

“Left-Libertarianism and Liberty”

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I shall formulate and motivate a left-libertarian theory of justice. Like the more familiar right-libertarianism, it holds that agents initially fully own themselves. Unlike right-libertarianism, it holds that natural resources belong to everyone in some egalitarian manner. Left-libertarianism is, I claim, a plausible version of liberal egalitarianism because it is suitably sensitive to considerations of liberty, security, and equality.

1. Justice

I shall be formulating a left-libertarianism theory of justice, but the term “justice” is used in several different ways. Here I shall understand duties of justice to be *duties that we morally owe someone*. Justice in this sense is concerned with avoiding *interpersonal wrongs* (i.e., actions that violate someone’s rights), but not with *impersonal wrongs* (i.e., actions that are wrong whether or not they wrong anyone; e.g., perhaps, destroying cultural relics when no one is harmed and everyone consents). As long as rights are understood broadly as perhaps pro tanto and highly conditional constraints protecting the holder’s interest or her will, justice in this sense is a broad topic. It is sensitive to all moral issues affecting the moral permissibility of actions, except those issues that are relevant only to impersonal duties (which, by definition, are not sensitive to the interests or wills of individuals).

In what follows, references to what is permitted should be understood as references to what is permitted *by justice*. An action is so permitted if and only if it violates no one’s rights.

2. Libertarianism

Libertarianism is sometimes advocated as a derivative set of rules (e.g., on the basis of rule utilitarianism or contractarianism). Here, however, I reserve the term for the natural rights doctrine that agents initially *fully own themselves* in a sense that I shall clarify below. All forms of libertarianism endorse full self-ownership. They differ with respect to the moral powers that individuals have to acquire ownership of external things. The best-known versions of libertarianism are *right-libertarian* theories (e.g. that of Nozick 1974), which hold that agents have a robust moral power to acquire full private property in natural resources (e.g., space, land, minerals, air, and water) without the consent of, or any significant payment to, other members of society. *Left-libertarianism*, by contrast, holds that natural resources belong to everyone in some egalitarian manner and thus cannot be appropriated without the consent of, or significant payment to, other members of society.

Below, I shall first examine the content and defend the plausibility of full self-ownership. Following that, I shall discuss the role of liberty and security in libertarian theory. Finally, I shall discuss the moral powers that agents have to appropriate unowned resources. I shall suggest—but without elaborate defense—that a version of left-libertarianism offers the most plausible account of these moral powers.¹

3. Full Self-Ownership

Libertarianism is committed to the thesis of full self-ownership (for agents), according to which each agent, at least initially (e.g., prior to any wrongdoings or contractual agreements), morally fully owns herself. The rough idea of full self-ownership is that of having all the moral rights

over oneself that an owner of an inanimate thing (e.g., a car) has over it under the strongest form of private ownership of inanimate things. The rough idea is also that a full self-owner *morally* has all the rights over herself that a slave-owner *legally* has over a slave under the strongest possible legal form of private slave-ownership.²

Throughout, we are concerned with *moral* self-ownership as opposed to legal self-ownership. We are concerned, that is, with a particular set of moral rights independently of whether these are recognized by any legal system. The slaves of the antebellum U.S.A. were legal slaves, but morally speaking, on the libertarian view, they fully owned themselves. Indeed, it is because they morally fully owned themselves that legal involuntary slavery was such a great injustice.

Ownership of a thing is a set of rights over that thing, and the core right is the right to control *use* of that thing. For these purposes, use is understood broadly to include all the ways that agents can physically impact upon an object. Possession, occupation, incursion, intrusion, disposition, alteration, and destruction are forms of use in this stipulative sense.

An agent has full self-ownership just in case she fully owns herself. This is simply the special case of full ownership, where the owner and the entity owned are the same. Assuming that one's body is part of oneself, this entails that one owns one's body. Full ownership of an entity consists of a full set of the following ownership rights:

- (1) *control rights* over the use of the entity (both a liberty-right to use it and a claim-right that others not use it),
- (2) *rights to compensation* (when someone uses the entity without one's permission),
- (3) *enforcement rights* (of prior restraint if someone is about to violate these rights),
- (4) *rights to transfer* these rights to others (by sale, rental, gift, or loan), and

(5) *immunities to the non-consensual loss* of these rights.

