

## *Left-Libertarianism: A Primer*

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in *Left Libertarianism and Its Critics: The Contemporary Debate*, edited by Peter Vallentyne and Hillel Steiner (Palgrave Publishers Ltd., 2000): 1-20.

### 1. INTRODUCTION

Left-libertarian theories of justice hold that agents are full self-owners and that natural resources are owned in some egalitarian manner. Unlike most versions of egalitarianism, left-libertarianism endorses full self-ownership, and thus places specific limits on what others may do to one's person without one's permission. Unlike the more familiar right-libertarianism (which also endorses full self-ownership), it holds that natural resources—resources which are *not* the results of anyone's choices and which are necessary for any form of activity—may be privately appropriated only with the permission of, or with a significant payment to, the members of society. Like right-libertarianism, left-libertarianism holds that the basic rights of individuals are *ownership* rights. Such rights can endow agents—as liberalism requires—with spheres of personal liberty where they may each pursue their conceptions of “the good life”. Left-libertarianism is promising because it coherently underwrites both some demands of material equality and some limits on the permissible means of promoting this equality. It is promising, that is, because it is a form of *liberal* egalitarianism.

Left-libertarian theories have been propounded for over two centuries. Early exponents of some form of self-ownership combined with some form of egalitarian ownership of natural resources include: Hugo Grotius (1625), Samuel Pufendorf (1672), John Locke (1690), William Ogilvie (1781), Thomas Spence (1793), Thomas Paine (1795), Hippolyte de Colins (1835), François Huet (1853), Patrick E. Dove (1850, 1854), Herbert Spencer (1851), Henry George

(1879, 1892), and Léon Walras (1896).<sup>1</sup> It is striking how much of the current debate about equality, liberty, and responsibility has already been addressed by these authors.

Recent years have witnessed a revival of left-libertarian theorizing. Allan Gibbard (1976), Baruch Brody (1983), James Grunebaum (1987), Hillel Steiner (1994), Philippe Van Parijs (1995), and Michael Otsuka (1998) have each written works (included in whole or in part in this volume) that reflect the general spirit of left-libertarianism.

There are many different forms that left-libertarianism can take, and this essay supplies a brief overview of the terrain.<sup>2</sup>

## 2. BACKGROUND

We shall focus, as is standard, on left-libertarianism as a theory of *justice*, where justice is understood to be concerned with legitimate (i.e., morally permissible) coercion. In this sense, an action is unjust if and only if others are morally permitted to coerce one not to perform it. Some just actions may be morally impermissible (e.g., refusing to help an elderly neighbor, where one has a moral obligation to help, but others are not morally permitted to coerce one to help), and (more controversially) some unjust actions may be morally permissible (e.g., stealing a car to save someone's life).

Libertarianism (both left and right) construes basic individual rights as *property* rights. We shall therefore focus on the ownership of things in the world. Here we must distinguish among *beings with moral standing* (beings that matter morally for their own sake), *natural resources* (unproduced resources, such as land, air, water, etc.), and *artifacts* (products). For simplicity, we shall initially assume that all beings with moral standing are agents (rational choosers), and we shall thus ignore the important and difficult problem of the status of children,

fetuses, and animals. Libertarianism (both left and right) is committed to full self-ownership for rational agents. It is less clear how other sorts of being with moral status are to be treated.

For simplicity, we shall also begin by assuming that there is only one society (and thus ignore the problems of international boundaries) and only one generation (and thus ignore the problems that arise concerning the preservation of resources for future generations and the private transmission of wealth over generations). In a later section we shall relax these simplifying assumptions, and briefly discuss the issues that thereby arise.

### 3. FULL SELF-OWNERSHIP

Libertarianism (both left and right) holds that all agents are, initially at least (e.g., prior to engaging in any commitments or unjust actions), full self-owners, and that any violation of full self-ownership is unjust. The core idea of full self-ownership is that agents own themselves in just the same way that they can fully own inanimate objects. This maximal private ownership includes (1) full *control rights* over (power to grant and deny permission for) the *use* of their persons (e.g., what things are done to them), (2) full *rights to transfer* the rights they have to others (by sale, rental, gift, or loan), and (3) full *payment immunities* for the possession and exercise of these rights (ensuring, for example, that the other rights are not merely rented and that taxation is not owed for mere possession or exercise).

At the core of full self-ownership are the constraints on how individuals may be used. Killing, torturing, or enslaving innocent individuals without their consent is unjust no matter how effective these actions are as means to equality or other moral goals. More generally, agents have the *right to control the use of their person*. There are some things (such as physical contact of various sorts) that are unjust when done to an agent without his/her consent, and those very things are just when the agent gives his/her consent.<sup>3</sup>

It is important to note that the thesis that violations of full self-ownership are unjust is much stronger than the less controversial idea that justice imposes constraints on how individuals may be treated without their permission. First, a constraint—against torture, for example—need not be based on a property right (which includes the power to waive the constraint). It might just be an impersonal constraint on conduct. The libertarian thesis of full self-ownership holds both that it is unjust to treat people in certain ways without their permission, and that it is just to do so with their permission (as long as no other rights are violated in the process). One can endorse the first claim without endorsing the second (viz., by viewing the specified treatment as unjust no matter whether or not the affected agent has consented). Doing this, however, requires rejecting the idea that people have a right to control the use of their person in the specified ways. Second, the assumption that some form of self-ownership imposes some waivable constraints on how one may be treated need not be the assumption that *full* self-ownership imposes such constraints. Full self-ownership gives agents various *control rights* over the *use* of their persons. But it also gives them rights to *transfer* those rights to others and various *payment immunities*. One can endorse a partial form of self-ownership (e.g., control rights) without endorsing full self-ownership (e.g. with full transfer rights).

