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**DIRECT AND OVERALL LIBERTY:  
Areas and Extent of Disagreement**

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By Daniel B. Klein and Michael J. Clark

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# **Direct and Overall Liberty: Areas and Extent of Disagreement**

by

Daniel B. Klein, Professor of Economics, George Mason University, [dklein@gmu.edu](mailto:dklein@gmu.edu)

and

Michael J. Clark, PhD student, Department of Economics, George Mason University,  
[mclark4@gmu.edu](mailto:mclark4@gmu.edu)

*Abstract:* This paper explores possible disagreement between direct and overall liberty. Direct liberty corresponds to the inherent aspects of a policy reform (and its concomitant enforcement), while overall liberty subsumes also its wider and long-run aspects. Both direct and overall liberty are important, and each has virtues relative to the other. The virtue of direct liberty is its concreteness and definiteness. The virtue of overall liberty is its fuller accounting of an action's consequences in terms of liberty. If direct and overall liberty often disagree, then there is ambiguity in saying whether a policy or action augments "liberty"—a term that is almost never clarified by the distinction between direct and overall—and critics will contend that "liberty" is meaningless or illusory. This paper thinks out eleven possible areas of disagreement between direct and overall liberty. We maintain that some areas of possible disagreement are genuine and perhaps significant—the three most notable being military actions, controlling pollution, and what we call "coercive hazard." Yet we argue that on the whole the main tendency is for direct and overall liberty to agree. The article fortifies the liberty principle by arguing that the tension between direct and overall liberty is not so great as to undo its coherence and focalness. We also use our analysis to understand the differences between libertarians and conservatives. Both claim to favor overall liberty, but conservatives see far greater disagreement between direct and overall liberty, and hence more often support contraventions of the direct-liberty principle.

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## Direct and Overall Liberty: Areas and Extent of Disagreement

It is not claimed that such propositions should be taught dogmatically, as if they were theorems of geometry. Not only should their limitations be pointed out, when necessary, but the student should be encouraged to find or even to imagine conditions under which the maxims would fail. In doing this, the vice he should be taught to avoid is that of concluding that because he can imagine a state of things under which a maxim would fail, therefore it is worthless.

—Simon Newcomb (1893, 399)

This paper tries to clarify some of the limitations of the classical liberal/libertarian principle of liberty, and to assess those limitations in some rough way. Our larger impetus is to defend the position that the principle of liberty is not undone by its limitations, that, as such things go, it remains quite coherent and worthy. The discussion takes place within the framework of negative liberty and relates to differences between libertarians and conservatives.

Positive liberty is about positive capabilities, being able to do things. If you can't read, that might be deemed a lack of liberty. Negative liberty is about others not messing with your stuff. Even if you are illiterate, homeless, and starving, you are perfectly free provided that no one is messing with your stuff—or initiating coercion against you. The distinction between positive and negative can be dissolved, however, by playing with “your stuff.” If you are deemed to have an ownership share in the collection of resources of the polity, the social life at large, the collective consciousness, or a divine spirit, then positive and negative liberty might dissolve into a muddle. Advocates of positive liberty can defend, say, tax-financed government schooling by saying: No one is messing with

*your* stuff, the people are simply using their appointed officers, government officials, to manage *their* stuff. No one is forcing you to remain within the polity. You are free to leave.

The distinction, then, comes down to conceptions of who owns what—or the configuration of ownership. What really distinguishes the negative-liberty view is the content imputed to “*your stuff*.” Specifically, it is ideas of self-ownership, private property, and voluntary agreement. That configuration of ownership denies the collectivist-political notions of ownership and social contract. The tradition is represented by David Hume, Adam Smith, and other classical liberals and libertarians. The thinker who most fully developed and articulated that scheme of ownership claims and voluntarism is Murray Rothbard (1982).

We embrace Rothbard’s conceptions of ownership claims and his definition of liberty.<sup>1</sup> But even within this negative-liberty philosophy there are many unresolved, perhaps un-resolvable, issues. The liberal schemes of ownership and voluntarism entail many gray areas. Rothbard tended to downplay the problem of ambiguity, but other liberal thinkers dwelled on it.<sup>2</sup> Sometimes in particular contexts it is hard to separate yours from mine, voluntary from coercive. Law and jurisprudence have their own voluminous explorations and doctrines. And, of course, drawing lines depends not only on specific features of the issue but on customs and understandings.

The ambiguities surrounding liberal concepts of ownership and voluntarism have often been used by critics to dismiss them. Individual liberty is “illusory,” etc. Liberals

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<sup>1</sup> However, we are more willing than Rothbard to regard government ownership of government resources as being on a par with private ownership.

<sup>2</sup> Such thinkers include David Hume (1751, 26-32), Wordsworth Donisthorpe (1895, 1-121), Friedrich Hayek (1948, 20-21, 113), and David Friedman (1989, 167-76). Klein (1999) discusses these matters; the general idea of that paper is that Rothbard got the *definition* of liberty right, Hayek got the *claims* for liberty right, and Smith more or less got all of it right.

fight back by saying that all such concepts are rife with ambiguities, and that the liberal ones remain focal and intuitive—“obvious and simple,” as Adam Smith put it (1776, 687). Indeed, away from politics, ordinary life in the United States shows that people seem to agree quite well on what actions taken by a neighbor would constitute coercion, and the agreement conforms quite well to the liberal configuration of ownership. The occasional disputes between private parties usually get resolved without too much trouble and without government involvement.

This paper concerns another kind of limitation, which, again, weakens liberty talk. The limitation concerns the scope and timeframe considered. Even when it is unambiguous that an action, considered in its direct aspect, is liberty reducing, it might be liberty augmenting considered in a larger aspect. For example, taxing people to wage war and dropping bombs on others are liberty reducing in their direct aspect, but if the war topples a Saddam Hussein, it might be liberty augmenting in its larger aspect. Thus, again, we have ambiguity about whether the action is liberty augmenting. This ambiguity arises not from ambiguity in any local facet of the action, but in “summing” over the facets. If all the facets go in one direction, either all reductions or all augmentations, there is no such ambiguity. But when some facets are reductions and some are augmentations, then it might be very difficult, even impossible, to assess the action in terms of liberty. The difficulty stems from two problems: First, weighing the set of pluses against the set of minuses; second, knowing what is in each set. Saddam Hussein was a brutish fellow leading a highly coercive government, but do we know that the wider facets of toppling him were pluses for liberty?

In this paper we are concerned with the possibility that the problems in summing

may be pervasive and severe. If so, the liberal presumption of liberty might not be too meaningful. Frederick Douglass expounded liberty and called his antislavery newspaper the *North Star*. The cause of abolition was as unambiguous as one could imagine. But more generally, is liberty a North Star? Does it survive as a focal point for ideas, distinctions, causes, movements, identities, politics, and reform, when we recognize that it might often be hard to say whether a policy action, in its overall aspect, is liberty augmenting?

In his book *The Libertarian Idea*, Jan Narveson (1988) suggests tensions between direct and overall liberty, cases of restriction in which “our liberty is *greater* on balance when we impose these restrictions than it would be in the unrestricted condition.” He notes that such an approach “requires some kind of quantification of liberty so that we can say that one situation involved ‘more’ liberty than another,” and adds that “[p]roducing a satisfactory theory about this matter is perhaps the greatest single theoretical challenge confronting the aspiring libertarian” (50).<sup>3</sup> We do not propose a method of aggregation, but we do presume that some meaningful, however loose, sense of such aggregation can be invoked.