Full ownership, like ownership generally, is a bundle of particular rights. It is simply the *logically strongest* set of ownership rights over a thing.³ Ownership can come in various degrees and forms and few, if any, legal systems recognize full ownership in this sense. One can, for example, have full control rights over a thing without having rights to transfer those rights. The thesis of *full self-ownership* does not claim that ownership is either all or nothing. It claims that, as a matter of normative fact, agents *fully* own themselves as opposed to something weaker or not at all.⁴

There are, of course, different conceptions of rights. Some argue that rights protect choices whereas others argue that rights protect interests. For brevity of expression, in what follows, I shall assume a choice-protecting conception of rights. This is how ownership rights are normally understood and how rights are normally understood by libertarians. My own view is that rights protect both choices and interests with the former being lexically prior. Introducing this view, would, however, introduce needless complexities for the purposes of this paper.⁵

So far, we have considered the *content* of the concept of full self-ownership. Let us now consider its *plausibility*. I should emphasize that my goal is very modest: to provide a reasonably plausible rationale for endorsing full self-ownership. As with all fundamental moral principles, it is impossible to provide a *compelling* justification. My goal is simply to provide enough defense of full self-ownership to establish that it needs to be taken seriously as a moral principle.

Full self-ownership is the thesis that one has, in a fullest (or strongest) manner possible, control rights, compensation rights, enforcement rights, transfer rights, and immunity rights over oneself (e.g., one's body). Most people accept some form of partial self-ownership. It can be partial in the sense that only some of the above types of rights are present or it can be partial in

the sense that the *force* of the rights, for a given element, is less than full. Moreover, the force of a right can be less than full in two distinct ways. One is that the right may not be *conclusive* (or absolute) in the sense that its infringement is *always* wrong. The rights could be merely *pro tanto* moral considerations, or (more strongly) *pro tanto* considerations that are lexically prior to impersonal considerations (i.e., that are weighed against other conflicting rights but trump impersonal considerations). The second way that the force of a right can be less than full is by being *conditional* (holding only under certain conditions). For example, the right not to be killed might be conclusive (absolute) but apply only where no social catastrophe is at issue.

Below, I shall attempt to defend *full* self-ownership (conclusive and unconditional rights for each of the four elements). A fallback position is to defend some form of partial self-ownership (e.g., control self-ownership in some *pro tanto* and/or conditional form). This, however, would be a departure from libertarianism in the strict sense.

We shall consider the security rights, liberty rights, transfer rights, and immunities to loss that are part of full self-ownership. (Here we leave aside the compensation and enforcement rights, since there is indeterminacy with respect to these in the concept of full ownership.) Consider first, the *security rights* that are part of the control rights of ownership. These are claim rights against interference with one's person. The security rights of self-ownership are, I claim, a plausible constraint on how agents may be treated by others. Agents are not merely objects in the world. They have moral standing and are capable of autonomous choices. As a result, they have a kind of moral protection against interference that limits how they may be used. For example, it is unjust to kill or torture innocent people against their will—no matter how much it promotes other important moral goals (equality, total utility, or whatever). The security rights of full self-ownership reflect this special status that agents have.

Of course, some deny—as act consequentialists do—that there are any non-goal-based constraints on how individuals may be treated. Even if one agrees that there are some such constraints, however, one might still deny that individuals have any *rights* against being so treated. Instead, one might hold that there is simply an *impersonal duty* (owed to no one) not to treat people in certain ways. Suicide and gay sex, for example, may be wrong even when consensual, in the interests of the individuals, and done by adults in private.

It is certainly possible (indeed held by some) to hold that all constraints are impersonal constraints, but it is a very illiberal view. First, it fails to recognize that certain forms of treatment (such as killing or assault) are not merely wrong—they wrong the individuals so treated. Second (and closely related), it fails to recognize that the valid consent (or alternatively non-set-back of the interests) of an individual to be treated in various ways (e.g., be killed or touched) is sufficient to remove the moral force of that constraint. The purpose of constraints is to protect individuals from certain kinds of interference in their lives. If a person has validly (e.g., informedly and freely) consented to a certain treatment (e.g., being punched as part of a boxing match), then there is nothing morally wrong with such treatment if others are not adversely affected. The constraints protecting individuals, that is, are rights-based, rather than impersonal constraints.

Even if one agrees that individuals have all the rights of self-ownership, one might still insist that the rights have only a *pro tanto* (all else being equal) force and/or are only conditional (e.g., when no social catastrophe is involved). Libertarianism (of the standard sort here considered), however, holds that rights are conclusive (absolute) and unconditional.⁶ So understood, the thesis of full self-ownership is subject to the powerful objection that it entails that it is wrong to slightly injure a person in order to save millions of lives. This is indeed an

implication of the view and it is admittedly very difficult to swallow. Clearly, reasonable and decent people would typically infringe the security rights of self-ownership in such cases. This does not, however, establish that it is just to do so. It may simply be that it is reasonable to behave unjustly in such extreme circumstances. Indeed, this is what I claim. For in such cases, all the usual concomitants of injustice are still present. Guilt is appropriate for what one did to the sacrificed individuals. Compensation is owed to the individual. And so on. As long as we recognize, as I think we should, that reasonable and decent people sometimes act unjustly when the stakes are sufficiently great, the admitted counter-intuitiveness of recognizing conclusive and unconditional security rights of self-ownership need not be a conclusive objection. Of course, it remains a significant counterintuitive implication, but all theories have some such counterintuitive implications. The real test of a theory is its overall plausibility—both in the abstract and in application over a broad range of cases. Sometimes intuitive judgements about concrete cases must be rejected in light of plausible abstract principled considerations. My claim is that those intuitions that conflict with the thesis of full self-ownership should be rejected.