More specifically, one objection to full self-ownership concerns *voluntary slavery*. Full self-ownership includes not only first-order rights of control over the use of one's person, but also the right (power) to *transfer* (e.g., by gift or sale) these rights to others. This seems to entail that one has the right to *voluntarily* enslave oneself, which strikes many as wildly implausible. (*Involuntary* enslavement, of course, violates full control self-ownership, and is not at issue here.)

An important but generally unrecognized response to the objection about voluntary enslavement is that full self-ownership on its own does not entail that voluntary enslavement is

permitted by justice. Full self-ownership includes the right to transfer one's rights over oneself, but it does not ensure that others have the right (power) to acquire these 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 has the 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 left-libertarians will 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 left-libertarianism. The point here is that the legitimacy of voluntary enslavement does not follow from self-ownership alone.<sup>4</sup>

Nor is it clear that voluntary enslavement is illegitimate. It will seem so, if one thinks that a main concern of justice is to *protect* the *possession* of effective autonomy. On the other hand, if one thinks that a main concern of justice is to *protect* the *exercise* of autonomy, it is not. For 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 he/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. Genuinely voluntary enslavement on this view

is simply the limiting case of the sorts of partial voluntary enslavement that occurs when we make binding promises and agreements (e.g., to join the military).<sup>5</sup>

A second objection to full self-ownership concerns *the obligation to help the needy*. Here we must distinguish between an obligation to provide *personal services* (such as caring for an injured person) and an obligation to provide financial or external resources (e.g., the use of one's car). As we shall see below, full self-ownership does not preclude the latter (since it does not involve the use of one's person). It does, however, hold that in general agents have no enforceable non-contractual obligation to provide personal services to others—even when the others are desperately needy and the cost of helping is small (e.g., lifting an unconscious person out of the water). For, assuming that one has committed no relevant injustices, and made no relevant contractual commitments, justice does not permit others to coerce one into performing such actions. And yet, at least where we can provide significant help to a person who is needy through no fault of his/her own, and at a small cost to ourselves, it seems that we have an obligation to do so.

There are, however, 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. Another is to agree that one has an obligation to help, but to insist that it is not an *enforceable* obligation (an obligation that others may legitimately coerce you to fulfill). And an enforceable obligation to provide personal services to the needy is a case of forced service. Yet another way to soften the objection is to point out the radical implications of recognizing an enforceable obligation to help even in just these special cases (great benefit at small cost to provider). For there are typically a great number of people that would greatly benefit from an hour's service everyday (or every week), and it's not clear that we have an enforceable duty to provide such service.<sup>6</sup>

In summary, full self-ownership provides agents with important protection from being treated in various ways. One can, however, endorse a strong form of partial self-ownership without endorsing *full* self-ownership. For example, one could endorse all the rights of full self-ownership except the right to renounce one's rights and the right to refuse aid to the needy under certain conditions.<sup>7</sup> Even this weakened form leaves some important protection for individuals. So a key issue to be resolved concerns how strong a form of self-ownership is plausible.

Before considering views about how natural resources and artifacts are owned, we should note, however, that even *full* self-ownership on its own does not guarantee that agents have any effective freedom or any entitlement to their products. For agents such as ourselves, who need to use natural resources (space to stand in, air to breathe, etc.) to exist at all, it all depends on how natural resources are owned. For if all natural resources are *fully* ("maximally") owned by others, justice does not allow one to do anything without their permission (to use their resources). And without their permission, one's products may be owned by others (since they may be the result of one's theft or trespass). So nothing of substance follows here from full self-ownership alone. We must therefore consider the ownership of natural resources.<sup>8</sup>

#### 4. THE OWNERSHIP OF NATURAL RESOURCES AND OF ARTIFACTS:

##### APPROPRIATION AND TAXATION

So far we have discussed the ownership of agents. We must now consider the ownership of natural resources (i.e., unproduced, non-agent resources, such as unproduced land, air, and water) and of artifacts (i.e., produced non-agent resources, such as buildings, cars, and increased fertility in land). Since natural resources are essential factors in any form of production, entitlements to them necessarily inform entitlements to produced goods: you cannot justifiably own things made from stolen goods. As we shall see, all left-libertarian theories agree (as a matter of definition)

that natural resources are owned in some egalitarian manner. They disagree, however, on the form of this egalitarian ownership and consequently on the ownership of artifacts.<sup>9</sup>

According to one version of left-libertarianism, natural resources are *jointly owned* in the sense that authorization to use, or to appropriate, is given through some specified *collective decision-making process* (e.g., by majority or unanimous decision). One form of this approach—advocated (seemingly, at least) by Grunebaum (1987)—holds that collective approval is needed for any *use*, as well as appropriation, of natural resources. But as Fressola (1981) and Cohen (1986, 1995) have argued, this is implausible, since it holds that, for agents like us, no one has the right to *do anything* (e.g., stand in a given spot, eat an apple, or even breathe) without authorization from other members of society. For every action requires the use of some natural resources (e.g., occupying a spatial location), and thus justice allows no one to do anything without approval from others.

A more plausible form of joint ownership of natural resources—held perhaps by Grotius (1625) and Pufendorf (1672), and explored by Gibbard (1976)—holds that prior to any agreement justice permits agents to *use* natural resources in conformance with specified terms of *common use*, but they have no *exclusive* rights of use (no private ownership). Roughly, this means that justice permits them to use natural resources in various ways (occupy locations, breathe air, eat apples) as long as those resources are not then in use by others (and perhaps subject to certain conditions of sustainability), but they have no rights over any natural resources that they are not currently using. On this view, the initial rights over natural resources are like rights over public park benches. One has a right to use a resource (e.g., sit in one), but once one stops using it, one has no right to prevent others from using it.

This is a fairly strong form of egalitarian ownership since the justness of appropriation is decided through collective decision-making. It denies that there is any fundamental right to full

private property in natural resources or in the objects that one produces with one's labor. Everything depends on what is collectively agreed to. Many will object, however, to the implication that no appropriation (i.e. acquisition of exclusive rights of use) is just in the absence of actual collective agreement. It is implausible, they may claim, to hold that the consent of others is required for just 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, it's unclear why one needs the consent of others as long as one makes an appropriate compensatory payment for the natural resources appropriated.

