

WHAT'S WRONG WITH 'WHAT'S WRONG WITH LIBERTARIANISM': A REPLY TO JEFFREY FRIEDMAN

J. C. Lester

J. C. Lester is a Senior Fellow with the Libertarian Alliance. He is a libertarian philosopher and author of *Arguments for Liberty: a Libertarian Miscellany* (University of Buckingham Press, 2011) and *Escape from Leviathan: Libertarianism Without Justificationism*, paperback (University of Buckingham Press, 2012). His magnum opus is *A Dictionary of Anti-Politics: Liberty Expounded and Defended* (forthcoming).

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Suite 35
2 Lansdowne Row
Mayfair
London
W1J 6HL

Telephone: 07956 472199
Email: admin@libertarian.co.uk
Website: www.libertarian.co.uk

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Prefatory note

Some years ago I was a reader and then subscriber of *Critical Review*. I read several of Jeffrey Friedman's series of articles critical of libertarianism in that periodical (of which he was the editor). I noticed that Friedman made two key philosophical errors repeatedly concerning the libertarian conception of liberty and the lack of justification of libertarianism. Eventually, I submitted a response explaining my criticisms. I was told (I paraphrase his letter from memory) that the periodical would now be moving away from philosophy and into public policy, and so if only for this reason he would not be publishing my submission. As I suspected that his own philosophical errors would continue unabated, I found this unsatisfactory. I had it in mind to reply somewhere or other eventually.

Friedman's later article, discussed below, summarises his objections to libertarianism and in the process repeats the errors to which I had objected. Hence it seemed a suitable target for a short restatement of my criticisms (as these were quite different from those of other replies the article had received, and as Jeffrey Friedman still seems not to have changed his mind since then). Unfortunately, the article below appeared in *Liberty* with an additional introductory paragraph criticising Jeffrey Friedman and *Critical Review* that I had not written, agreed to, or even seen.¹ To be fair, the approaching monthly deadline and computer crashes might have been part of the problem. However, I wish to record that only the text below was submitted or fully sanctioned by me.

Introduction

Jeffrey Friedman's editorship of *Critical Review* has allowed him, publishing in that same periodical, to become one of the most prolific critics of contemporary libertarianism. Many people that take a scholarly interest in libertarianism undoubtedly read him, and presumably he persuades some of them to his anti-libertarian views. He is certainly worth answering. Though others have replied to him before, I think I have a sufficiently different response to make it worth adding my own. I shall reply to one article that encapsulates his main criticisms.

In 'What's wrong with libertarianism',² Friedman criticizes libertarianism—as he understands it—usefully focusing on two key points: that libertarianism is empirically unjustified and really held for, inadequate, “philosophical” (*a priori*) reasons; and that libertarians cite empirical evidence in favour of libertarianism but ultimately

fall back on the *a priori* reasons. Friedman calls the attempt to be both *a priori* and empirical the “libertarian straddle”

I should say immediately that I believe some of Friedman's criticisms correctly identify errors in certain versions of libertarianism: these versions are overly *a priori* or they are question-begging as regards the conception of liberty. However, his other criticisms are mistaken: they are justificationist (demanding an impossible epistemological support) or misunderstand the libertarian conception of liberty. Ironically, these show Friedman to be guilty of a *a priori* anti-libertarianism. And he is also guilty of an anti-libertarian straddle whereby he wants to cite evidence against libertarianism but can always fall back on its lack of justification and its supposed conceptual unclarity. Thus I contend that the most extreme version of non-justificationist libertarianism, as minimizing proactive impositions, remains an unscathed conjecture.

I shall tackle various points in Jeffrey Friedman's “What's wrong with libertarianism” in the order in which they arise. Though Friedman's article is quite lengthy, at almost 25,000 words, I can usefully reply in far less. This is partly because I agree with his oft-restated criticisms of aprioristic libertarianism and the inadequacy of some accounts of libertarian liberty, so I do not need to defend them. And it is partly because his oft-restated justificationist criticisms and his errors about the correct interpretation of libertarian liberty (as opposed to various non-libertarian conceptions of liberty) can best be responded to relatively briefly, as I have a written at length about similar issues in *Escape from Leviathan*.³

Friedman's arguments and Lester's responses

Friedman begins his abstract with the assertion that “Libertarian arguments about the empirical benefits of capitalism are, as yet, inadequate to convince anyone who lacks libertarian philosophical convictions” (p. 407). This assertion is itself empirically false. Many British libertarians, including me, were converted—sometimes from socialist ideologies—by “arguments about the empirical benefits”. Even if there are no similar American libertarians, which I doubt, I am led to believe that Friedman knows some of the British ones. However, there are always larger-than-normal conjectural leaps in a change of ideology that a justificationist, such as Friedman, might misconstrue as being due to “libertarian philosophical convictions”. When Friedman writes of “philosophical libertarianism” he means only an aprioristic version that does not require empirical input. In reality, much or even

most libertarian philosophy is intended to complement empirical work. It might be less confusing if Friedman had written of aprioristic libertarianism.

