

## Replies<sup>1</sup>

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All left-libertarians believe that natural resources should be governed by an egalitarian principle of distribution. In my own case, this belief gains its support from what I take to be the most defensible interpretation of the Lockean principle of justice in acquisition, according to which one may privatize land and other worldly resources in a state of nature so long as one leaves enough and as good for others. Axel Gosseries is right to press the question of the moral status of worldly resources in a state of nature prior to private acquisition. For Locke, that status was one of common ownership, underwritten by God's gift of the earth to humankind in common. For Léon Walras, to whom Vincent Bourdeau draws our attention, the earth both initially and inalienably belongs to humanity, and such collective ownership is grounded, not in theistic assumptions, but in the "scientific observation" that human beings are by nature social beings. By contrast, I regard the earth as initially unowned. This supposition should not, however, be understood, as it is by some, as the claim that each is equally free at the outset to privatize any bit of the world as he sees fit as a matter of right. Rather, it should be understood as an initial *non*-presumption of *any* rights with respect to the world. Rather than asserting the existence of rights that, as a moral default position, we have with respect to pristine wilderness, I am making a claim that is motivated by the methodological impropriety of presuming any rights with respect to the world at the outset.

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<sup>1</sup> I am extremely grateful to Vincent Bourdeau, Geert Demuijnck, Anca Gheaus, Axel Gosseries, and Raul Magni Berton for the attention they have devoted both to my book and to the topic of left-libertarianism more generally. I cannot do justice in this brief reply to the full range of issues that have been raised and challenges posed in the rich array of interesting and thoughtful contributions to this volume. Special thanks are due to Speranta Dumitru for conceiving the idea of a special issue on left-libertarianism and for all her subsequent efforts to bring this idea to fruition.

Any claims of rights over the world need to be argued for rather than merely presumed. Hence my initial assumption of non-ownership plays no positive role in establishing my egalitarian principle of justice in acquisition. But by the same token – and here I part company with Gosseries – it does not present any barrier to the establishment of a highly egalitarian principle of justice in acquisition. Rather, it simply provides a moral blank slate onto which each has an equal opportunity to inscribe his argument for his preferred principle of justice in acquisition. The best argument is to be selected simply on the merits, with none enjoying any privilege over any other at the outset.

In our joint defence of left-libertarianism, Peter Vallentyne, Hillel Steiner, and I wrote: “All left-libertarians agree that the ownership of natural resources is governed by an egalitarian principle, although there is some disagreement as to whether it is the current value of these resources in their unimproved state or that plus the value of our opportunities to improve them which should be equalized.”<sup>2</sup> I take the latter view, since I think the transformation of worldly resources into human artefacts is not in itself sufficient to justify any departure from a principle of equality of opportunity for advantage. In contrast to the left-hobbesians to whom Gosseries draws our attention, I would go so far as to insist that it is insufficient to justify any such departure even in an economy of autarkic (non-cooperative) production. We can imagine that equality of opportunity for advantage would be realized in an autarkic two-person economy just in case the more talented of the two was subject to a redistributive tax on the fruits of his labour on natural resources, where this tax would transfer some of these fruits to the less talented individual. The talented person’s right of self-ownership would not be violated if he were allowed access to natural resources only on condition that he pay this tax. This is because a person’s right of self-ownership does not in

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<sup>2</sup> “Why Left-Libertarianism Is Not Incoherent, Indeterminate, or Irrelevant,” *Philosophy and Public Affairs* 33 (2005): 201-15, at p. 202.

itself imply any right to unfettered access to natural resources.<sup>3</sup> I therefore deny Gosseries's claim that it is a premise of left-libertarianism that the state may not take more from the talented by virtue of their superior talents and his related claim that left-libertarians will want to avoid the taxation of the fruits of people's labour in order to preserve self-ownership.