A different sort of approach holds that agents may use, or appropriate, unappropriated natural resources without the permission of others, but if they do so, they acquire certain enforceable obligations. This is the most common approach taken by left-libertarians, and we shall presently examine some of the different forms that it can take. But first we must see that some possible forms (but held by no one) are clearly implausible. An extreme form of this approach holds that anyone who *uses* natural resources (which is of course everyone) *forfeits all rights* of self-ownership (e.g., the right not to be assaulted). A slightly less extreme form allows agents to use natural resources subject to the rules of common use without any loss of self-ownership, but holds that anyone who *appropriates* (claims rights of exclusive use over) natural resources forfeits all rights of self-ownership. Both these views hold that agents are "initially" full self-owners, and are thus "formally" versions of libertarianism. Neither is plausible because they allow self-ownership to be lost too easily.

A plausible conception of the ownership of natural resources must be compatible with reasonably *secure* (not easily lost) self-ownership. At a minimum it should allow unappropriated resources to be *used* by agents *without the permission of others* and *without any loss of the rights of self-ownership*. More specifically, a plausible conception should be *common-use-based* in the

sense that (roughly) justice permits agents to use unappropriated natural resources as long as they violate no one's self-ownership (nor, perhaps, certain constraints of fair use).<sup>10</sup> On the most permissive conception of common use, the only constraint on use is the self-ownership of other agents. Agents are permitted by justice to breathe air, walk on unoccupied land, eat apples in no one's possession, and even to chop down trees, and burn down shelters others have built—as long as no one's self-ownership is violated (e.g., by being assaulted or killed). A less permissive version of common use would also impose some constraints of fair use that rule out some kinds of use (e.g., continued possession of the sole source of water). Under common use, no one owns the resource (in the sense of having the right to exclude others from use), and the only constraint on use is self-ownership, and perhaps some constraint of fair use.

Without some such condition of permissible use of natural resources, self-ownership has no real force, since it could be lost through the unavoidable use of natural resources. In addition, a plausible conception of the ownership of natural resources, many will argue, should be *unilateralist* in the sense of allowing agents to *appropriate* unappropriated natural resources without the consent of others—and with no loss of self-ownership—as long as they make an appropriate payment (to be discussed below).<sup>11</sup>

In what follows, then, we shall consider some common-use-based, unilateralist conceptions of natural resource ownership (in conjunction with full self-ownership). *Radical right-libertarians*—such as Rothbard (1978, 1982) and Kirzner (1978)—hold that that there are no payment requirements for the appropriation of unappropriated resources. Agents are free to take ownership of whatever unappropriated natural resources they find (or mix their labor with). Obviously, this is a non-starter from an egalitarian viewpoint. Other right-libertarians—such as Nozick (1974)—hold that the only payment requirements are those of a quasi-Lockean proviso, which requires roughly that no individual be made worse off (in some appropriate sense) by the

appropriation (compared with the situation before appropriation). It seems quite plausible that satisfaction of some form of such a proviso is a *necessary* condition for just unilateral appropriation, but it is surely not *sufficient* for just appropriation. For private property rights over natural resources typically bring the owners benefits (even after making a payment to ensure that no one is made worse off). Consequently, people are willing to pay for these rights, and the rights have—relative to some specification of the morally relevant market conditions—a *competitive value* (based on demand and supply). There is no reason why an appropriator should be immune from paying for this competitive value.

There are many important issues concerning exactly how competitive value is determined by supply and demand. The Appendix briefly identifies some of the key questions. In what follows we shall simply assume that we have a fixed conception of competitive value.

*Georgist libertarians*—such as eponymous George (1879, 1892), Steiner (1977, 1980, 1981, 1992, 1994), and Tideman (1991, 1997, 1998)<sup>12</sup>—hold that agents may appropriate unappropriated natural resources as long as they pay for the competitive value of the rights they claim.<sup>13</sup> If, as we are assuming for the moment, there is only one generation of agents, then these rights could be purchased outright. If, however, there are multiple generations, it could be argued that the most plausible version of this approach requires that rights over natural resources be *rented* (as opposed to purchased) at the competitive rent value so as to ensure that for *each* generation the total payment equals current competitive value.<sup>14</sup> For simplicity, since this is the most common version, we shall assume the rent model in what follows.

Georgist libertarianism holds that agents must pay the full competitive value of the natural resources that they appropriate, but it also holds that agents fully own their products (artifacts) once they have paid their rent and fulfilled any other contractual obligations. For agents who produce more—because they work longer hours or because they are more efficient

producers due to greater productive talents—pay the same taxes (rent) as those with less advantageous unchosen personal endowments who own equally valuable natural resources. Those with strong egalitarian inclinations will reject this view, and hold that persons with greater unchosen advantage should pay higher taxes, since they can reap greater benefits from natural resources.<sup>15</sup>

Most such egalitarians may grant that the payment of competitive rent is a necessary condition for just appropriation, but they will deny that it is a sufficient condition. A natural way of modifying the Georgist position to take into account the above consideration is to hold that, in addition to paying the competitive rent, appropriators must pay a tax equal to up to 100% of the net benefits (net of the competitive rent) that they reap from appropriation.<sup>16</sup> Of course, in practice it is not viable to tax agents 100% of such benefits. The required information about benefits is impossible to obtain and even enough information for rough approximations would be very costly to obtain. Furthermore, 100% taxation leaves no incentive to make productive use of natural resources (since it leaves no net benefit to the agent). For these reasons, the full-benefit-taxation approach should be understood as setting a *maximum* tax that can be charged. The actual tax charged will be whatever maximizes net tax revenues (after deducting administrative expenses).