After examining the arguments in several libertarian books, Friedman concludes that “libertarians do not yet possess an adequate critique of government interference in the market economy—a critique, that is to say, that establishes not only why the state should be kept on a very short leash, but why it should be emasculated” (p. 408). The use of “establishes” betrays Friedman’s justificationist epistemology. As Karl Popper’s critical rationalist epistemology explains, it is illogical to suppose that universal theories can be established with finite evidence (even if such evidence were not itself conjectural, which it is). But that does not mean that we cannot validly advance bold universal conjectures that we test as best we can. However, Friedman combines his epistemological error with other philosophical ones that reinforce it, as we shall see.

Friedman thinks that a “purely consequentialist, ‘empirical’ libertarianism could, on its own, largely accept as valid the meliorist aims listed by Cornuelle, challenging mainly whether the state is capable of achieving them without causing even worse problems” (p. 409). But when libertarians have read of research and economic theory that appear to refute all the assertions that the state is the solution, rather than the problem, it is hard to see how they could see any list of “meliorist aims” as being other than due largely to empirical misunderstandings. It would be equally presumptuous for libertarians to assert that purely consequentialist, ‘empirical’ anti-libertarianism could, on its own, largely accept as valid the meliorist aims of libertarianism, challenging mainly whether the market is capable of achieving them without causing even worse problems.

Justificationism arises again in the statement that “[l]ibertarian conclusions require not only extensive evidence of government failure, but an empirically substantiated reason to think that such failure is always more likely than the failure of civil society” (p. 410). An “empirically substantiated reason”—especially that something is “*always* more likely”—is not an epistemological possibility. But a critical preference for a conjecture is possible. In order to maintain a critical preference for the libertarian conjecture one need only refute putative examples of government success. Friedman’s main criticism of the market—for he focuses only on this aspect of libertarianism—is that there is no guarantee that it is and will “*always*” be better than state intervention. As this is an impossible demand (and one to which John Gray also succumbs, as I explain in *Escape from Leviathan*), this criticism amounts, ironically, to a kind of philosophical anti-libertarianism (more precisely, aprioristic anti-libertarianism). This is every bit as erroneous as the so-called philosophical libertarianism that Friedman is attacking.

But now consider the other main issue, from my perspective, that Friedman raises. Does the state deprive people of freedom (or liberty)? Friedman thinks that it does not because he misunderstands the libertarian conception of interpersonal liberty, as do many libertarians themselves, as involving the absence of “coercion” in some sense. And as all property systems use coercion to enforce themselves, he is able to conclude that “strictly in terms of negative liberty—freedom from physical coercion—libertarianism has no edge over any other system” (p. 428). However, an analysis of the *libertarian* conception of interpersonal liberty shows it to be about what I formulate as ‘the absence of proactive impositions’ (though I am not claiming that this formula is perspicuously clear and without philosophical problems). And all property assignments, including that of self-ownership, are derivable from applying this conception. It is true that interfering with the (libertarian) property of others will count as a proactive imposition as a very good rule of thumb. But the abstract theory need not assume any kind of property, nor moral rights. Thus Friedman errs in concluding that “Boaz is mistaken in describing taxation as ‘aggression against the person or property of the taxpayer.’” Because the “social-democratic baseline” is inherently proactive in its impositions and so does flout libertarian liberty. I cannot usefully summarize all the relevant arguments here. Any attempt to do so would merely give rise to the myriad further questions and criticisms that I discuss in *Escape from Leviathan*. However, once one grasps that libertarian liberty is about the absence of proactive impositions (or some similar formulation) one can easily understand the general dangers of infringing such liberty and why the onus of argument must be on those who advocate doing so.

I claim that my interpretation of the libertarian conception of liberty is what libertarians intuitively grasp, though they do not express it clearly. But having mistakenly discussed a Hobbesian, zero-sum, freedom instead, Friedman decides that it is better to choose “positive freedom”, which is the ability to “attain a goal” we choose (p. 431). As this is clearly about want-satisfaction, I see it as about a kind of welfare rather than any kind of liberty (though it does not much matter what terms we use). Friedman then suggests that “the social democrat wants to equalize positive freedom, but more rigorously than does the libertarian.” The libertarian does not want any such thing. He wants to maximize interpersonal liberty (minimize proactive impositions). He might well think, as I do, that this will also maximize want-satisfaction. But to “equalize” the ability to “attain a goal” we choose is nothing to do with libertarianism. Friedman’s view that libertarians “would arbitrarily extend positive liberty only to those who happen to have acquired title to pieces of the world” is confused just because libertarians typically suppose that (libertarian) private property clashes less with getting more of what you want than any known alternative. And Friedman, as usual, offers little argument or evidence to the contrary beyond mere logical possibility.

