Encyclopedia of Philosophy* entry on "libertarianism". This is an entry that might be expected to use philosophy to explain libertarianism generally and evaluate major criticisms of it. Instead, it devotes much space to discussing only self-ownership and natural-resource egalitarianism. This essay will not comment on those parts of the entry that appear correct, or at least not significantly incorrect. It will comment on most of it.

Before beginning specific responses, it might help to clarify the arguments to note two matters. First, what is here assumed as the theory of 'interpersonal liberty' (as opposed to other senses of 'liberty', whether ideological or not). This is that liberty is "the absence of interpersonal proactively imposed costs" or, for brevity, "the absence of proactive impositions." And thus libertarianism is the ideology of the minimization and rectification of any such proactive impositions. There will be no immediate attempt further to explain and unpack these theories of liberty and libertarianism.² Second, what follows might appear pedantic in places. However, in the world of scholarship, "pedantic" ought to be a term of praise, more or less. Moreover, one general theory about philosophy itself is that it just is being pedantic about presuppositions.

The Vallentyne 2010 encyclopaedia entry begins thus: "Libertarianism, in the strict sense, is the moral view that agents initially fully own themselves and have certain moral powers to acquire property rights in external things." It will be convenient to break this first sentence into parts.

Libertarianism, in the strict sense, ...

There is no one "strict sense" of libertarianism. There is a cluster of competing theories that agree at most, and sometimes implicitly at best, only on the abstract principle of advocating interpersonal liberty. Some of these theories will have more precision and some less. The majority view might approximate to Vallentyne 2010's suggested view. But it is not strict and it is not correct.

... is the moral view....

Libertarianism is certainly normally held as a moral view. However, it is conceivable for someone to advocate libertarianism as, for instance, 1) objective economic advice on how to promote prosperity, or 2) for purely self-interested reasons (it is better for the advocate than any other ideology), or 3) even for misanthropic reasons (if he believes this would be a human disaster and wishes that to occur). It is conceivable to have an entire world in which people hold one or more of such, or similar, views and no moral views. But, surely, they would still be referring to libertarianism. Thus libertarianism is not inherently ("in the strict sense") a "moral view". Or, if we are to dismiss such logical possibilities as irrelevant to the collective sociological fact of libertarianism as a moral view, then we should at least concede that it has an objective content that is entirely separable from the moral advocacy of that content.

This is mentioned partly because it is sometimes helpful, even crucial, in an argument about libertarianism, and other ideologies, to distinguish factual points from moral points. And if we allow the view that libertarianism is "in the strict sense", or a priori, or necessarily, or analytically, or conceptually, or inherently, or whatever, a moral view, then this conflation often makes the process of some philosophical argument concerning a factual or a moral aspect difficult or impossible. Both criticisms of libertarianism and libertarian advocacy often use moral arguments where they are not germane to the issue in question and thereby muddy the philosophical waters.

² For more detail see Lester 2011, Lester 2012, and Lester Forthcoming.

... that agents initially fully own themselves...

Neither is it necessary that libertarianism requires that “agents initially fully own themselves.” If we start with a pre-property theory of interpersonal liberty, then, “in the strict sense”, agents ipso facto do not initially fully own themselves: because no one yet owns anything. And it is a contingent matter whether observing such liberty will result in self-ownership. We can imagine someone being born in a position whereby his very existence will begin as an enormous threat to others. For instance, someone born as a hyper-infectious, fatal-disease carrier who is bound to kill others unless he is himself first killed. As that would make him an intolerable proactive imposition upon others, he cannot own himself in the sense of having a libertarian property claim to preserve his own body. For other people have a stronger libertarian claim to destroy him in their self-defence.³ All examples are likely to be somewhat far-fetched, perhaps. But the fact that they are possible in principle shows that a libertarian theory of liberty need not presuppose the inherent legitimacy of private property rights even initially in one’s own body. And thus we can show the errors of such related criticisms of libertarianism as that it presupposes that private property is necessary, it is defined in terms of private property, and it presupposes that private property is moral.

... and have certain moral powers to acquire property rights in external things.

It follows from an objective libertarian theory that ownership of external things is also possible. But we need a theory and circumstances to show how and what objective property follows. Then, whether such ownership is – never, sometimes, or always – moral is an entirely separate matter.

