

Direct and Overall Liberty: Areas and Extent of Disagreement

Daniel B. Klein
George Mason University

Michael J. Clark
George Mason University

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 Newcomb¹

1. Introduction

This article 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—our voice is that of the Smith-Hayek liberal.

So-called positive liberty is about positive capabilities, that is, being able to do things. If you can't read, that might be deemed by some to be 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

¹ Simon Newcomb, "The Problem of Economic Education," *Quarterly Journal of Economics* 7, no. 4 (1893), p. 399.

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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. Subscribers 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. This configuration of ownership denies the collectivist-political notions of ownership and social contract. This tradition is represented by David Hume, Adam Smith, and other classical liberals and libertarians. The thinker who most fully develops and articulates this scheme of ownership and voluntarism is Murray Rothbard.²

We embrace Rothbard’s conceptions of ownership claims and his definition of liberty.³ But even within this “negative-liberty” philosophy there are many unresolved, perhaps unresolvable, issues. The liberal schemes of ownership and voluntarism entail many gray areas. Rothbard tends to downplay the problem of ambiguity, but other liberal thinkers dwell on it.⁴

The ambiguities surrounding liberal concepts of ownership and voluntarism have often been used by critics to dismiss them: individual liberty is “illusory,” etc. Liberals 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 puts it.⁵ Indeed, away from politics,

² Murray N. Rothbard, *The Ethics of Liberty* (Atlantic Highlands, NJ: Humanities Press, 1982).

³ However, we are more willing than Rothbard to regard government ownership of government resources as being on a par with private ownership.

⁴ Such thinkers include David Hume, *An Inquiry Concerning the Principles of Morals* (New York: Bobbs-Merrill, 1957), pp. 26-32; Wordsworth Donisthorpe, *Law in a Free State* (London: Macmillan, 1895), pp. 1-121; Friedrich Hayek, *Individualism and Economic Order* (Chicago, IL: University of Chicago Press, 1948), pp. 20-21 and 113; and David Friedman, *The Machinery of Freedom: Guide to a Radical Capitalism* (LaSalle, IL: Open Court, 1989), pp. 167-76. Daniel B. Klein, “Mere Libertarianism: Blending Hayek and Rothbard,” *Reason Papers* 27 (2004), pp. 7-43, discusses these matters; the general idea of that article 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.

⁵ Adam Smith, *An Inquiry into the Nature and Causes of the Wealth of Nations*, ed. R. H. Campbell, A. S. Skinner, and W. B. Todd (Oxford: Oxford University Press, 1976), IV.i.16, p. 687.

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ordinary life in the United States shows that people seem to agree on what actions taken by a neighbor would constitute coercion, and the agreement conforms quite well to the liberal configuration of ownership.

The limitation that this article is concerned with, however, is something else altogether. 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, when viewed in larger aspect, be considered liberty-augmenting. Taxing people to wage war and dropping bombs on others are liberty-reducing in their direct aspect, but if the war topples dictators like 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 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 overall 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’s regime was highly coercive, but do we know that toppling it augmented liberty overall?

In this article 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 draws attention to 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.”⁶ We do not propose a method

⁶ Jan Narveson, *The Libertarian Idea* (Philadelphia, PA: Temple University Press, 1988), p. 50. Likewise, David Friedman, *The Machinery of Freedom*, pp. 172-75 and 211-12, and, less explicitly, Robert Nozick, *Anarchy, State, and Utopia* (New York: Basic Books, 1974), pp. 28-34, make remarks that can be interpreted in terms of a tension between direct and overall liberty.

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of aggregation, but we do presume that some meaningful sense of such aggregation (however loose) can be invoked.

We attempt to delineate the kinds of contexts in which the summing problems are most likely to arise, and to formulate categories that, together as a set, cover the problem areas. The hope is that the problem areas are not overwhelming, and 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 and highly focal.

