

Discussion Notes

Direct and Overall Liberty: Replies to Walter Block and Claudia Williamson

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1. Introduction

In this journal in 2010 we published an article entitled “Direct and Overall Liberty: Areas and Extent of Disagreement.”¹ In the next volume (2011), two comments on our article were published, one by Walter Block and one by Claudia Williamson. Here, we reply to each.

Our 2010 article explores possible disagreement between direct and overall liberty. Direct liberty corresponds to the more inherent or immediate aspects of a policy reform (and its concomitant enforcement), while overall liberty subsumes also the indirect, or wider and long-run, aspects and effects of the policy reform. 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 more extensive view 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,” and critics will contend that “liberty” is meaningless or illusory. The article explores eleven possible areas of disagreement between direct and overall liberty. We maintain that some areas of possible disagreement are genuine and perhaps significant. Yet we argue that on the whole the main tendency is for direct and overall liberty to agree. Thus, we may maintain a focus on direct liberty and presume that the results also go for overall liberty, while being ready to consider the limitations of that presumption.

¹ Daniel B. Klein and Michael J. Clark, “Direct and Overall Liberty: Areas and Extent of Disagreement,” *Reason Papers* 32 (Fall 2010), pp. 41-66.

The liberty principle says that if Reform 1 rates higher in direct liberty than Reform 2, then Reform 1 is more desirable than Reform 2. The present article fortifies the presumption of the liberty principle by arguing that the tension between direct and overall liberty is not so great as to undo its coherence and focalness.

2. Reply to Walter Block

We are grateful to Walter Block for his commentary,² which runs a few pages longer than our own article. We find ourselves in odd circumstances, however, for the sentiments of our critic seem friendly but the treatment of our paper is generally of very low quality, almost as if Block's intention were to entertain us with a parody of himself. He makes quite a few points that are based simply on misunderstanding, thereby misrepresenting us. In Block's article, for example, after the introduction, he launches into a two-page elaboration of the classical-liberal configuration of ownership, as though to correct our thinking, when our only purpose was to affirm that very thing.

Working within the configuration of ownership with which Block agrees, our piece employs a strategy of posing limitations to the direct-liberty principle in such a fashion that we do not diminish or evade them too hastily. Furthermore, in the discourse around us, we often see people express beliefs that could be interpreted as belief in such disagreement, and we want to learn how to parse such beliefs, even if they are not our own. For some of the cases we raised we do not feel decided one way or the other. For example, given the situation in 1941, did U.S. government involvement in World War II, as compared to staying out of the war, augment or reduce overall liberty?

The essence of our piece affirms a type of libertarianism without reconfiguring the foundational classical-liberal views on property. While affirming libertarianism we are nonetheless attempting to drive home problems of some of the more absolutist slogans often associated with libertarianism. We sometimes use striking phrases, as when we say, "sometimes coercion is our friend." To our mind, the possibility of disagreement between direct and overall liberty is real, so sometimes a reduction in direct liberty augments overall liberty.³

Many libertarians read the preceding paragraph and recoil—as do we to some extent. It must be kept in mind that such talk does not preclude one from being an ardent supporter of liberty. As is stated in the Simon Newcomb quotation in the original article, a principle does not lose worth just because there are cases of ambiguity and exception:

² Walter E. Block, "Critical Comment on Klein and Clark on Direct and Overall Liberty," *Reason Papers* 33 (Fall 2011), pp. 110-36.

³ And furthermore, we do not rule out disagreements between overall liberty and desirability.

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.⁴

Although there are surely real disagreements between Block and us, Block repeatedly misreads our raising for a particular case the possibility of disagreement between direct and overall liberty as a conclusion that such a possibility is weighty. Block's criticisms often continue as refutation of the misplaced judgment ascribed to us. A series of unhelpful detours by Block can be pointed out, and we relegate them to a footnote.⁵ All in all, perhaps half of Block's words are given to well-intentioned but unhelpful detours. In concluding, Block throws his arms around us, saying, "happily, when push comes to shove, they [that is, Klein and Clark] embrace Rothbardian libertarianism" (p. 135), and finishes with words favorable to our article.