At the end of its brief introduction, Vallentyne 2010 distinguishes what it calls “left-” and “right-libertarianism”:

Both endorse full self-ownership, but they differ with respect to ... unowned natural resources Right-libertarianism holds that typically such resources may be appropriated by the first person who discovers them, mixes her labor with them, or merely claims them.... Left-libertarianism, by contrast, holds that unappropriated natural resources belong to everyone in some egalitarian manner.

It is clear that so-called “right-libertarianism” is a kind of libertarianism as the term is normally used. It is not clear that so-called “left-libertarianism” is a kind of libertarianism. It would seem just as confusing to call it ‘right-egalitarianism.’ It is clearly a combination of self-ownership (an idea not unique to libertarianism, in any case) and some version of ‘natural-resource egalitarianism.’ If there were at least some theory that purported to explain that liberty entails natural-resource equality, despite how ‘libertarianism’ is normally used, then things might be different. But that is not what is argued at any point in Vallentyne 2010. That said, it is theoretically possible to use natural resources in a way that flouts liberty. But there does not thereby appear to be any connection with egalitarianism, except in the vacuous sense that everyone is equally entitled to liberty. More on this later.

Section 1 on self-ownership states that:

Full-self [sic] ownership is sometimes thought to guarantee that the agent has a certain basic *liberty of action*, but this is not so. For if the rest of the world (natural resources and artifacts)

³ See Lester 2012, 65-66.

is fully (“maximally”) owned by others, one is not permitted to do anything without their consent – since that would involve the use of their property.

However, this paradox (in the loose, non-contradictory, sense) can be avoided with a pre-property theory of libertarian liberty. For by such a pre-property theory, it would proactively impose on others to own all of the natural resources in such a way that this occurs.⁴ If Vallentyne 2010 included a theory of liberty it might also imply this. As things stand, it cannot even explain what, if anything, self-ownership has to do with liberty.⁵ It is taken as an axiom that self-ownership is identical with liberty, when there ought to be philosophical analysis. Admittedly, Vallentyne 2010 has a lot of company among other texts on libertarian theory in this matter.

Vallentyne 2010 continues, “Let us now consider five important objections to full self-ownership.” And in each case this essay will give immediate responses to these posed objections. It is necessary to take Vallentyne 2010’s words at face value where there is no other clear sense of what is written, despite the fact that it sometimes seems to strain after a distinction or theory beyond the plain meanings of the actual words it uses.

And so we are then told that, “One objection to full (interpersonal) self-ownership is that it denies that individuals have an obligation to help others in need, except through voluntary agreement or prior wrongdoing.” But people can have a moral obligation without having an enforceable obligation. This is probably just what most libertarians do believe: that there is sometimes some moral obligation to help some others in dire need, but it is usually up to the individual to follow his conscience as to how far.

It continues, “Those who advocate libertarianism as a theory of the duties owed to others typically endorse full (interpersonal) self-ownership and are subject to this objection.” Unless we are dealing with mere logical possibilities, the implication here is that in a libertarian society some people will often need urgent help and not receive it. That is certainly the situation in the non-libertarian world today. State taxes, regulations, and restrictions on trade and migration are a large part of the problem. It is hard to see how vast numbers of people would be in systematic dire need in a libertarian society in such a way that charity was completely insufficient and forced transfers would do more good than harm. But suppose that is wrong? If libertarianism were perceived as a welfare disaster for human beings, then why would libertarians advocate it? There is simply no reason to suppose that libertarians would, or are theoretically obliged to, insist on liberty though the heavens fall. Nor is it necessary, or possible, that they should start making theoretical qualifications or contingency plans for all the infinite logically possible disasters. An additional reason here, is that this might mislead people into thinking that they are more than logical possibilities and, consequently, they might become self-fulfilling fears if state mechanisms were set up to avert them and then proceeded as state failure normally does. We are also told that such libertarians “reject any such obligation on the ground that it induces a form of partial slavery.” But taxation, or even occasionally coerced assistance, is not “partial slavery.” It is hyperbole to call it such.

It is then stated that “Those who advocate libertarianism as theory of enforceable duties, however, need not be subject to this objection.” It is not clear what Vallentyne has in mind here, despite his following explanation:

They can endorse full *political* self-ownership, without endorsing full (interpersonal) self-ownership. The two are the same except the former is silent about what duties one may owe to

⁴ See Lester 2012, p.89 ff.