2. 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 satisfactory. 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 describes sensibilities in aesthetics, beneficence, and distributive

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justice.⁷ 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 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 kill 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 tends to frame the liberty principle as an imperative, as 100 %, as a kind of axiom or trump 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. Smith holds that there should be a presumption of liberty. So, too, does libertarian theorist Randy Barnett, who uses the expression “The Presumption of Liberty” as the subtitle of his book on restoring the Constitution. “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.”⁸ Similarly, David Friedman says that

⁷ See Adam Smith, *Theory of Moral Sentiments*, ed. D. D. Raphael and A. L. MacFie (Oxford: Clarendon Press/Liberty Fund Edition, 1976), pp. 175, 327, and 269-70.

⁸ Randy E. Barnett, *Restoring the Constitution: The Presumption of Liberty* (Princeton, NJ: Princeton University Press, 2004), p. 260. Barnett acknowledges tensions between direct and overall liberty (pp. 74-75) and affirms that such tensions do not undo liberty as a meaningful principle.

libertarian principles “are convenient rules of thumb which correctly describe how one should act under most circumstances, 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.”⁹

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.¹⁰ This article is not about whether or how often the liberty principle should be contravened; rather, it is about one kind of ambiguity in ranking reforms in terms of liberty. It is about admitting a problem with $>_L$, and handling that problem as best we can by breaking it down in terms of a distinction between two more specific liberty orderings.

3. Direct and Overall Liberty

Recognition of ambiguity tells us that it may be difficult to rank reforms. Again, those ambiguities lie 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.

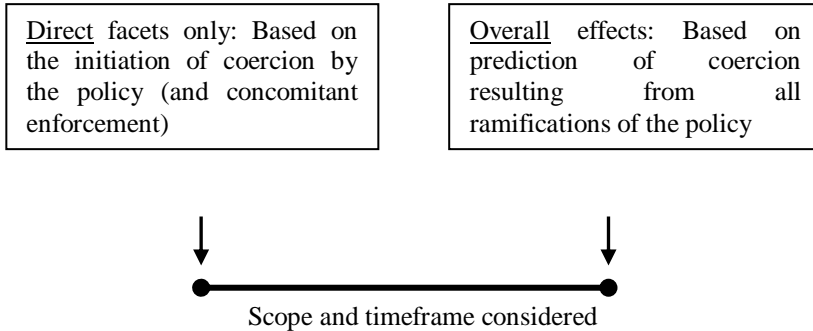
The indirect effects can range over other areas of policy and future time periods. Thus, there is both a scope aspect and a time aspect to the indirect effects. Collapsing the scope and time aspects into a single dimension, think of a spectrum of “directness,” ranging from the most direct features of the action (and concomitant enforcement) to overall 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

⁹ Friedman, *Machinery of Freedom*, p. 172.

¹⁰ However, inasmuch 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.

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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.



The Range of a Reform's Aspect of Liberty

Figure 1

Considering indirect effects entails a big problem: indirect effects are usually uncertain, and the further we go in time 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 more easily be achieved if the focus is kept on the direct features. Surely, though, 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.

Furthermore, 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—the endpoints—are focal. Using them, we can distinguish two different liberty orderings:

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

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- $R_1 >_{DL} R_2$ 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 liberty 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 liberty agree. We believe that 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 enduring. 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 of the minuses).

Furthermore, even in indirect effects we find other general tendencies for direct and overall liberty to agree. Making a reform that augments direct liberty will tend to affirm liberty in general, and, generally speaking, will 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 liberty may be quite common. We attempt to delineate the areas in which disagreement is most plausible or likely, and to make the list *exhaustive*. This helps us get a sense of the size of the problem. If it is small, liberals can proceed with

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confidence that in most contexts liberty does not much suffer from such ambiguity, and they may take advantage of the greater concreteness of direct liberty.

The creation of an exhaustive list also helps to inform us of when we need especially to be alert to possible disagreement between direct and overall liberty. 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.