We attempt to think out the kinds of contexts in which the summing problems are most likely to arise. We try to formulate a set of categories to cover the problem areas. The hope is that the problem areas are not too much, or that within those areas weighing the pluses and minuses is not always impossible or arbitrary. We suggest that the *other* areas of public policy, the areas *not* plagued by the two summing problems, are substantial enough that, as principles go, the liberty principle remains very meaningful

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<sup>3</sup> Likewise, David Friedman (1989, 172-75, 211-12) and, less explicitly, Robert Nozick (1974, 28-34) make remarks that can be interpreted in terms of a tension between direct and overall liberty.

and highly focal.

We suggest that the distinction between direct and overall liberty might illuminate some of the differences between libertarians and conservatives. Both tend to subscribe to negative liberty. Relative to social democrats, both oppose economic interventions and the welfare state. But libertarians lay more stress on direct liberty. Conservatives might say that that stress is misplaced, that libertarians tend to neglect disagreements between direct and overall liberty. Libertarians might say that conservatives tend to overestimate the disagreements.

## The Liberty Principle

It seems rather safe to say that repealing the minimum wage law would be liberty augmenting. For the moment, leave aside the summing problems. In many cases, a naïve view of liberty ranking is quite OK.

Let  $R_1$  and  $R_2$  be two reform proposals. One of the  $R$ 's may be “preserve the status quo,” that is, no reform at all.

For example, let  $R_1$  be repealing the minimum wage, and  $R_2$  be preserving it as is.

**Liberty ordering:** The symbol  $>_L$  denotes a liberty ranking.

- $R_1 >_L R_2$  means that  $R_1$  rates higher in liberty than  $R_2$ .

Our formulations are anchored in the status-quo, whatever it may be. Thus,  $R_1 >_L R_2$  means that the society has more liberty if  $R_1$  happens than if  $R_2$  happens.

“The society” can mean the polity, the civilization, all of present humanity, or all

of present and future humanity. The referent society will depend on the discourse situation; the variations will enter into some of our discussion, but the basic analysis does not imply or hinge on one over the others.

Presumably, the liberty ordering is transitive: If  $R_1 >_L R_2$ , and  $R_2 >_L R_3$ , then  $R_1 >_L R_3$ .

**Desirability ordering:** The symbol  $>_D$  denotes a desirability ranking.

- $R_1 >_D R_2$  means that  $R_1$  is more desirable than  $R_2$ .

Think of desirability as what you'd choose. The judgment emerges from your broad and deep sensibilities, presumably "loose, vague, and indeterminate," as Adam Smith described sensibilities in aesthetics, beneficence, and distributive justice.<sup>4</sup> People have different senses of the desirable. When it comes time "to push one of the buttons," they will act differently. But each of us has a sense of what kinds of buttons are more worth pushing, just as we have a sense of what movies are more worth watching a second time. Our sensibilities in such matters develop and achieve partial, working formulation in our participation in culture and discourse; we usually have friends with similar sensibilities. Think of the desirability ranking as the ranking that you and such friends would approve of.

*The liberty principle* tells us: In a choice between two reforms, favor the one that rates higher in liberty. That is, it suggests:

- If  $R_1 >_L R_2$ , then  $R_1 >_D R_2$ .

Now, a rule's status as a "principle" for a person—call him Adam—does not depend on Adam's 100 percent conformance to or concurrence with the rule. Adam can

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<sup>4</sup> See Smith (1790, 175, 327269-70).



maintain perfectly well that the liberty principle is meaningful, coherent, and important even though he sometimes would contravene it. The reason one maintains an idea even though it works only “ninety-something percent” as a principle is that it is the best we can do in this messy world. Better to have ninety-something percent principles that help us than only principles purportedly 100 percent that either fiddle with definitions in opportunistic ways or imply madness (we have encountered libertarians who have said that they would not murder an innocent person even if the survival of humanity depended on it!).

Again, we embrace Rothbard’s definition of liberty. We reject, however, some of Rothbard’s major claims for liberty. He tended to frame the liberty principle as an imperative, as 100-percent, as a kind of axiom for politics and ethics. From Rothbard one gets the message that moral and ethical truth always favors liberty over coercion. We disagree. We think that sometimes coercion is our friend. We reject the axiom view, and, instead, with Adam Smith, take a maxim view. The principle is coherent enough and worthy strongly enough and often enough that we should think of it as a principle in the sense of a maxim. Smith held that there should be a presumption of liberty. So, too, does the libertarian theorist Randy Barnett, who uses the expression “The Presumption of Liberty” as the subtitle of his book on restoring the Constitution (Barnett 2004). “A Presumption of Liberty,” writes Barnett, “would place the burden on the government to show why its interference with liberty is both necessary and proper.”<sup>5</sup> Similarly, David Friedman (1989, 172) says that libertarian principles “are convenient rules of thumb which correctly describe how one should act under most circumstances,

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<sup>5</sup> Barnett acknowledges tensions between direct and overall liberty (74-75), but affirms that such tensions do not undo liberty as a meaningful principle.

but that in sufficiently unusual situations one must abandon the general rules and make decisions in terms of the ultimate objectives which the rules were intended to achieve.”

However, the difference between maxim and axiom is not essential to the present discussion. The tension that concerns us here is not the tension between liberty and the desirable but that between direct and overall liberty.<sup>6</sup> Subscribers to Rothbard’s views should understand the motivation and be willing to enter into the discussion. This paper is not about whether or how often the liberty principle should be contravened; it is about one kind of ambiguity in ranking reforms in terms of liberty.

## Direct Liberty and Overall Liberty

Recognition of ambiguity tells us that it may be hard to rank reforms. Again, those ambiguities lay sometimes in particular facets of the reform, as with children’s rights issues. But there is also ambiguity in summing over facets of the reform. By a “facet” we mean a feature or effect within a certain context of action. In the case of raising the minimum wage from \$7.00 to \$9.00 per hour, the *direct* facets are the inherent coercive features of the reform and its concomitant enforcement. Indirect effects consider any other effects that come in the train of the reform. In the case of raising the minimum wage, it might be the case, for example, that if the government, as currently composed, failed to raise the minimum wage, voters would “punish” the sitting politicians, altering the composition of government and bringing new coercive incursions. An intervention such as raising the minimum wage, then, might be liberty reducing in its direct features but, in relation to what would otherwise happen, liberty augmenting in its indirect effects.

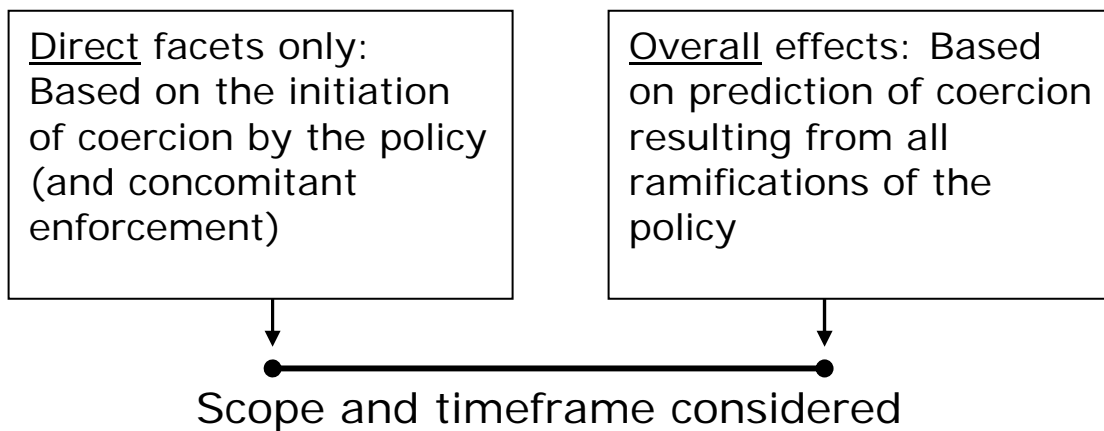
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<sup>6</sup> However, in as much as overall liberty aligns with the desirable, our exploration of the tension between direct and overall liberty will speak to the tension between *direct* liberty and the desirable.