Consider then the *full-benefit-taxation* conception of natural resource ownership. This is like the Georgist view considered above except that, in addition to paying competitive rent, appropriators must pay taxes (up to 100%) on the benefits they reap from appropriation. This approach has the effect of treating *all* benefits of applying personal talents to appropriated natural resources as social assets. Although it holds that agents own the products of their labors after paying the competitive rent and full-benefit-taxation (and for other factors used in production), full-benefit-taxation wipes out the benefits that such rights provide to the producer.

Full-benefit-taxation is, however, compatible with full self-ownership. First, as we have seen, any assumption about the ownership of natural resources is compatible with full self-ownership. Second and more importantly, this view of the ownership of natural resources is compatible with a relatively *secure* self-ownership. For, like the Georgist conception, it imposes the enforceable financial obligations only on those who appropriate natural resources. Agents are free to use unappropriated natural resources under the terms of common use without acquiring any enforceable obligation to pay rent or benefit taxes. It is thus possible for agents to avoid having to pay the tax.<sup>17</sup>

Something in the general area of Georgist libertarianism and full-benefit-taxation libertarianism is, I believe, promising for liberal egalitarianism. They each avoid the problem of requiring the consent of others to *use* unappropriated natural resources by holding that common use is permitted by justice and involves no loss of any rights of self-ownership. The two conceptions also hold that *appropriation* of natural resources without the consent of others—and with no loss of self-ownership—is legitimate as long as appropriators pay the relevant rent and taxes. The key difference between Georgism and full-benefit taxation concerns whether agents are entitled to the net benefits of appropriation (net of competitive rent). Georgism only requires agents to pay competitive rent, and thus typically allows agents to benefit from appropriation (with agents with greater productive capacities typically reaping greater benefits). Full benefit-taxation, on the other hand, taxes away up to the full benefit of appropriation.<sup>18</sup>

Neither Georgist libertarianism, nor full-benefit-taxation libertarianism, is a form of *pure* egalitarianism. For their endorsement of full self-ownership does some real work in limiting the admissible ways in which equality may be promoted.<sup>19</sup> On these views, agents may not be killed, tortured, or assaulted without their consent if they have committed no past injustices. Nor may they be coerced into providing involuntary services for others (e.g., mandatory labor for the

state). Nor do agents owe any taxes merely because they exist or because they use natural resources. Nor are taxes imposed that effectively require agents to work in their most productive capacity (e.g., the “tax slavery” that results if each person owes an annual tax equal to the value of his/her maximally valuable annual product). If, however, agents appropriate natural resources, then they must pay the competitive rent, plus perhaps taxes equal to up to the full value of the net benefit from appropriation.

Purist egalitarians will reject the above two approaches and hold that anyone who *uses* natural resources thereby incurs the enforceable obligation to do *whatever* is necessary to maximally promote equality. Although such an approach is formally compatible with (initial) full self-ownership, it gives no real role to self-ownership, since agents must use some natural resources (e.g., to stand on or to breathe), and hence immediately lose their self-ownership. More weakly, one could hold that the enforceable obligation to promote equality maximally is incurred by anyone who *appropriates* (as opposed to uses) natural resources. This leaves some real role for self-ownership, since in principle agents could decide not to appropriate. But it has the result that appropriators may lose some of their rights of self-ownership, and be subject, under certain conditions, to forced service (e.g., when their skills are needed by society), forced transfer of body parts (e.g., organs for a disadvantaged person), or even torture (e.g., when it provides important medical information that reduces the suffering of the disadvantaged). Because these implications seem implausible, nothing more demanding than full benefit-taxation (or something like it) seems promising for liberal egalitarians.

## 5. THE OWNERSHIP OF NATURAL RESOURCES: SPENDING THE SOCIAL FUND

So far we have considered what the appropriate payment is for appropriation of natural resources. We now need to address the question of how the social fund generated by rents and taxes is

spent. Most standard theories of justice (e.g., utilitarianism, mutual advantage contractarianism, envy-freeness and related principles) can be invoked here as theories of spending policy (but not of taxation). Because we are focusing on left-libertarianism, which by definition involves some form of egalitarianism, I shall limit my remarks to egalitarian theories of spending. And when addressing theories that focus on the well-being of agents, I shall assume that the focus is on the *opportunity* for well-being rather than actual well-being. The latter kinds of approach do not appropriately hold agents responsible for their choices.<sup>20</sup>

On the *equal share* conception—advocated by Arthur (1987), Steiner (1994), and Tideman (1991, 1997, 1998), and discussed by Kolm (1985, 1986)—the social fund is divided equally among all agents in society. This view is not concerned with the impact on people’s well-being, and it does not require compensation for individuals with disadvantages in their personal or situational endowments (their genes, the environment in which they were raised, etc.).<sup>21</sup> This lack of concern for effective equality of opportunity for a good life will strike many egalitarians as implausible. Of course, if it is combined with the full-benefit-taxation approach to appropriation, the more advantaged will pay higher taxes than the less advantaged, but typically (e.g., for incentive reasons) the higher taxes will not completely eliminate the differential benefit. And even if they did, equal sharing of the social fund does not guarantee effectively equal opportunity for a good life. Some people, through no fault of their own, may benefit less from their share of the spending than others do (e.g., those who are genetically morose).<sup>22</sup>

On the *equal gains in well-being* conception the social fund is spent so as to give each person an equal gain in the value of their opportunities for well-being from the spending. Unlike the equal share conception, it is sensitive to the impact that spending has on the opportunities for a good life, and seeks to give everyone an equal gain. A crucial question, of course, concerns the relevant conception of well-being, and whether well-being is—as required by this approach—

cardinally measurable and interpersonally comparable in units.<sup>23</sup> Even if welfare is so measurable, many egalitarians reject this view for being inadequately egalitarian. For it requires no compensation for unchosen disadvantages in the prespending *levels* of well-being. A person with a low level of prespending opportunity for well-being (e.g., with an unchosen depressive disposition) is given the same well-being benefit (gain) as a person with a high level of prespending opportunity for well-being, and that is arguably implausible. Any plausible egalitarian spending policy will, it will be argued, be concerned with well-being *levels* and not merely with well-being gains.