Before we move on to discussing areas of disagreement, the reader should realize that the question is one of disagreement between the direct-liberty ordering ($>_{DL}$) and the overall-liberty ordering ($>_{OL}$). The question is *not* about disagreement between the direct-liberty ordering ($>_{DL}$) and the desirability ordering ($>_D$). We have not asserted that the desirability ordering is tracked perfectly by the overall-liberty ordering. In fact, we would reject any axiomatic sort of identity between the desirability ordering and the overall-liberty ordering, though, indeed we think that the former is exceedingly well tracked by the latter. In what follows, the desirability ordering has no role except the one tucked within the liberty principle.

4. Arguable Areas of Disagreement

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

- (1) Thoreauvian 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) Logrolling 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.

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- 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 of (1) through (11) is *not* by importance.
- For each area, the big questions are the following: Is disagreement likely? Are the disagreements important? 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 that 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, so reader beware.
- We sidestep the domestic *night watchman state*, that is, government efforts to protect property, enforce voluntary agreements, and punish, redress, and deter violations of 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 as a non-issue among the major contending ideologies, particularly, classical liberalism/libertarianism, conservatism, and social democracy.

a. Thoreauvian coercion

When in 1960 four college students in Greensboro, North Carolina, staged a sit-in at a Woolworth's lunch counter, were they conforming to the liberty principle? It is unclear whether the sitters were acting in defiance of the private owners, but, turning to a hypothetical of our own creation, suppose that the Woolworth's owner disallowed their protest, that is, suppose that the protesters were trespassing on private property. But their sit-in grew

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enormously and the practice spread widely—surely, much of it against owners’ objections—and helped overturn governments’ coercive Jim Crow laws.¹¹

Henry David 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.”¹² 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 “Thoreauvian 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? The 1971 May Day traffic blockade in Washington D.C. resulted in over 14,000 arrests and sent a message to politicians that Americans wanted the war in Vietnam to come immediately to an end. If the government owns the streets and parks, and they order demonstrators to disperse, is it coercion on the part of 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 Thoreauvian 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 Thoreauvian coercion might be effective in advancing liberty overall, and worthwhile, we don’t think such cases are common. Very often it will backfire—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 property. Its being government property gives us a basis for drawing a line upon which one might reasonably downgrade the coerciveness of defying the owner’s terms and conditions.

¹¹ See the Wikipedia entry for “Greensboro Sit-ins,” accessed online at: http://en.wikipedia.org/wiki/Greensboro_sit-ins.

¹² Henry David Thoreau, “Civil Disobedience,” in *Walden and Other Writings* by Henry David Thoreau, ed. Joseph Wood Krutch (New York: Bantam Books, 1982), p. 92.

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“Thoreauvian 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.

b. Coercive hazard

If taxpayers pay for other people’s gambling losses, people will gamble more. Given the taxpayers’ 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 bailout comes from taxpayers.

Coercive hazard is pervasive in the financial sectors. Federal deposit insurance and government loan guarantees are often explicit, and will encourage “gambling with taxpayers’ money.”¹³ Sometimes, the guarantees and taxpayer underwriting are not official, but only expected—people figure that there is a good chance that if things go bad, the government will to some extent bail out people. 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,” 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.¹⁴ 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

¹³ Randall S. Kroszner, “Rethinking Bank Regulation: A Review of the Historical Evidence,” *Journal of Applied Corporate Finance* 11, no. 2 (1998), pp. 48-58.

¹⁴ 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.

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government.¹⁵ 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 writes on its website: “Legalization advocates fail to note the skyrocketing social and welfare costs . . . that would accompany outright legalization of drugs.”¹⁶ 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 most difficult to assess.

Coercive hazard plays a role in certain areas of activities. That role may be significant in the banking and finance sectors where, either officially or *de facto*, taxpayers are on the hook. Those areas are large ones, but there are not many of them. In terms of the “areas” of public policy, few are significantly beset by coercive hazard.

