

Self Ownership and World Ownership: Against

Left-Libertarianism*

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What regime of property ownership satisfies norms of justice? The doctrine known as “left-libertarianism” offers a seemingly plausible answer.ⁱ Its basic thrust is that libertarianism properly understood leaves room for an egalitarianism that enhances its appeal. In this essay I argue that the seeming plausibility of the doctrine evaporates under scrutiny. This set of views is unacceptable from any political standpoint, left, right, or center.

The left-libertarian category encompasses a family of positions. I focus on one of these, the views elegantly articulated by Michael Otsuka.ⁱⁱ Otsuka’s version of the doctrine nicely illustrates the philosophical ambitions of the project and the flaws at its core.

The project is to combine a libertarian thesis of self-ownership (each adult person is the sole full rightful owner of herself) and an egalitarian thesis of world ownership (any legitimate private ownership of material resources or parts of the earth by one person must be compatible with private ownership by all other persons of bundles of resources that are equal in some appropriate sense). I object to both elements in this synthesis. The self-ownership thesis is both too weak and too strong.ⁱⁱⁱ It is too weak to capture a genuine insistence on individual freedom, and too strong in its denial of what

each of us owes to other persons and is owed from them. It also places more normative weight on individual consent than this notion can bear. The world-ownership thesis undercuts self-ownership in real terms and also goes astray in its insistence on equal benefits for people as opposed to greater benefits for people. (In the course of this essay I intend to clarify these cryptic assertions.)

Besides finding left-libertarianism normatively unattractive, I also find that it fails to pass muster as a plausible interpretation or reasonable extension of the political and moral ideas associated with the writings of John Locke.^{iv} This is a relevant objection because left libertarians tend to wrap themselves in the mantle of the Lockean tradition, and the question arises, are they entitled to this covering. Of course, the left-libertarian does not offer his views as Locke's own, but as Lockean. For example, Otsuka says he is defending "an approach to political philosophy, and a set of moral and political principles, that draw their inspiration from John Locke's *Second Treatise of Government*."^v He claims to have plucked the valuable fruit from Locke's work while discarding the rotten berries. He affirms that "Locke managed to apprehend some important truths of political morality, truths that together constitute an elegant and unified system of ideas." His project is to state these truths more clearly than they appear in Locke's text. He and I differ as to which bits of Locke are the valuable fruit and which ones the rotten berries.

PRELIMINARIES

Libertarianism is a doctrine that ascribes to individuals natural moral rights in the tradition of John Locke.^{vi} Roughly speaking, the doctrine holds that each person has the moral right to do whatever she chooses with whatever she legitimately owns provided she

does not thereby cause harm or impose undue risk of harm to others in specified ways. Each person also has the complementary moral right not to be harmed by others (and not to suffer imposition by others of undue risk of harm) in these specified ways. Moreover, each person at the onset of adult life is the full rightful owner of herself.

Legitimate ownership encompasses a range of entitlements down to bare entitlement to access. Full ownership includes a bundle of entitlements. If one fully owns a thing, one has the right to use it as one chooses so long as one does not use it in ways that violate other people's rights not to be harmed, the right to exclude all others from using it, the right to allow others to use it on terms one sets, the right to lend the thing to another on mutually agreeable terms, the right to waive, temporarily or permanently, some or all of one's rights in the thing, and the right to transfer some or all of the set of rights just mentioned to another person via gift or contract on any mutually agreeable terms. These various ownership rights are enforceable. One has the moral right to issue standing conditional threats to others who might be tempted to violate any of one's ownership rights in the thing. The conditional threats take the form, "If you (attempt to) violate my rights, I'll retaliate, and so you'll be worse off." (The right to force or coerce is limited by a proportionality constraint, so that one may not threaten to impose a cost on another person in order to induce her to respect one's ownership right if this threatened cost is disproportionate to the loss one would suffer if the right is violated.^{vii})

In this tradition moral rights are rights one has independently of institutional arrangements, cultural understandings, and anyone's opinions or attitudes. A moral right involves enforceable duties owed by other people toward the right-holder. For example,

the content of Smith's right to walk down the street is given by the duties of all other people not to interfere in certain ways with his walking in that place.

Right-wing libertarianism affirms that from the premise of self-ownership plus other plausible premises one can show that by exercising their natural moral rights individuals can appropriate and acquire private ownership rights in parts of the external world and that ownership of property established in this way can be substantially unequal. Indeed the right-wing libertarian holds that there is no per se moral limit on the extent of inequality of individuals' property holdings.

Left-wing libertarianism combines affirmation of libertarian self-ownership with egalitarian claims about world ownership. Full ownership is exclusive: if one person has full ownership of a thing, no one else has any ownership rights in that thing. Since each person includes just one distinct body, the thesis that every person is the full exclusive rightful owner of herself is evidently compatible with the further claim that persons can legitimately acquire full exclusive ownership of unequal amounts of the material world, there being no limit to the extent of inequality of ownership that may legitimately arise. The left-libertarian holds that it is just as true that the claim that each person is the full rightful owner of herself is compatible with any extent of moral limits on the degree to which persons can acquire unequal ownership of unequal amounts of parts of the material world. Moreover, the underlying moral values of individual freedom and personal autonomy and sovereignty are best served by the combination of individual self-ownership and egalitarian world ownership. So says the left-libertarian.

I agree that individual self-ownership and egalitarian world ownership are compatible theses—both could be true together. I suspect that this combination of views

is not coherent. By this I mean that the best rationale for individual self-ownership is opposed to the best rationale for egalitarian world ownership.^{viii} But among the many rationales that might be advanced to support a claim, it is hard to show which one is best, so best rationale incoherence is hard to establish definitively. A more tractable issue is this: Self-ownership rightly—that is to say, broadly-- conceived includes constraints on acceptable views on world ownership. Self-ownership is a doctrine of individual freedom. It holds that the earth, the material world apart from the bodies of persons, is available for the use of persons on fair and equal terms. What these fair and equal terms are is a matter of dispute, but self-ownership limits the range of possibly acceptable positions. In particular, the terms of eligibility for ownership of parts of the earth cannot discriminate in favor of personal traits that some self-owning persons possess and other do not.^{ix} To take an uncontroversial example, what I shall call the broad idea of self-ownership rules out as inadmissible the following regime of private ownership: persons with white skin may acquire private property in parts of the earth and persons with black skin may not. This discriminatory regime would have the effect of undoing the freedom of self-ownership: denied the right to acquire property, persons with black skin would have to give up self-ownership rights in exchange for being allowed access to air to breathe and land to stand on in order to ensure bare survival.

Narrow self-ownership, the idea as understood by left-libertarians, is compatible with its being the case that some persons have no right to breathe the air they need to live or to stand on the any place on earth or elsewhere in the universe or even to occupy with their bodies the physical space that their bodies must occupy. The three just-mentioned rights are rights over parts of the world separate and distinct from human individuals, so

whatever rights (narrowly conceived) human individuals have over themselves will not stretch to cover these or any other parts of the world. In a broad sense, self-ownership involves the right of each of us to live as she chooses, and this vague right includes some rights to use the physical world in ways that are prerequisite to living.