So far, we have considered the *security rights* that are part of the control rights of full self-ownership. Let us now consider the *liberty rights* that are the other part of these control rights. A full self-owner has a full liberty right to use her person. This does not mean that she is permitted to do anything that she wants with her person. Clearly, using her fist to punch you in the nose is not permitted. Having a liberty right to use one's person only means that no one else has any claim-right on one's use of one's person *as such*. Thus, although I need your permission for it to be permissible to *use the car* that you own, I don't need to get anyone's permission to *use my person* to drive the car (as a full slave would, and a partial slave might). The full ownership liberty rights over oneself, that is, give one a full liberty to use one's person, but,

since every action involves the use of other resources (land, air, etc.), it leaves open (depending on the ownership of the other resources) what actions are just.

The liberty rights of initial full self-ownership reflect the view that others initially have no claim against us concerning the use of our person. Initially, we do not require their permission, nor are their interests relevant, in order for us to permissibly use our person as such—although, of course, we need their permission to use resources that they own. Of course, we can lose some of our liberty rights over ourselves through our actions—for example, when we contract to provide personal services or violate someone’s rights.

Having full liberty rights to use one’s person has the counterintuitive implication that we have no (initial) duty to provide personal assistance to others. The most problematic case is where we could avert a *social catastrophe* (e.g., the death millions of people) at only a small personal cost (e.g., push a button so that a terrorist bomb does not go off). (Unlike the security rights issue above, the issue here concerns the duties of agents to provide personal services, whereas the security rights issue concerned the permissibility of others using one’s person). A very significant, but somewhat less dramatic case is one where one could provide a great benefit to a single person (e.g., save her life) at only a small personal sacrifice. Less significant, but still troublesome, are cases where one could provide a small benefit to others at a smaller cost to oneself as part of a cooperative enterprise that generally benefits all. Again, in the extreme cases these are indeed powerful objections. Nonetheless, I believe that their force can be weakened enough to make them palatable—given the general plausibility of the view that we are initially at liberty to use our person as we please. Let me explain.

There are several well-known ways of softening this objection. One is to agree that it is highly morally desirable that one help in these cases, but to insist that one has no obligation to do

so. We all agree that there is something morally flawed about not providing personal services when this would greatly benefit others and impose only a small cost on oneself. Not all moral flaws, however, involve wrongdoing. Failing to help an elderly neighbor carry her groceries when she is having difficulty and we could do so easily is not morally ideal, but it is not typically morally wrong.

A second way of softening the objection is to grant that it may be wrong to fail to provide personal services to others in need (etc.), but deny that they have any *right* to such help. If they have no right—and no one else does either—then there is no injustice in failing to provide the services in question. It is an impersonal duty, but not a duty owed to anyone. Given that we are here concerned only with the theory of justice—the duties we owe each other—failure to recognize impersonal duties is not a defect. The topic of impersonal duties is simply a topic that is not being addressed. Because I believe (but shall not here argue) that there are no impersonal duties, this reply does not seem promising to me. Nonetheless, it is open to those who believe that there are impersonal duties.

Yet another way to soften the objection against full liberties to use one's person is to point out the radical implications of recognizing an obligation to others to help even in the special cases where the benefit to them is great and the cost to one is small. For there are typically a great number of people (poor people, severely disabled people, orphans, etc.) that would greatly benefit from an hour's personal service per week. Most of us deny that we have a duty to provide such service.

A final and important way to soften the objection against having full liberties to use one's person is to note that the claim is that individuals only have this full liberty *initially* (e.g., at the start of adult life). It can be weakened or lost by our choices over time. For example, if, as I

shall suggest below, the use or appropriation of more than one's share of natural resources generates a limited duty to promote equality of effective opportunity, then some of the full liberty rights of self-ownership will be lost when one uses or appropriates more than one's share. The more general point here is that the implications of full self ownership cannot be determined without knowing how other things are owned.

In sum, I fully acknowledge that the security rights and the liberty rights of full self-ownership have some significant counterintuitive implications. On the other hand, all theories have some such implications, and the normative separateness of persons reflected in full security rights and full liberty rights has great theoretical appeal. Although it is highly controversial, I claim, that on balance the thesis of full *control* self-ownership is sufficiently plausible to be taken seriously.