The indirect effects can range over other areas of policy and future time periods. Thus there is both a scope aspect and time aspect to the indirect effects.

Collapsing the scope and time aspects into a single dimension, think of a spectrum of “directness,” ranging from the most direct features of the action (and concomitant enforcement) on to indirect effects of varying range. Figure 1 represents this “directness” range of features and effects. The left endpoint considers the facets more or less inherent in the reform itself. In this aspect raising the minimum wage is clearly a reduction of liberty. At the other end is the overall aspect of the reform. It would include everything that arguably might come in the train of the reform.

Figure 1: The Range of a Reform’s Aspect of Liberty



Considering indirect effects entails a big problem: They are usually uncertain, and the further we go the more uncertain they become. Our basis for ranking reforms in terms of liberty becomes vaguer and more dubious. That invites charges of meaninglessness. That’s why we so often focus on the direct facets. Very often we are content to say that raising the minimum wage reduces liberty, period. Considerations about political

repercussions are just irrelevant speculation.

The direct features are more concrete and definite. If a liberal movement depends on a broad concurrence on what is and what is not in line with liberty, that concurrence will be more easily achieved if the focus is kept on the direct features.

But, surely, any allegiance to liberty must ultimately be more concerned with the overall aspect. Ideally, liberals would like to consider the reform's overall aspect of liberty. That speaks for focusing on the overall aspect.

Further, sometimes indirect effects are more than mere speculation. If liberals systematically ignore them, instead considering only the direct aspect, again critics will doubt the meaningfulness of liberty talk.

Two positions on the line are focal, the endpoints. Using them, we can distinguish two different liberty orderings:

**Direct liberty ordering:** The symbol  $>_{DL}$  denotes a direct liberty ranking.

- $R_1 >_{DL} R_2$  means that  $R_1$  rates higher in direct liberty than  $R_2$ .

**Overall liberty ordering:** The symbol  $>_{OL}$  denotes an overall liberty ranking.

- $R_2 >_{OL} R_1$  means that  $R_2$  rates higher in overall liberty than  $R_1$ .

What concerns us are cases in which  $R_1 >_{DL} R_2$  and  $R_2 >_{OL} R_1$ .

In such a case, if we were to follow merely “the liberty principle,” which would we favor,  $R_1$  or  $R_2$ ?

Clearly both direct and overall are important. Both must have a significant place

in liberty talk. It won't do to focus on one to the exclusion of the other.

The coherence of liberty depends critically on there being substantial realms of policy in which direct and overall agree. We believe it makes sense to assume that the normal tendency is for them to agree. If one is to get from St. Louis to Chicago, sometimes the thing to do is to head south, but mostly it is to head north. Reforms that augment direct liberty have those direct features in their favor.

Overall liberty is the union or sum of the indirect effects and the direct features. Policy reforms that directly augment liberty are usually continuing. That is, it is not only the immediate period that experiences, say, a minimum-wage reduction (or non-increase). The direct features form a part of overall liberty. Thus, disagreement between *direct and indirect* facets does not imply disagreement between *direct and overall* liberty. What poses a problem is disagreement between direct and overall liberty. That *some* of the effects of an action count as minuses for overall liberty does not, in itself, pose a problem. The problem exists only when direct features are positive and yet the minuses *outweigh* all the pluses (or, alternatively, when direct features are negative and yet the pluses outweigh all the minuses).

Further, even in indirect effects we find other general tendencies for direct and overall to agree. Making a reform that augments direct liberty will tend to affirm liberty in general, and generally speaking thus help move precedent and norms in the liberal direction. Flipping things around, we may also invoke the intervention dynamic, the idea that one intervention tends to create problems that call forth further interventions, in a dampening cycle resulting in a cluster of interventions. Thus, direct coercions tend to beget indirect coercions. That again suggests that direct and overall liberty tend to agree.

Nonetheless, there is no denying that society and politics are complex, and that disagreement between direct and overall may be quite common. We attempt to think out the areas in which disagreement is most plausible or likely. We try to make the list *exhaustive*, conceptually speaking. This helps us get a sense of the size of the problem. If it is small, liberals can proceed with confidence that in most contexts liberty does not much suffer from such ambiguity, and they may take advantage of the hardy concreteness of direct liberty.

The creation of an exhaustive list also helps to inform us of when we need to be especially alert to possible disagreement between direct and overall. When we labor within a context inside the list, we might distinguish between direct and overall liberty and separate claims about each. When laboring outside the list, we can be confident that liberty is *not* so compromised, and use direct liberty with suitable impunity.

## Areas of Disagreement (at least, arguably)

We have thought long and hard about the contexts in which disagreement between direct and overall might well be said to be relatively likely. We've organized the situations into eleven areas. Here are the names we've given to them:

1. Thoreauian Coercion
2. Coercive Hazard
3. Disarming or Defusing Private Coercion
4. Controlling Pollution
5. Restrictions to Prevent Rip-offs
6. Subsidizing Against Coercive Taboos
7. Taxing to Fund Liberal Enlightenment
8. Coercively Tending the Moral Foundations of Liberty

9. Log Rolling for Liberty
10. Stabilizing the Second Best
11. Military Actions, Etc.

Here are remarks about the list and how we go through it:

- An “area” combines both a kind of context and a kind of action or policy within that context.
- We give examples merely to illustrate the area; we do not try to characterize it fully.
- Some cases can be interpreted in terms of more than one area. We are primarily concerned that the areas cover the terrain of disagreement.
- The order 1 through 11 is *not* by importance.
- For each area, the big questions are the following: Is disagreement likely?, Are the disagreements important?, and Is the area extensive? Those same questions re-emerge for the set of areas as a whole. We are interested both in formulating those questions and in giving our rough answers to them. We offer summary judgments with little or no argumentation. Each judgment would be a huge conversation in itself. We do not regard our judgments to be worldly, much less definitive. We are just indicating the contentions to which the discussion might lead.
- Bear in mind that ranking two options is based on the future, not the past. Say the two options are going to war and not going to war. If one says that going to war augments overall liberty, the augmentation is relative to the alternate future, not the societal conditions at the moment just prior to deciding to go to

war.

- Our own personal bents and commitments bias us toward understating problems of disagreement. Reader beware!
- We side-step the domestic *night-watchman state*—government efforts to protect property, enforce voluntary agreements, and punish, redress, and deter violations thereto—burglary, murder, breach of contract, etc. Our concern with direct coercion is with direct *initiations* of coercion. We wish to avoid issues of coercing those who have initiated coercion and related civil liberties issues. Still, one could well argue that police efforts to prevent, deter, or redress burglary etc. depend on taxation and other tools of direct coercion, and that these are redeemed by indirect augmentations in liberty. One could try to parse the night-watchman state in terms of direct and overall liberty. For present purposes, we are content to regard the night-watchman state a non-issue among the major contending ideologies, particularly, libertarianism, conservatism, and social democracy.