Self-ownership also includes rights against certain sorts of incursions by other people. If I impinge on your body by hitting you, pushing you (from some location where you have a right to be), or carrying out activities that by design or as unintended side effect cause physical damage to your body, your self-ownership rights are infringed. There are questions about how exactly to delimit rights against such incursions. For example, does self-ownership include a right that no one engage in activities that involve a risk, however small, of generating physical damage, however small, to your body? We intuitively do not suppose that people have rights against incursions that are so strict, but it is not clear how one sets the boundaries of rights against incursion in a principled way that does not compromise the core idea.^x I set these issues aside, despite their intrinsic interest, as not germane to the central concerns of this essay.

THE OTSUKA PROPOSAL

Otsuka affirms a libertarian right of self-ownership that incorporates these two rights:

- (1) A very stringent right of control over and use of one's mind and body that bars others from intentionally using one as a means by forcing one to sacrifice life, limb, or labour, where such force operates by means of incursions or threats of incursions upon one's mind and body (including assault and battery and forcible arrest, detention, and imprisonment).

(2) A very stringent right to all of the income that one can gain from one's mind and body (including one's labour) either on one's own or through unregulated and untaxed voluntary exchanges with other individuals.^{xi}

He then exploits the fact that self-ownership so understood is entirely silent on the topic of world ownership. Anything goes, so far as self-ownership is concerned. One who asserts self-ownership is then at liberty to embrace any claims about world ownership.

He opts for egalitarianism in the form of equal opportunity for welfare. Applied to the question, under what conditions may one appropriate previously unowned parts of the earth as private property, his answer is that one may do so provided that one's appropriation and use of the land are compatible with everyone's having the opportunity to improve her condition to the same absolute level, improvements in an individual's condition being measured in terms of satisfaction of the self-interested preferences she would have "after ideal deliberation while thinking clearly with full pertinent information regarding those preferences." This equal opportunity for welfare norm also regulates the distribution of material resources (parts of the earth) in an ongoing society in which all valuable resources have already been appropriated. The egalitarian world ownership norm requires that resource ownership be regulated to induce equal opportunity for welfare among persons across the generations.

A clue that something has gone wrong here turns up when one considers the implications of the Otsuka proposal regarding world ownership for the possible scenario in which the resources that anybody might want to appropriate as private property are nonscarce. That is to say, there are more than enough land and resources available to

accommodate the entire aggregate of proposed private appropriations that people would ever have any reason to advance. Applied to the limited case of land for appropriation, the nonscarcity world would be one in which anybody could appropriate as much land for his own use as he liked, and any and all such appropriations would leave more than enough land just as good in quality for others to appropriate.

In chapter five of the *Second Treatise on Government*, John Locke considers the nonscarcity scenario and makes the observation that at least in this case, one should be free to appropriate as much land as one can make use of and reap the benefits of one's use. In the nonscarcity scenario, if one person appropriates and works a plot of land, and another then demands some of the produce, it is plain he desires "the benefit of another's pains, which he had no right to."^{xii}

Compare Locke's treatment of nonscarcity and what the Otsuka proposal implies about it. Suppose able-bodied Smith wishes to appropriate 100 acres of arable land under nonscarcity. Even though this appropriation would leave enough and as good land for others to appropriate, Smith under the Otsuka proposal is only allowed to appropriate an amount of land that, together with the appropriations of others, leaves all individuals with equal opportunity for welfare understood as informed self-interested preference satisfaction. What this constraint requires depends on the actual ensemble of people's informed self-interested preferences. I want to focus not on this feature but on its implications across able-bodied and non-able-bodied persons. Suppose the world contains two individuals, Smith and Jones. Jones is entirely unable to transform arable land into resources that would boost her preference satisfaction level. Smith then either is permitted to appropriate no land at all, if any appropriation would render him higher in

opportunity for preference satisfaction than Jones, or he must appropriate and work land and share the produce with Jones so that equal opportunity for welfare is maintained.

Self-ownership is not literally abrogated here. Smith is under no obligation to aid Jones in any way and all others are required not to force him to use his body in any way for the benefit of other persons. Although he owns himself, Smith has no entitlement to land except in accordance with the Otsuka proposal that individual entitlements to appropriate should be modified to yield the result that all individuals have equal opportunity for welfare. He freely agrees to work for Jones's benefit in exchange for the opportunity to appropriate land.

Nonetheless self-ownership has clearly been eviscerated. The rules of world ownership have been gerrymandered to require the able to use their labor to benefit the unable as a condition of able people being allowed to act to further their aims in ways that cause no harm to anybody.

To see the tension between the Otsuka proposal and what I shall call the broad idea of self-ownership (I grant that a narrow idea of self-ownership is consistent with the Otsuka world ownership regime), consider his own characterization of self-ownership.

He writes: "Like all other versions of Lockean libertarianism, mine regards a right of self-ownership as fundamental, where such a right consists of robust and stringent rights of control over oneself: one's mind, body, and life. Such a commitment to self-ownership is, I think, definitive of Lockean libertarianism. The anti-paternalistic and anti-moralistic implications of this right will be attractive to anyone who finds himself in sympathy with the conclusions which John Stuart Mill draws in *On Liberty*. When it comes to such things as freedom of expression, of sexual relations of any sort between

consenting adults, of the possession of cannabis and other recreational drugs, of gambling, and the like, I am completely at one with other libertarians.”^{xiii}

Not so fast. In this passage Otsuka relaxes into a substantive conception of self-ownership which is at odds with the formal notion whose formality he exploits in order to show the consistency of self-ownership and egalitarian world ownership.

Here is a quick demonstration, modeled on Otsuka’s argument, that the premise of self-ownership is fully compatible with a regime that sharply restricts individual liberty with respect to sexual expression, freedom of expression, use of dangerous recreational drugs, gambling, and the like. Note that even in order to breathe and stand on the earth without taking property to which one has no right, one must have some rights of access to the world external to one’s body—some rights of world ownership. Self-ownership alone does not entitle one to breathe nonscarce air and stand on a bit of the earth even when land is nonscarce. The libertarian moralizer can then argue as follows: Everyone is the full exclusive rightful owner of herself, but in order to be entitled to breathe the plentiful air God has given us or to stand on his spacious earth, one must agree not to commit such sins as engagement in nonheterosexual sex, gambling, dancing, recreational consumption of alcohol or other dangerous and unhealthy drugs, blasphemous speech, and so on. If one commits any of these sins, one thereby forfeits one’s conditional entitlement of access to air to breathe and land to stand on.

If the Otsuka world ownership regime is compatible with Lockean libertarian self-ownership, then so is the moralizing regime that sharply restricts individual liberty in self-regarding matters as just described. Something has clearly gone wrong here, but it is

tricky to state the misinterpretation of Lockean libertarianism into which Otsuka and my imaginary libertarian moralizer have fallen.

Suppose the defender of the Otsuka proposal objects that she does not believe prohibitions of nonheterosexual sexual acts, gambling, the consumption of recreational drugs that may be dangerous to the user, and so on, are justifiable in any case, on independent grounds, so any unsavoriness in these prohibitions does not attach to left-libertarian distributive justice. This response is irrelevant to my point. This was that contrary to Otsuka's assertion, self-ownership as he characterizes it does not have the standard libertarian implications he supposes. The further fact that this same ultra-thin or formal characterization of self-ownership does not rule out his distributive justice proposal does not then establish its libertarian credentials.