⁵ Lester 2012, 76, contingently derives self-ownership from observing liberty.

others and asserts instead that one has no *enforceable* duties to aid others, except those that arise from voluntary agreement and prior wrongdoing.

What is “*political* self-ownership”? What is “political” about it? It is not intelligible why possible non-enforceable duties are “political” or why they are not compatible with “full (interpersonal) self-ownership.”

The entry continues, “Of course, many would still insist that we have non-voluntary enforceable duties to aid those in extreme need when we can do so at little cost to ourselves or others.” Why leap to the use of aggressive coercion as the first remedy (especially when this is not likely to be a major problem in any society)? A variety of fully libertarian contractual arrangements would be possible here – such as guarantees of such assistance among all who opt in; or the rules of a private area: “on pain of penalty X, patrons of this private beach must alert the lifeguard and throw the provided lifebelts to any people apparently in distress in the water.” And we could also have a variety of fully libertarian “punishments” (publicly naming, boycotting, etc.) available for those who do not abide by minimally decent behaviour (such as not phoning for an obviously needed emergency service) even if they have not contracted into any system of it. Having to think about and compete in practices to discover the best ways to promote minimally decent behaviour is more likely to result in the promotion of that behaviour. The lazy and authoritarian resort to aggressive coercion is, as ever, both illiberal and inefficient.

We now come to,

A second objection ... the question is whether *others* may use the agent's person without her consent to aid those in need. For example, is it permissible to gently push an innocent agent to the ground in order to save ten innocent lives? Full self-ownership (of both sorts) asserts that it is not.

In addition to the previous reply, libertarianism need not be interpreted as absolutely proscriptive of all possible liberty violations (or proactive impositions). One might even say that, in a sense, liberty violations are allowed provided that full restitution is made. If the person in the example above receives full restitution, then who is left to complain that this is not, in the end or overall, libertarian? Perhaps it was temporarily unlibertarian but the situation was then rectified along libertarian lines. A critic might insist that libertarianism has been abandoned here, because it is clear that a violation has taken place. However, that seems analogous to someone saying that a football (or soccer) match was invalid because a foul had taken place, even though the foul was penalized. Both libertarianism and football simply include rules for what to do about, in practice inevitable, violations of various sorts. Libertarianism and football are not undermined but reinforced by such responses. However, the critic might go on to suggest that the analogy is the wrong one, and a better analogy would be chess: for there to break the rules is to invalidate the game; you are simply not playing chess if you make an illegal move. But that cannot be right either. For the rules of chess also simply specify the relevant penalties for illegal moves or activities. In one sense, libertarianism, football, and chess can be seen as including certain ‘absolute’ proscriptions and prescriptions. And yet, as they all include rules about how to deal with violations of the proscriptions and prescriptions, it is clear that violations do not mean that we have thereby abandoned the ‘game.’ However, even if this analysis is theoretically flawed in some way, it still seems to remain a completely practical solution to the problem posed.

Next, a “third objection to full self-ownership is that it includes a right to make gifts of one's services, and that such gifts ... can significantly disrupt the conditions of equality of opportunity.” Equality, in its various ideological forms, is usually regarded as dystopian by libertarians. Equality of

opportunity is not even possible. And coercive attempts to move towards it destroy liberty and welfare. Such replies are not even mentioned in Vallentyne 2010.⁶

And then a “fourth objection to full self-ownership is that it permits voluntary enslavement.” But this logical possibility is hardly realistic as a serious problem. In any case, self-ownership permits suicide too – and that is far more drastic. Those who use proactive coercion to prevent voluntary enslavement or suicide are thereby stealing those choices from other people: choices that, *ex ante* (and there is no conscious *ex post* with suicide), are preferred by those individuals to the alternatives. Vallentyne 2010 continues, “One might, however, reply that the right to *exercise* one's autonomy is more fundamental than the *protection or promotion* of one's autonomy.” Yes, one might. But then it looks as though one would be arguing about some sense of autonomy instead, which is usually distinguishable from liberty. It is part of liberty to reject autonomy and be heteronomous if one wishes.