At moments in his article, Block seems prepared to enter into our formulation of a direct-liberty operator and an associated ordering of reforms, as when he writes, "direct liberty is liberty, period" (p. 130). He seems to see an affinity between direct liberty and what he calls the Non-Aggression Principle (NAP). Still, it certainly is not with complete comfort that Block enters into our framework of direct liberty. Regarding the 1964 Civil Rights Act, for example, he says that because it included anti-liberty provisions,

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

⁵ Here are some examples of Block's points that are unhelpful: (1) On page 122, he belabors that Woolworth's is private property, while our uncertainty was over whether the owners demanded that the protesters stay off the property. (2) On pages 124-25, Block elaborates his view of pollution as trespass, and gives nearly an entire page to a quotation from Martin Anderson. (3) On page 126, Block asserts that "Klein and Clark accept Smith's argument, in principle, that people would indeed not be very careful with penny ante currency," but the assertion is simply unfounded and wrong. (4) On pages 127, 129, 131, and elsewhere Block upbraids our libertarian judgment for not being sufficiently categorical and absolute. (5) On page 128, Block asserts that because we say "at least not in" one context is something the case, we therefore must believe that outside such a context the opposite must be the case. (6) On page 131, Block upbraids us for referring to the United States as a "stable liberal democracy." (7) On page 132, Block says "Klein and Clark reveal themselves as war-mongering libertarians of the David Boaz and Barnett stripe. It would appear that there is hardly an instance of U.S. militarism abroad (i.e., imperialism) that does not meet with their approval." (8) On page 132, Block seems to offer opinions about U.S. entry into World War I as resolving issues about U.S. entry into World War II. (9) Throughout Block's article there appear numerous footnotes overflowing with references that speak to unhelpful detours he pursues.

“[a]nyone who favors the law because of its admittedly pro-liberty aspects, acts against (direct) liberty on this occasion” (p. 131). He thus refuses to enter into the direct-liberty question on the table, namely, whether the status quo circa 1964 or the reform represented by the Civil Rights Act scored higher in direct liberty. Block sometimes exhibits the millennialist “endzone” orientation of the NAP in a way that refuses our direct-liberty framework.

Block writes, “these authors and I disagree, sometimes sharply, as to what constitutes direct liberty itself” (p. 112). We are uncertain about whether to regard the impasse between Block and us over direct liberty more as a framework disagreement or simply as disagreements about how things cash out, in terms of direct liberty, when trying to rank two reforms.

When it comes to overall liberty, Block’s refusal is emphatic and entire. One aspect of that refusal is to say that, because any augmentation of direct liberty might give life to a Hitler, we can never be certain about when an augmentation of direct liberty will reduce overall liberty, and, lacking absolute certainty, the idea of overall liberty therefore lands us in “extreme skepticism” (p. 118). In short, without absolute certainty we have none. Block repeatedly raises the Hitler point (“Hitler” occurs seventeen times in the piece).

But just because something is not certain does not mean we do not think and talk sensibly about tendencies, proportions, probabilities, and so on—and judge and act accordingly. If we say that Rafael Nadal is a better tennis player than David Ferrer (who, to date, has a 4-16 lifetime record against Nadal), the meaningfulness and worthiness of that statement is not dependent on the idea that in a match between Nadal and Ferrer it is 100 percent certain that Nadal will win. It is Block’s insistence on absolute certainty, not a natural attitude to work with things that fall between zero and 100 percent, that would land us in deep trouble—if not extreme skepticism, then fanaticism.⁶

A more important aspect of Block’s refusal of overall liberty is his belief that, as he puts it, “[o]verall liberty, paradoxically, fatally weakens the power of the NAP, which I see as the essence of the freedom involved in libertarianism” (pp. 111-12). Block says that we “give away the entire libertarian store” (p. 135), that we have “tossed libertarianism under the wheels of the oncoming bus” (p. 134).

Our idea of overall liberty subsumes direct and indirect effects of policies. Because Block refuses any notion of indirect effects, he also refuses

⁶ A sign of fanaticism is when someone meets direct challenges by contorting or gerrymandering his most sacred principles. We are struck by Block’s view (p. 119) that murder of an innocent person is not a violation of the non-aggression principle provided that the murderer is properly punished. Moreover, Block offers that view in responding to the hypothetical of having to murder an innocent person to save humankind, apparently without seeing its inadequacy, for the hypothetical can simply be clarified to be a matter of murdering an innocent person *without punishment* to save humankind.

the very idea of overall liberty. He writes:

On a practical note, libertarians have sufficient difficulty agreeing on *direct* liberty with regard to such contentious issues as voluntary slavery, abortion, immigration, just to name a few—and this is in the entire absence of any worry about indirect effects. Were those taken into account as well, *it would eliminate any last vestige of a coherent libertarian philosophy.* (p. 122; italics added)

The italicized statement is precisely what our article says is *not* so. Compared to Block, we are libertarians of greater faith. The overarching point of our article is that we should face up to disagreements between direct and overall liberty. A braver libertarianism will be a more robust libertarianism.