I believe that Otsuka is right to associate a thicker or substantive idea of self-ownership with the standard libertarian positions he mentions. In my view, this thicker idea of self-ownership is violated by the Otsuka proposal on world ownership.

How might this go? We might characterize thick self-ownership as the combination of the generic libertarian principle of freedom with self-ownership. The former says that each person is morally free to do whatever she chooses with whatever she legitimately owns provided she does not thereby harm others in specified ways. There is a standard list of types of harming that fills out the specification. The self-ownership claim says that each person is the full rightful exclusive owner of herself.

This won't do. The stated combination rules out neither egalitarian constraints on world ownership nor moralistic constraints on personal behavior that involves some slight world ownership. One can insist that people are free to do whatever they like with

whatever they legitimately own, but it is a further issue, not yet resolved, on what terms individuals should have entitlements to use resources such as air or other parts of the earth. Egalitarianism and moralism propose terms for such entitlements. Plausible or implausible they may be, but neither proposal is in conflict with the stated combination.

The following suggestion is better. To self-ownership as previously characterized we add the generic libertarian principle of freedom in a simpler construal: Each person is morally free to do whatever she chooses provided she does not thereby harm others in specified ways. The person who engages in nonheterosexual sex, gambling, and so on, does not harm anyone in any of these ways, at least when her incidental usage of nonscarce resources in carrying out such acts is clearly not depriving anyone of anything to which she has a claim based on libertarian natural rights. Likewise the person who appropriates a plot of land and works on it to gain benefits for herself when land is nonscarce is arguably doing what clearly harms no one in any way a libertarian moral theory ought to recognize as wrongful harming. The appropriator in these circumstances is not depriving anyone of anything to which she has a claim based on libertarian natural rights.

We might alternatively treat the idea of self-ownership as initially indeterminate so far as its implications for morally acceptable world ownership are concerned. We then try to make progress in understanding the notion by introducing constraints on its interpretation. Here are two plausible constraints:

1. When parts of the material world are nonscarce, each person is morally permitted to appropriate as much of these resources as she likes and to use them in

whatever ways she chooses provided she does not by such uses cause harm to nonconsenting others (in certain ways that violate their natural moral rights).

2. The moral rules that regulate appropriation of parts of the material world do not discriminate among persons on the basis of their personal traits. The quantity and quality of resources one is permitted to appropriate do not vary depending on such facts as whether one has black or white skin color, is fat or thin, is talented or untalented, is physically attractive or unattractive, is male or female, or old or young.

Both of these constraints on the interpretation of the norm of self-ownership are violated by the Otsuka proposal for permissible appropriation that is supposed to show how libertarian self-ownership is compatible with egalitarianism in the distribution of material resources across persons. However, the constraints are plausible, if one's project is to elaborate a version of Lockean libertarianism that (1) is normatively attractive and (2) can stand as a reasonable interpretation or extension of Locke's own texts so that the label "Lockean" is appropriate.

What is normatively attractive is subject to debate. I here simply record my own impression of what is appealing in Locke's doctrines that the Otsuka proposal excludes. The basic Lockean ethic holds that people are not naturally subject to the authority of other persons but are free to live as they choose (within uncontroversial constraints) and free to acquire private ownership of resources given that this ancillary freedom is necessary if people are to be free to carry out any of a wide range of reasonable aims and projects that people in fact regard as centrally important for their fulfillment. This vague ideal of personal freedom can be construed as compatible with the existence of some minimal duties to rescue other people from dire predicaments, but the mere fact that

others are worse off than you and would benefit from your laboring for them does not suffice to generate an enforceable moral duty that you labor on their behalf. This vague ideal already incorporates the idea that--in some sense to be explored--one's freedom includes the freedom to use parts of the earth without obtaining the consent of other persons and without laboring for them as a condition on permissible use and permissible appropriation of the parts.

OTSUKA MODIFIED

One might seek to render the Otsuka proposal more appealing by adding a Pareto norm to it. This norm would hold that appropriations otherwise ruled out as inadmissible by the proposal are permissible provided they would improve someone's condition without worsening anyone else's condition. So in the world of abundance containing two persons, one able and one unable, isolated so that neither can by his actions affect the condition of the other for better or ill, Able is permitted to appropriate and develop as much land as he likes even though these actions render him far better off in welfare than Unable. So far, so good.

However, this set of principles still lacks normative appeal. Consider a variant of the previous example in which Able can bestow the fruits of his labors on Unable. The latter benefits a tiny bit from every transfer from Able, but Able must labor for thousands of hours in order to generate one unit of utility for Unable, whereas he can gain a same-sized unit of utility for himself by laboring for just a few seconds. To sustain equal opportunity for welfare (utility), Able is permitted to appropriate land and work it for his own benefit only on the condition that for each acre of land he appropriates and works for himself, he must appropriate and work tens of thousands of acres on behalf of Unable.

Assume that Able prefers more utility to less and acts to maximize his utility within moral constraints. According to the Otsuka proposal as just amended, morality holds that in order to appropriate land and labor for himself under conditions of nonscarcity, he must spend the vast bulk of his life laboring for the sole benefit of the less fortunate Unable.

Moreover, in the imagined circumstances, left-libertarianism as elaborated by Otsuka holds that Able is morally permitted to appropriate and use even a little bit of land for a tiny bit of time for himself only if he also appropriates huge tracts of land and spends most of his life working for Unable even though these huge efforts on behalf of Unable will do him very little good. In the example, we have stipulated that Unable is a poor transformer of resources into utility. This fact does not affect what we owe one another according to an equal opportunity for welfare norm, which Otsuka upholds as the moral principle that regulates world ownership. The example highlights the way that the Otsuka proposal drives a wedge between formal self-ownership and any real freedom guarantee that each person has the right to live as she chooses without necessarily being dedicated to helping others.

To be fair, it should be noted that Otsuka does not deny that egalitarian world ownership can drastically crimp a person's real freedom to live as she chooses in some possible or even likely circumstances. He is concerned to argue that in some possible circumstances egalitarian world ownership would be compatible with a robust, more than merely formal self-ownership for all. He describes an example in which unable persons are assigned ownership of ocean front property and able persons are permitted to own inland property, the rules being set so that the able can survive without working for the

benefit of the unable but are glad to work for them in exchange for obtaining access to the beach, and equal opportunity for welfare obtains for all without anyone being *forced* to labor for others, because the consequences of declining to work for the benefit of others would not be intolerable for anyone who so declines.^{xiv}

Granting all this, I do not see that any of it tends to render the Otsuka proposal normatively attractive. A fundamental moral norm is morally acceptable not merely because in some possible circumstances it yields intuitively plausible implications but rather in virtue of yielding intuitively plausible implications in actual and in relevant counterfactual circumstances. There can be disagreement as to how wide these counterfactuals must range, if the norm is to count as acceptable. Some might say: the norm must yield intuitively acceptable implications in all logically possible circumstances. Some might accept a narrower scope, such as acceptable implications in all physically possible circumstances, or in all circumstances that obtain in possible world reasonably close to the actual world. We need not stop to consider which standard states the appropriate test for candidate norms. The Otsuka proposal fails the test on any of the construals just stated.^{xv}

Turning back to the modified proposal, I note that it would allow appropriation that leads to unequal, even extremely unequal, opportunity for welfare, if able persons happen to prefer not appropriating land and sharing the fruits with the unable except on terms that disproportionately favor themselves over the unable. In this scenario, the outcome in which no appropriations occur is Pareto suboptimal compared to the alternative outcome in which appropriation occurs and the fruits go mainly to the able.