A third view of how the social fund should be spent is the *equality of opportunity for well-being* view. It holds that the social fund should be spent so as to promote equality of opportunity for well-being as much as possible. It focuses spending so as to improve the opportunities for a good life of those with relatively unfavorable genetic or situational endowments, and spends little or nothing (except for instrumental reasons) on those with relatively favorable endowments.<sup>24</sup>

So within left-libertarian theory there is room for disagreement about the manner in which the social fund generated by the value of natural resources is to be divided. The equal share view takes a resourcist stance, whereas the equal gains in well-being view and the equal opportunity for well-being take welfarist stances.

## 6. OUTSTANDING ISSUES

So far we have been assuming that the only beings with moral standing are rational agents, that there is only a single society, and only a single generation of agents. It is now time to discuss briefly the issues that need to be confronted when these assumptions are relaxed.

## 6.1 The Significance of National Boundaries

It is perhaps possible for a left-libertarian theory to hold that the members of each *country* own the underlying natural resources in some egalitarian manner. Few, if any, contemporary left-libertarians, however, would endorse such a view. For the very reasons that militate against any individual reaping the full benefit that ownership of natural resource provides, also militate against any group of individuals reaping these benefits. Furthermore, at the most fundamental level, national boundaries are morally arbitrary (although of course for administrative purposes they are certainly important in many ways). So, most contemporary left-libertarians hold that all natural resources in the world are owned by all the agents in the world. The funds generated by natural resources should be shared (e.g., equally, or to promote equality) among all individuals in the world.

## 6.2 Beings with Partial Moral Standing

Libertarianism holds that full agents fully own themselves and that they are entitled to a share of the benefits of natural resources. On any plausible view agents are not the only beings with moral standing. I shall assume here that any being that is either sentient or has at least a minimal level of agency has moral standing. Libertarian theories, like all theories of justice, thus need to take a stance on the status of: (1) sentient beings with no potential for agency (e.g., more primitive animals and severely mentally deficient humans), (2) sentient beings with no agency but with the potential for full agency (e.g., normal 12-week old fetuses and infants), and (3) sentient beings with partial agency (e.g., children and great apes). There are two questions: (1) Do they own themselves at least partially? (2) Are they among the beings who are entitled to a share of the benefits of natural resources.

One possible position is to hold that such beings have moral standing, but that they have no standing with respect to *justice*. This is roughly to say that their will and their interests are relevant for assessing what is morally permissible, but not for determining what is just. For at least many kinds of being with partial moral standing (e.g., children), this will seem highly implausible to most.

With respect to the constraints on the treatment of sentient but not fully autonomous beings, one approach is to ascribe *quasi-self-ownership* to sentient beings with no agency, where this is just like self-ownership except that infringements are permitted when and only when they do not harm the being. This would in effect be a constraint against certain kinds of treatment except when it does not harm them. If these sentient beings have partial agency, then it could be further held that their consent is relevant for issues falling within the domain of their agency). Another approach is to give a different kind of status (not based on ownership) to sentient beings who are not fully autonomous. One could hold, for example, that it is unjust to harm these beings except when there is a sufficient offsetting benefit to others (a sort of quasi-utilitarian consideration). Obviously, there are many possibilities here.

With respect to sharing in the benefits of egalitarian ownership of natural resources, most of the questions that left-libertarianism must confront must be confronted by any egalitarian theory of justice. On an equal share view, for example, does each mouse in the world get a share equal to that of each adult human? On the equal opportunity for well-being view, must the funds be spent primarily on members of species that are genetically limited in their capacity for well-being (e.g., mice)? Any sensible egalitarianism will answer negatively to each of these questions, but it's not clear what a principled answer would look like. Much work is needed in this area.

### 6.3 Future Generations

The possible existence of multiple generations raises many distinct issues that left-libertarianism—and any other theory of justice—must deal with.

One question concerns the duty of justice to provide resources for those that one procreates (the duties of parents). Under many conditions adding an additional person to the world can reduce the resources to which others are legitimately entitled according to left-libertarianism. On an equal share view, it increases the number of people entitled to an equal share. On an equality of opportunity view, if the person is particularly disadvantaged in his/her opportunities, he/she may be entitled to payments that others would have otherwise received. Of course, the net impact also depends on whether adding the person also changes the value of the fund to be divided up. But at least under some conditions, adding a person can reduce the entitlements of others. One view of this matter holds that parents are not accountable for any such reduction in the resources of others. Another view is that parents are fully accountable, and that justice does not permit procreation unless one provides enough resources to one's offspring to ensure that they are not a drain on the social fund. The key issue here is whether negative externalities generated by procreation, if any, should be born by the parents.<sup>25</sup>

A second question concerns whether those currently alive have any duty of justice to preserve and pass on to later generations the resources that they own in the specified egalitarian manner. One answer is that people who do not now exist have no rights and are owed nothing. Left-libertarians, however, generally believe that individuals have an enforceable obligation to preserve the value of the natural resources (e.g., by having rent include payments to a fund for any depletion or deterioration of natural resources). Most left-libertarians would deny, however, that there is an enforceable obligation to preserve the value of the *artifacts* that one creates. They generally hold that one is free to destroy the wealth that one creates. More controversial among

left-libertarians is whether there is an enforceable obligation to preserve the value of the artifactual wealth inherited from previous generations. If such wealth was *abandoned* (e.g., not transferred to anyone alive today), then most left-libertarians would hold that it is to be treated in the same manner as natural resources. As we shall now see, there is room for disagreement about whether artifactual wealth can be legitimately transferred by gift or bequest to others.