### **1. Thoreauian Coercion**

When four college students in Greensboro, North Carolina, in 1960 staged a sit-in at a Woolworth's lunch counter, were they conforming to the liberty principle? Suppose that the Woolworth's owner disallowed their protest, that is, that they were trespassing on private property. But their sit-in grew enormously and the practice spread widely—surely much of it against owners' objections—and helped overturn government's coercive Jim



Crow laws.<sup>7</sup> Private coercion might take forms of civil disobedience that work to disrupt or undo larger coercions.

Some of America's most powerful movements against government coercion have started with private coercion. For example, the burning of the Peggy Stewart, Baltimore's version of the Boston Tea Party, involved a group of people who forced a man to burn his ship because he was willing to pay a tea tax (Griffith 1976, 137). This act of defiance helped spark the American Revolution—which, arguably, augmented overall liberty.

In what is now seen as the defining work on civil disobedience, Thoreau writes, “If the injustice is part of the necessary friction of the machine of government, let it go... but if it is of such a nature that it requires you to be the agent of injustice to another, then, I say, break the law. Let your life be counter friction to stop the machine” (Thoreau 1849, 92). Thoreau does not say whether his advice extends to cases in which breaking the law is also a form of coercion. But clearly Thoreau wrote about situations in which moral principles conflict, and, like Adam Smith, opposed making one a trump. The spirit of such contemplation would seem to apply to cases in which direct and overall liberty disagree. Thoreau might well say that sometimes you should weigh them and act against direct liberty.

The scope for such “Thoreauian coercion” will depend on many things, but we mention one in particular: Is it coercion to disobey the rules the government sets for *its* property? Consider the 1971 May Day traffic blockade in Washington, DC. The blockade resulted in over 14,000 arrests and sent a message to politicians that Americans wanted the war in Vietnam to come to an end immediately. If the government owns the streets and parks, and they order demonstrators to disperse, is it coercion on the part of

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<sup>7</sup> See the Wikipedia entry “Greensboro Sit-in.”

the demonstrators not to disperse? Are they not treading on the government's liberty-claims that would be implied by its ownership of those resources? Of course, some will deny such application of the liberal logic, perhaps because "the government" or its "ownership" are without clear definition or the same status we accord to private ownership. It might be argued that government properties should to some extent be regarded as commons. Such considerations would lead us into other gray areas of the grammar of liberty.

*Rough Assessment:* We think Thoreauian coercion is a minor problem for liberty talk. First, it is about actions by private parties, while the main business of the liberty principle is governmental actions. The liberty maxim is a political maxim. Moreover, while we acknowledge that sometimes Thoreauian coercion might be effective in advance liberty overall, and worthwhile, we don't think such cases are common. Very often it will backfire—stories of private subversive terrorism, as fictionalized in *V for Vendetta*, probably mostly will be terrible for overall liberty—crisis and insecurity are liberty's worst enemies. Moreover, we think that civil disobedience very often works best in "public" places—that is, on government properties. It being government property gives us a basis for drawing a line upon which one might reasonably downgrade the coerciveness of defying the owner's demands.

"Thoreauian Coercion" implies coercive actions by private parties, as opposed to the official actions of government. All of the remaining areas speak principally of official governmental actions.

## 2. Coercive Hazard

If taxpayers pay for other people's gambling losses, people will gamble more.

Given the taxpayer underwriting of losses, the more people gamble, the more the government takes from taxpayers. Although going to the casino and gambling is, in its direct aspect, purely voluntary, in its overall aspect it would now have a coercive consequence (or facet). Because the government has injected coercive collectivization into the matter, there is then an overall-liberty argument for restricting gambling.

Economists and actuaries use the term “moral hazard” to describe the encouragement that insurance gives to risk taking. We suggest the term “coercive hazard” to describe it when the bail-out comes from taxpayers.

Consider the deregulation during the 1980s that allowed freer action by savings and loan institutions, augmenting direct liberty. But when the risks they took turned bad, taxpayers footed much of the bill. In 1989, the Financial Institutions Reform, Recovery, and Enforcement Act called for \$50 billion in borrowing authority to clean up the insolvent thrift institutions; a large fraction of this money being taken from general revenues (White 1991, 175-176). This doesn't take into account the four years leading up to 1989, when government attempts at financial cleanup cost at least \$38.5 billion (White 1991, 147-149). If the taxation is seen as a form of coercion, the deregulation of the savings and loans industry perhaps augmented direct liberty while reducing overall liberty.

Coercive hazard is pervasive in the banking sector. Federal deposit insurance and government loan guarantees are often explicit, and will encourage “gambling with taxpayers' money” (Kroszner 1998). Sometimes the guarantees and taxpayer underwriting is not official, but only expected—people figure that there is a good chance that if things go bad, the government will bail people out, to some extent. Similarly, the

National Flood Insurance Program, the Small Business Administration, and other federal agencies provide reduced insurance rates and financial assistance for flood damage and disaster relief. Given that “insurance” is in place, there will be a liberty-argument in favor of restricting the gambles that the “insured” can take with taxpayer money.

Coercive hazard marks just about any kind of government subsidization. In the case of agricultural subsidies, the arrangements also entail conditions on what the growers may do with their land and produce.<sup>8</sup> The welfare state, in general, creates coercive hazards. For example, it has been suggested that restrictions on direct-to-consumer advertising may be justified because pharmaceutical purchases are subsidized by the federal government (Danzon and Keuffel, 2007, 76). If being within the polity entitles one to tax-financed resources, there is a liberty argument against letting outsiders in. Some say immigration should not be liberalized because immigrants consume welfare-state benefits. Similarly, governments once practiced forced sterilization.

The Drug Enforcement Agency (2008) writes on its website: “Legalization advocates fail to note the skyrocketing social and welfare costs ... that would accompany outright legalization of drugs.” People will become drug dependent and turn to the taxpayer for welfare and health care. Similarly, an argument for seat-belt laws and helmet laws is that the costs of treating accident victims have been socialized to a significant extent.

*Rough Assessment:* We think coercive hazard is one of the most important areas of possible disagreement between direct and overall liberty. We also find it one of the

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<sup>8</sup> In some cases, it might make sense to think of such rules emanating not as coercion but as contractual conditions. Suppose participation in a farm subsidy program is a matter of choice; suppose the farmer may decline both the subsidies and the appertaining conditions. In that case, in direct aspects, the conditions on program participants are a matter of voluntary agreement; they are not reductions in direct liberty. However, probably in most cases the restrictions are not a matter of voluntary agreement, but apply generally.

most difficult to assess.

In discussing immigration, David Friedman (2006) has made a broad point that that sees *pluses* for overall liberty in allowing people to avail themselves of tax-funded benefits: *It will reduce support for collectivist provision and underwriting.*

Here we have spoken as though the welfare state is a given. But in public discourse people might just as well evaluate the welfare state, and take immigration, etc., as given. In that light, coercive hazard makes for an argument against the welfare state and other forms of taxpayer underwriting. Friedman's point is difficult to evaluate, but we feel that it has merit, and perhaps its influence will grow in the future. It applies to all cases of coercive hazard, because all are predicated on taxpayer provision or underwriting. It must be admitted, however, that the connection between coercive hazard and scaling back taxpayer provision is much weaker than the connection between coercive hazard and takings from the taxpayer.

Assessing coercive hazard also involves other points. Coercive hazard plays a role in certain swathes of activities. That role may be significant in the banking and finance sectors where, either officially or *de facto*, taxpayers underwrite severe failures. However, the areas of banking and financial practice affected by this consideration are not extensive in relation to the entire scope of social activities.