SELF-OWNERSHIP WITH RELAXED WORLD OWNERSHIP

What happens to the Otsuka doctrine if we retain its strong self-ownership element but relax its world ownership component in the direction of Lockean common sense? This is a vague question. Let us suppose for purposes of illustration that we affirm that people have common ownership rights to breathe the air and stand on parts of the earth and wander through the earth freely as hunter-gatherers, and that they also have the right to appropriate land and work the land and acquire full private ownership of the land and resources on the land that they improve by their labor. We suppose this right to acquire is limited by a familiar Lockean Proviso, the details of which we can leave aside.^{xvi}

What then? The unsurprising answer is that even if we assume that people end up acquiring roughly equal amounts of property by appropriation and labor, the self-ownership component of the doctrine all by itself can generate unlimited inequality of ownership. Suppose that in an economy of small (roughly equal) property owners, some persons are beautiful, and others will pay to look at them; some can solve complex mathematical problems, and the others will pay to be informed of the answers; some are able to run fast and perform astounding athletic feats, and others are willing to pay to watch these performances; and so on. These are all inequality-generating scenarios, rooted in people's unequal possession of talent. Even if it were the case that unequal talent to work and improve land were not a significant source of inequality, and only people's unequal talents to work their own minds and bodies (supposing all have air to breathe and space to place their bodies without running afoul of stringent equal world ownership requirements), still, in the Otsuka utopia in which all comply perfectly with the moral principles governing self-ownership and (relaxed) world ownership, there is no

in principle limit to the amount of inequality that might legitimately arise. Some might live like kings and queens, while others must make do with brutally short lives in squalid conditions. Suppose these possibilities became actual.

The imagined inequality-via-self-ownership runs afoul of principles that hold that when sheer luck showers good on some and evil on others, some sharing of luck is morally mandatory. One such principle holds that it is morally bad if some are worse off than others through no moral fault or moral demerit of their own. Another holds that if some are significantly worse off than others, and seriously badly off, through no moral fault or moral demerit of their own, redress is morally required.^{xvii}

The left libertarian, who has been persuaded that Otsuka world ownership is an extreme and unattractive doctrine, and accepts a relaxed Lockean view, and then is asked to contemplate inequality-via-self-ownership as just described, might respond in broadly one of two ways. She might say that her doctrine on self-ownership is meant to hold only in some range of circumstances, in which insistence on self-ownership does not generate morally jarring inequality. This would be in effect to renounce self-ownership regarded as a bedrock moral principle. She might alternatively dig in her heels and insist that morality mandates private ownership of self come what may, whatever the consequences. To my mind the latter response is beyond the pale.

REJECTING THE CORE OF LEFT-LIBERTARIANISM

The core left libertarian impulse is to reconcile the norms of self-ownership and egalitarianism of some form with respect to world ownership. The root intuition is that both norms are morally compelling, so if one can develop a set of principles that

combines both, one should. Peter Vallentyne, Hillel Steiner, and Michael Otsuka clearly articulate this rationale for left libertarianism in these words:

Left libertarianism holds that there is a very significant difference in the moral status of agents (self-directing beings with full moral standing) and natural resources (resources that have no moral standing and which were created by no [non-divine] agent. About the former they maintain that full self-ownership is the most appropriate reflection of the status (e.g. because it explains/grounds the intuitive wrongness of various forms of nonconsensual interference with bodily integrity) and about the latter they independently maintain that egalitarian ownership is the most defensible stance.^{xviii}

So far I have pointed out that since humans can do virtually nothing at all without using the material resources of the world in some way, the thesis of self-ownership turns out to be in a way too weak or merely formal in a sense. It guarantees no substantive real or effective freedom to do what one chooses and live as one prefers. (One has *real freedom* to do X just in case one is actually able to do X and has an unimpeded opportunity to do X. If I am really free to drive to LA, then there is a course of action available to me, such that if I choose it, I drive to LA.)

Another objection to embracing self-ownership is that as applied to a certain range of cases it is too strong, objectionably rigid. If I am the sole full rightful owner of myself, then no one has any rights of any sort to the control or use of my body. I have an enforceable moral right to do whatever I choose with myself (so long as I do not harm others in certain ways that count as violations of their rights) and no one else has any enforceable moral rights that limit this right to do whatever I choose.

Cases of easy rescue call into question the moral attractiveness of self-ownership so understood. Suppose a child is drowning in shallow water. I happen to be present on the scene, and am uniquely placed to save the child's life at trivial effort and cost and at no risk to myself. I can simply reach out my hand and pull the child's head out of the water. According to the self-ownership thesis (if we put to the side ever-present questions about my right to be present where I am standing and encroaching on parts of the world just by being there), the child has no (enforceable) moral right to an easy rescue from me, and I have a moral right not to be coerced into this momentary lifesaving service of the child.

A similar case involves the right that self-ownership confers on each of us against the forcible extraction of extraneous body parts even if the parts are useless to the self-owner and would be extremely useful to others. If self-ownership obtains, I have the sole right of ownership over loose flakes of skin on my arm even if it should happen that they could somehow be used to save people from instant death. This means that it would be morally wrong to coerce me to yield my flakes to a rescue effort that would save lives and it would be morally permissible for me to coerce would-be do-gooders to prevent them from taking my flakes without my permission. Nothing worth caring about in any sensible ideal of personal freedom is secured by the dogmatic and shrill insistence on the full property rights over each and every part of my body that the self-ownership thesis affirms.

Peter Vallentyne offers a sensible response to the criticism that self-ownership wrongly encumbers each of us with a moral right not to participate in easy rescues and not to acquiesce in takings of one's body parts for charitable purposes however small the

cost to oneself and however great the benefits that could be secured for others. He notes that self-ownership concerns only enforceable obligations, so consistently with stoutly affirming full self-ownership one might hold that it would be morally a very good thing, though not obligatory, for each of us to contribute to easy rescues. Or one might hold that it is morally obligatory to contribute to easy rescues, but the obligation is not legitimately enforceable. Finally, he notes that if one accepted a moral duty of easy rescue, its fulfillment would tend to swallow up individual liberty, because in the unfortunate actual state of this world, huge numbers of people are in dire predicaments, from which they could easily be rescued. Once one sees the possibility of rescuing distant needy strangers, acceptance of a duty of easy rescue or moderately easy rescue will be recognized as oppressively infringing on one's right to live as one chooses: morality including the rescue duty would require spending the vast bulk of one's life helping others.^{xix}