If what I have said to this point is sound, then Gosseries and others exaggerate the differences between luck egalitarianism and left-libertarianism. Luck egalitarianism calls for the elimination of all unchosen disadvantage. In other words, it calls for equality of opportunity for advantage. We can distinguish between 'extreme' and 'moderate' versions of this doctrine. An 'extreme luck egalitarian' is one who thinks that the state has compelling reason to eliminate unchosen disadvantage and that this reason is never overridden by any conflicting reason it may have to do otherwise, where this contrary reason might be thought to be rooted, for example, in liberty, efficiency, or self-ownership. A 'moderate luck egalitarian' also thinks that the state has compelling reason to eliminate unchosen disadvantage, but he acknowledges that this reason may be overridden by conflicting reasons that tell against such elimination. Though I am a left-libertarian, I would also classify myself as a moderate luck egalitarian.

Are there any significant differences between my left-libertarian version of luck egalitarianism and the more familiar liberal egalitarian versions of Ronald Dworkin and G. A. Cohen?<sup>4</sup> One difference is that we embrace different metrics of advantage. I embrace a metric of equality of opportunity for welfare, whereas Dworkin embraces a metric of equality of opportunity for worldly and personal resources (where the latter consists of one's mental and physical capacities), and Cohen embraces a hybrid of the welfarist and the resourcist metric. I would, however, like to set that difference to one side and focus on a different question: do

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<sup>3</sup> I grant, however, that such a right of self-ownership would not be *robust* if one lacked access to natural resources that are sufficient for one's own subsistence. See my introduction to this issue for further discussion of the relation between self-ownership and world-ownership.

<sup>4</sup> See Dworkin, *Sovereign Virtue* (Cambridge, USA: Harvard University Press, 2000) and Cohen, "On the Currency of Egalitarian Justice", *Ethics* 99 (1989): 906-44.

we also differ in the strength of our commitment to equality of opportunity for advantage? My answer to this question is that such differences are much smaller than one might think.

Like me, neither Dworkin nor Cohen is an extreme luck egalitarian. This can be demonstrated by imagining a scenario in which the only way to equalize opportunity for advantage is via forced transplantation of one of the two good eyes of each of the sighted to each of the entirely blind, thereby realizing a state of affairs in which each individual has the use of one good eye.<sup>5</sup> An extreme luck egalitarian would be committed to such forced transplantation, but both Dworkin and Cohen would condemn it, as would any left-libertarian. Or let us suppose that equality of opportunity for advantage could be realized only if the talented were enslaved at gunpoint, enchained, and forced to toil in the service of the disabled for the rest of their lives. An extreme luck egalitarian would be committed to such enslavement, but both Dworkin and Cohen would condemn it, as would any left-libertarian. All left-libertarians would condemn such forced transplantation and slavery as a violation of rights of self-ownership, and luck egalitarians such as Dworkin and Cohen would condemn these things for the same reason.<sup>6</sup>

Let us turn, now, to cases in which the equalization of opportunity for advantage is to be achieved, not through forced transplantation of body parts or the use of guns and chains to enslave people, but only through a distribution of worldly resources that aims to provide the able-bodied with a much lesser share than the disabled, thereby fully compensating the latter for their lesser efficiency at converting worldly resources into advantage. I have argued that such compensating distribution does not infringe anyone's right of self-ownership.<sup>7</sup> Gosseries maintains that, even if we grant this claim, a compensating distribution of worldly resources may not be sufficient to satisfy a luck egalitarian, since it might not fully compensate

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<sup>5</sup> This example is Nozick's. See Robert Nozick, *Anarchy, State, and Utopia* (New York: Basic Books, 1974), p. 206.

<sup>6</sup> Dworkin might refuse to call this right one of 'self-ownership', but this would amount to a verbal rather than a substantive dispute with the left-libertarian.