As for immigration, immigrants will draw on resources in schooling, health care, public works, and welfare, but at the same time they will pay into the tax pool, and to that extent they are displacing the burden of others or financing much of their own benefits. The taxation part of the indirect effects on liberty is an empirical issue, and depends on the immigrant's age, skill-level, and other factors. Also, in assessing the indirect effects

on liberty, one should recognize possible transnational cultural and political effects. Immigrants from Mexico, say, might act as conduits by which relatively liberal ideas and sensibilities permeate Mexico.

Remember, direct liberty constitutes a part of overall liberty. Thus, while one must acknowledge that *some* of the indirect effects of liberalizing immigration are minuses for overall liberty, we are inclined to think that those facets are clearly outweighed by other facets that are pluses for overall liberty. Whether the pluses would continue to outweigh the minuses if immigration were liberalized drastically, or if the borders were thrown open, might be another story.

In the case of drug liberalization and similar issues, we feel even more strongly—the pluses for overall liberty far outweigh the minuses. In general, when it comes to “the social safety net,” we are inclined to say that the role of coercive hazard is not nearly significant enough to tip the scales of overall liberty.

Finally, the connection between subsidization and taxation is inexact. Sometimes, in the bowels of government decision, the implication of a subsidy is not that taxpayers have more of their property taken from them, but that some other activity goes without corresponding government funding. To some extent, spending and taxing should be separated, and in as much as they are separate, then spending isn’t a direct-liberty issue at all.

### **3. *Disarming or Defusing Private Coercion***

Very often the ownership of weaponry or potential weaponry poses no imminent danger to anyone’s property. Laws that forbid the ownership or commerce of such wares

are clearly coercive, in the direct sense. But such restrictions may be pluses for overall liberty, as they may disarm or defuse private coercion—as well as some forms of foreign “public” coercion, or terrorism and sabotage.

The frightening thing about technology is that it keeps making destruction easier. Most people are not bent on destruction, but with advancing technology it may only take a few nuts to do lots of damage. Keeping the means of destruction out of the hands of those people is a notable area in which direct and overall liberty may disagree.

The issue ranges from nuclear bombs to switch-blades. Gun control is typically justified chiefly by claims that it reduces crime.

Other forms of coercion might also be included here. For example, during an urban riot, imposing a curfew might “defuse” an explosive situation that would result in widespread looting and other forms of private coercion. Thomas Schelling (1978) famously explained the dynamics and hazards of such tipping points.

Henry Sidgwick stated the conundrum as follows, “it may be fairly said that the end of government is to promote liberty, so far as governmental coercion prevents worse coercion by private individuals” (Sidgwick 1891, 46).

*Rough Assessment:* Regarding weapons and arms: First, the realm of such controls is again rather limited. Second, weapons are often means of preventing private coercion—“more guns, less crime” (Lott 2000). Third, it should be recognized that weapons are also means of staying government coercion—that, arguably, was the prime impetus of the Second Amendment. If the government is the only player in society with any weapons to speak of, it will be less constrained in its belligerence and coerciveness. Polycentric weaponry is a form of check and balances. Furthermore, the government

monopolization on weaponry lends itself to a social ethos of mono-centric power and authority—of government as a kind of overlord. When it comes to means of mass destruction, we agree that direct and overall liberty often disagree, and that such means should be controlled. But we are uncertain about how far such controls should go. Maybe restrictions on machine guns and bazookas augment overall liberty and are good; but at the same time we wonder: If people were allowed to have machine guns and bazookas, would drug prohibition be as extreme as it is? Would nearly so many people be locked up? We think that the disagreements between direct and overall liberty in this area tend to be overestimated.

#### **4. Controlling Pollution**

Even when private coercion takes much less extreme forms, it may still call for coercive prevention. Restrictions on activities and technologies that have the potential to generate pollution probably ought to be deemed coercive, and the pollution avoided might also be deemed coercive. Thus again, direct coercion might augment overall liberty.

*Rough Assessment:* We here certainly concede the potential disagreement between direct and overall liberty, and regard pollution to be one of the most significant areas of disagreement. But again we see some ways by which its importance might be discounted. First, again the scope of such controls is rather limited—the main issues are air and water pollution and, apart from global warming issues, the problem is primarily regional. Second, we are not afraid to reveal that we are uncertain that coercions, as opposed to tort remedies and the development of voluntary norms of neighborliness, are



so critical to the long-term abatement of pollution. Getting government to intelligently improve matters is a free-rider problem (Tullock 1971), and if we believe that that free-rider problem can be tolerably solved, maybe the ones involving pollution can likewise be tolerably solved. Third, the issues of whether pollution is coerciveness and at what point it becomes coercive are gray areas. Does the coercion entail incursions on private property—my lungs—or government property—the air-shed?

### 5. *Restrictions to Prevent Rip-offs*

Adam Smith (1776) wrote, “[T]hose exertions of the natural liberty of the few individuals, which might endanger the security of the whole society, are, and ought to be, restrained by the laws of all governments” (324). Remarkably, Smith said this in the context of his endorsing restrictions against banks issuing bank notes denominated in small amounts. His argument, it seems, was that if banks were allowed to issue notes in small denominations, each note would be so insignificant in amount that people would not bother to check their integrity, and “beggarly banks” would rip people off by issuing such notes, having them accepted at face value, and then disappearing into the night. That restriction on issuing notes of small denominations, which was the status quo in Scotland at the time, was, according to Smith’s argument, a kind of consumer-protection restriction. Smith endorses it as augmenting overall liberty—it protects people from being ripped off by scam artists.

Consumer protection, workplace safety, and labor restrictions are often justified in these terms. Sometimes defenders add that the restrictions are especially necessary because the court system is broken.

*Rough Assessment:* There is a great deal of research on restrictive “consumer protection” laws. We believe that, even with the court system as it is in the United States, there are strong, self-correcting mechanisms working against the perpetration of commercial actions that would constitute coercion. Moreover, we doubt that the “consumer protection” restrictions much help to reduce any such coercion—they might even have the opposite effect, for example by dampening competition among the privileged services and by prospering unlicensed, illicit practices. We believe that the direct coercion of such policies is by no means redeemed by any indirect pluses for overall liberty.

#### 6. *Subsidizing Against Coercive Taboos*

Sometimes the society in general has values that are pernicious to liberty. For example, in our view, some attitudes about stem-cell research, pro-creation technologies, abortion, sexual practices, and drug use lend themselves to coercive government actions. The values give rise to extreme taboos—taboos that say that the activity is not only a vice, but the proper object of coercive bans and restrictions. In the ecology of cultural norms, the government is an incomparably large player, and it is possible that it can do things that will weaken such values. In particular, government may subsidize the tabooed activities, and taxation is coercive.

Allowing stem-cell research is in line with liberty, but much of the public is leery. The government subsidization of stem-cell research could help to overcome cultural resistance. Maybe the shortest path to liberal policy on stem-cell research begins with some government subsidization, as a way of validating the activity, building

constituencies in its favor, and getting people used to it.

*Rough assessment:* We think the problem is rather minor. First, the types of issues that relate to the possibility seem to be limited to certain matters that some regard as sacred, in literally religious terms. The list is not very long, it seems to us.