In discussing immigration, David Friedman makes a broad point that liberalizing immigration would create *pluses* for overall liberty in allowing people to avail themselves of tax-funded benefits, since *it will reduce support for collectivist funding*.¹⁷

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 believe that it has merit, and perhaps its influence will grow in the future. It applies to all cases of coercive hazard, because they all are predicated on taxpayer provision or underwriting. It must be admitted, however, that the connection between coercive hazard

¹⁵ Patricia M. Danzon and Eric L. Keuffel, “Regulation of the Pharmaceutical-Biotechnology Industry,” paper prepared for the NBER Conference on Regulation, September 2005; paper revised September 12, 2007, p. 76, accessed online at: http://www.nber.org/books_in_progress/econ-reg/danzon-keuffel9-14-07.pdf.

¹⁶ Drug Enforcement Agency, “Speaking Out Against Drug Legalization, Fact 5,” accessed online at: <http://www.justice.gov/dea/demand/speakout/05so.htm>.

¹⁷ David Friedman, “Welfare and Immigration: The Flip Side of the Argument,” Ideas Blog, April 1, 2006.

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and scaling back taxpayer provision is much weaker than the connection between coercive hazard and taking from the taxpayer.

Immigrants will draw on government resources, 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. A different facet of the issue concerns the possibility that immigrants support illiberal politics; that concern is different from the coercive-hazard point and is raised separately below.

In the case of drug liberalization and similar issues, we believe even more strongly that 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 inasmuch as they are separate, then spending isn't a direct-liberty issue at all.

c. 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 issue ranges from nuclear bombs to switch-blade knives. 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 famously explains the dynamics and hazards of such tipping points.¹⁸ Henry Sidgwick states the conundrum as follows: “[I]t may be fairly said that the end of government is to promote liberty, so far as governmental coercion prevents worse coercion by private individuals.”¹⁹

Rough Assessment: Regarding weapons and arms, first, we think that the realm of such controls is again rather limited. Second, weapons are often

¹⁸ Thomas C. Schelling, *Micromotives and Macrobehavior* (New York: Norton, 1978).

¹⁹ Henry Sidgwick, *The Elements of Politics* (New York: Macmillan and Co. 1897), p. 46.

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means of preventing private coercion—“more guns, less crime.”²⁰ 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 monocentric 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. However, 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.

d. Controlling pollution

In some ways, a tailpipe spewing pollutants is like a shotgun spewing pellets. Restrictions on activities and technologies that have the potential to generate pollution probably ought to be deemed coercive, and the would-be pollution 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 coercive measures, 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 intelligently to improve matters is a free-rider problem,²¹ and if we believe that that free-rider problem can tolerably be solved, maybe the ones involving pollution can likewise tolerably be solved. Third, the issues of whether pollution is coercive and at what point it becomes

²⁰ John R. Lott, *More Guns, Less Crime: Understanding Crime and Gun Control Laws* (Chicago, IL: University of Chicago Press, 2000).

²¹ Gordon Tullock, “Public Decisions as Public Goods,” *Journal of Political Economy* 79, no. 4 (1971), pp. 913-18.

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coercive are gray areas. Does the coercion entail incursions on private property (say, my lungs) or government property (say, the airshed)?

e. Restrictions to prevent rip-offs

Adam Smith writes, “[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.”²² Smith states this in the context of his endorsing restrictions against banks issuing bank notes denominated in small amounts. His argument, it seems, is 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 off people by issuing such notes, having them accepted at face value, and then disappearing into the night. That restriction on issuing notes of small denominations 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: Adam Smith got it wrong on small-denomination notes. There is a great deal of research on restrictive “consumer protection” laws.²³ 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.

f. 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, procreation technologies, abortion, sexual practices, and drug use lend themselves to coercive government actions. The attitudes 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 (or set of players), and it is

²² Smith, *Wealth of Nations*, II.ii.94, p. 324.

²³ A brief treatment is offered by Daniel B. Klein, “Consumer Protection,” *The Concise Encyclopedia of Economics*, ed. D. R. Henderson, accessed online at: <http://www.econlib.org/library/Enc/ConsumerProtection.html>.