These points do not succeed in defending the self-ownership thesis from the easy rescue objection. What is objectionable is precisely the idea that there is no enforceable obligation to help save lives when the cost to the potential helper is low or moderate. If the world multiplies opportunities for rescue, then the overall cost to the rescuer (in terms of foregone opportunities) of saving all who might be saved is rising, and eventually rises to a threshold such that engaging in further rescue efforts will be deemed excessive by most people.^{xx} In other words, it is built into the idea of a duty of easy or moderate rescue that the cost to the rescuer must not be "excessive." (The scare quotes here acknowledge I have no theory as to how one draws the line in a principled way that indicates where the duty gives out.) Vallentyne might respond that if the number of

potential rescuees vastly exceeds the number of rescues any individual is obligated to undertake, how can there be a strict obligation owed to any particular persons? One answer is that the obligation is disjunctive: one must rescue some subset of the total of people whom one might save, and each of these persons has a right that one rescue either a group that includes him or some other same-sized group from among those who might be saved.^{xxi}

Here the damaging problem with self-ownership does not lie in its denial that there is an enforceable obligation to keep helping needy persons so long as there is a net utility gain from doing so, but rather in its denial that there is an enforceable obligation ever to help others in need no matter how enormous the gains to the others and how slight the cost to the helper. Left libertarianism in its own way echoes Hume's view that it is not contrary to reason to prefer the destruction of the rest of humanity to the slightest scratch on one's finger.

Self-ownership is implausibly extreme along another dimension. According to self-ownership, each individual's property rights in herself are one and all alienable by her consent. Each individual in this sense has full sovereignty over herself. Each person is morally entitled to kill or maim herself for good reasons, bad reasons, or no reasons at all. Each is entitled to act in any foolishly self-destructive way she chooses provided only that her choice process qualifies as voluntary or voluntary enough. If I give my consent to your hacking off my limbs, perhaps because viewing a particular memorable Monty Python skit has made a strong impression, you have an enforceable right to hack me and no one has a moral right to interfere. If I give irrevocable consent to being

chopped up, then even if I later have second thoughts and change my mind, you still hold the irrevocable consent and with it the moral right to hack me to pieces.

Moreover, self-ownership entitles each person to sell herself into slavery and make herself the full private property of another person (up to a point). The parenthetical qualifier is necessary, because one can only transfer to another the rights one possesses, and since one has no right to use one's body to attack others or violate any of their natural moral rights, one cannot transfer the right to use one's body in these ways to another person. If the slaveowner to whom I have given all my self-ownership rights orders me to do an act that violates the rights of another person (who is not another slave who has transferred all of *his* rights to this same owner), I am morally bound not to comply. However, in all other respects, by voluntary contract I can make myself the private property of another person. If the slaveowner orders me to beat or maim or torture myself, or work myself to death, I am morally bound to comply, according to the upholder of unvarnished self-ownership.^{xxii}

These implications of self-ownership offend against two norms that any reasonable philosophy of individual liberty should be tailored to fit. One is that paternalism—restriction of a person's liberty against her will for her own good—is morally acceptable at least when it would prevent an individual from causing great harm to herself without generating any compensating gain for others. The other is that a nonretarded noncrazy human person, possessing rational agency capacity, has a dignity that demands her own respect as well as the respect of others. Each such person is under a (vague) enforceable duty to herself to live as befits a rational agent, and in all but desperate circumstances this duty dictates that she owes it to herself to fashion something

worthwhile from the one life she has to live, to generate good for self and others and to abide by reasonable moral constraints. The vague duty to oneself leaves enormous scope for free choice of how to live one's own life, but not unlimited scope. The permissibility of paternalism and the existence of a nonwaivable duty to one's status as a rational agent entail that the self-ownership doctrine rests on a misunderstanding of the ideal of personal sovereignty and its limits.^{xxiii}

Once again, Vallentyne develops sensible rejoinders whose limits are instructive.^{xxiv} Regarding the implication of self-ownership that says that each person is entitled to submit herself voluntarily to slavery and hence to make herself the private property of another person, Vallentyne distinguishes protection of the continued possession of autonomy and protection of the exercise of autonomy and notes that self-ownership protects the latter not necessarily the former. He observes correctly that the choice to sell oneself into slavery need not be irrational—perhaps selling oneself into slavery is the only way one can amass resources needed for some great good, e.g., saving an entire city from destruction. But the opponent of self-ownership on this point need not deny that sometimes selling oneself into slavery is morally permissible or even admirable. The opponent objects to the blanket claim that each person always has an enforceable right to waive or alienate any of her rights over herself, even her entire set of personal autonomy and control rights, for any reason at all or no reason.

LEFT-LIBERTARIANISM VERSUS LOCKE

Left libertarianism shares with right libertarianism an insistence on a strong and unyielding right of personal autonomy under the canopy of “self-ownership.” Too strong and too unyielding, in my view. Setting my own moral judgments to the side in this

section, I note that John Locke's affirmation of equal rights to individual liberty is not nearly as strong and unyielding as what right and left libertarians are inspired by his arguments to affirm.

According to libertarians, being the sole rightful owner of myself, I may destroy myself at will, for good reasons or bad reasons. I am also morally entitled to engage in imprudent and self-destructive conduct. Self-ownership is understood by its advocates to include a strict right against paternalistic interference in action that threatens harm only to the agent against whom interference is being contemplated or to others who voluntarily consent to bear the costs agent's actions impose on them. These implications of self-ownership are complicated in cases in which the agent's exercise of her freedom involves the use of material resources (to which she might or might not have a right). To simplify, and avoid what are here irrelevant issues, let us confine ourselves to cases in which these complications do not intrude. For example, suppose the individual's imprudent and self-destructive actions make use of no one's property without the property owner's voluntary consent.

As is well known, Locke himself explicitly disavows such extensive and absolute rights of personal autonomy that include rights against coercive interference. Locke does not regard the individual human being as the full rightful owner of herself; rather she is God's property.^{xxv} The individual has no right to kill or destroy herself, so she cannot transfer such rights, that she does not possess, to other agents. The individual cannot legitimately submit to a voluntary slavery contract that makes another person the full rightful owner of the initially self-owning individual. Nor according to Locke may an individual transfer her rights to life and liberty to a would-be absolute political sovereign.

Belonging to God does not deprive the Lockean individual of all control rights over herself. Each human person has the moral right to direct her life as she chooses within the constraints of God's laws, which forbid self-destruction and wastefully imprudent conduct and permanent alienation of one's rights over oneself to a human master. So it's not merely that the individual does not possess full rights over herself. Even the limited rights over herself that she does possess, as it were rights of tenancy over herself that are subordinate to God's ownership rights with respect to her person, may not be squandered at will or whimsically or in any other way that is contrary to God's purposes for man.