Second, while we recognize that subsidizing the “sinful” activities may be effective in breaking down the restrictive attitudes, it is not clear that subsidization is particularly crucial. In fact, the taboos are usually partly the result of government restrictions, as with sex and drugs, and simply repealing or relaxing the restrictions may be a better way to weaken the taboos. If the impetus to subsidize a tabooed activity is to get on a path towards liberalization, then the overall-liberty benefit of subsidizing, as compared to not subsidizing, is likely to be small or even negative, because that impetus may be redirected toward a more natural alternative course of action: simply relaxing restrictions—which is to be the purported fruit of the subsidization in any case. Perhaps government subsidization of marijuana consumption would augment overall liberty, but probably not, because if there is an impetus to do that, it can likely instead be redirected toward liberalizing restrictions on marijuana. And even if such liberalization is not presently feasible, other actions to project a liberal attitude, such as committee reports and political messages, may be feasible. We believe that fiercely illiberal attitudes are very often substantially “stoked” by illiberal postures and policies of government. In such cases, if the government is inclined to move in the opposite direction, rather than subsidizing the activity that has become tabooed, the government can simply cool the stoking. That means that the “not subsidizing” choice will entail promise in terms of overall liberty, because the promise of actions to “cool the stoking” continues to lie

ahead.

Third, subsidization can put us on a path that leads ultimately to a future with less liberty than would be the case if we remained patient, because the subsidization will bring political involvement—supervision, certifications, privileges, special interests, and other things that may end up restricting matters more than they would have become, if only with some delay.

Fourth, if some subsidization and official recognition of tabooed activities is good for overall liberty, in that event it is especially likely that they simply are not that big a violation of liberty. If the federal government devotes a billion dollars to subsidizing a tabooed activity, that would work out to be a small incursion on the average taxpayer. And, again, the connection between subsidization and coercive taking is inexact.

### **7. Taxing to Fund Liberal Enlightenment**

The previous area concerned the subsidization of tabooed activities for the sake of cultural side-effects. This one concerns the subsidization of cultural activities per se. The issue is one of initiating tax-funded efforts to teach, instill, and propagate liberal ideas and attitudes. Such efforts could take the form of schooling at any level, as well as seminars, conferences, exhibits, scholarship, and media products.

Here it is important to distinguish between arguing over “the curriculum” and initiating a new taking from the taxpayer. Arguing over the curriculum of an activity or institution that, in any case, is going to exist with taxpayer support is not a liberty issue. It is only the initiation of new takings that are at issue.

*Rough assessment:* During the 18th and 19th centuries, many liberals hoped that

with the right curriculum, government schooling would serve to advance liberal enlightenment. The hope led many to favor the expansion of government schooling. In hindsight, we see that the hope was misplaced. The basis for an institution's financing tends to affect the values and philosophy of the institution. We recognize that occasionally the government pays the piper and calls for a liberal tune, but the tendency seems to be for the government to call for other tunes. Any governmentally instituted project in liberal edification is susceptible to redirection. Thus, we are doubtful that in these matters direct and overall liberty are likely to disagree. Liberal edification is probably best left to civil society and liberal means. Furthermore, this whole area concerns only certain cultural sectors, notably education. Finally, the point made previously about the inexact connection between spending and taxation applies.

#### **8. *Coercively Tending the Moral Foundations of Liberty***

Somewhat related to the idea of funding liberal enlightenment is the idea that people have deeply sinful tendencies, and that higher values and the spirit of decency, fairness, and justice can easily be eroded and dissipated if people have too much freedom. The idea is that too much liberty will lead to licentiousness and dissoluteness, and an erosion of liberal politics. Conservatives, in particular, might invoke such ideas in supporting restrictions on sex, drugs, gambling, speech, and so on (Bozell 1962). The idea might also be invoked for mandatory schooling and the subsidization and control, if not government ownership and operation, of schools, regardless of whether the curriculum is particularly freedom-oriented. In some measure, even Adam Smith expressed views in this line, though his remarks on schooling were rife with ambiguity

and inconsistency.<sup>9</sup> The idea is that a culture that appreciates liberty is a fragile and vulnerable thing, that too much direct liberty will ultimately undercut the moral foundations that sustain overall liberty.

*Rough Assessment:* We just don't buy this argument, at least not in the context of modern, relatively liberal societies like the United States. The mechanisms by which allowing people to engage in "vice" leads them to cherish liberty *less than they otherwise would* never seem to be well explained. We doubt that they can be well defended. We are more inclined to believe that liberty, dignity, and individual responsibility are of a piece, that restricting liberty in sex, drugs, and culture tends to reduce, not augment, overall liberty.<sup>10</sup> Every incursion on liberty makes it less focal, and affirmations of liberty even in activities that many find distasteful are especially important in making it more focal. Such are the affirmations of liberalism as a kind of civic religion. That such a view is compatible with conservatism was argued by Frank Meyer (1996).

Incidentally, among his sometimes less-optimistic remarks, Adam Smith also, even mainly, projected a philosophy of relative optimism—relative, that is to the alternative set of arrangements. He believed that laissez-faire in religion would lead to "candour and moderation" (1776, 793). He believed that commerce teaches probity and punctuality (1766, 538) and improves government and politics (1776, 412). As for clamping down on vice, his writings mainly seem to argue against paternalism.

## 9. Log Rolling for Liberty

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<sup>9</sup> We think that Smith's support for government schooling is often overstated. Also, we believe that Smith had a bias toward acquiescing to what was status-quo policy in Scotland at the time.

<sup>10</sup> Klein (1997) explores ways by which, through the channel of dignity, liberty, and individual responsibility mutually reinforce each other. He argues that there is a moral triad in liberty, dignity, and responsibility.

Politics makes strange bundles. In politics, a liberal politician might find it effective to support a coercive reform to gain support for a more significant liberal reform. If the first reform is kept separate, it might be the case that, as compared to no action, his supporting it reduces direct liberty but augments overall liberty. Of course, in such a case, if the two reforms are treated as a single complex reform, then it augments both direct and overall liberty.

Logrolling is the idea that if I help you roll the logs of your field, you'll help me roll the logs off my field. Implicit logrolling is when several measures are strategically bundled into a single package, and we mutually support the package, even though we don't like parts of it (Tullock 2006, 82). If we disassemble the package and consider a part in isolation, we may encounter disagreement between direct and overall liberty.

The Civil Rights Act of 1964 had two primary features, the banning of voluntary discrimination and the extinguishing of forced discrimination. The first feature reduced direct liberty while the second augmented it. If, hypothetically, we imagined separate voting on the two features, it might be that the second could not be had without making a deal to support the first. In that case, supporting the first may be an instance of taking an action that reduces direct but augments overall liberty. In that sense, bundles with mixed items may well represent instances of disagreement between direct and overall liberty.

Party politics throws up broad, vague bundles—"liberal versus conservative" being the primary dichotomy between bundles in the US context. Fortunately the liberal does not have to choose one or the other; instead he may steer clear of politics. But if one is to be a player in politics or the year-by-year political culture, he may need to play ball with such vulgarities. In a sense, he may have to logroll for liberty.

*Rough assessment:* The vortex of politics is the antithesis of individuation. It is the antithesis of clarity and accountability. Indeed, the agenda of liberalism is to depoliticize society as much as is practicable. The dilemma is that most any move to depoliticize society must gain political validation.

In highly political contexts, all manner of trade-offs may arise. We grant that pretending to follow the grammar of direct liberty is not an option. But no grammar is viable in politics. The failure of direct liberty in politics is as much a statement about politics as about direct liberty.