None of what I have written entails that the libertarian conception of liberty is intended to be the “correct” conception of liberty or its “essence”, as Friedman accuses libertarians of intending (p. 431). But there is something that *libertarian* liberty is and it is not what Friedman supposes nor is it advocated for the reasons he supposes. So Friedman is mistaken in his assertion that “[t]he assumption that liberty is embodied in libertarianism relatively more than in other systems is necessarily false, however—unless we are speaking of positive liberty...” (p. 433). For liberty as the absence of proactive impositions (or some similar formulation)—which Friedman fails to begin to suspect—is necessarily more embodied in libertarianism.

So with my preferred version of libertarianism I can accurately invert Friedman’s charge, thus: “The way [anti-]libertarianism incorporates consequentialist and philosophical arguments feeds on and breeds complacency at the same time” (p. 433). Instead of complaining that “consequentialist libertarians do not yet appear to have established a valid reason why government intervention in a free-market economy might not sometimes be better at meeting human needs than *laissez faire*”, when such a reason is logically impossible, why does Friedman not attempt to give, what *is* logically possible, one real example of government success (p. 438)? He surely does attempt to do this on other occasions, and he mentions public goods and the need for economic redistribution in his article. But when he does so he always has his philosophical anti-libertarianism to fall back on: libertarians cannot justify the thesis that they must always be right. So we can again invert his accusation, thus: “Divine intervention might seem to be the only thing that could make sense of this [anti-]libertarian straddle: the notion that one need not choose between *a priori* and *a posteriori* rationales for a[n anti-]libertarian world (although, if one had to choose, one would choose the *a priori* rationale) ...” (p. 435).

Consistent with his justificationist approach, Friedman writes that occasionally “Boaz does make consequentialist arguments of sufficient generality to justify libertarianism, if they are sound” (p. 439). Obviously Friedman must think they are unsound. Justificationists typically have higher standards of ‘justification’ for things they do not currently accept. Friedman doubtless thinks that diZerega is ‘justified’ in his view that “democracy is a spontaneous order” (p. 439). But as he does not give any argument to this effect I merely note that democracy is proactively imposed, and hence cannot be spontaneous. And presumably Friedman also feels fully justified in asserting that “there remain, at the very least, some public goods and, in principle, the need for economic redistribution” (p. 445). Which public goods? Why is there a need, in principle, for economic redistribution? We are not told, so cannot reply. It is enough for Friedman that he knows these things to be justified.

It might be generally true, I do not know, that “[a]mong libertarian economists there is a parallel conviction that a sound philosophical case for libertarianism has already been made—by libertarian philosophers” (p. 448). However, this is certainly not true of all libertarian economists or of David Friedman in particular. David Friedman tends to scorn libertarian philosophy—I answer his criticisms from *The Machinery of Freedom* in *Escape from Leviathan*—and presents only consequentialist arguments. Why does Jeffrey Friedman ignore this prominent example? We then return to the justificationist error with Friedman’s assertion that “[a]ll of the painstaking research of Chicago- and Austrian-school economists could not explain why every government regulation, let alone every government redistribution of wealth, would necessarily do more harm than good” (p. 450). So what? How can Friedman seriously complain about the absence of logically *necessary* proofs of the superiority of *every* possible libertarian policy?

Near the end of his article Friedman suggests that libertarians are “precluded by their own ideology—which effectively celebrates whatever consumers freely choose as, *ipso facto*, good—from criticizing consumerism” (p. 453). Nobody is trapped in an ideology, though it might prompt him to a certain position at the start of an argument. It would be as idle to say that Friedman is precluded by his own anti-libertarian ideology from understanding certain things. Of course Friedman is, in a sense, “precluded” by his philosophical and empirical views from accepting libertarianism. But he is not precluded from coming to understand that these are errors, if they are so.

Friedman has done a good service in emphasizing the inadequacy of a certain libertarian philosophical position. However, because of inadequacies in his own “philosophical” anti-libertarianism and his anti-libertarian straddle, nothing he has written in ‘What’s Wrong With Libertarianism’ is a threat to libertarianism properly understood. Friedman has presented no argument and cited no evidence that criticizes critical-rationalist (or non-justificationist) libertarianism (as minimizing proactive impositions). Justificationist anti-libertarianism is a futile endeavour. But I do not doubt that Friedman can, and I certainly hope that he will, move on to non-justificationist anti-libertarianism.

References

- (1) *Liberty*, vol. 17, no. 8, August 2003.
- (2) *Critical Review*, 11(3), 1997, pp. 407-67.
- (3) *Escape from Leviathan: Libertarianism Without Justificationism*, University of Buckingham Press, 2012 (2000).