Consider then the question of how *gifts* (including bequests) to members of later generations are to be treated. The issue of gifts arises, of course, even in the case of a single generation. Most left-libertarians, however, will likely hold that, if there is just a single generation, then no injustice is done if all start with their fair share of resources, and then some benefit from gifts while others do not. The crucial issue concerns the transmission of resources to a person in a later generation where this reduces the equality of starting positions (e.g., the effects of wealth dynasties).

A first point to note concerns *bequests*, that is gifts from dead people. As Steiner (1992, 1994) has argued, dead people do not have rights, and hence left-libertarianism need not, and arguably should not, recognize (except on practical grounds) the validity of bequests. Any assets owned by a person at death are deemed abandoned, and such assets arguably become—along with natural resources—part of the pool of resources that are owned in some egalitarian manner (just as the assets of some defunct society of the distant past become part of this pool).<sup>26</sup>

A second point to note concerns inter vivos gifts of external resources, that is, of natural resources or artifacts (as opposed to personal services). Although left-libertarianism is committed to full self-ownership—and hence the right to make gifts of one's personal services—it need not be committed to private ownership of *artifacts*. Furthermore, even if private ownership of artifacts is allowed, it need not be *full* private ownership. It may not include the power to transfer by gift.<sup>27</sup>

A third point to note concerns the right to *acquire* property by means of a gift. As we saw above in the discussion of voluntary enslavement, the right to transfer property to others does not guarantee that others have the power to acquire those rights by means of transfer. That is a separate question. It thus open to left-libertarianism to hold that people do not have the right to acquire property by gift. This is not to say that left-libertarianism would prohibit all receptions of gifts. It is only to say that it could hold that no one's rights would be violated if this were done. Any sensible left-libertarian theory will allow gift-giving and gift-receiving. The issue here is whether such transactions may be legitimately subjected to taxation and other restrictions.

So, left-libertarian theories can, but need not, endorse the right to transfer rights by gift and the right to acquire rights by gift. It will depend on how they wish to treat the inequalities generated by such transfers. There are many stances that can be taken here. One view is that there is no right to receive (or make) gifts free of taxation.<sup>28</sup> Another is that people have a right to receive free of taxation any gifts made to them by people no older than themselves, but no right to receive free of taxation any gifts made to them by people who are older. This view holds that it is only transmissions of wealth to subsequent generations that are morally problematic.<sup>29</sup> Another view holds that people have a right to make and receive gifts, free of taxation, as long as the gift is drawn from wealth that the donor owned and created, but that people have no right to make or receive gifts when the gift is drawn from wealth that donor received as a gift (e.g., inheritance).<sup>30</sup>

#### 6.4 Dealing with the Imperfect World

Two other issues that need to be addressed more fully concern the implications of left-libertarianism in an imperfect world (e.g., where people's knowledge is limited and their motivation to be just less than full).

First, if left-libertarian principles were implemented, what compensation, if any, is owed to those who lose their (illegitimate) legal rights over natural resources. This is a question of who should bear the transition cost from the unjust world to the just world. The issue is very similar to the question that arose when slavery was outlawed in the U.S.. On the one hand, the legal owners had no moral right to the legal rights they claimed. On the other hand, they may have invested a lot of hard work and savings on the assumption that they would continue to have those legal rights. Various views are possible ranging from no compensation to partial compensation to full compensation. And there are also various views about *who* owes the compensation. It may, for example, be the social fund, the persons who sold the current owners those rights, or the current beneficiaries of the original unjust appropriation.

A second issue concerns the question of to whom the taxes (rent for natural resources, gift taxes, or whatever) are owed. It cannot simply be the government. For governments can be corrupt and grossly inefficient, and in any case they are not the ultimate holders of the entitlements involved. If agents owe their taxes to individuals directly (and via governments only when this is an efficient way of discharging those obligations), then do they merely have to set aside the appropriate amounts and make payments to anyone who comes forward with a legitimate claim? Or must they actively seek out legitimate claimants? If the latter, are the administrative costs of seeking claimants born by the agent or are they deducted from the payments owed? And how should this be coordinated on an international scale?

Obviously, there are many other issues that a full left-libertarian theory must address. Enough has been said here, I hope, to indicate the range of issues that need to be considered.

## 7. CONCLUSION

Left-libertarianism is a form of liberal egalitarianism. It holds that natural resources are owned in some egalitarian manner and that full self-ownership imposes constraints on how agents may be treated. As we have seen, there are many forms that the egalitarian ownership of natural resources can take. The resulting theories range from radically left-wing to slightly left of center. As the readings in this volume should make clear, the hard work lies in articulating and defending a specific version of left-libertarianism.<sup>31</sup>

## Appendix: Competitive Value

The competitive value of a given set of rights over a given set of resources is the value, determined by supply and demand, for those rights relative to a given initial set of rights (which determines bidding power). In order to specify fully a conception of competitive value each of the following questions must be answered.

(1) What is the prior allocation of rights (and hence bidding power) relative to which demand and supply operate? It cannot simply be the prevailing legal distribution of rights (e.g. wealth), since these may be (and typically are) the result of all sorts of past injustice. Nor can it simply be an equal share of the resources at issue (or equal bidding power), since there may be (and typically are) all sorts of just inequalities arising from past choices (e.g., about the amount to save or the amount of time to labor). A natural approach is to appeal to the prevailing legal distribution of rights, but adjusted for past injustices. The adjustment for past injustices, of course, will involve appealing to the hypothetical outcomes that would have occurred had past injustices not occurred. Ultimately, this will involve something like an appeal to the “initial” rights of self-ownership and the “initial” rights to use and appropriate natural resources under specified conditions along with adjustments for each historical violation.

(2) What exactly are the rights over natural resources at issue? Full ownership rights or something less than that?

(3) Is the competitive value of a set of rights over a given set of natural resources based on the demand for the the rights over the resources *taken as a package* or based on the demand for those rights over the resources *broken down into the smallest feasible units* (e.g., based on bids for an entire tract of land vs. bids based on the smallest feasible parcels thereof)? With externalities and decreasing marginal utility, these two approaches can yield quite different results.

