

## Left-Libertarianism

Peter Vallentyne, University of Missouri

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Libertarianism is a family of theories of justice, each member of which is committed to full self-ownership and certain moral powers to acquire property rights in natural resources and other unowned resources. Right-libertarianism imposes no or very weak distributive constraints on the moral powers of appropriation, whereas left-libertarianism imposes certain egalitarian constraints on these powers. I shall here articulate and briefly defend left-libertarianism.<sup>1</sup> Throughout, my goal is merely to motivate left-libertarianism rather than to attempt a conclusive argument for it.

### 1. Justice

Libertarian theories are normally understood as theories of justice, but what is justice? The term “justice” is used in many different ways (e.g., permissible social structures, fairness), but libertarians generally understand their theories to be about either the *moral duties that we owe each other* or about our *enforceable duties*. We shall therefore limit our attention to these two concepts of justice. On both views, justice is not a matter of what it is morally desirable to do. It is only concerned with what morality *requires* us to do or not do. It may be morally desirable to help one’s neighbor, but justice may nonetheless permit one not to do so. Moreover, as we shall see, each concept of justice is concerned with only a certain subset of moral requirements.

Justice as the moral duties that we owe each other is only concerned with avoiding *interpersonal wrongs* (i.e., actions that infringe a duty owed to someone). This can be understood narrowly to concern only duties owed to others or broadly to include duties, if any, owed to oneself. Either way, it does not address *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). Justice in this sense is a matter of respecting rights, where rights correspond to duties owed to individuals.<sup>2</sup> As long as rights are understood broadly as perhaps pro tanto and highly conditional constraints protecting the holder's interest or will, justice, in this sense, is a large 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) and perhaps duties to self. Because I believe that there are no impersonal duties (a controversial claim), I believe that justice exhausts our moral duties, but I shall not pursue this point here.

The second concept of justice sometimes addressed by libertarians is justice as our enforceable duties. These are our moral duties that others are permitted to enforce (use force to ensure compliance). Some of our duties (such as keeping a promise to join someone for dinner), for example, may not be permissibly enforceable. Moreover, justice in this sense includes enforceable impersonal duties, if there are any. Libertarians, however, all hold that the only enforceable duties are interpersonal duties. Thus, for libertarianism, justice as our enforceable duties is a strictly narrower topic than justice as the duties we owe each other.

Below, for simplicity, I shall focus on libertarianism as theory of the duties that

we owe each other. This makes it a bolder, and hence more difficult to defend, theory.

## 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, however, with respect to the moral powers that individuals have to acquire ownership of natural resources and other unowned resources. 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 the value of natural resources belongs to everyone in some egalitarian manner and thus that appropriation is subject to stronger constraints.

We shall first examine self-ownership and then turn to the moral powers to appropriate unowned resources.

## 3. Full Self-Ownership

Libertarianism is committed to the thesis of full self-ownership (for agents), which holds that 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.<sup>3</sup>

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.

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 fully owns one's body. Assuming that one's mind is also part of oneself, full self-ownership also entails full ownership of one's mind—although exactly what this means is unclear and I shall not pursue this matter here.

What, then, is it to own fully a thing? 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 of a thing is understood broadly to include all the ways that agents can physically impact upon it.<sup>4</sup> Possession, occupation, intrusion, disposition, alteration, and destruction are forms of use in this stipulative sense.<sup>5</sup>

Full ownership of an entity consists of a full set of (roughly) the following ownership rights:

- (1) *control rights* over the use of the entity (a liberty-right to use, a power to authorize use by others, and a claim-right that others not use without one's authorization),
- (2) *rights to compensation* (when someone uses the entity without one's permission),
- (3) *enforcement rights* (e.g., rights of prior restraint and punishment),
- (4) *rights to transfer* these rights to others (by sale, rental, gift, or loan),
- (5) *immunities to the non-consensual loss* of these rights.
- (6) *immunities to the loss of other rights* merely for the possession or exercise of these rights (e.g., no rental payment or user fee is owed).