Even if agents have full control self-ownership (full liberty rights and full security rights) over themselves, it does not follow that agents fully own themselves. The determinate core of full self-ownership includes two additional rights that must be defended: the full power to transfer those rights to others and the immunity to non-consensual loss except, perhaps, under certain conditions.

Consider first the immunity to non-consensual loss of rights. It holds that individuals lose their rights of ownership only up to the extent that they owe compensation for the use of other resources or to the extent they lose some security rights so as to make it permissible to stop them from violating the rights of others. This leaves open a wide range of views between no loss and maximum loss within these constraints. Moreover, the constraints on loss of rights are also fairly plausible. One does not, for example, become someone else's slave simply for taking an apple from his property. One merely owes compensation (trivial in most cases) and one loses only

those security rights that interfere with effective ways of stopping one from violating the other's rights (one does not, for example, lose one's right to life when one can be stopped from the violation simply by being yelled at). One may lose one's right to life when being killed is the only (or perhaps the only cost effective) way of stopping one from violating rights, but one does not lose rights that do not interfere with such prevention.

More controversial is the full power to transfer the rights of self-ownership. This means that one has the moral power to sell, rent, loan, or give away one's rights over oneself. This includes, as an extreme case, the right to sell (or gift) oneself into slavery. *Involuntary* enslavement, of course, is a gross violation of full self-ownership, but *voluntary* enslavement is something that full self-ownership allows. Intuitively, of course, this seems problematic.

One objection to the right of self-enslavement is that there is no such right, since it is *impossible* to transfer one's agency (control of one's person) to another.⁷ The core idea is that it is impossible to alienate one's will. This is true but irrelevant. Only you can exercise your agency, but that leaves open whether someone else has *moral authority* over your agency (i.e., whether you have a moral duty to obey someone else's commands). You cannot transfer agency, but you can transfer rights over that agency and thereby transfer the authorizing power of consent concerning the use of the person. When I sign a contract to mow your lawn, I give you some moral authority over the exercise of my agency. It becomes wrong for me to fail to mow your lawn as contracted without your consent. The issue concerns transfers of rights—not of agency. So a different argument is needed if the rights of self-ownership are to be non-transferable.

Another objection to voluntary enslavement is that it makes one “a mere tool of someone else's will”.⁸ The idea here is that a slave has no moral agency, but no agent (no being that has the psychological capacity for agency) can be without moral agency (moral responsibility).

Hence, morally legitimate enslavement is not possible. The first premiss of this argument, however, is false. Slaves are still moral agents. First, slaves may own external property. A slave is someone who is owned by someone else. This is compatible with the slave owning some things (although admittedly his use of those things will be subject to his owner's will). Second, slaves still have moral duties. For example, they have moral obligations to their owners. Moreover, slaves have all the normal duties to other people (e.g., not to kill them). A person can transfer some of her *rights* to someone else, but she can't transfer her *interpersonal duties to others* unless the person to whom the duty is owed consents. In typical cases, the people to whom the duties are owed do not consent to any transfer of duties and, hence, typically slaves have all the normal duties to others. Slaves have fewer rights, but they do not automatically have fewer duties.

A deeper point to note is that full self-ownership on its own does not entail that voluntary enslavement is permitted by justice. Full self-ownership includes the moral power to transfer one's rights over oneself, but it does not ensure that others have the moral power to *acquire* those rights. Transfer of rights from one person to another (by exchange or by gift) requires that both that the transferor have the power to transfer the rights and consents to do so and that the transferee have the moral power to acquire the rights and consents to do so. Full self-ownership is thus compatible with no one having the power to acquire by transfer rights over another person. Full self-ownership ensures that one has the power to renounce (i.e., abandon) one's rights over oneself (which does not require a recipient), and that one has the power to consensually transfer one's rights to anyone who has the power to receive them. It does not, however, require that anyone have the power to receive them. That issue concerns the powers that *others* have with respect to one's person (viz. the power to acquire rights over one under

certain conditions.) Of course, most libertarians hold that all agents initially have these powers to acquire rights over others (as well as over natural resources and artifacts), and so the objection is indeed applicable to most versions of libertarianism. The point here is that the legitimacy of voluntary enslavement does not follow from self-ownership alone. It requires certain moral powers to acquire rights over other persons.⁹