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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 of such research. 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 that this 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 toward 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 it. 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. This is because the subsidization will bring governmentalization—supervision, certifications, privileges, special interests, and other things—which 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

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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.

g. 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 and with taxpayer support is not a liberty issue. It is only the initiation or elimination of takings that is at issue.

Rough assessment: During the eighteenth and nineteenth centuries, many liberals hoped that the right curriculum would serve to advance liberal enlightenment. The hope led many to favor the expansion of government schooling. In hindsight, quite arguably, 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.

h. 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.²⁴ The idea might also be invoked for mandatory schooling and the subsidization and control, if not

²⁴ For example, see Brent L. Bozell, “Freedom or Virtue?” *National Review*, September 1, 1962; reprinted in *Freedom and Virtue: The Conservative/Libertarian Debate*, ed. G. W. Carey (Wilmington, DE: ISI, 1998).

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government ownership and operation, of schools regardless of whether the curriculum is particularly freedom-oriented. 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. Another matter that would seem to fit under the present heading is the concern that immigrants will eventually become citizens and voters and support illiberal politics.

Rough Assessment: Regarding the conservative concerns about vice, 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 explained well. We doubt that they can be defended well. We are more inclined to believe that liberty, dignity, and individual responsibility are of a piece, and that restricting liberty in sex, drugs, and culture tends to reduce, not augment, overall liberty. 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 is argued by Frank Meyer.²⁵

As for the concern about immigrants becoming citizens and voters who support illiberal politics, we acknowledge that the concern has some merit. We are unsure of its weightiness. Yet, we tend to reject the claim that the point has much weight as regards the issue of immigration policy. Without going into the difficult factors of the issue, we wish only to note one key point: the liberal perspective is not nativistic. Immigrants from Mexico might act as conduits by which relatively liberal ideas and sensibilities permeate Mexico. 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.

i. Logrolling for liberty

Politics makes for 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 non-action, his supporting it reduces direct liberty but augments overall liberty. Of course, in such a case, if the two reforms are

²⁵ Frank S. Meyer, *In Defense of Freedom and Related Essays*, ed. W. C. Dennis (Indianapolis, IN: Liberty Fund, 1996).

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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 off your field, you'll help me roll the logs off my field. Implicit logrolling occurs 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.²⁶ 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. Fortunately, the liberal does not have to choose one or the other; instead, he may steer clear of politics. However, 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 degovernmentalize society as much as is practicable. The dilemma is that most any move to degovernmentalize 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 it is 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 examining 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

²⁶ Gordon Tullock, *The Vote Motive* (London: Institute of Economic Affairs, 2006), p. 82.

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disagreement between direct and overall liberty recedes. Although court intellectuals and party hacks might be unable to unbundle the bundles, others have much less problem doing so.

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.

j. Stabilizing the second best

[T]he political economist . . . says with good reason that it is both absurd and mischievous for government to undertake to supply the working-classes with employment. . . . [A]nd yet . . . [i]t may be right for a government to supply the employment, when the people are so ignorant as to demand it, and when, at the same time, they are so powerful as to plunge the country into anarchy if the demand is refused.

—Henry Thomas Buckle²⁷

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.

Above 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 classical liberal book entitled *The Guide to Reform*, Johnny Munkhammar 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.”²⁸

²⁷ Henry Thomas Buckle, *Introduction to the History of Civilization in England* (London: George Routledge & Sons, 1904), p. 807.

²⁸ Johnny Munkhammar, *The Guide to Reform: How Policymakers Can Pursue Real Change, Achieve Great Results, and Win Re-Elections* (Stockholm: Timbro Publishers, 2007), p. 113.

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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 intervene. 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, Timur Kuran explains that small changes can bring sudden and sweeping political change.²⁹

In his biography of Schelling, Robert Dodge suggests that Schelling’s thinking quite directly influenced political developments in Singapore. Ethnic and religious divisions threatened the stability of its political order: “The Singapore approach was to control the movement of population groups through public housing.”³⁰

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.³¹ 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 toward interventionism have been interpreted as having neutralized

²⁹ Timur Kuran, *Private Truths, Public Lies: The Social Consequences of Preference Falsification* (Cambridge, MA: Harvard University Press, 1995).