Full ownership is a logically strongest set of ownership rights that one can have over a thing that is compatible with others having the same kind of ownership rights over everything else in the world (except for the space occupied by the first person and the thing in question). There is, however, a tension between one person's compensation and enforcement rights and the immunities to loss of others. For example, if I have a right, against you, to compensation, for damage to my property, then your immunity to loss of your rights over your property is less than it would be if I did not have this right. As a result, there is no uniquely strongest set of compensation rights, enforcement rights, and immunities to loss. Everyone could have very strong compensation and enforcement rights against those who violate their rights, but this would entail that everyone has a less than maximal immunity to loss of their ownership rights. Alternatively (to pick the other extreme), everyone could have very weak compensation and enforcement rights, while having a relatively strong immunity to loss. Neither set of rights is unequivocally stronger than the other. Different versions of libertarianism are thus free to defend different

conceptions of compensation and enforcement rights (and corresponding immunities to loss).

Although the notion of full ownership is indeterminate with respect to compensation rights, enforcement rights, and immunity to loss, it is perfectly determinate with respect to rights to control use and rights to transfer. Strengthening these rights for one person does not weaken anyone else's ownership rights.<sup>6</sup> Thus, there is a determinate core to full ownership in general and full self-ownership in particular.

I must now qualify what I have written above. Just as libertarianism sometimes addresses the topic of justice in the sense of the duties that we owe each other and sometimes addresses the topic of justice in the sense of our enforceable duties, there are two notions of ownership that libertarians invoke. Above, I have focused on what can be called *interpersonal ethical ownership*. It requires a full interpersonal liberty to use the object as such. Although full interpersonal ethical ownership of a thing is compatible with one having an *impersonal* duty with respect to the use of that thing as such, it is incompatible with any *interpersonal* duty (owed to someone) with respect to such use. If I owe you a duty not to drive my car on Fridays, then I do not fully own my car in the interpersonal ethical sense. My liberty to use it is not full, since it is restricted by the duty that I owe you concerning its use as such.

Libertarians who address the topic of justice in the sense of our *enforceable duties* do not invoke interpersonal ethical ownership. Instead, they invoke what can be called *political ownership*. This notion of ownership does not require any interpersonal liberty to use the object (i.e., absence of any duty owed to others concerning its use as such). It merely requires the absence of any *enforceable* duty owed to others with respect to the

use of the object. Thus, I may fully own my car in the political sense, even if I owe you a non-enforceable duty not to drive it on Fridays. Although my liberty to use it is not full, my claim-right against forcible interference is full, and that's what matters for the political ownership. Others are not permitted to forcibly interfere with my use of the car except to protect their enforceable rights. The relevance of the distinction between interpersonal ethical and political full self-ownership will become clear below when we examine objections to self-ownership.

So far, we have considered 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.

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 (e.g., no right to transfer your rights to others). It can also be partial in the sense that the *force* of the rights, for a given element, is less than full. The right might be a merely *pro tanto* (all else being equal), as opposed to a conclusive, right; or it might be conditional in various ways (e.g., on there being no social catastrophe at issue). I shall provide a partial defense of *full* self-ownership: conclusive and unconditional rights for each of the above elements. A fallback position is to defend some form of partial self-ownership. This, however, would be a departure from libertarianism in the strict sense.

We shall consider the security rights, the liberty rights, the power to authorize use

by others, and the transfer rights that are part of full self-ownership. We leave aside the compensation rights, enforcement rights, and immunities to loss, since the concept of full ownership is indeterminate with respect to those rights.

### 3.1 Security Rights

Consider first the *security rights* that are part of the control rights of self-ownership. These are claim-rights against interference with one's person. One's consent is necessary for permissible use of 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. 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 does not recognize that certain forms of treatment (such as killing or assault) are not merely wrong—they wrong the individuals so treated. For example, an



apology and compensation are typically owed when an individual is so treated. Moreover, the individual is not wronged, if she has validly consented to the treatment. Although there may be some impersonal constraints protecting individuals, there are, I claim, at least the interpersonal constraints that the security rights of full self-ownership provide.

Even if one agrees that individuals have the certain 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 pure sort here considered), however, holds that rights are conclusive and unconditional.<sup>7</sup> So understood, the thesis of full self-ownership is subject to the powerful objection that it entails that it is unjust 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, I would argue, all the usual concomitants of injustice are still present. Guilt is appropriate for what one did to the sacrificed individuals and compensation is owed to them. 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, the absoluteness of the security rights of self-ownership remains a significant counterintuitive implication, but all fully specified theories have some such 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 judgments about concrete cases must be rejected in light of plausible abstract principled considerations. If one holds, as I do, that theoretical completeness and simplicity are important theoretical desiderata, then one will be suspicious of merely pro tanto principles and seemingly ad hoc conditionalizations. One may thus be willing to reject those intuitions that conflict with absolute security rights of self-ownership. This, of course, is a controversial claim, and indeed it will be rejected by most. I merely mention it to indicate how the absolute security rights are likely to be defended. (Throughout, my aim is only to provide motivating reasons for left-libertarianism, not an argument that all will find compelling.)