The left-libertarian might dispute the significance of Locke's religious beliefs to the project of drawing from Locke's texts insights that should inform our ideas on personal freedom and autonomy today. Scratch the theological premises from Locke's writings, perhaps, and you end up with a doctrine more recognizably and consistently libertarian. I don't think so. The limits on the individual's absolute rights over herself that Locke formulates in terms of God's sovereignty and divine purposes can be restated in terms of respect that we owe ourselves in virtue of our status as rational (semirational) agents and solidarity that we owe to fellow humans and other animals. Moral claims that Locke derives from theological premises can be taken as freestanding intuitively plausible claims. This secular trimming of Locke is abetted by his view that God's purposes for humanity mainly involve the desire that His creatures flourish, and that the Divine commands we ought to obey take the form of rules general compliance with which would maximize human flourishing.^{xxvi}

According to Locke, God has given no one rights to property except with the proviso that He has also given “his needy brother a right to the surplusage of his goods.” Locke adds: “Charity gives every man a title to so much out of another’s plenty as will keep him from extreme want, where he has no means to subsist otherwise.”^{xxvii} So far, Locke seems to be committed to requiring that individuals with plenty yield their surplus goods to aid the needy. This says nothing about requiring individuals favorably situated to use their time, energy, and labor in the service of rescuing the needy from dire predicaments. Locke does strikingly say in the *Second Treatise* that everyone, “when his own Preservation comes not in competition, ought he, as much as he can, *to preserve the rest of mankind*” (II, 6). However, this phrase dangles loosely in the text. Locke nowhere in the rest of the *Treatise* spells out what this formidably stringent-sounding duty of charity might amount to. In fact, one might hold that the rest of the sentence from which this quotation was drawn specifies the duty to preserve the rest of mankind in purely negative terms—refraining from impairing the life or the “Liberty, Health, Limb, or Goods of another.” But this interpretation has its problems. For most of us do not think that the duty to refrain say from seriously injuring others by bashing them holds only when abiding by this duty is compatible with one’s own preservation. One must abide by serious moral constraints even if that means accepting one’s own death: I may not kill you just because that is necessary to save my own life. In any event, it would be odd to hold that when one has extra goods, one must give them to save another from a dire predicament, but deny that when one has extra time and energy, and could easily act to save another from a dire predicament, one is not morally bound to do so.

If the commentators who read Locke as endorsing a strict duty of charity are correct, then Locke, the supposed true believer in full self-ownership, believes no such thing, but instead allows that other people sometimes have property rights in our bodies, when our bodies are useful for extricating them from dire predicaments and the cost to us of doing the extricating is not excessive.

In yet another respect the left-libertarian hybrid view that sharply distinguishes the individual's right to control herself and the individual's right to control parts of the earth as property is both normatively implausible and unfaithful to the Lockean tradition as expressed in seminal texts such as John Locke's writings on government. The left-libertarian treats self-ownership as entirely distinct and independent free-standing doctrines. The quotation from Vallentyne et al. is explicit on this point (see footnote 18). However, the Lockean tradition does not take this line. In this tradition, the doctrines of (something in the neighborhood of) self-ownership and world-ownership are regarded as elements of a single unified philosophy of individual freedom. In this respect the right-libertarian reading of Locke is perhaps more faithful to Locke's views.

THE LEFT-LIBERTARIAN CRITIQUE OF RIGHT-LIBERTARIANISM

Left libertarianism poses a challenge to right-wing varieties of libertarianism rooted in the Lockean tradition. For purposes of this essay I shall suppose that Robert Nozick's version of libertarianism is the most promising exemplar of this type of position. In broad terms the right-wing libertarian holds that individuals can legitimately acquire full ownership rights over parts of the earth and that this right to private ownership is either derivable from more fundamental libertarian premises or is derivable from those premises supplemented by independently plausible and attractive moral

premises. The right-wing or Nozickian libertarian further holds that there is no upper limit to the degree of inequality in private ownership of material resources that can be justified on morally defensible Lockean premises.

The key to Nozick's view on private world ownership is his construal of the Lockean Proviso.^{xxviii} This holds that even when land and natural resources are not abundant (the amount of land that individuals wish to appropriate as their private property exceeds the total available amount of land available), one may permissibly acquire full private ownership over unowned land and moveable pieces of the earth provided that one's appropriation renders no one worse off than she would have been under continued free use of that land.

The left-wing objection against the Lockean Proviso is that it arbitrarily allows whoever happens to be in a position to assert a first ownership claim on hitherto unowned land to gain virtually all of the benefits that are generated by the establishment of any of a wide variety of ownership regimes that would enable people to gain secure control over pieces of the earth for extended periods of time. Suppose one individual appropriates all unowned land as his property and uses the property in ways that offer economic opportunities to other people that just barely fully compensate them for the loss of the not very valuable rights to use the land freely that private ownership supersedes. The Lockean Proviso puts a stamp of approval on such an appropriation. But intuitively this seems unfair. Since the free use rights are likely to provide very little benefit to anyone, a very low baseline level of benefit is set, and provided the compensation the single world appropriator provides generates this little benefit for all affected people over the

long run, the appropriation is assessed as perfectly permissible by the Nozick Lockean Proviso.

Some right-wing libertarians will respond to the objection by digging in their heels and standing their ground. I want to explore a response that concedes ground to the objection without retreating all the way to egalitarian world ownership doctrines such as the left-libertarian affirms.

The concessive response holds that a person may legitimately claim full private ownership over a hitherto unowned portion of the earth even when such tracts of land are scarce provided these conditions hold:

1. Over the long run no one is rendered worse off by this appropriation than she would have been had the land remained under free use (and people generally had conformed to the moral rules of free use).
2. Over the long run each person affected by the appropriation is rendered substantially--though not necessarily equally--better off than she would have been had the land remained under free use (and people generally had conformed to the moral rules of free use).
3. Over the long run each person affected by the appropriation is rendered substantially though not necessarily equally better off than she would have been had the free use system been replaced by any egalitarian regime of property ownership. Under an egalitarian system ownership rules are set so that each person can obtain an equally valuable set of material resources, or a set of resources ownership of which induces equality of condition, or a set of resources ownership of which induces equal opportunity to gain as much via ownership as all other owners gain.

These conditions reflect and extend the conditions that Locke seems inclined to impose on appropriation of parts of the earth as private property when scarcity obtains. When these conditions obtain, and appropriation occurs, a wedge is driven between the left libertarian critique of private ownership and the affirmation of principles of world ownership that insist on equality in some form in the left libertarian manner.

I don't in this essay make any further attempt to adjudicate the complicated and multifaceted dispute between left libertarians and right libertarians on the conditions for morally permissible appropriation and continuation of full private ownership rights in parts of the earth. I simply note here that one might fully accept the left libertarian critique of Nozick's doctrine of private ownership and similar doctrines without accepting anything close to the left libertarian positive doctrine on equal world ownership.

A MORE REASONABLE LEFT LIBERTARIANISM

Despite the animadversions I have heaped on certain versions of left-libertarianism, I do not regard the project as hopeless. Locke's writings combine different strands, and by emphasizing some over others one obtains different versions of broadly Lockean doctrines. One dimension along which emphasis may differ is a left to right spectrum.