Finally,

A fifth objection to full self-ownership is that it (like rights in general) can lead to inefficient outcomes. Where there are externalities or public goods (such as police protection), each person may be better off if some of each person's rights are infringed (e.g., if each person is required to provide service each week on a police patrol). Given the problems generated by prisoners' dilemmas and other kinds of market failure, in large societies it will typically be impossible to obtain everyone's consent to perform such services. Given the importance of such services, it is arguably permissible to force individuals to provide certain services (in violation of full self-ownership) as long as everyone benefits appropriately.

All this is mere logical possibility presented as the way things really are. It would be irrelevant to rehearse all the arguments and evidence here, but it was coming to see that the state is the problem rather than the solution that is usually what converted statist to libertarianism. So it is either ignorant or disingenuous to suppose that libertarians cannot see, or do not care about, the alleged inefficiencies of interpersonal liberty. As we shall see later, Vallentyne 2010 appears to perceive genuine force in this sort of criticism. Therefore, it does not appear to be disingenuous.

We then go on to, “2. The Power to Appropriate Natural Resources: Libertarianism, Left and Right.” It begins, “One possible view holds that initially no one has any liberty right to use, or any moral power to appropriate, natural resources.” In what way is this absence of a “liberty right” a libertarian “possible view”? How does this relate to liberty? More precisely, where is the theory of liberty from which this result is derivable, and where is the derivation?

It continues:

A radical version of *joint-ownership left-libertarianism*, for example, holds that individuals may use natural resources only with the collective consent Given that all action requires the use of some natural resources (land, air, etc.), this leaves agents no freedom of action (except with the permission of others), and this is clearly implausible.

It seems plausible in the sense that the majority, at least, would surely consent to a rule that allowed everyone minimal action, at least. But what does that joint ownership have to do with liberty? Instead, Vallentyne 2010 suggests a “less radical version of joint-ownership left-libertarianism allows that agents may use natural resources, but holds that they have no moral power to appropriate natural

⁶ See the various entries on equality in Lester Forthcoming.

resources without the collective consent of the members of society....” “Libertarianism”? No. It is still a version of communism.

Vallentyne 2010’s criticism is that, “Although this leaves agents a significant range of freedom of action, it leaves them little security in their plans of action.” Suddenly “security” is introduced. What has security to do with liberty? Admittedly, the theory is not practical. But it is not impracticality that shows it not to be libertarian. It continues, “Given the central importance of security of some external resources, it is implausible that agents have no power to appropriate without the consent of others.” What does “implausible” refer to? Implausible as being practical? Certainly. Implausible as relating to a theory of “left libertarianism”? How can we tell without an explicit version of that implicit theory? Maybe it is “implausible” because “left libertarianism” is itself “implausible.” It concludes, “A plausible account of liberty rights and powers of appropriation over natural resources must, I claim, be *unilateralist*” And this sounds, *prima facie*, plausible as regards a practical theory of interpersonal liberty. But it does not relate to “left libertarianism” in any way that is theoretically explained.

It is then suggested that “additional conditions may include ... some kind of ‘fair share’ constraint.” So now we are introduced to the notion of a “fair share constraint.” It is necessary to ask again, what does this have to do with liberty? As Bishop Butler famously observed, “Every thing is what it is, and not another thing.”⁷ And as Isaiah Berlin rightly pointed out, “The notion of the perfect whole, the ultimate solution, in which all good things coexist, seems to me not merely unattainable – that is a truism – but conceptually incoherent.”⁸ Is it not possible that liberty is sometimes unfair? And even – “Tell it not in Gath, publish it not in the streets of Askelon.”⁹ – that “left libertarianism” is sometimes unfair? As usual, we are not so much denying what has been asserted as asking for a philosophical argument that connects apparently distinct things – and ultimately to liberty.

Vallentyne 2010 goes on accurately to summarize some libertarian’s views: “*Radical right libertarianism* ... holds that that there are no fair share constraints on use or appropriation” And he points out an apparent problem with these views:

... no human agent created natural resources, and there is no reason that the lucky person who first claims rights over a natural resource should reap all the benefit that the resource provides. Nor is there any reason to think the individuals are morally permitted to ruin or monopolize natural resources as they please.

This sees things as about what is “morally permitted” rather than what is ‘libertarianly permitted.’ Hence it concludes, categorically, that, “Some sort of fair share condition restricts use and appropriation.” However, instead, it should conclude, tentatively, that “Some sort of libertarian share condition possibly restricts use and appropriation.” Vallentyne 2010’s theory of liberty is not only tacit but conflated with morality. It does not see that two separate questions must be possible here: What does liberty allow? Is liberty morally desirable?