### 3.2 Liberty Rights and Powers to Authorize Use by Others

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* and the associated powers to authorize use by others that are the other part of these control rights.

If you fully own yourself, then you have a full liberty right to use your person. This does not mean that justice permits you to do anything that you want with your person. Clearly, using your fist to punch me in the nose is not permitted. Having a full liberty right to use your person only means that no one else has any claim-right on your use of your person *as such*. Any action you perform may be wrong because it impermissibly uses other objects (such as my nose!). The wrongness of your hitting my nose with your fist, for example, is the wrongness of using my nose without my permission. You have nonetheless a full liberty respect to the use of your fist in the sense that no one's permission is needed in order for your use of your fist *as such* to be

permissible.

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 justly use our person as such—although, of course, we need their permission to use resources that they own.

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. Unlike the security rights issue above, the issue here concerns the *duties of the agent* to provide personal services, whereas the security rights issue concerned *the permissibility of others* using the agent's person. The most problematic case is where we could avert a *social catastrophe* (e.g., the death of millions of people) at only a small personal cost (e.g., pushing a button so that a terrorist bomb does not go off). 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.

Let us start by noting that the above objection does not apply to political full self-ownership, as opposed to the stronger interpersonal ethical self-ownership. As noted above, those who defend libertarianism as a theory of our enforceable duties, as opposed to a more general theory of our interpersonal duties endorse full political self-ownership,

but not necessarily the stronger full interpersonal ethical self-ownership. Full political self-ownership does not assert that individuals have the full liberty to use their person. It allows that they may indeed have various duties to provide personal services to others. It merely insists that such duties are not enforceable duties. Thus, political libertarianism does not face the above objection. Interpersonal ethical libertarianism, however, does, and I shall focus on it in what follows.

There are several well-known ways of softening the objection that we initially owe no personal service to others. 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 easily help her is not morally ideal, but it may not be 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. There are typically a great number of people (poor people, severely disabled people, orphans, etc.) would greatly benefit from an hour's personal service each week. Many 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.

Above we have addressed the full liberty to use one's person that is included in full interpersonal ethical self-ownership. Also included is a full power to authorize use by others. This is like the full liberty to use except that it concerns use by others with the owner's authorization (as opposed to use by the owner). One has a full power to authorize use of one's person (as such) by others just in case others have no claim-rights concerning such use. The consent of the owner is not only necessary for the just use of her person (as entailed by the full security right above), it also sufficient. No one else's

consent (individual or group) is necessary for the just use of her person (as such).<sup>8</sup> Because the issues here are effectively the same as those addressed above for the full liberty to use, I shall not rehearse the relevant objections and replies here.

It must be admitted that the security rights, the liberty rights, and powers to authorize use of full control 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 associated authorizing power) 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, it does not follow that agents fully own themselves. The determinate core of full self-ownership includes one additional right that must be defended: the full power to transfer those rights to others. (Recall that full ownership is indeterminate with respect to compensation rights, enforcement rights, and immunities to loss. Hence, they will not be addressed here.)

### 3.3 Full transfer rights

The claim that agents have the full power to transfer their rights of self-ownership to others generates two main possible objections. One is that this entails that there are no morally valid restrictions of *gifts* of one's person even when this upsets equality of opportunity (or related concerns). The other is that voluntary enslavement is mistakenly deemed morally valid. We shall consider these in turn.

If one has the full powers to transfer to someone else the control (and other) rights

over one's person, then no restrictions on gifts of one's person are morally permissible. For example, one might give another one's kidney or a commitment of personal services (e.g., to paint someone's house or provide financial advice). In such cases, one transfers rights over one's person to another. If the transfer is a market transaction, this need not upset equality of opportunity. One transfers rights to someone else, but they transfer back the market value (e.g., cash) of the transferred rights. If, however, the transfer is a gift, it may promote inequalities of opportunity. For example, when a privileged parent transfers certain valuable rights over their person to their privileged children, they may be decreasing equality of opportunity in society. Of course, not all gift transfers are like this. A gift to a disadvantaged person promotes, rather than upsets, equality of opportunity. Still, the objection is that full powers to transfer rights over one's person rule out the possibility of taxing all or part of gifts of one's person when they upset equality of opportunity.