In my view the hybrid doctrine currently on offer under the label "Left libertarianism" is unsatisfactory, for reasons already stated. Here is a recipe for constructing more promising left-wing versions of libertarianism: Take your favorite formulation of Lockean libertarianism, such as a doctrine resembling Nozick's. Doctrines similar to his are uncompromising in their assertion of individual moral rights

(a) against paternalistic interference, (b) in favor of unlimited legitimate accumulation of parts of the earth as private property within the limits of the Lockean proviso, and (c) in support of a protection of each individual against any enforceable duty to use one's person or property to help others. The uncompromising character of the moral rights affirmed by Nozickians appears when we notice that they do not give way no matter what consequences are at stake. No matter how bad the overall consequences impersonally judged of respecting one's moral rights on a particular occasion and no matter how great the consequences would be if some infringement of these rights occurred, according to the Nozickian, one morally ought always to abide by the rights come what may. A simple amendment relaxes this feature of the doctrine. Add to the Nozickian moral rights a consequentialist principle of beneficence: One ought morally always to do an act that would produce consequences no worse than would be brought about by anything else one might have done instead, whenever the consequences of foregoing this choice for the best outcome and instead conforming steadfastly to all individual moral rights that are at stake in one's choice would be *excessively bad*. If one places the threshold at which the consequences of not infringing someone's moral rights qualify as excessively bad at a very high level, the resulting moral position is scarcely distinguishable from straight right-wing libertarianism of the Nozickian variety. (In fact, Nozick himself hints that he might qualify his own adherence to moral rights by a moral- catastrophe-avoidance principle.^{xxix}). If one sets this threshold very low, one's position is close to straight act consequentialism.

To improve on the position reached in the last paragraph, we need to incorporate this feature: what level of bad consequences suffices to trigger a moral permission or

requirement to infringe Lockean moral rights is variable depending on the moral importance of the rights at stake in the situation. After all, you have a moral right not to be torture-murdered for fun but also a moral right that your extra shirt button on your least favorite shirt not be taken from you without your consent. A sensible consequentialized libertarianism registers this moral difference in the moral significance of the various individual moral rights people possess. Here is a first try at the appropriate registration: The greater the good consequences to be gained by infringing a libertarian moral right, and the less morally important or weighty is the moral right that might be infringed for this purpose, the less morally wrong it is to infringe the right. When these two factors reach a tipping point, infringing the right becomes morally permissible, and at some further tipping point, infringing the right becomes morally required.^{xxx}

Depending on the relative weights assigned to the two factors of the importance of respecting a given right and the importance of bringing about good consequences producible by actions or omissions one can choose, the Lockean libertarian doctrine qualified by beneficence can end up at any point on a scale from pure consequentialism to pure libertarianism. I propose to identify a reasonable left-libertarianism with such a position provided substantial weight is assigned to its consequentialist beneficence component.^{xxxi} (Of course, the propriety of this usage depends in part on the standard that is accepted for evaluating consequences. I propose this standard: good consequences consist in gains in well-being for persons (or avoidance of losses), with greater weight assigned to achieving a gain of a given size for a person, the worse off she would otherwise have been in lifetime well-being. If significant weight is attached to priority for the worse off, the view takes on an egalitarian and thus recognizably left-wing hue.)

CONCLUSION

Left-libertarian doctrines combine the libertarian claim that each person is the full rightful owner of herself and an egalitarian position regarding the rightful ownership of the land and resources of the earth. My focus in this essay is on a prominent formulation of left-libertarianism developed by Michael Otsuka. I have criticized this doctrine on the ground that it achieves a reconciliation of individual self-ownership and egalitarian world ownership only by interpreting self-ownership in a thin and formal way that does not capture what is most attractive in that norm. Yet in other respects this thin self-ownership is too thick: it denies moral duties that each of us has toward other persons and toward herself that that largely constitute the reasonable substance of human solidarity. In denying these social duties left-libertarianism decisively parts company with the natural rights principles of John Locke, whose liberalism is ultimately neither left nor libertarian. Focusing on Otsuka, I do not claim that my criticisms apply to all versions of left-libertarianism, though I suspect that in broad terms they do. At the end of this essay I suggest an alternative strategy for revising and pressing Lockean views in a left-wing egalitarian direction.

* I thank Ellen Paul for her astute criticisms and questions directed at an earlier draft of this essay.

ⁱ. On the idea of left libertarianism, see Hillel Steiner and Peter Vallentyne, eds., *The Origins of Left-Libertarianism: An Anthology of Historical Writings* (Hampshire, England and New York: Palgrave, 2000) and *Left-Libertarianism and Its Critics: The*

Contemporary Debate (Hampshire, England and New York: Palgrave, 2000). See esp. in the latter work Peter Vallentyne, “Introduction: Left-Libertarianism—A Primer,” pp. 1-20.

ⁱⁱ . Michael Otsuka, *Libertarianism without Inequality* (Oxford: Oxford University Press, 2003).

ⁱⁱⁱ . For interesting criticism of the norm of self-ownership, see Kasper Lippert-Rasmussen, “Against Self-Ownership: There Are No Fact-Insensitive Ownership Rights over One’s Body,” *Philosophy and Public Affairs* 36, no. 1 (2008), pp. 86-118. As the title of this essay indicates, Lippert-Rasmussen argues that self-ownership is not acceptable taken as a basic, nonderivative moral principle—one whose validity is independent of all empirical facts. So construed, the claim that people have strong rights of self-ownership is vulnerable to objections such as that if it were the case that forcing an individual to labor for another always greatly boosted the well-being and enhanced the agency powers of the person who was forced, nobody would judge the forcing immoral. Lippert-Rasmussen raises an interesting issue, but it may be that social philosophers who affirm rights of self-ownership mean to affirm the rights conditional on certain facts of the world as we know it continuing to hold true. I argue against self-ownership affirmed in this derivative or conditional way.

^{iv} . John Locke, *Two Treatises of Government*, Peter Laslett, ed. (Cambridge: Cambridge University Press, 1988). On the interpretation of Locke, see A. John Simmons, *The Lockean Theory of Rights* (Princeton: Princeton University Press, 1992); also Jeremy Waldron, *The Right to Private Property* (Oxford: Oxford University Press, 1988).

^v . Otsuka, *Libertarianism without Inequality*, p. 1

^{vi} . On libertarianism, see Robert Nozick, *Anarchy, State, and Utopia* (New York: Basic Books, 1974); also G. A. Cohen, *Self-Ownership, Freedom, and Equality* (Cambridge: Cambridge University Press, 1995). I want to acknowledge that my reflections on libertarianism and left-libertarianism are deeply indebted to path-breaking writings on these topics, from opposed perspectives, by Nozick and Cohen, and also to excellent explorations by Hillel Steiner, Peter Vallentyne, and Michael Otsuka (see the references to their works in *Left-Libertarianism and Its Critics: The Contemporary Debate* and in their essay cited in footnote 18 below).

^{vii} . A response to a threatened rights violation can be proportionate even though the cost one imposes on the violator exceeds the loss one would suffer from the violation. If someone tries to cut off your legs, it may be morally permissible to kill the person if that is necessary to prevent him from doing this, even though losing one's life is worse than losing two legs.

^{viii} . Here's an example to illustrate the point in the text. It's not strictly inconsistent for me to maintain that my wife is morally required to be sexually faithful whereas I am morally permitted not to be sexually faithful. Both moral claims could be true (valid, acceptable) together. However, if I have no good rationale for maintaining this pair of claims, my position is incoherent.