(4) Are coalitions allowed in the bidding process, or are only individual bids allowed?

(5) How exactly is the competitive value (of a set of rights over resources) determined given the demand and supply? For natural resources, there is a fixed supply, so we can here focus solely on how the competitive value is determined by demand. A *first-price* auction takes the competitive value to be the *highest* price that someone would pay. This leaves no benefit to the purchaser. A *second-price auction* takes the competitive value to be the *second highest* price that someone would pay. This leaves a benefit to purchasers if and only if they would be willing to pay the highest price. An intermediate approach is to appeal to a *market-clearing price*, which is a price that is low enough so that none of the resources would be left unsold at that price and high enough so that no wants to buy more at that price. Where the resources are fixed in supply (as they are with natural resources), there will typically be a range of market clearing prices. The highest price that someone would pay is a market-clearing price, but so are lower prices as long as they are high enough so that no one would wish to purchase an additional unit of the resource. The market-clearing price is always be no lower than the second highest price that someone would pay for the original unit. (It will be higher, for example, in a two-person case where Smith would pay \$20 for the original unit, and \$15 for an additional one, and Jones would pay only \$10 for the original unit. Where there is only the original unit, any price between \$15 and \$20 is market-clearing. \$10 is the second highest price for the original unit.) If the skills and preferences are jointly distributed among agents in a “continuous fashion” (in the sense that for any agent there is another agent with virtually identical skills and preferences), then there will be little difference among these three approaches.

(6) How is the possibility of indeterminate competitive value dealt with? Even given a fully precise specification of competitive value, where there is more than one kind of resource there can be more than one competitive equilibrium. Hence that the competitive value can be indeterminate. This is because the competitive value for one resource depends on that of others,

and there may be several distinct sets of prices that produce the relevant competitive equilibrium. Possible ways of dealing with this include taking the highest competitive value, taking the lowest, or taking all competitive values as admissible (and thus leaving the notion of competitive value somewhat indeterminate).

## NOTES

<sup>1</sup> For a selection of the most important left-libertarian writings of these authors, see Vallentyne and Steiner (2001).

<sup>2</sup> My analysis of self-ownership and of ownership of natural resources draws heavily on the deeply insightful work of Cohen (1995). Many of the points made here were first made in Vallentyne (1998).

<sup>3</sup> The thesis that *agents* are full self-owners is the thesis that agents fully own *themselves*. What exactly is owned thus depends on the nature of agents. It is generally assumed that they own their entire bodies, but this depends on a certain of agent identity. Furthermore, exactly what agent self-ownership involves with respect to their mental life is a bit unclear. We shall not worry about these matters here.

<sup>4</sup> 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.

<sup>5</sup> For further defense of the right of voluntary enslavement see: Steiner (1994), pp. 232-34, and Nozick (1974), p. 331. For criticism, see Ingram (1994), pp. 38-9, Kuflik (1984), McConnell (1984, 1996), and Grunebaum (1987), pp. 170-71. Note that Locke (1689) (vol. 2, sec. 23) rejected the right of self-enslavement on the grounds that the rights involved belonged to God. More strikingly, note that radical right-libertarian Rothbard (1982) rejects this right (p. 40) on the grounds that one cannot alienate one's will. This is true, but irrelevant. For one can alienate the right-making powers of one's will (consent).

<sup>6</sup> Many of the issues discussed in the preceding paragraphs depend on whether rights are viewed as protecting choices or interests. For discussion of this matter see, for example, Steiner (1994, ch. 3) and Kramer, Simmonds and Steiner (1998).

<sup>7</sup> Grunebaum (1987) defends this weakened form of self-ownership, and Kolm (1985, 1996a) suggests that nothing stronger than it is plausible. Christman (1994) defends mere control self-ownership, which is much weaker still.

<sup>8</sup> The best discussions the relation of self-ownership to the ownership of natural resources are: Christman (1994), Cohen (1995), Grunebaum (1987), Kolm (1985, 1986, 1996a), Kymlicka (1990), Moulin and Roemer (1989), Roemer (1988, 1989a, 1989b, 1996), Steiner (1994), and Van Parijs (1991, 1992, 1995). In addition to the works cited below, see: Ackerman (1980), Arneson (1991), Attas (1999), Becker (1977), Borovali (1998), Carter (1999), Gauss (1994), Gorr (1995), Kagan (1994), Kramer, Simmonds, and Steiner (1998), Levine (1988), Mack (1983, 1990, 1995), Peirce (1999), Reeve (1986), Simmons (1992), Thomson (1990), Waldron (1988), and Wheeler (1980).

<sup>9</sup> In general, left-libertarians attach great significance to the difference between external resources that are produced (artifacts) and those that are not (natural resources). They do not, however, attach much significance to the functional difference (emphasized by Marxists) between external resources that are used for production (the means of production; e.g. an unproduced bed of coal, or a [produced] machine) and those that are used for consumption (consumer goods; e.g., an unproduced lake used for leisure, or a shirt).

<sup>10</sup> See Mavrodes (1974) and Fressola (1981) for enlightening discussions of the rules of common use and related forms of ownership of natural resources.

<sup>11</sup> I leave open here what agents must do in addition to making an appropriate payment. The most plausible view, I believe, simply requires that they stake a claim (assert certain rights). The payment owed would thus depend on what rights are claimed. Other possible views are that agents must discover the natural resource, or that they must mix their labor with it. Although I believe neither of these views to be plausible, for generality I leave open this issue.

<sup>12</sup> Van Parijs (1995) also defends charging competitive rent for the appropriation of natural resources. He is not, however, a Georgist libertarian because he endorses charging rent on (or taxes equal to up to 100% of the value of) all non-personal assets that were “given” to an agent (as opposed to produced by him/her). He includes gifts from humans as well as gifts from nature (other than initial personal endowments) in the rent/tax base. He argues furthermore that employment rents—wages in excess of the market clearing wage—are a significant source of gifts.