³⁰ Robert Dodge, *The Strategist: The Life and Times of Thomas Schelling* (Hollis, NH: Hollis Publishing, 2006), p. 143.

³¹ Robert Skidelsky, *John Maynard Keynes, 1883-1946: Economist, Philosopher, Statesman* (New York: Penguin Books, 2005).

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more ominous political hazards.³² 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 and about immigration. 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, however, 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 governmental power is not to be used to push people around. Actions that attenuate that norm, then, hurt liberty directly and indirectly. 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.

k. 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

³² N. Gordon Levin, *Woodrow Wilson and World Politics: America’s Response to War and Revolution* (New York: Oxford University Press, 1968).

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cultivating better institutions—sometimes called imperialism or nation-building. Another variant is civil war. Many would argue, including some libertarians such as John Majewski, that Lincoln’s war augmented overall liberty, even though it reduced direct liberty.³³

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 problematic. Obviously, the possibility for disagreement between direct and overall liberty looms large here. Like David Friedman, we believe that there is no way for liberals to deny this possibility, based on a few simple arguments or principles.³⁴

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.

Christopher Coyne and Steve Davies have offered a twenty-point overview of the common public bads of empire, nation-building, and the like.³⁵ In our judgment, the characteristic judgment of classical liberalism and modern libertarianism—a strong presumption against militarism—is probably the right one for overall liberty. But 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 liberty.

5. 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?

³³ John Majewski, *Modernizing a Slave Economy: The Economic Vision of the Confederate Nation* (Chapel Hill, NC: University of North Carolina Press, 2009).

³⁴ David Friedman, *Machinery of Freedom*, pp. 211-12.

³⁵ Christopher J. Coyne and Steve Davies, “Empire: Public Goods and Bad,” *Econ Journal Watch* 4, no. 1 (2007), pp. 11-15.

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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 area of *Thoreauvian coercion* does not speak to the issue of government policy. We are inclined to put those three areas aside, though we acknowledge that the reasons elaborated here for that attitude as regards immigration are especially glancing.

Several of the areas, in our opinion, pose at most only very minor problems. *Taxing to fund liberal enlightenment* is not a problem that arises much—unfortunately, perhaps. Furthermore, we doubt that disagreement between direct and overall liberty is strong or likely in that area. Likewise, *subsidizing against coercive taboos* seems limited in scope and disagreement seems unlikely and weak at best.

Two areas are largely about the art of politics: *logrolling 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. The art of politics is so situational and adventitious, though, that if it destroys liberal philosophy, *it likewise destroys all political philosophy*. We think that political philosophy can and should substantially be separated from the art of politics.

Disarming or defusing private coercion has solid reasoning behind it, but the activities it touches are not extensive—mostly involving weaponry and means of destruction. Moreover, the disagreement between direct and overall liberty 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 the areas of *coercive hazard*, *controlling pollution*, and *military actions, etc.* In our view, these are the most significant areas of potential disagreement between direct and overall liberty.

In sum, we think that the total area and severity of disagreement between direct and overall liberty are troublesome, but not *that* troublesome. For the most part, direct and overall liberty 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, with a strong presumption that that also covers overall liberty.

6. 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. Simon Newcomb suggests fifteen maxims for

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economics, but he is keen to point out that they are not 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.”³⁶

The possibility that direct and overall liberty 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 are not the only kind of limitation that the liberty principle faces. The broad terrain of all limitations entails also other kinds of ambiguity, undesirability, incompleteness, a failure to serve all values, and a lack of a philosophical foundation.³⁷ In our view, 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, the others 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.³⁸

³⁶ Newcomb, “The Problem of Economic Education,” p. 399.

³⁷ Klein, “Mere Libertarianism.”

³⁸ For valuable comments on earlier versions of this article, we thank Niclas Berggren and Tyler Cowen.