Finally, it is not clear that the moral possibility of voluntary enslavement is so implausible. If one thinks that a main concern of justice is to protect the *having* of effective autonomy, or to *promote* the having, or exercising, of effective autonomy, then voluntary enslavement will indeed seem problematic. On the other hand, if one thinks that a main concern of justice is to protect the *exercise* of autonomy, it is not. A well-informed decision to sell oneself into slavery (e.g., for a large sum of money to help one's needy family) is an exercise of autonomy. Indeed, under desperate conditions it may even represent an extremely important way of exercising one's autonomy. The parallel with suicide is relevant here. In both cases an agent makes a decision that has the result that she ceases to have any moral autonomy and thus ceases to exercise any. In both cases it will typically be one of the most important choices in the agent's life. Surely, assuming no conflicting commitments, protecting the agent's *exercise* of her autonomy in such a case overrides any concern for protecting or promoting her *continued possession* of moral autonomy. One has the right to choose to cease to be autonomous (by dying or by losing rights of control). Thus, genuine voluntary enslavement is not problematic. It is simply the limiting case of the sorts of partial voluntary enslavement that occurs when we make binding commitments and agreements (e.g., to join the military).¹⁰

I conclude, then, that the thesis that agents initially fully own themselves is sufficiently plausible to be taken seriously. All forms of libertarianism are committed to full self-ownership.

They differ with respect to the moral powers that agents have to use and appropriate natural resources. Below, I shall defend a form of left-libertarianism, which holds that natural resources are to be used to promote effective equality of opportunity for a good life. First, however, it will be useful to comment on the role of liberty and security in libertarian theory.

4. Freedom: Liberty and Security

Libertarianism is concerned with freedom. It is sometimes claimed that libertarianism is the theory that maximizes individual freedom. Shelly Kagan (1994), however, has insightfully shown that at most a highly qualified version of this claim is true. In this section—which draws heavily on Kagan’s work, but does not purport to represent his views—I clarify how libertarianism is concerned with freedom.

The first point to note is that libertarianism is not concerned with maximizing the total (or average) freedom that individuals have. At best, it is concerned with maximizing (initial) freedom subject to the constraint that all have *equal* (initial) freedom. It is concerned with maximum equal freedom.

A second point to note is that libertarianism is concerned with *moral* freedom as opposed to *empirical* freedom. It is concerned with the range of actions that individuals are morally permitted to perform and the range of interfering actions that others are morally prohibited from performing—as opposed to the range of actions that individuals can actually (empirically) perform and the empirical absence of interference by others. Libertarianism condemns, for example, imprisoning an innocent person even where this is an effective means to promoting maximum equal empirical freedom. Such imprisonment is a morally prohibited use of force against the person. Libertarianism is concerned with giving everyone maximum equal *moral*

freedom and not with maximum equal *empirical* freedom.

A third point to note is that libertarianism is concerned with freedom in the broad sense that includes both *negative freedom* (freedom from interference from others) and *positive freedom* (freedom of action). This is reflected in its endorsement of the two kinds of control rights of full self-ownership: *Security rights* of full self-ownership ensure that others are not permitted to use your person against your will as long as you have not violated the rights of others (negative moral freedom). *Liberty rights* of full self-ownership ensure that you are permitted to use your person as you choose as long as doing so does not violate the rights others (positive moral freedom). Individuals can have moral security rights without having any significant moral liberty rights. For example, everyone might have a duty to maximize happiness in the world subject to the constraint against violating anyone's security rights against forcible interference. One can also have liberty rights without any moral security rights. For example, everything might be morally permitted for everyone. Libertarianism rejects both of these views (as well as the view that one has neither kind of right). It holds that individuals have strong moral security rights *and* strong moral liberty rights and that full self-ownership is the core of the basis for these rights.

The final point to note is that, even where no one has violated any rights, there is an indeterminacy in libertarian theory concerning security rights and liberty rights (in addition to the one, noted above, involving compensation rights, enforcement rights, and immunity to loss). So far, we have considered full self-ownership as the only source of liberty and security rights. Full self-ownership, however, is compatible with the rest of the world (the non-agent part of the world) being owned by one person. If this is so, then others have effectively no freedom of action, since—although they have full liberty rights over their person—they have no liberty

rights to use other things in the world. Since all action requires the use of things in addition to one's person (e.g., land to stand on, air to breathe), other agents have no freedom of action (since any action requires the permission of the owner). All libertarians, however, want to guarantee a more robust initial freedom of action. Thus, all libertarians impose some conditions on the initial liberty and security rights that individuals have to use natural resources. Libertarians also impose conditions under which these initial rights can be modified and individuals can appropriate natural resources. Full self-ownership is compatible with many different positions on what moral property rights individuals have, or can acquire, in external things. A full libertarian theory needs to specify what liberty rights and security rights individuals have beyond those of full self-ownership.