<sup>13</sup> For discussion of the views of Henry George, and of contemporary Georgist economists, see: Andelson (1991), Harrison, Hudson, Miller and Feder (1994), Tideman (1994), and Wenzel (1997a).

<sup>14</sup> An alternative is to require the purchase price to be sufficient so that, if invested, the interest each year will be sufficient to pay the rent. Borovali (1998) defends this approach. Some would object to it on the ground that, due to unexpected increases in the value of natural resources, the interest may not be sufficient to pay the rent.

<sup>15</sup> Steiner (1994, 1997, 1999) argues that one’s germ-line genes (as opposed, for example to genetic modifications made by oneself or one’s parents) is in effect a natural resource and subject to the payment of competitive rent.

<sup>16</sup> There are several important issues left open here concerning the nature of the benefits that are taxed. One is whether the benefits in question are realized benefits (e.g., money earned) or “reasonably realizable” benefits (e.g., money that reasonably could be earned) from the appropriation. This makes a difference concerning the tax owed by a person who, because of special talents, could reasonably realize a benefit (net of competitive rent), but fails to do so because she wastes her opportunities. Another question concerns whether the benefits in question are construed in material terms (e.g., money or apples) or in subjective terms (e.g., happiness). If only material benefits are considered, then the benefits of higher productive capacities may be taxed away, but the benefits of higher consumptive capacities (capacity to benefit, capacity for well-being) will not be subject to any tax. These are deep questions that I cannot address here. In practice a feasible approach—given our limited information—would probably be limited to taxing realized material benefits.

<sup>17</sup> As far as I know full-benefit-taxation libertarianism has not been explicitly defended by anyone (although the general idea is not new). The following, however, are some closely related approaches: Brody (1983) argues that the benefits of appropriation may be taxed to ensure that everyone gets a self-interestedly mutually advantageous share of the benefits. Christman (1994) defends control self-ownership, but denies that agents (even non-appropriators) have any right to the income they generate. White (1998) accepts control self-ownership, but argues that agents owe taxes on their income at a rate (varying depending their talents) that equalizes post-tax potential income. Otsuka (1998) argues that a robust right of self-ownership (encompassing full control rights and payment immunities) is compatible with a principle of just appropriation according to which agents are free to appropriate only as much resources as is compatible with

equality of opportunity for welfare (and thus less appropriation is permitted for more talented agents).

<sup>18</sup> Steiner (1994, 1997, 1999) seeks to extend Georgism in a way that reduces the distributive differences between it and full-benefit-taxation with respect to talent differentials. He proposes taxation of the talent-producing value of children's genetic endowments—inasmuch as these can be counted as natural resources—with that revenue distributed in proportion to genetic disadvantage.

<sup>19</sup> Thus, because of its endorsement of full self-ownership, even full-benefit-taxation libertarianism, combined with a radical equality of opportunity spending policy, differs from the unconstrained forms of egalitarianism of Arneson (1989, 1990), Cohen (1989), and Roemer (1993, 1996).

<sup>20</sup> For a defense of the focus on the opportunity for well-being, see Arneson (1989, 1990), Cohen (1989), Van Parijs (1995), and Roemer (1993, 1996). They rightly argue that, if individuals choose to develop expensive tastes or to squander their resources, they alone should bear the costs (and no equalization is needed for inequalities so generated). There are, of course, many other important questions that need to be addressed here. One question concerns the relevant measure of well-being (or the good life): happiness, preference satisfaction, functionings, primary goods, or some perfectionist ideal. See, for example, the discussion of this general issue in: Arneson (1989, 1990), Cohen (1989), Dworkin (1981a, 1981b), Rakowski (1991), Rawls (1971), Roemer (1985, 1986, 1993, 1996), Sen (1980, 1992), and Van Parijs (1990, 1995).

<sup>21</sup> The view of Steiner (1994, 1997, 1999) is more complex than this suggests. For, although he advocates equal divisions of the general social fund, he holds that the funds generated by his gene tax are to be distributed in proportion to genetic disadvantage.

<sup>22</sup> Dworkin (1981b) advocates the equal division of natural resources. To compensate for unequal personal endowments he advocates hypothetical insurance. For criticism of this insurance approach see Roemer (1985, 1996).

<sup>23</sup> For recent articles on interpersonal comparisons, see Elster and Roemer (1991).

<sup>24</sup> Something like this view is advocated by Brown (1977), Sartorius (1984), Otsuka (1998), and Van Parijs (1995). Van Parijs advocates equal division, but only after compensation for inequalities in personal endowments (as measured by his criterion of universal domination).

<sup>25</sup> See, for example, the discussions in Ackerman (1980, ch. 7), George (1987), Rakowski (1991, ch. 7), and Casal and Williams (1995).

<sup>26</sup> Colins (1835) and Huet (1853) also hold that there is no power of bequest (or no power to receive the benefits of any bequests made).

<sup>27</sup> Of course, if the power to make gifts of personal services, but no power to make gifts of artifacts is recognized, there will be a problem of leakage. Many of the economic benefits of receiving artifactual gifts will be accomplished by means of gifts of personal services.

<sup>28</sup> Roughly this view is defended by Sreenivasan (1995), Van Parijs (1992, 1995), and Varian (1975).

<sup>29</sup> Ackerman (1980) holds roughly this view. Something like this view of gifts may also be implicit in Colins (1835) and Huet (1853).

<sup>30</sup> Something like this is the view of Rignano (1924) and Nozick (1989). For related discussion on the taxation of gifts and bequests, see: Chester (1982), Haslett (1988), Munzer (1990), and Rakowski (1991, 1996).

<sup>31</sup> I thank Hillel Steiner for his extremely helpful comments.