Liberalism is a political philosophy and sensibility, not a political party. Just a step removed from the vortex of power, or the daily news report, but sometimes even within it, one is ready to formulate issues so as to separate the parts of the bundle. Ordinary people are quite capable of intellectualizing issues to the extent of thinking out an issue apart from what else is in the bundle. College courses do so routinely. Once matters are unbundled and the possible vagaries of politics are removed, this hazard of disagreement between direct and overall liberty recedes. Although court intellectuals and party hacks might be unable to unbundle the bundles, others have little problem doing so. Indeed, people know that politicians and court intellectuals are necessarily intellectually degraded. A thinker gains trust and consideration by virtue of evident independence from political power. Leading liberal figures, such as Adam Smith, Milton Friedman, and Friedrich Hayek, kept quite independent of politics. They had little trouble unbundling issues and achieved considerable influence.

The “buttons” we consider in applying the liberty principle are formulated to suit our purposes. Our purposes depend on who we are and what we are up to. Provided that



our discussion is taking place outside the vortex of political power, we can quite likely formulate the “buttons” such that logrolling for liberty scarcely arises. Liberal politicians may occasionally find themselves in circumstances that call for logrolling for liberty, but those circumstances are not of primary concern in the forms of discourse that principally concern us here.

### **10. Stabilizing the Second Best**

Logrolling for liberty considered political machinations within a stable environment. Here we turn to the unstable. Moves that reduce direct liberty might stave off regime changes that would reduce overall liberty.

Earlier we gave the example in which support for an increase in the minimum wage appeases voters and keeps them from voting in less liberal politicians. The example may not ring true, but the idea is familiar to liberal politicians—failing to appease public foolishness may lead to retaliation and backlash. If liberal politicians try to achieve the “first best,” they may fail to stabilize the second best, and end up with the third best. In the recent classical-liberal book entitled *The Guide to Reform*, Johnny Munkhammer (2007) writes that “the first aim for any country must be to avoid counter-reforms that actually worsen the situation and are motivated by populist, symbolic, or other short-sighted reasons” (113).

We live in a stable liberal-democratic polity, and the present discourse is situated accordingly. In such polities, using the term “instability” is overly dramatic. We mean simply the electoral tides that may bring new balances between the parties. At the level of the individual politician, it becomes an issue of his or her being better for liberty than the alternative.

Besides elections, another manifestation of “stabilizing the second best” occurs when one government agency is called upon to “fix” a problem, and the agency people—let us say relatively liberal people—know that if its interventionist “fix” is not deemed sufficient, then a less liberal group of policymakers, such as Congress, will supervene. The agency staffers might then reduce direct liberty because if they didn’t the blows to overall liberty would be even worse.

In more troubled polities, “instability” might mean more than electoral tides or contests over bureaucratic control. Regime change might be violent and disastrous. This is especially possible in polities with deep ethnic or religious tensions. Building on the “tipping” insights of Thomas Schelling (1978), Timur Kuran (1995) has explained that small changes can bring sudden and sweeping political change.

In his biography of Thomas Schelling, Robert Dodge (2006, 141-43) suggests that Schelling’s thinking quite directly influenced political developments in Singapore. Ethnic and religious divisions threatened the stability of the political order:

The Singapore approach was to control the movement of population groups through public housing: 86 percent of Singapore’s residents live in housing built by the government’s Housing Development Board. To prevent segregation and encourage ethnic harmony, the HDB adopted an “Ethnic Integration Policy” prohibiting the sale and resale of public housing that would alter the ethnic composition of apartment blocks or neighborhoods beyond set levels. By law, there could be no free movement to alter racial composition or to ‘tip’ neighborhoods from one

race to another. With such a large share of the country's population in public housing, the policy prevented unforeseen motives from emerging. In a society with racial harmony as a goal—a goal that the citizens' behavior might unintentionally undermine—Singapore's housing policy prevented the development of segregated neighborhoods. (Dodge 2006, 143)

Dodge adds: “Such sacrifice of individual choice to the government that results in greater achievement of individual goals will always raise questions and is perhaps something that would work only in limited instances or scale” (143).

Sometimes it is suggested that the stability of even the most stable regimes was achieved by artful political maneuvers. For example, a theme of Robert Skidelsky's biography of John Maynard Keynes is that Keynes adapted the liberal system in Britain so as to salvage what could be salvaged while appeasing and staving off more radical change. For centuries, up to perhaps World War II, apprehensions of radical upending have loomed in the background of British political thought. As for the United States, again, major shifts towards interventionism have been interpreted as having neutralized more ominous political hazards (Levin 1968). In moments of political instability, acting to reduce direct liberty might augment overall liberty.

*Rough Assessment:* Within a stable liberal-democratic polity, the relevance of “stabilizing the second best” parallels some of the remarks we made about logrolling for liberty. The liberal conversation about policy and the political order largely abstracts from the strategic and adventitious factors about getting or keeping the relatively liberal

politician in office. That abstraction is certainly defensible. On the other hand, we admit that liberalism's more abstract teachings must connect sensibly with practical politics.

In more unstable polities, where norms and values are much further from liberal sensibilities, the need to compromise direct liberty to stabilize the second best is more relevant. One thing to keep in mind is that volatile situations are volatile. The rulers of Singapore may have intelligently manipulated the situation, but very often the manipulations themselves trigger unintended consequences—Singapore may be the exception that proves the rule. Pushing people around or restricting their freedom often creates grievances and backlash. Maybe the best way to advance liberalism is to affirm the norm that political power is not to be used to push people around. Actions that attenuate that norm, then, hurt liberty directly and overall. The more that people expect that power will be used to manipulate, the more that each interest feels impelled to contend for power, if only to guard itself against being manipulated.

### **11. Military Actions, Etc.**

Without the efforts of the Allied Powers to destroy the Nazi regime, it may have rolled through Europe and expanded its horrors. Much Allied action reduced direct liberty and augmented overall liberty. The principal interest of the Allies was their own liberty and well-being. It was a matter of national defense. But smashing the Nazi regime may also have been good for overall liberty in Germany.

The Korean War presumably augmented overall liberty in South Korea, and maybe overall liberty universally. But the combatants posed no real threat to liberty in the United States. If one takes a universalist view of overall liberty, as we are inclined to do, one country's going to war may augment overall liberty even though there is no threat to

liberty within that country—as some might argue about the U.S. invasion of Grenada or the Vietnamese toppling of Pol Pot in Cambodia..

Merely toppling a pernicious regime does not necessarily rid the place of perniciousness. That’s why some people believe in “moving in” and cultivating better institutions—sometimes called imperialism or nation-building. Another variant is civil war. Many would argue, including some libertarians such as John Majewski (forthcoming), that Lincoln’s war augmented overall liberty, even though it reduced direct liberty.

A related form of threat is terrorism. With such policies as the Patriot Act, cyber security measures, detention of suspected terrorists, and the nationalization of airport security, as well as its extensive actions abroad, the U.S. government has initiated much direct coercion on the grounds of preventing worse coercion by terrorists and would-be terrorists.

*Rough Assessment:* These issues are huge and hairy. Obviously, the possibility for disagreement between direct and overall liberty looms large. Like David Friedman (1989, 211-12), we feel that there’s no way for liberals to deny that, based on a few simple arguments or principles.

Liberals can argue that military affairs and geopolitics fall within a fairly well-defined and separable realm of activities. So far as domestic policy goes, these threats and foreign affairs need not upset the liberty principle much, other than the taxation they require.