^{ix} . This claim in the text slides over tricky issues. Consider a "No waste" proviso: One is permitted to appropriate unowned plots of land as private property provided one works the land productively in some way and does not let it go to waste. In a scenario in which persons live isolated from one another, this no waste constraint bars me from appropriating land if my personal traits do not enable me to work it productively (given

isolation, there is no possibility of appropriating land and contracting with another able-bodied person to it). Should the no waste proviso be construed as violating the proposal in the text that rules regarding permissible appropriation cannot discriminate among persons on the basis of their personal traits? To answer this question one would have to clarify the proposal.

^x. See Peter Railton, “Locke, Stock, and Peril: Natural Property Rights, Pollution, and Risk,” reprinted in Railton, *Facts, Values, and Norms: Essays toward a Morality of Consequence* (Cambridge: Cambridge University Press, 2003) [originally published 1985], pp. 187-225; also Robert Nozick, *Anarchy, State and Utopia*, chapter 4; also Richard Arneson, “The Shape of Lockean Rights: Pareto, Fairness, and Consent,” *Social Philosophy and Policy* 22, no. 1 (2005): 255-285.

^{xi}. Otsuka, *Libertarianism without Inequality*, p. 15. Otsuka’s second right implies that other people—governments included—have no moral right to tax the income that self-owning individuals gain just from using their minds and bodies in mutually agreed upon ways. Nor would other people—governments included—have a moral right to regulate activities that self-owning individuals freely agree to conduct among themselves.

Whatever terms individuals freely agree to are the terms on which they should interact. So says Otsuka’s second right. Although extensive and in a way strong, this right is also very limited, and in a way very weak. The right to use one’s mind and body as one chooses implies nothing about what rights, if any, to use or own any part of the earth other than one’s body. Otsuka’s second right does not ensure one is entitled to the air one breathes, the physical space one’s body must occupy, or the land one must stand on in order to stay alive on this earth.

^{xii} . Locke, *Second Treatise of Government*, sect # 34.

^{xiii} . Otsuka, *Libertarianism without Inequality*, pp. 2-3.

^{xiv} . Otsuka, *Libertarianism without Inequality*, pp. 33-34.

^{xv} . Am I being unfair here? Otsuka says, substantial real freedom to do what one chooses with one's own body and mind and egalitarian world ownership would be compatible in some circumstances. I say, substantial real freedom regarding oneself would be incompatible with egalitarian world ownership in some circumstances. When we examine these cases of conflict, we find that egalitarian world ownership of the sort Otsuka finds congenial trenches too harshly on real freedom regarding oneself for the resultant doctrine to claim libertarian credentials. The resultant doctrine appears counterintuitive even to someone of my persuasion, who disavows libertarian self-ownership.

^{xvi} . Nozick, *Anarchy, State, and Utopia*, , pp. 174-182.

^{xvii} . For one view of how to accommodate luck in moral principles, see Richard Arneson,

“Luck Egalitarianism Interpreted and Defended,” *Philosophical Topics* 32, nos. 1 and 2 (2004): 1-20. For another view, see G. A. Cohen, *Rescuing Justice and Equality* (Cambridge, MA: Harvard University Press, 2008).

^{xviii} . Peter Vallentyne, Hillel Steiner, and Michael Otsuka, “Why Left-Libertarianism Is Not Incoherent, Indeterminate, or Irrelevant: A Reply to Fried,” *Philosophy and Public Affairs* 33, no. 2 (2005): 201-215; see p. 209.

^{xix} . Vallentyne, “Introduction: Left-Libertarianism—A Primer,” in *Left-Libertarianism and Its Critics*, pp. 4-5.

^{xx} . There are two different ways of measuring the cost of one extra rescue in order to fix the point at which further rescues are not required. One might hold that with this one contemplated extra rescue effort the total cost of the rescue efforts undertaken by the rescuer (over her lifetime? Over a shorter stretch of time?—there are different possibilities here) exceeds a stipulated level. Alternatively one might hold that as the rescuer engages in more and more rescues, the cost of the agent of the next single rescue effort tends to mount, and eventually reaches a point at which the cost to the agent of that single next rescue effort, given what that effort would achieve, is sufficiently high that the agent is not morally bound to undergo it.

^{xxi} . How can a person in need have a right that you rescue some person other than herself? Does the disjunctive right proposed in the text make sense? Yes, I say. When a set of people hold a disjunctive right to aid on your part, each has a conditional right that you aid him unless you are instead giving aid to another person in the set. This sort of conditional right is no more mysterious than a back-up job offer. Being the recipient of such a conditional offer, I have a right to be offered the job if and only if the first-ranked candidate, to whom the job has been offered, turns it down. I thank Ellen Paul for pressing for clarification on this point.

^{xxii} . Some philosophers otherwise tempted to a position close to affirmation of full self-ownership balk at voluntary slavery. See John Stuart Mill, *On Liberty*, Elizabeth Rapaport, ed. (Indianapolis: Hackett Publishing Co., 1979 [originally published 1859], chap. 4, para. 11.

^{xxiii} . For more on this point, see Arneson, “Joel Feinberg and the Justification of Hard Paternalism,” *Legal Theory*, 11 (2005): 259-284.

^{xxiv} . Vallentyne, p. 4.

^{xxv} . Nicholas Jolley emphasizes Locke's theological premises and their bearing on the proper interpretation of his moral and political views in his *Locke: His Philosophical Thought* (Oxford: Oxford University Press, 1999) chapter 10. In this connection see also A. John Simmons, *The Lockean Theory of Rights*, chapter 1.

^{xxvi} . Simmons, *The Lockean Theory of Rights*, pp. 46-59.

^{xxvii} . Locke, *First Treatise of Government*, section #42, cited after Simmons, *The Lockean Theory of Rights*, p. 327. I follow Simmons in supposing that on this point we may take the views of the author of the *First Treatise* as likely close to those of the author of the *Second Treatise*, so here what is said in the former work should inform our interpretation of the latter. At least, Locke nowhere in the *Second Treatise* contradicts the views on the duty of charity explicitly stated in the *First*.

^{xxviii} . Nozick, *Anarchy, State, and Utopia*, pp. 178-182.

^{xxix} . Nozick, *Anarchy, State and Utopia*, p. 30; see footnote at bottom of page.

^{xxx} . The statement in the text is indebted to the discussion in Judith Thomson, *The Realm of Rights* (Cambridge, MA: Harvard University Press, 1990), chapter 6. Thomson adds that the moral importance of a particular right on a particular occasion is a function of how bad the consequences will be for the rightholder if the right is not respected. Thomson favors a formulation which does not permit aggregation of costs incurred by many nonrightholders if the right is not infringed to balance the costs incurred by the rightholder if the right is infringed. Instead we are to compare the costs that would be incurred by the one nonrightholder who would suffer the most from rights fulfillment.

She calls this aspect of her view the “High Threshold Thesis.” In my view it merits rejection.

^{xxxi} . Here I am simply assuming that policies and actions that will bring about good consequences as picked out by the right principles of outcome assessment will coincide with policies and actions that merit the description “left-wing.” To argue for this, I would need to defend a standard for evaluating consequences and show that producing good consequences so understood requires left-wing not right-wing policies in actual and likely circumstances.