It then considers “*Lockean libertarianism*”, whereby – thanks to the “Lockean proviso that ‘enough and as good’ be left for others” – “Those who use natural resources, or claim rights over them, owe compensation to others for any wrongful costs imposed.” And, again, “wrongful” ought to be first examined for being ‘illiberal’ or ‘unlibertarian’, especially in an article on libertarianism.

Vallentyne 2010 compares this with “*Nozickean right-libertarianism*” which “interprets the Lockean proviso as requiring that no individual be made worse off by the use or appropriation of a natural resource compared with non-use or non-appropriation.” And Nozick does make some sort of,

⁷ *Preface to Fifteen Sermons Preached at the Rolls Chapel* (London, 1726).

⁸ As Berlin said in his Agnelli Prize speech, “The Pursuit of the Ideal” (1988).

⁹ “...lest the daughters of the Philistines rejoice, lest the daughters of the uncircumcised triumph.” *King James Bible*, 2 Samuel 1:20.

unfortunately also tacit, libertarian sense. Liberty as such is about the absence of constraints. Interpersonal liberty, in its libertarian sense, is about the absence of proactive constraints on people by other people (or some equivalent form of words). And other people are not proactively constraining us if they are not making us worse off (at least, *prima facie* and *ceteris paribus*¹⁰). But the given criticism of Nozick here is that

One might object that this sets the compensation payment too low. ... There is little reason, one might argue, to hold that those who first use or claim rights over a natural resource should reap all the excess benefits that those resources provide.

One might also object that this entertained criticism has no apparent connection with liberty. There is, however, an implicit assumption that equality is desirable and that others owe us things we have in no way produced, as they have done, simply in virtue of our existence.

Next we are offered, “*Sufficientarian (centrist) libertarianism*” which “interprets the Lockean proviso as requiring that others be left an adequate share of natural resources (on some conception of adequacy).” Yet again, what does all this – a “sufficient” or “adequate” share of natural resources – have to do with liberty? Answer came there none. It continues, “some libertarians, left-libertarians, argue that it nevertheless fails to recognize the extent to which natural resources belong to all of us in some egalitarian manner.” But if it is in an “egalitarian manner” then how is it libertarian or even compatible with liberty? Answer came there none.

We are then asked to consider “*Equal share left-libertarianism*” which “interprets the Lockean proviso as requiring that one leave an equally valuable share of natural resources for others ... [or] compensation...” But if people are made no worse off by the propertising of natural resources (or, more realistically still, made significantly better off) then how have they been relevantly constrained? On the contrary, insisting on an “equal share” or “compensation” would interfere with liberty and reduce welfare. This is because it is, for the most part (we can imagine extreme cases), a mere logical possibility posing as a real problem that the propertising, as such, of natural resources will interfere with interpersonal liberty or human welfare (though non-libertarian propertising can and does do that).

Vallentyne 2010 presses on:

Even equal share libertarianism ... does nothing to offset disadvantages in unchosen internal endowments (e.g., the effects of genes or childhood environment). Equal share libertarianism is thus compatible with radically unequal life prospects.

Why is the inequality, as such, a problem? Why is any human suffering or deprivation not the real problem? And why is some combination of free markets (primarily), family ties, and charity not a suitable response to the extent that a response is desirable? In any case, how could such inequalities be lessened by the aggressive coercion of politics without both lessening the liberty of some people and setting up a moral hazard that promotes the very thing objected to? We need to have many kinds of inequality if we are to enjoy prosperity and liberty. Vallentyne offers only argument by egalitarian bias. And what is that doing in an encyclopaedia entry purporting to be about libertarianism?

We are told to “Consider, then, *equal opportunity left-libertarianism* It interprets the Lockean proviso as requiring that one leave enough for others to have an opportunity for well-being that is at least as good as the opportunity for well-being that one obtained in using or appropriating natural resources” But, we are reassured, “Individuals are not morally required to provide personal

¹⁰ Various necessary qualifications can be found in Lester 2012.

services or body parts merely because they have more valuable personal endowments.” Why not? Why stop there? If egalitarianism is desirable, then why should self-ownership limit it? Answer came there none.