5. Natural Resources: Liberty Rights to Use and Moral Powers to appropriate

Full self-ownership gives agents certain rights over themselves. This leaves open, however, what rights agents have to *use* non-agent resources (natural resources and artifacts). It also leaves open what moral powers agents have to *acquire additional rights* (over other agents, natural resources, and artifacts): powers to acquire by consensual transfer (e.g., by sale or gift) and powers to acquire rights without the consent of others (e.g., unilateral appropriation of unowned resources). The plausibility of any given version of libertarianism depends crucially on its position on these issues. For simplicity, I shall focus solely on *natural resources* in their initial state—that is, all the non-agent resources in the world prior to modification by agents. Moreover, I shall focus on the rights to *use* them and moral powers to acquire non-consensually rights over them (appropriation).

As will become apparent, I favor a highly egalitarian view of rights over natural

resources. This view is highly controversial and in need of a defense. My aim here, however, is modest. I merely hope to articulate and motivate the egalitarian stance as a way of setting the stage for the debate.

One (crazy) possible view holds that initially no one has any liberty right to use, or any moral power to appropriate, natural resources. A radical version of *joint-ownership left-libertarianism*, for example, holds that individuals may use natural resources only with the collective consent (e.g., majority or unanimous) of the members of society. 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. 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 resources without the collective consent of the members of society (e.g., Grunebaum 1987). Although this leaves agents a significant range of freedom of action, it leaves them inadequate security in their plans of action. They have the security that others are not permitted to use their person (e.g., assault them) without their consent, but they have only limited security in their possessions of external things (except with the consent of others). Agents are permitted to cultivate and gather apples, but others are permitted to take them when this violates no rights of self-ownership (e.g., when they can simply take them from the collected pile).

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. More specifically, it is most implausible to hold that the consent of others is required for appropriation when communication with others is impossible, extremely difficult, or expensive (as it almost always is). And even when communication is relatively easy and costless, there is no need for the consent of others as

long as one appropriates no more than one's fair share.¹¹ Joint-ownership left-libertarianism is thus implausible.

A plausible account of liberty rights and powers of appropriation over natural resources must, I claim, be *unilateralist* in the sense that, under a broad range of circumstances (although perhaps subject to various conditions), (1) agents are initially permitted to *use* natural resources without anyone's consent, and (2) agent initially have the power to *appropriate* (acquire rights over) natural resources without anyone's consent. This is just to say that initially natural resources are not protected by a property rule (requiring consent for permissible use or appropriation).

According to a unilateralist conception of the power to appropriate, agents who first claim rights over a natural resource acquire those rights—perhaps provided that certain other conditions are met. These additional conditions may include some kind of an interaction constraint (such as that the agent “mixed her labor” with the resource or that she was the first to discover the resource) and some kind of “fair share” constraint. In what follows, for simplicity, I shall ignore the interaction constraint and focus on the fair share constraint.¹²

Let us, then, consider some unilateralist versions of libertarianism. *Radical right libertarianism*—such as that of Rothbard (1978, 1982), Narveson (1988, ch. 7; 1999), and Feser (2005)—holds that that there are no fair share constraints on use or appropriation.¹³ Agents may destroy whatever natural resources they want (as long as they violate no one's self-ownership) and they have the power to appropriate whatever natural resources they first claim. On this view, natural resources are initially not merely unprotected by a property rule; they are also unprotected by a compensation liability rule. This view, however, is implausible. 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. Some sort of fair share condition restricts use and appropriation.

The standard fair share condition on appropriation is the *Lockean proviso*, which requires that “enough and as good be left for others”.¹⁴ Indeed, as long as this clause is allowed to be interpreted loosely (as we shall), the Lockean proviso simply is the requirement that some kind of fair share condition be satisfied. Throughout, we’ll interpret the Lockean proviso (following Nozick) to allow that individuals may appropriate more than their fair share of natural resources as long as they compensate others for their loss from the excess appropriation. The Lockean proviso, that is, is a requirement that a fair share of the *value* of natural resources be left for others.¹⁵

The Lockean proviso is often interpreted as applying only to acts of appropriation (and not to mere use) and as imposing a condition that only needs to be met at the time of appropriation. I, however, shall interpret it more broadly. A fair share requirement is just as plausible when applied to mere use. One is not at liberty to use natural resources any way that one wants. Others have some claims to enough and as good being left for them. One is not permitted, for example, to destroy, ruin, or monopolize more than her fair share of natural resources—even if one makes no claims of ownership. Moreover, with respect to appropriation, it is not sufficient to satisfy the fair share condition merely at the time of appropriation. The fair share condition is an on-going requirement for continued ownership. Suppose, for example, that there are just two people in the world and they divide natural resources between themselves in a fair way. Ten years later, two more people pop into existence (but not as a result of any choices the first two people made). It is implausible to think that the division of rights over natural

resources remains fair just because it was initially fair. Instead, the Lockean proviso (or fair share test) should be understood as an on-going requirement that can be initially satisfied but then fail to be satisfied due to later brute luck changes in the total value of natural resources or the number agents in the world.¹⁶

Let us now consider *Lockean libertarianism*, which allows unilateral use and appropriation but requires that some version of the Lockean proviso be satisfied. It views natural resources as initially unprotected by any property rule (no consent is needed for use or appropriation) but as protected by a compensation liability rule. Those who use natural resources, or claim rights over them, owe compensation to others for any costs imposed but such use or appropriation.