I agree that full ownership includes a full power to transfer the rights to others and that this rules out restrictions on (e.g., taxation of) equality-disrupting gifts. I also agree that that is unfortunate, since I take equality of opportunity very seriously. Two points, however, should be noted. First, we are here only discussing full *self*-ownership. As we shall see below, the ownership of natural resources and artifacts (as opposed to rights over one's person) may not be full, and transfers of such resources may be subject to taxation when they upset equality of opportunity. Second, as we shall see below, those who benefit from gifts of self from others may be eligible for only a lower share of the value of natural resources. We shall discuss these issues in the next section.

Let us now turn to the second objection to the full transfer powers. These are the

moral powers to sell, rent, loan, or give away one's rights over oneself. This includes, as an extreme case, the right to sell, rent, loan or donate 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.

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 be 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. I would argue that, 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 arguably 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).<sup>9</sup>

In sum, the thesis that agents initially fully own themselves is, I claim, 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 motivate a form of left-libertarianism, which holds that natural resources are to be used to promote effective equality of opportunity for a good life.

#### 4. Rights to Use and Appropriate Natural Resources

Full self-ownership gives agents certain rights over themselves. This leaves open, however, what rights agents have to use or appropriate natural resources and other unowned resources. *Natural resources* are those things that have no moral standing (e.g., are not sentient) and have not been transformed by any (non-divine) agent. Thus, land, seas, air, minerals, etc. in their original (humanly unimproved) states are natural resources, whereas such things as chairs, buildings, and land cleared for farming are *artifacts* (composed partly of natural resources). All left-libertarians agree that the ownership of natural resources is governed by an egalitarian principle, but there are, we shall see, different views about the form of this egalitarianism.

We shall here focus on natural resources, but the issues apply to all unowned resources. For example, almost all libertarians would treat abandoned artifacts in the same manner as they treat natural resources. They have ceased to be privately owned and revert to the commons along with unowned natural resources.

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 (e.g., majority or unanimous) consent 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 are at liberty to *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 with respect to 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.<sup>10</sup> 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) agents 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.<sup>11</sup>

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 there are no fair share constraints on use or appropriation.<sup>12</sup> 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 (requiring compensation to others for the liberty rights they lose). 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 benefits 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”.<sup>13</sup> 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.

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, I claim, 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 (e.g., discovery of oil) or the number of agents in the world.<sup>14</sup>

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 (relative to a specified baseline) imposed but such use or appropriation.

*Nozickean right-libertarianism* interprets the Lockean proviso as requiring that no individual be made worse off by the use or appropriation compared with non-use or non-appropriation. 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 the resource provides.

*Sufficientarian (centrist) libertarianism* interprets the Lockean proviso as requiring that others be left an *adequate* share of natural resources (on some conception of adequacy).<sup>15</sup> Adequacy might, for example, require enough for basic subsistence or perhaps 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.

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 each of us in some egalitarian manner.

Let us now consider *left-libertarianism*.<sup>16</sup> 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 than 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. Indeed, it is compatible with some having fabulous life prospects and others miserable ones. I claim that justice requires a more robust kind of egalitarianism.

Consider, then, *equal opportunity left-libertarianism* such as that of Otsuka (2003).<sup>17</sup> 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.<sup>18</sup> 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.

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.

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 or appropriated more than one's equality of opportunity share of natural resources. If one uses 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.