Why is any variety of egalitarianism of natural resources a kind of libertarianism? It isn't. This is a mixture of ideologies. Maybe libertarianism is mistaken. And it is always relevant to criticise it in any case. And maybe a mixture of ideologies is the right solution, or at least a better solution. But it seems perverse to say that one still has a theory of libertarianism, especially when one has omitted to produce any theory of liberty and spent most time discussing different kinds of equality.

We then proceed to a very short section on “Enforcement Rights: Prior Restraint and Rectification”. And what follows is a muddle that it will not pay to analyse because it is trying to work things out in terms of mere “self-ownership” when it ought to be using a theory of liberty. It might help if Vallentyne 2010 were informed here by some of the relevant literature.¹¹

The fourth section is on “Anarchism and the Minimal State.” This outlines the general libertarian view and then goes on to argue that

Left-libertarians ... can endorse certain ‘state-like’ activities form organizations that, under certain conditions, could force individuals to give them the payment they owe for their rights over natural resources, and ... also provide various public goods such as basic police services, national defense, roads, parks, and so on.

As already discussed, funding by so-called “left-libertarian” methods is an egalitarian presumption unrelated to liberty. Moreover, setting aside national defence for a moment, “police services, ... roads, parks, and so on”, are simply and clearly not ‘public goods’ as economics uses the expression. They are rivalrous in consumption *and* providers can exclude non-payers. So why should the market not provide them? Nor are there, anarcho-libertarians would argue, any significant public goods. In theory, a case for national defence being a public good can be made. But in practice the state versions of it generate more war-mongering problems than they offer any real defensive solutions. And even if there were significant public goods, there are various ways that they might be dealt with in a libertarian manner without leaping to taxation (by another name) and “‘state like’ activities.” All this is discussed in the libertarian literature.

Section five is listed as “Some Ancillary Issues”. There are, in fact, only two issues. The first being “What is the status of non-autonomous beings – such as children and many animals – that have moral standing (e.g., because sentient)?” Vallentyne 2010 suggests that “One possible reply is to deny that there are any non-autonomous beings with moral standing” and “Another possibility is to hold that non-autonomous sentient beings are also full self-owners” (this being Vallentyne 2010’s own preference, apparently, but relating to interests and not choices). Again, there is much confusion here caused by trying to do everything in terms of self-ownership instead of liberty. But there seems no serious philosophical problem. Full liberty is primarily for full adult persons (in the intellectual sense of ‘persons’). Paternalism applies to children to varying degrees, fading away in proportion as they approach adulthood. With animals, by contrast, there is a duty of common decency not to inflict gratuitous suffering. But this is completely unrelated to libertarianism – let alone self-ownership. Libertarianism, or classical liberalism, is for people, not jellyfish, or aardvarks, or even bonobo chimpanzees.¹²

¹¹ Such as, Lester 2012, Chapter 3, 3.5, b and Lester 2011, Chapter 27.

¹² All that said, the theoretical details of libertarianism with respect to personhood, children, and animals are discussed in various entries in the *A Libertarian Dictionary: Explaining a Libertarian Theory* (Forthcoming).

The second issue is listed as, “Historical Principles and the Real World.” In particular, “... we have little knowledge of the specific rights violations that took place in the past Thus, we have little knowledge of what justice today requires.” And yet Vallentyne 2010 admits that “we should simply make our best judgments about what is just based on what we know.” So that hardly seems a problem peculiar to libertarianism. It also notes that “After the passage of enough time ... the right of rectification for a specific past rights-violation may cease to be valid.” But it adds that, “It’s not clear, however, that there is a plausible principled libertarian justification ... for such a statute of limitations.” A mere time limit would be arbitrary. But there are clear libertarian reasons for limiting claims, if only one has a theory of liberty. As time passes, or, more precisely, as relevant information is lost, we eventually cannot have any plausible case for calculating what amount of libertarian restitution might be owed by whom to whom. And the disruption that would be caused by enforcing restitution based on unfalsifiable speculations and generalisations would itself proactively impose on the living far more than it rectifies any previous imposition in the past. Of course, each case needs to be examined on its own merits, and there may well be some clear cases (especially as regards the inheritance of specific objects) that are traceable and rectifiable after very many generations.