Block raises a prudential concern that once people enter into the idea of overall liberty, and admit that direct and overall liberty can disagree, then some will use those ideas to propagate and excuse coercion: “They can always claim that, in terms of *direct* liberty, their act amounted to a heinous crime. However, as long as *indirect* liberty points in the other direction, and outweighs the first consideration, their crime actually amounts to promoting liberty” (pp. 117-18). His prudential point expresses a natural sensibility that parallels our approach: It shows concern about the indirect effects of our decisions, in this case the talk we decide to adopt and practice. If certain Rothbardian libertarians would protest our talk of indirect effects or overall liberty for its supposedly presuming to know the future, for its supposedly neglecting Frank Knightian uncertainty, or for its acceptance of an only vaguely defined notion of the greater good, would the same charges not work here against Block? Such charges, whether leveled against us or against Block, would be immature. The problem with Block’s prudential point is that it misjudges, not that it naturally worries about indirect effects and involves vague notions of the greater good.

Imagine Mitt Romney, Barack Obama, Bill O’Reilly, or Paul Krugman saying: “This act which I favor admittedly reduces direct liberty, but that is redeemed by the act’s indirect contributions to overall liberty.” Any such talk entails the parsing of direct and overall liberty on a classical-liberal configuration of ownership. It would entail an admission of treading on direct liberty. It would make the distinction between voluntary and coercive action, parsed on the classical-liberal configuration of ownership, central to the debate. It would be hard not to see such a development as a big step forward.

Libertarians see and trace out direct liberty, but others have greater difficulty. One of the reasons that libertarianism is not more effective is that people do not take liberty—not even direct liberty—seriously. Distinguishing between direct and overall liberty helps to clarify the meaningfulness of direct liberty. By delineating certain effects as only indirect, the direct effects come into sharper relief. To those who do not see liberty, our analysis may help to make direct liberty more focal. If so, they would then be in a better position to appreciate its worthiness. That would win a stronger presumption in its favor.

3. Reply to Claudia Williamson

In a brief comment Claudia Williamson develops an insight.⁷ She writes:

When Klein and Clark find a dyad (R1, R2) for which direct and overall liberty disagree, very often the liberty principle points to further relevant policy reforms, or an R3 . . . [such that] for (R1, R3) there is no disagreement, and for (R2, R3) there is no disagreement. Thus, the disagreement between direct and overall liberty for dyad (R1, R2) does not force us to maintain our focus on R1 versus R2. Instead, the very disagreement may lead us to focus on a conspicuous R3 for which there is no such disagreement. Klein and Clark neglect this dimension of the liberty principle as a guide for formulating the political discussion. (p. 108)

Williamson illustrates the point using the financial-bailouts problem, which we term “coercive hazard”:

Suppose a new policy, R1, is proposed to allow further restrictions in financial dealings, and R2 is to keep the current level of financial restrictions in place. The argument is that since the taxpayers pay for risky financial decisions undertaken by private companies, these decisions should be restricted and regulated. Direct liberty may be reduced because of new government regulations, but overall liberty could be increased as the restrictions may reduce an individual’s tax burden in the future. However, the conversation does not have to end with (R1, R2). Through political discourse, an alternative R3 could arise . . . that includes reducing or eliminating a large portion of government regulations on financial dealings *and* not to engage in future bailouts. In this scenario, R3 trumps both R1 and R2 as direct and overall liberty are in agreement. (pp. 108-9; footnote omitted)

We agree entirely with Williamson’s point, and with her complaint that we “fail to explore . . . how the liberty principle is also an engine for formulating relevant, focal policy reforms” (p. 108). Williamson’s overarching point is that the trouble posed by the tension between direct and overall liberty is even less than we said, because for a disagreeing dyad (R1, R2) there often exists a relevant and dominating R3. That, too, is something with which we agree.

Williamson, however, does not make clear whether she offers her insights more as a way of diminishing our approach, or as a way of enriching

⁷ Claudia R. Williamson, “Disagreement between Direct and Overall Liberty: Even Less Troubling than Suggested,” *Reason Papers* 33 (Fall 2011), pp. 107-9.

and advancing it. We take this opportunity to expound on how they enrich our approach, and in the next section we connect those insights to Adam Smith's work.

We warmly embrace Williamson's emphasis on the liberty principle as "an engine for formulating relevant, focal policy reforms" (p. 108), and we are grateful for her correcting our error in neglecting that. Indeed, it is chiefly by way of using the liberty principle to formulate reforms that the (direct) liberty operator really becomes serviceable: Classical liberals tend to formulate and distinguish positions by applying the idea of liberty. That is usually how they frame the issue. We would be at a loss to say which ranks higher in liberty—legalizing marijuana or abolishing the minimum wage—but we do not frame issues that way. We well know that, compared to the status quo, legalizing marijuana augments liberty, and abolishing the minimum wage augments liberty. We treat each as a separate issue. Using liberty as an engine for formulating reforms helps us to avoid the impotence that would result from applying liberty to reforms brought into comparison in a random fashion. The pairing of reforms is not random; it is guided by principles, notably the liberty principle.