## 5. Conclusion

There are many important aspects of left-libertarianism that I have not addressed. Here I mention a few: (1) Is the value of natural resources in a given country to be divided among those in that country or among all those in the world? I see no reason to think that the value belongs just to the residents of the country and I favor a globalist distribution. This, of course, is a very general issue in the theory of justice. (2) What is the status of children and animals in libertarian theory? I would argue that children, and even animals (!), are self-owners in an interest-protecting (rather than a choice-protecting) sense.<sup>19</sup> (3) What is the status of future people? I would argue that *definite* future people (those who will exist with certainty) have the same rights as those currently existing.<sup>20</sup> The case of merely possible future people is much more complex and a general problem for population ethics. (4) What is the status of the state in libertarian theory? Although Nozick (1974) attempts to defend the justice of a minimal state on libertarian grounds, I believe that he fails. Although many of the state activities are just on libertarian grounds,



the monopoly on the use of force is not.<sup>21</sup> (5) What compensation rights and enforcement rights do individuals have? As I suggested above that full ownership leaves these indeterminate. One of my current projects is to articulate and defend a specific set of such rights, where the use of force is limited to minimizing uncompensated harm for rights intrusions (e.g., no role for punishment). All these issues are highly controversial and I merely flag them here for further investigation.

Full self-ownership, I have suggested, captures important aspects of liberty and security in the theory of justice. To make this liberty and security effective (and not merely formal), 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.<sup>22</sup>

## Bibliography

- John Christman, *The Myth of Property* (New York: Oxford University Press, 1994).
- G.A. Cohen, *Self-Ownership, Freedom, and Equality* (Cambridge: Cambridge University Press, 1995).
- Joel Feinberg, *Harm to Self* (New York: Oxford University Press, 1986).
- Edward Feser, "There Is No Such Thing As An Unjust Initial Acquisition," *Social Philosophy and Policy* 22 (2005): 56-80, pp. 58-59.
- Anthony Fressola, "Liberty and Property," *American Philosophical Quarterly* 18 (1981): 315-322.
- Barbara Fried, "Left-Libertarianism: A Review Essay", *Philosophy and Public Affairs* 32 (2004): 66-92.
- Barbara Fried, "Left-Libertarianism, Once More: A Rejoinder to Vallentyne, Steiner, and Otsuka," *Philosophy and Public Affairs* 33 (2005): 216-222.
- Henry George, *Progress and Poverty* (New York: Robert Schalkenbach Foundation, 1879).
- James Grunebaum, *Private Ownership* (New York: Routledge & Kegan Paul, 1987).
- John Locke, *Two Treatises of Government*, ed. P. Laslett (New York: Cambridge University Press, 1963). Originally published in 1689.
- Eric Mack, "The Self-Ownership Proviso: A New and Improved Lockean Proviso," *Social Philosophy and Policy* 12 (1995): 186-218.
- Jan Narveson, "Original Appropriation and Lockean Provisos," *Public Affairs Quarterly* 13 (1999): 205-27, p. 118. [Reprinted in *Respecting Persons in Theory and Practice* (Lanham: Rowman & Littlefield Publishers, 2002), pp. 111-131].
- Jan Narveson, *The Libertarian Idea* (Philadelphia: Temple University Press, 1988).

- Robert Nozick, *Anarchy, State, and Utopia* (New York: Basic Books, 1974).
- Michael Otsuka, *Libertarianism without Inequality* (Oxford: Clarendon Press, 2003).
- Eric Roark, *Using and Coming to Own: A Left-Proprietarian Treatment of the Just Use and Appropriation of Common Resources* (U. Missouri-Columbia dissertation, 2008).
- Murray Rothbard, *For a New Liberty: The Libertarian Manifesto*, revised edition (New York: Libertarian Review Foundation, 1978).
- Murray Rothbard, *The Ethics of Liberty* (Humanities Press, 1982).
- A. John Simmons, *The Lockean Theory of Rights* (Princeton: Princeton University Press, 1992).
- A. John Simmons, *On the Edge of Anarchy* (Princeton: Princeton University Press, 1993).
- Hillel Steiner, *An Essay on Rights* (Cambridge, MA: Blackwell Publishing, 1994).
- Hillel Steiner and Peter Vallentyne, “Libertarian Theories of Intergenerational Justice”, in *Justice Between Generations*, edited by Axel Gosseries and Lukas Meyer (Oxford University Press, forthcoming 2008).
- Peter Vallentyne, “Critical Notice of G.A. Cohen’s *Self-Ownership, Freedom, and Equality*”, *Canadian Journal of Philosophy* 28 (1998): 609-626.
- Peter Vallentyne, “Left-Libertarianism: A Primer”, in *Left Libertarianism and Its Critics: The Contemporary Debate*, edited by Peter Vallentyne and Hillel Steiner (Palgrave Publishers Ltd., 2000), pp. 1-20.
- Peter Vallentyne, “Equality and the Duties of Procreators”, in *Children and Political Theory* edited by David Archard and Colin MacLeod (Oxford: Oxford University Press, 2002), 195-211.