Nozickean right-libertarianism interprets the Lockean proviso as requiring that no individual be made worse off by the appropriation compared with non-appropriation.¹⁷ This, I would argue, sets the compensation payment too low. It bases compensation on each person's *reservation price*, which is the *lowest* payment that would leave the individual indifferent with non-use or non-appropriation. Use or appropriation of natural resources typically brings significant benefits even after providing such compensation. There is little reason to hold that those who first use or claim rights over a natural resource should reap all the excess benefits that those resources provide.

Sufficientarian (centrist) libertarianism interprets the Lockean proviso as requiring that others be left an adequate share of natural resources (on some conception of adequacy).¹⁸ There are different criteria that might be invoked for adequacy, but the most plausible ones are based on the quality of one's life prospects: for example, enough for life prospects worth living, enough for basic subsistence life prospects, or enough for "minimally decent" life prospects.

Depending on the nature of the world and the conception of adequacy, the sufficientarian proviso may be more, or less, demanding than the Nozickean proviso. If natural resources are sufficiently abundant relative to the individuals, then Nozickean proviso will be more demanding (since many individuals would get more than an adequate share without the use or appropriation), but if natural resources are sufficiently scarce, then the sufficientarian proviso will be more demanding than the Nozickian one.

Although sufficientarian libertarianism is an improvement over Nozickean libertarianism by being sensitive to the quality of life prospects left to others by the use or appropriation, it nevertheless fails, I would argue, to recognize the extent to which natural resources belong to all of us in some egalitarian manner. Suppose that there are enough natural resources to give everyone fabulous life prospects, and someone appropriates (or uses) natural resources leaving others only minimally adequate life prospects and generating ultra-fabulous life prospects for herself. It is implausible to hold that those who use or first claim a natural resource are entitled to reap all the benefits in excess of what is needed to leave others adequate life prospects. Natural resources were not created by any human agent and their value belongs to all of us in some egalitarian manner.

Let us now consider *left-libertarianism*.¹⁹ It holds that natural resources initially belong to everyone in some egalitarian manner. We have already rejected one version—joint-ownership left-libertarianism—for failing to be unilateralist (i.e., because it requires the permission of others for use or appropriation of unowned natural resources). We shall now focus on Lockean (and hence unilateralist) versions of left-libertarianism.

Equal share left-libertarianism—such as that of Henry George (1879) and Hillel Steiner (1994)—interprets the Lockean proviso as requiring that one leave an equally valuable per capita

share of the value of natural resources for others. Individuals are morally free to use or appropriate natural resources, but those who use or appropriate more their per capita share—based on the *competitive value* (based on demand and supply; e.g., market clearing price or auction price) under morally relevant conditions—owe others compensation for their excess share.

Equal share libertarianism is, I would argue, not sufficiently egalitarian. Although it requires that the competitive value of natural resources be distributed equally, it 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.²⁰

Consider, then, *equal opportunity left-libertarianism* such as that of Otsuka (2003).²¹ It interprets the Lockean proviso as requiring that one leave enough for others to have an opportunity for wellbeing that is at least as good as the opportunity for wellbeing that one obtained in using or appropriating natural resources. Individuals who leave less than this are required to pay the full competitive value of their excess share to those deprived of their fair share. Unlike the equal share view, those whose initial internal endowments provide less favorable effective opportunities for wellbeing are entitled to larger shares of natural resources.

I claim that equal opportunity left-libertarian is the most plausible version of libertarianism. All versions of libertarianism give agents a significant amount of liberty and security. The main issue at hand concerns requirements for some kind of material equality of agents (equality of life prospects). According to equal opportunity left-libertarianism, one has the power to use or appropriate natural resources as long as one pays for the competitive value of the use or rights in excess of one's equality of opportunity for wellbeing share. The payment is owed

to those who have been left with less than equal opportunity for wellbeing. Thus, equal opportunity left-libertarianism holds that there is a *limited* duty to promote equality. One does not need to do everything possible to promote equality. One has no duty at all to promote equality if one has not used up or appropriated more than one's equality of opportunity share of natural resources. If one uses up or appropriates more, then one acquires a duty to promote equality of effective opportunity for wellbeing, but that duty is limited to what can be efficiently achieved with the payment that one owes.