The emphasis on the liberty principle as an engine of formulation, though, might be carried to such lengths as to diminish the importance of our approach. One might argue that disagreements between direct and overall for some (R1, R2) are rather unimportant because, so typically, there is a more sweeping R3 that dominates both R1 and R2, and that, for any real libertarian, deserves all of the focus. That is, we real libertarians never need to engage disagreements between direct and overall liberty, nor consider the possibility that in some cases coercion is our friend, because the most worthwhile discourse always entails a focus on some R3 that dominates in both liberty orderings.

There are a number of problems with such an attitude. First of all, there may not always be such a dominating R3. Second, even if you think that some R3 does dominate in both direct and overall liberty, that claim, particularly as regards overall liberty, might not be very persuasive, even to many libertarian comrades, and so the focus on R3 might be unwarranted. Third, there may be not only a dominating R3, but also a dominating R4, R5, R6, and R7, and the multiplicity and open-endedness of dominating options might leave any one of them much less focal than the contest between R1 and R2. Fourth, and perhaps most importantly (and related to the previous points), in the spirit of Tyler Cowen,⁸ R3 might be so far out on the scale of socio-political feasibility that it does not deserve such exclusive focus. In the terminology of Daniel Klein,⁹ we applaud both libertarian challenging and

⁸ Tyler Cowen, "The Importance of Defining the Feasible Set," *Economics and Philosophy* 23 (2007), pp. 1-14.

⁹ Daniel B. Klein, "Mere Libertarianism: Blending Hayek and Rothbard," *Reason Papers* 32 (2004), pp. 7-43, see esp. pp. 35-39.

libertarian bargaining, and we do not see any contradiction in saying, like Cowen, that one libertarian should challenge by focusing on R3 while another should bargain by focusing on the dyad (R1, R2), even though the dyad entails disagreement between direct and overall liberty.¹⁰

Bargaining does not necessarily entail lying. The existence of a dominating R3 does not undo the fact that (R1, R2) entails a disagreement between direct and overall liberty.¹¹ Those who share Cowen's attitude of "practical advocacy" profit from learning to think in terms of both direct and overall liberty and to sketch categories that will help us to qualify our statements. We do not mean to lionize bargaining, or to oppose challenging, but we oppose any approach that has little regard for bargaining.

4. Connecting to Adam Smith

Discourse situations range between those more constrained by audience discordance, or "politics," and those less constrained. Adam Smith makes a distinction that helps us to see that different types of libertarians deal with different situations and work in different modes of operation.

Smith discusses a matter for which the direct-overall liberty distinction is very apt. He considers whether the government might engage in trade-policy retaliations as a way to lessen protectionism by foreign governments, and gives an example of the English proposal to remove a prohibition "upon condition that the importation of English woollens into Flanders should be put on the same footing as before."¹² He continues: "There may be good policy in retaliations of this kind, when there is a probability that they will procure the repeal of the high duties or prohibitions complained of."¹³ Thus, Smith raises the possibility that a reduction in direct liberty may be an augmentation of overall liberty. Incidentally, when we look at the full range of Smith's exceptions to and ambiguities about the application of the liberty principle, we find that arguments involving possible disagreements between direct and overall liberty play a role in a good number of cases, for example, as regards schooling, certain provisions in the Navigation Acts, standing armies, export taxes on strategic military goods, nightwatchman functions, and even small-denomination notes.¹⁴

¹⁰ Cowen, "The Importance of Defining the Feasible Set," p. 8.

¹¹ Note that the existence and viability of some R3 may be a factor in ranking R1 and R2 in overall liberty.

¹² Adam Smith, *An Inquiry into the Nature and Causes of the Wealth of Nations*, ed. R. H. Campbell and A. S. Skinner, 2 vols. (Indianapolis, IN: Liberty Fund, 1976), vol. 1, p. 468.