In section six, we reach the “conclusion” that,

Libertarianism is attractive because (1) it provides significant moral liberty of action, (2) it provides significant moral protection against interference from others, and (3) it is sensitive to what the past was like (e.g., what agreements were made and what rights violations took place).

If you are a justificationist rather than a critical rationalist (more on this later), then you are thereby bound to look for reasons to support your theories, including such things as this three-point list. But if you are a mainstream libertarian, then how could you possibly overlook the bounty that flows from free markets? However, this is, in any case, an irrelevant list of desirable things that could in principle be extended indefinitely or simply reduced to ‘because it maximizes liberty.’ It is much more pertinent to write critically that libertarianism

faces, however, the serious objection that it gives too much protection from interference and not enough attention to making the future better (e.g., by meeting people’s basic needs, making people’s lives go better, or promoting equality).

More pertinent, but more ignorant. We have been given no sound example to show that libertarianism “gives too much protection from interference.” Nor has it been shown that it does not better meet “people’s basic needs”, or make “people’s lives go better”. And only a non-libertarian misanthrope could think there is virtue in “promoting equality” as such: to do this there is no need to help the worse-off, just destroy more than proportionate wealth of the better-off and you are “promoting equality.”

The entry finishes with what might appear to be an undogmatic and uncontroversial assertion, that “the overall assessment of libertarianism is a matter of on-going debate.” But this is more like dogmatic agnosticism that appeals to the democratic theory of truth (or at least “assessment”). The factual theses of libertarianism are either true or false. And the moral theses are either right or wrong. Vallentyne 2010 has produced no sound criticism of the conjecture that anarcho-libertarianism is true and right. Nor has it shown that libertarianism entails or requires any kind of egalitarianism.

Zwolinski 2008's "Libertarianism"

Finally, and briefly, we come to Zwolinski 2008: the *Internet Encyclopedia of Philosophy* entry on "libertarianism." We will ignore any pro-statist errors and criticisms already dealt with in the reply to Vallentyne 2010.

The entry begins,

What it means to be a 'libertarian' in a political sense is a contentious issue, especially among libertarians themselves. There is no single theory that can be safely identified as the libertarian theory, and probably no single principle or set of principles on which all libertarians can agree.

Thus Zwolinski 2008 appears to err in the opposite direction to Vallentyne 2010's "strict sense" of libertarianism. Is "What it means to be a 'libertarian'" really so "contentious"? What about liberty itself? Is it not true that "all libertarians can agree," at least at an abstract level, that the "single theory" has ultimately to be about interpersonal liberty in some non-interference sense that libertarians would recognize? And, therefore, is not liberty the "single principle" on which all libertarians ought to agree, at least in principle, or how are they libertarians? Zwolinski 2008 does mention "liberty, understood as non-interference" but merely bundles it in with "a rough agreement on a cluster of normative principles, empirical generalizations, and policy recommendations." The point is that interpersonal liberty itself must be primary, and any theory that cannot be understood in terms of interpersonal liberty is not properly a libertarian theory at all but something else. For instance, something that makes self-ownership primary might be better known as 'self-ownershipism,' unless it is somehow possible to show that self-ownership is completely identical with, or equivalent to, liberty.

Zwolinski 2008 then writes of "so-called anarcho-capitalists." There is indeed a problem with this name, but it is not spelt out. As capitalist institutions are not compulsory or universal with libertarianism, it might be more accurate to call them 'private-property anarchists.' On the basis of private-property anarchism, charity is an option and so is communism, at least in families and small communities (larger communities cannot make economic calculations without money as a common denominator, to signal relative scarcity, and a market in higher-order goods). We are then told, "On the other hand are those who generally identify themselves as classical liberals." And these people "are more willing to allow greater room for coercive activity on the part of the state so as to allow, say, state provision of public goods or even limited tax-funded welfare transfers." However, there were some early classical liberals who were anarchists and minarchists. So there does not appear to be a coherent and consistent theoretical full distinction to be made here. Rather, 'libertarianism' is a modern word for the anarchist and minarchist subset of 'classical liberalism' (or simply 'liberalism' as it was originally called).

We then start section "1. The Diversity of Libertarian Theories." And we are told that "libertarianism is a theory about the proper role of government." On the contrary, it is primarily a social theory about the desirability of interpersonal liberty. Naturally, this has consequences for politics, but "the proper role of government" is not the focus. Interpersonal liberty is the focus. The clue is in the word 'libertarianism.' Only people who want governments think it is really about governments.