<sup>7</sup> See introduction of this issue and ch. 1 of *Libertarianism without Inequality*.

disabilities. In reply, I would first note that, even if it is impossible to equalize opportunity for advantage through a compensating distribution of worldly resources, a luck egalitarian is not necessarily committed to taking whatever further steps would be necessary to equalize opportunity for advantage. As I have indicated above, luck egalitarians such as Dworkin and Cohen would not advocate forced transfers of body parts or enslavement at the point of a gun if these were the only ways to equalize opportunity for advantage. Second, I note that it would, as a matter of fact, almost always be possible to equalize opportunity for advantage through a compensating distribution of worldly resources. For even if it is impossible to bring the severely incapacitated or ill up to the level of the able-bodied, it will almost always be possible to bring the able-bodied down to their level by granting the able-bodied access to so few resources as to render their rights of self-ownership non-robust and to reduce them to a state of starvation and dehydration.<sup>8</sup> Of course, no sane luck egalitarian, left-libertarian or otherwise, would advocate such equally shared misery. This is because no sane luck egalitarian is willing to sacrifice everything else to the demands of equality. We have not yet, therefore, found a point of disagreement between myself and luck egalitarians such as Dworkin and Cohen, insofar as the strength of our commitment to equality is concerned.

Differences between my left-libertarianism and other forms of luck egalitarianism do, however, arise with respect to the taxation of the unjust. I advocate such taxation to meet the needs of those who cannot provide for themselves when it is impossible to realize equality of opportunity for advantage without encroaching on the robust self-ownership of the able-bodied. Luck egalitarians who are not libertarian would instead favour the taxation of all of the able-bodied in these circumstances, thereby forcing them all to come to their assistance.

Anca Gheaus maintains that my proposal to make the unjust provide for the disabled is unfair both to the unjust and to the disabled. As a preliminary to my response to her

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<sup>8</sup> See my "Luck, Insurance, and Equality", *Ethics*, 113 (2002): 40-54, at p. 46.

challenge, I emphasize that this proposal applies only to the unusual circumstances in which, no matter how great a share of the world's resources the disabled happen to own, they will not possess enough in order to achieve a life as good as any other person's life through voluntary exchanges with able-bodied individuals who are not themselves rendered so impoverished that they are forced on pain of starvation to work for the sake of the disabled. In all other circumstances, the disabled are each entitled as a matter of justice to a significantly greater share of the world's resources than any able-bodied individual. This is because, in all other circumstances, they are entitled to live what might aptly be compared to the lives of landed gentry who possess a sufficiently large share of the world's resources that they will be able to achieve a life as good as any other through voluntary exchanges with able-bodied individuals. Any unfairness to the disabled in the unusual circumstances in which they are provided for by the unjust must be placed in the context of their extensive entitlements otherwise.

In these unusual circumstances, the only way for the disabled to survive, absent voluntary contributions, is by literally forcing the able-bodied to provide for them. Although I reject Nozick's contention that redistributive taxation is necessarily on a par with forced labour, such taxation would be on a par with forced labour in the unusual circumstances under consideration in which nobody has any desire to produce and consume more than is necessary for his own subsistence. Should the state impose a scheme of universal taxation, thereby forcing all able-bodied individuals to provide for the badly off? Or should it force only a subset of them – the unjust who voluntarily choose to do things they have no right to do – to provide for the badly off? I think the latter is more defensible in these circumstances, though I agree that neither alternative is palatable. Here we are caught between a rock and a hard place.

In assessing Gheaus's charge that it would be unfair to the unjust to tax only them, it is important not to lose sight of the fact that I maintain that the unjust are entitled as a matter of right to the same opportunity for welfare as the just, so that any differences in their welfare are traceable solely to their own choices. So we must not be misled by the thought that such taxation might be unfair to the unjust because it might be harder for them than it is for the just to avoid committing crimes, or because their relatives might be less generous to them, or because they might have fewer lucky breaks in their careers. The imposition of the tax in these circumstances would be ruled out as a violation of equality of opportunity for welfare.

Gheaus also maintains that the magnitude of the taxation of the unjust might unfairly fluctuate over time as, for example, the needs of the disabled or the numbers of the unjust vary. These fluctuations might, I think, be mitigated by keeping the rate of taxation at a high enough stable level that it will be able to generate enough revenue in the long run, with borrowing against future surpluses to make up for any immediate shortfalls. I grant that, to keep it within limits that will be fair to the unjust, their taxation may have to be supplemented by universal taxation of all of the rest of the able-bodied in order to meet the needs of the disabled. But even a partial replacement of universal taxation with the taxation of the unjust would be desirable from a libertarian point of view, since it would serve to alleviate the burden of the unavoidable, universal taxation of the able-bodied.