¹³ *Ibid.*

¹⁴ Michael Clark, "The Virtuous Discourse of Adam Smith: The Political Economist's

Smith, in fact, does not see much probability that trade retaliations will procure such repeal; he tends more toward a position of unilateral free trade. But he allows possible disagreement between direct and overall liberty, and that leads immediately into his saying the following:

To judge whether such retaliations are likely to produce such an effect, does not, perhaps, belong so much to the science of a legislator, whose deliberations ought to be governed by general principles which are always the same, as to the skill of that insidious and crafty animal, vulgarly called a statesman or politician, whose councils are directed by the momentary fluctuations of affairs.¹⁵

Smith's description of the politician as "that insidious and crafty animal" has often been quoted as though it were an expression of contempt. Politics as a realm of such animals is a big reason to degovernmentalize social affairs. Nonetheless, Smith sees such animals as playing an important and necessary role in liberal reform. Later in the work, Smith writes: "[I]n what manner the natural system of perfect liberty and justice ought gradually to be restored, we must leave to the wisdom of future statesmen and legislators to determine."¹⁶

Smith distinguishes "the science of a legislator" and what might be called the art of liberal politics. In the quoted passage above, the distinction is presented as simply twofold. As is often the case with Smith, the distinction lends itself to recursive application, giving rise to an open-ended iteration or series. Our tendency is toward such recursivity, and toward reading such recursivity into Smith, even though it entails an ellipsis at each end of the iteration. That is, there is no realm of pure science, untainted by politics. It is not meaningful for a political economist to separate entirely his discourse from politics, in a broad sense of the term.

Smith achieved something that has only very rarely ever been achieved by a liberal (perhaps also Milton Friedman?), namely, a sort of cultural royalty, in which he is first among his circle of peers, and his circle forms a cultural mountain peak within society at large. While everyone adjusts the bargaining-challenging knob depending on the situation, liberal royalty especially will mix bargaining and challenging in ways that seem inconsistent and even baffling. Many have noted Smith's exceptions to and ambiguities surrounding natural liberty, and Block cites what he calls "devastating critiques launched at the libertarian credentials of . . . Smith" (pp. 112-13;

Measured Words on Public Policy" (PhD Diss., George Mason University, 2011), pp. 55-67.

¹⁵ Smith, *Wealth of Nations*, vol. 1, p. 468; footnote omitted.

¹⁶ *Ibid.*, vol. 2, p. 606; footnote omitted.

footnotes omitted).

In Smith, though, there is also the challenging side, and we see him using the liberty principle as an engine of formulation much along the lines that Williamson suggests. Smith's discussion of trade liberalization provides an example. The example here does not address direct versus overall liberty, but rather the highly parallel matter of direct liberty versus desirability. Smith asks whether the unilateral and *sudden* removal of significant trade barriers, which might "deprive all at once many thousands of our people of their ordinary employment and means of subsistence," might be less desirable than gradual removal.¹⁷ He admits the concern and shows his willingness to depart from the direct-liberty principle, but he bounces back to challenging, and in two ways. First, he uses the example of the rapid integration of "a hundred thousand soldiers and seamen" released "at the end of the late war," and he elaborates why he thinks that such liberalization would not, in fact, produce such extensive disorder: people and markets adjust fairly swiftly.

Second, Smith goes beyond his initial formulation of the issue. He suggests an R3 that, both in direct liberty and in desirability, dominates mere trade liberalization, whether it be sudden (R1) or gradual (R2). That R3 subsumes sudden liberalization but goes much farther:

[B]reak down the exclusive privileges of corporations, and repeal the statute of apprenticeship, both which are real encroachments upon natural liberty, and add to these the repeal of the law of settlements, so that a poor workman, when thrown out of employment either in one trade or in one place, may seek for it in another trade or in another place, without the fear either of a prosecution or of a removal, and neither the publick nor the individuals will suffer much more from the occasional disbanding some particular classes of manufacturers, than from that of soldiers.¹⁸

Another famous passage opens the next paragraph: "To expect, indeed, that the freedom of trade should ever be entirely restored in Great Britain, is as absurd as to expect that an Oceana or Utopia should ever be established in it."¹⁹ Friedrich Hayek later adds: "Yet seventy years later, largely as a result of his work, it was achieved."²⁰ That achievement was the product of liberal bargaining and liberal challenging, which cohere as a liberal outlook by virtue of making focal the principle of direct liberty. But the clarity

¹⁷ Ibid., vol. 1, p. 469.

¹⁸ Ibid., pp. 470-71.

¹⁹ Ibid., p. 471.

²⁰ Friedrich A. Hayek, *Law, Legislation, and Liberty, Vol. 1, Rules and Order* (Chicago, IL: University of Chicago Press, 1973), p. 65.

and worthiness of direct liberty is better understood when we learn to distinguish it from overall liberty and from desirability, and to appreciate the relationships among the three.²¹

²¹ We thank Niclas Berggren for valuable feedback on an earlier version of this article.