Apparently, libertarianism "can be, and has been, supported on a number of different metaphysical, epistemological, and moral grounds." The critical-rationalist epistemology and the possibility of critical-rationalist libertarianism thereby appear to have been entirely overlooked. For by critical rationalism – which is not mentioned anywhere in almost 14,000 words – theories are not

“supported” on any “grounds.” Not even on critical-rationalist “grounds.” So an entire epistemological approach is completely omitted from this encyclopaedia entry on libertarianism. Even if it did not happen to be the correct epistemological approach, this is a significant oversight. We go on to be given a list of various justificationist approaches. This is not, by any means, a waste of time. For many so-called justifications are better viewed, and completely valid as, different kinds of *explanations* of *aspects* of how things are (if factual) or ought to be (if moral). An explanation is another kind of unjustifiable, but possibly correct, theory. If correct, they are not merely valid but *sound* explanations. However, they remain conjectures.

We are told that the entry “will focus almost exclusively on libertarian arguments regarding just two philosophical subjects: distributive justice and political authority.” However, this is stated to be in accord with “the philosophic literature on libertarianism” and this entry is “a summary of that literature.” After discussing the various main attempts to find a “justification” (or “foundations”) for libertarianism, we finally come to the “Conclusion: Libertarianism as an Overlapping Consensus”. And here Zwolinski 2008 criticizes the whole foundationalist approach because, “anyone who disagrees with one’s philosophic foundations will not be much persuaded by one’s conclusions drawn from them.” And it goes on to observe that, “As a result, much of the most interesting work in contemporary libertarian theory skips systematic theory-building altogether, and heads straight to the analysis of concrete problems.” This is to stumble into something approximating to critical-rationalist libertarianism without even realizing that this is what has happened.

It continues,

Often this analysis proceeds by accepting some set of values as given – often the values embraced by those who are not sympathetic to libertarianism as a political theory – and showing that libertarian political institutions will better realize those values than competing institutional frameworks.

It cites Daniel Shapiro “arguing that contemporary welfare states are unjustifiable from a variety of popular theoretical approaches,” Loren Lomasky “arguing that Rawls’s foundational principles are better suited to defending Nozickian libertarianism than even Nozick’s foundational principles are,” and David Schmidtz arguing that “market institutions are supported on grounds of individual responsibility that any moral framework ought to take seriously.” With justificationist language and errors expunged, all of these arguments have counterparts in Lester 2012. There is, however, a crucial mistake in Zwolinski 2008 assuming that this approach cannot be applied equally to all political philosophical theory. For political philosophy does not need to aim for “theoretical completeness” or “complete agreement on comprehensive moral theories,” as it supposes. It is enough for political philosophy to conjecture a theory and then reply to specific criticisms and criticize inconsistent theories.

Zwolinski 2008 clearly shows that it has not grasped that so-called “justifications” or “foundations” as such are the problem, for it then claims to know where a “theoretical justification of this approach can be found.” And there is a further irony in that it assumes it can be found in “John Rawls’s notion of an *overlapping consensus*,” concluding that “libertarianism, with its robust toleration of individual differences, seems well-suited to serve as the principle for such a framework.” Exactly this point, and in favour of full libertarian anarchy, is argued in the final chapter of Lester 2012 (2000), which was itself previously published in 1996 in the anthology *For and Against the State*,¹³ and first written 25 years ago in criticism of Rawls’s original 1987 article.¹⁴

¹³ Lester 1996.

¹⁴ Rawls 1987.

Conclusion

When philosophical accounts of libertarianism are written, they would do better not to neglect three things in particular. 1) Libertarian theories of interpersonal liberty: because liberty itself has to be primary to libertarianism and so needs to be understood. 2) Critical-rationalist libertarianism: because this is an entirely different epistemological approach from all the justificationist ones, and one that – if true – completely dissolves the problem of all failed “justifications.” And 3) the extreme classical-liberal or libertarian compatibility thesis, that there are no systematic theoretical or practical clashes when it comes to maximizing human liberty and human welfare: because this is a highly attractive but neglected possibility, and one that – if true – completely obviates many empirical, theoretical, and moral disputes.

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