Regarding Gheaus's claim that the disabled would be stigmatized if they were provided for by a taxation of only the unjust, my hope is that public recognition of the underlying rationale for such taxation would remove the stigma. The rationale is not that the disabled are unworthy of support by any other than the criminal elements of society. Rather, the rationale is that we each possess robust rights of self-ownership that stand in the way of our being forced to labour, at great cost, in order to provide for strangers. Such force would be a form of coercion that *nobody*, however able-bodied he or she may be, is entitled to profit

from unless there is no other, less coercive means of providing something of extreme importance. In this case there is a less coercive means of meeting the vital needs of those who will otherwise starve: by taxing only those who have voluntarily done something they had no right to do and could reasonably have been expected to refrain from doing.<sup>9</sup>

Geert Demuijnck argues that my opposition to bequests and the giving of non-modest gifts implies such an attenuation of the right of self-ownership that it becomes a nearly empty notion that I might as well drop altogether. I would reply that the right of self-ownership that I endorse is neither inconsequential nor attenuated.

It is not inconsequential for the following reasons. As I note above, and Demuijnck would agree, the right stands in the way of the sacrifice of life, limb, or labour for the sake of equality, as in the case of forced transplantation of body parts or the enslavement of the talented at gunpoint. As I also note above, my preference for taxation of the unjust over universal taxation is grounded in my commitment to a robust right of self-ownership. This is another case in which I give priority to self-ownership over the demands of equality. It is also a case in which I part company with non-libertarian egalitarians, as they would oppose the taxation of the unjust. My commitment to self-ownership also yields an account of political authority that is grounded in the actual consent of the governed. Moreover, this commitment implies a right to choose to alienate one's control over oneself by, for example, selling oneself into slavery. These implications of the right give rise to further substantive

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<sup>9</sup> I also deny Gheaus's claim that I reject a social model of disability. In ch. 2 of my book, I address the narrow question of the provision of food, clothing, shelter, and medicine to those who lack the ability to engage in productive labour, where the only form of productive labour at issue is assumed to be the farming of land. Given this narrow question and this simplifying assumption, the social model of disability is not relevant to my discussion, which is not to say that I would reject it in other circumstances in which it would be relevant. Although I set the question of public goods largely to one side in my book, I agree that any sound political theory needs to account for the provision of these goods. I think Dworkin's attempt to account for public goods in ch. 3 of his *Sovereign Virtue* provides one promising path for left-libertarians.

differences between my approach and non-libertarian egalitarian theories such as those of Rawls and Dworkin.

I would also insist that my stance regarding bequests and gifts implies no attenuation of the fullness of a right of self-ownership. Rather, those who claim that a right of self-ownership implies a right to bequeath or otherwise transfer one's worldly possessions make the mistake of thinking that such a right is more extensive than it could possibly be. We need, once again, to draw a distinction between what is and is not a part of one's body. I grant that the fullest possible right of self-ownership would imply an unrestricted right to bequeath or otherwise transfer any part of one's body to whomever one chooses. It is, however, a mistake to claim that a right of self-ownership implies any right to bequeath or otherwise transfer one's worldly possessions. This is because it is more generally the case that even the fullest right of self-ownership does not itself imply any rights of ownership over the world, except perhaps to the physical space one must occupy.<sup>10</sup>

I acknowledge that if one's right of self-ownership is to be robust, and not merely full, then one must have access to sufficient worldly resources to sustain oneself. But a right of self-ownership that is robust as well as full is consistent with a principle of justice in acquisition according to which each is entitled to a plot of land from which he will be able to grow and harvest food for his own subsistence but nobody is entitled to give away or even trade any worldly resources, including the worldly fruits of his labour. I therefore reject Demuijnck's claim that the right of self-ownership that I affirm implies an unqualified right to take advantage of voluntary exchanges of worldly resources. I do maintain that this right implies the "right to all of the income that one can gain from one's mind and body (including one's labour) ... through unregulated and untaxed voluntary exchanges with other individuals", but I immediately add the crucial qualification that this right "must be exercised

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<sup>10</sup> See my introductory remarks for further discussion of this point. See also ch. 1 of *Libertarianism without Inequality*.

within the confines of our rights of world-ownership”.<sup>11</sup> Given this qualification, the right of self-ownership cannot be appealed to in order to establish the right to benefit from the exchange of worldly resources.