In sum, given the importance of liberty and security, a plausible version of libertarianism must be unilateralist and permit the use and appropriation of natural resources without the consent of others. If one also grants the importance of equality of life prospects, then equal opportunity left-libertarianism is, I claim, the most plausible version of libertarianism. Obviously, the importance of equality in general, and equality of life prospects (effective opportunity for wellbeing) in particular, are highly controversial, but I shall not attempt a defense here. My goal here has been simply to lay out the main issues that separate different versions of libertarianism and to suggest—without defense—that equal opportunity left-libertarianism is at least a plausible version.²²

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¹ I shall not here address libertarian positions on the justice of the state. For the development of a left-libertarian position defending the possibility of a just state, see Vallentyne (2007).

² For insightful analysis of the notion of ownership, see Christman (1994). For a superb analysis of the concept of self-ownership, upon which I build, see Cohen (1995), especially ch. 9.

³ Here for simplicity, I treat the notion of full ownership as fully determinate. In fact, although it has a determinate core, it has some significant indeterminacy concern rights to compensation, enforcement rights, and immunity to loss. See Fried (2004, 2005) and Vallentyne, Steiner, and Otsuka (2005).

⁴ It's worth noting that, because we are focused solely on the duties that we owe each others, we are concerned with the notion of full *interpersonal* ownership—which is compatible with the existence of impersonal constraints on liberty rights and impersonal limitations on powers (e.g., transfer or acquisition).

⁵ For more on the choice-prioritizing conception of rights that I favor, see Vallentyne (2007).

⁶ An important possible exception is Nozick (1974), who, in the note on p. 30, leaves open the possibility that it may be permissible to infringe rights in order to avoid moral catastrophe.

⁷ This objection is made by Rothbard (1982, p. 40, p. 134), Barnett (1998, pp. 77-82).

⁸ In an otherwise excellent article, Kuflik (1984, p. 286) makes this mistaken claim.

⁹ Of course, many will still object to the power to renounce one's rights over oneself, and so there is still a debatable issue about the alienability of one's rights over one's person.

¹⁰ For further defense for the right of voluntary enslavement see: Steiner (1994, pp. 232-34), Feinberg (1986), ch. 19, and Nozick (1974, p. 331).

¹¹ For elaborations of this criticism, see, for example, Fressola (1981) and Cohen (1995).

¹² Given greater space, I would argue that no interaction constraint is needed. All the agent needs to do is to *claim* rights over unowned resources and satisfy the fair share constraint.

¹³ Kirzner (1978) also argues against any fair share condition. He does so, however, on the ground that those who discover a resource are actually creating it and that creators are entitled to their creations. I believe that this argument fails but cannot here argue the point.

¹⁴ Locke (1690~~89~~) was not a Lockean libertarian. He disallowed appropriation that would lead to spoilage, he rejected the right of voluntary self-enslavement, and he held that one had a duty to provide the means of subsistence to those unable to provide for themselves.

¹⁵ The Lockean proviso could be understood more weakly as requiring that enough and as good be left for others, *if this is compatible with one obtaining life prospects worth living*. In a world in which there are not enough natural resources to give everyone life prospects worth living, this weakened proviso would allow individuals to use or appropriate whatever is necessary for them to obtain life prospects worth living. Although I believe this weakening to be plausible, for simplicity, I shall here ignore it.

¹⁶ The need for an on-going proviso that also applies to mere use is forcefully and insightfully defended by Mack (1995)—although he defends a very weak proviso. Roark (2006) defends the need for a proviso on use and not merely on appropriation.

¹⁷ Nozick (1974) sometimes interprets the proviso as requiring only that the *system* of private property make no one worse off than a *system* of common use (where everyone is free to use what they want). This appeal to systems, however, is inappropriate for libertarian theory. The focus must be on the specific act in question.

¹⁸ Simmons (1992, 1993) defends a position roughly of this sort—although his position is not

strictly libertarian in a few respects.

¹⁹ Left-libertarian theories have been propounded for over three centuries. For selections of the writings of historical and contemporary writings, see Vallentyne and Steiner (2001a, 2001b).

²⁰ Steiner (1994) argues that germ-line genetic information is a natural resource and appeals to this as a way of compensating for unequal internal endowments. I am not, however, convinced by his arguments.

²¹ Van Parijs (1995) is in the same spirit as equal opportunity left-libertarianism—although with significant twists on gifts and job rents.

²² For helpful comments, I thank Jason Glahn, Axel Gosseries, Eric Heidenreich, Justin McBrayer, Eric Roark, Alan Tomhave, and Jon Trerise.