Although liberals cannot deny the possible disagreement here between direct and overall liberty by resort to any first principles, there are many good points in favor of

skepticism. Military action is generally a bad way to make friends and effect political change abroad. It creates entrenched interest groups, at home and abroad, that make militarism a very hard policy to contain and hold accountable—indeed, the policy in general lacks accountability, because what the policymakers’ know of the circumstances is scarcely known by others, making evaluation of their actions meaningless. Many people feel that military adventures are unduly influenced by domestic political interests and the quest for party power. Moreover, a real war intensifies collectivist sentiments and intensifies state power—“war is the health of the state.” Many will argue that many of America’s “successful” wars were, in fact, bad for overall liberty, both within the US and universally. These are just some of the points one can make it arguing that many of the indirect effects of military projection are huge minuses for overall liberty.<sup>11</sup>

Our attitude is that the general disposition against militarism, characteristic of classical liberalism and modern libertarianism, is probably the right one for overall liberty. But it’s only a general disposition. There’s no denying that in certain circumstances, military action can be both a dreadful reduction in direct liberty and a huge augmentation in overall.

## Taking Stock

In carrying out the present inquiry, our primary goal has been to make the list exhaustive. Please let us know of any cases that do not fit into one of the areas.

Are the areas of possible disagreement extensive? Which areas pose the most serious problems? Do they undermine the coherence of liberty?

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<sup>11</sup> Coyne and Davies (2007, 11-15) have offered a t-point overview of the common public bads of empire, nation building, and the like.

Many will disagree with us, but we think that several of the listed areas are simply not very significant. We reject the contention of significant disagreement between direct and overall liberty in the areas of *Restrictions to Prevent Rip-offs* and *Coercively Tending the Moral Foundations of Liberty*. The areas *Thoreauian Coercion* does not speak to the issue of government policy. Those three pose no problems whatsoever, in our view.

Several of the areas, in our opinion, pose at most only very minor problems. *Taxing to Fund Liberal Enlightenment* is simply a problem that doesn't seem to arise much—unfortunately, perhaps. Furthermore, we doubt that direct/overall disagreement is strong or likely. Likewise, *Subsidizing Against Coercive Taboos* seems limited in scope and disagreement seems unlikely and weak at best.

Two areas are about the art of politics: *Log Rolling for Liberty* and *Stabilizing the Second Best*. They will be significant to the liberal politico, and we admit that liberal philosophy should not be entirely divorced from the art of politics. But the art of politics is so situational and adventitious that if it destroys liberal philosophy, it likewise destroys all political philosophy. We think that political philosophy can and should be substantially separated from the art of politics.

*Disarming or Defusing Private Coercion* has solid reasoning behind. But the activities it touches are not extensive—mostly involving weaponry and means of destruction. Moreover, the direct/overall disagreement is controversial and hard to assess. We think that, in terms of overall liberty, policy in the United States currently errs on the side of being too restrictive.

That leaves *Coercive Hazard*, *Controlling Pollution*, and *Military Actions, Etc.* In our view, these are the most significant areas of potential direct/overall disagreement.

In sum, we feel that the total area and severity of direct/overall disagreement are troublesome, but not that troublesome. For the most part, direct and overall agree. And several of the troublesome areas are pretty well defined and can be understood and treated as somewhat special—of course, this is what we see in policy and political discourse concerning coercive hazard, pollution, and military affairs. That leaves plenty of terrain where liberty can mean simply direct liberty, confident that that also covers overall liberty.

## Handling Limitations

Liberal ideas and arguments are strengthened by laying their limitations on the table. The liberty maxim does not crumble just because there are limitations. In 1893, Simon Newcomb suggested fifteen maxims for economics, but he was keen to point out that they are airtight: “The student should be encouraged to find or even to imagine conditions under which the maxims would fail. In doing this, the vice he should be taught to avoid is that of concluding that because he can imagine a state of things under which a maxim would fail, therefore it is worthless” (399).

The possibility that direct and overall disagree should not send classical liberals/libertarians to try to find ways around the problem. Instead, they should embrace the ambiguity as part of the movement. Accepting and dealing with limitations can help create a more complete, relevant, and inviting movement for liberty without jeopardizing the core principles of the movement.

The ambiguities that arise from disagreement between direct and overall liberty is not the only kind of limitation that the liberty principle faces. The broad terrain of all



limitations also entails other kinds of ambiguity, undesirability, incompleteness, a failure to serve all values, and a lack of a philosophical foundation (Klein 1999). In our judgment, however, the liberty principle remains focal and worthy.

Consider the competition: “Equality of opportunity”, “equality,” “solidarity,” “social justice,” “public opinion,” “the public will,” “the public interest,” “social welfare.” They are remarkable for their vagueness. If liberty makes for a grammar with holes and gray areas, they make for no grammar whatsoever. This is not to say that they are unworthy as ideas or terms, only that they do not well serve to provide core meaning and structure to political philosophies and movements. Any philosophy or movement that invokes them as defining ideas will be plagued with limitations.

## Libertarians v. Conservatives through the Lens of Direct v. Overall

The distinction between direct and overall liberty might help to clarify some of the differences between classical liberals/libertarians and conservatives.

It is useful to clear away some other sources of difference. The libertarian movement is a head without a body. The conservative movement is a head with a body. So in making a comparison, we need to compare just the two heads. Secondly, because the conservative head is connected to a complete living body, it is affected accordingly. The Republican Party runs through its veins. Even the head is bound to be more confined to the status quo and more mired in conventional superstitions and taboos.

But libertarians and heady conservatives are often united in their understanding of negative liberty. “Liberty” as it appears in the words of Russell Kirk, Frank Meyer, Barry Goldwater, Ronald Reagan, William F. Buckley, or Jonah Goldberg means pretty much

what Adam Smith and Murray Rothbard meant. The same *cannot* be said of the social democrats. Between Left and non-Left, there is a serious breakdown of language.

It seems to us that much of the difference between libertarians and conservatives can be framed as a difference in the extent to which they focus on direct liberty.

Libertarians focus much more on direct liberty.

Conservatives would say that overall liberty is what really matters, and that in advancing it we have to be realists. They say they are more attuned to actual experience, constraints, and tensions. Accordingly, they are less enamored with principles and rationalism—yes, the *direct* liberty principle is comparatively concrete and definite, but it takes no account of the indirect complexities of politics, culture, and morals.

Conservatives tend to see libertarians as formulaic and dogmatic.

As libertarians, we might respond as follows: Yes, overall liberty is what really matters. Actually, even beyond that is what *really* really matters, some vague notion of the desirable—and conservatives, with their notions of virtue and the sacred, feel similarly—but both groups agree that overall liberty coincides well with their notions of the desirable, so let's run with the idea that overall liberty is what “really” matters.

Admittedly, too many libertarians are overly enamored with the formula of direct liberty, and are too simplistic, rationalistic, and dogmatic. But, still, a focus on direct liberty is justifiable, in general, because the disagreements between direct and overall liberty are not all that severe or extensive, and we know how to temper our statements in cases where disagreement is more likely. We would contend that (heady) conservatives overestimate the disagreements between direct and overall liberty, particularly in the areas of *Coercive Hazard*, *Coercively Tending Moral Foundations*, *Stabilizing the*

*Second Best*, and *Military Actions, Etc.* Furthermore, abased by their body, conservatives tend to be *much* weaker on the often radical implications of good policy analysis and political economy, and too readily fall prey to statist conventionalities, particularly in the areas of *Restrictions to Prevent Rip-offs* (where abolition of many “consumer protection” restrictions is justified), and again *Coercive Hazard* (for example, with respect to the burden of immigrants and would-be drug users), and *Coercively Tending Moral Foundations* (for example, with respect to underestimating the social, moral, and cultural costs of drug prohibition).

Libertarians agree that overall liberty matters more than direct liberty. But when we are confident that direct and overall agree, it is worth focusing on direct liberty, for its much greater concreteness and definiteness. And, mostly, they do agree.

That, anyway, is how we see it.

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