Vincent Bourdeau and Raul Magni Berton each raise questions regarding the moral foundations of left-libertarianism. Bourdeau explores the republican foundations of Walras’ version of left-libertarianism. Magni Berton argues that a foundationally perfectionist liberalism devoted to the promotion of the good of each is superior to a left-libertarianism such as mine that privileges the right over the good.

According to Walras:

If society were a conventional and voluntary entity, the individuals agreeing to its establishment could decide to divide land equally among themselves; but if society is a natural and necessary entity, all alienation of land is contrary to natural right, because it deprives later generations. In juridical terms, humanity is the owner and the current generation is the usufructuary of land.<sup>12</sup>

Walras conceives of society as a ‘natural and necessary entity’, and Bourdeau emphasizes that republican convictions are also at the foundation of Walras’ left-libertarianism. By contrast, I conceive of society (or at least political society), in Lockean fashion, as a conventional and voluntary entity. It is encouraging to discover that theorists with such divergent foundational commitments are able to converge, for their very different reasons, on highly similar left-libertarian policy prescriptions, as this raises the possibility of an “overlapping consensus”.

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<sup>11</sup> *Libertarianism without Inequality*, p. 15.

<sup>12</sup> *The Theory of Property*, as quoted in Peter Vallentyne and Hillel Steiner, eds., *The Origins of Left-Libertarianism* (Basingstoke, England: Palgrave, 2000), p. 223.

Nevertheless, I cannot myself accept a Walrasian justification of left-libertarianism, and my reasons for adopting a contrary Lockean starting point in political philosophy is captured by the opening lines of Nozick's *Anarchy, State, and Utopia*: "Individuals have rights, and there are things no person or group may do to them (without violating their rights). So strong and far-reaching are these rights that they raise the question of what, if anything, the state and its officials may do. How much room do individual rights leave for the state?"<sup>13</sup> It is also captured by Nozick's related assertion that "there is no *social entity* with a good that undergoes some sacrifice for its own good. There are only individual people, different individual people, with their own individual lives."<sup>14</sup> The rights at issue are rights of self-ownership, and my reasons for taking these rights as seriously as I do are briefly spelled out in the introduction to this issue. Given the seriousness with which I take these rights, I take my primary task to show how it is possible, consistent with self-ownership, to justify an egalitarian distribution of worldly resources and how it is possible for governments to arise through the voluntary consent of each in a manner that respects self-ownership.

For similar reasons, I cannot accept a foundationally perfectionistic justification of state action, even of the liberal sort that Magni Berton advocates. Following Locke, I affirm that the authority of government, when legitimate, consists of nothing more or less than the exercise of those rights over self and world that each of the governed has consented to transfer to his governor. Moreover, it is no business of individuals, in their private interactions with others, to seek to improve the lives of strangers against their will.<sup>15</sup> Since the rights of state officials consist of nothing more than rights transferred from individuals, I

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<sup>13</sup> *Anarchy, State, and Utopia*, p. ix.

<sup>14</sup> *Ibid.*, p. 33.

<sup>15</sup> As Locke wrote in his *Letter Concerning Toleration*: "In private domestic affairs, in the management of estates, in the conservation of bodily health, every man may consider what suits his own convenience and follow what course he likes best. No man complains of the ill-management of his neighbour's affairs. No man is angry with another for an error committed in sowing his land or in marrying his daughter. Nobody corrects a spendthrift for consuming his substance in taverns. Let any man pull down, or build, or make whatsoever expenses he pleases, nobody murmurs, nobody controls him; he has his liberty."

do not see any foothold for perfectionistic foundations for the exercise of political authority, however benignly liberal a form such perfectionism might take, unless such authority is based on the consent of each to live in a society for the sake of improving his own life.