Peter Vallentyne, “The Rights and Duties of Childrearing”, *William and Mary Bill of Rights Journal* 11 (2003): 991-1010.

Peter Vallentyne, “Libertarianism and the State”, *Social Philosophy and Policy*, 24 (2007): 187-205.

Peter Vallentyne, “Left-Libertarianism and Liberty”, in *Debates in Political Philosophy*, edited by Thomas Christiano and John Christman (*Contemporary Debate Series*, Blackwell Publishers, forthcoming, 2008).

Peter Vallentyne and Hillel Steiner, eds., *The Origins of Left Libertarianism: An Anthology of Historical Writings*, New York: Palgrave Publishers Ltd., 2000.

Peter Vallentyne and Hillel Steiner, eds., *Left Libertarianism and Its Critics: The Contemporary Debate*, New York: Palgrave Publishers Ltd., 2000.

Peter Vallentyne, Hillel Steiner, and Michael Otsuka, “Why Left-Libertarianism Isn’t Incoherent, Indeterminate, or Irrelevant: A Reply to Fried”, *Philosophy and Public Affairs* 33 (2005): 201-15.

Philippe Van Parijs, *Real Freedom for All* (New York: Oxford University Press, 1995).

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<sup>1</sup> This paper draws heavily from Vallentyne (2008).

<sup>2</sup> Some authors understand rights as the *enforceable* duties owed to an individual. I shall, however, shall understand rights in the broader sense of a duty owed to an individual.

<sup>3</sup> 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.

<sup>4</sup> For simplicity, I here ignore the possibility that, for the ownership of mental beings (e.g., self-ownership) there may be ways of using a person that primarily involve a mental, rather than a physical, impact. This is an important but underexplored issue.

<sup>5</sup> Rights can be construed as protecting choices or as protecting interests. For simplicity, I here assume that they protect only choices. My own view is that rights protect both choices and interests with the former being lexically prior. It would, however, introduce needless complexities for the purposes of this paper.

<sup>6</sup> For a defense of the view that full ownership is indeterminate with respect to rights to compensation, enforcement rights, and immunity to loss, but determinate with respect to control rights, see Vallentyne, Steiner, and Otsuka (2005). For criticism, see Fried (2004, 2005),

<sup>7</sup> It's worth noting, however, that the most influential contemporary libertarian theorist, Nozick (1974), allows in a note (p. 30) that perhaps it may be permissible to infringe rights in order to avoid moral catastrophe. He does not, however, endorse this exception.

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<sup>8</sup> Suppose, for example, that others are permitted to kiss you if and only if everyone one consents to it. You have a full security right against being kissed (since your consent is necessary for permissible kissing), but you have only a weak power to authorize being kissed (since everyone else's consent is needed in addition to yours). In this case, the right to control kissing you is held jointly by all, and not merely by you.

<sup>9</sup> For further defense for the right of voluntary enslavement see: Nozick (1974, p. 331), Feinberg (1986), ch. 19, Steiner (1994, pp. 232-34), and Vallentyne (1998, 2000).

<sup>10</sup> For elaborations of this criticism, see, for example, Fressola (1981) and Cohen (1995).

<sup>11</sup> 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.

<sup>12</sup> 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.

<sup>13</sup> Locke (1689) was not a Lockean libertarian in a strict sense. 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.

<sup>14</sup> 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 (2008) defends the need for a proviso on use and not merely on appropriation.

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<sup>15</sup> Simmons (1992, 1993) defends a position roughly of this sort—although his position is not strictly libertarian in a few respects.

<sup>16</sup> 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).

<sup>17</sup> Van Parijs (1995) is in the same spirit as equal opportunity left-libertarianism—although with significant twists on gifts and job rents.

<sup>18</sup> I simplify here. Otuska (2003) view does not invoke the requirement to pay competitive rent. Although I would defend this version of the equal opportunity view, I shall not attempt to do so here.

<sup>19</sup> See, for example, Vallentyne (2002, 2003).

<sup>20</sup> See, for example, Steiner and Vallentyne (2007).

<sup>21</sup> See, for example, Simmons (1993) and Vallentyne (2007).

<sup>22</sup> For helpful comments, I thank David Estlund.