

KLEIN AND CLARK ARE MISTAKEN ON DIRECT, INDIRECT, AND OVERALL LIBERTY

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I. Introduction

KLEIN AND CLARK (2010) INTRODUCED the concepts of direct, indirect, and overall liberty. The former concerns the immediate effects of policy. When we add this to the indirect circumstances emanating from a given law, we arrive at overall liberty. For example, the direct effect of a minimum wage law set at \$8 per hour is unemployment for unskilled workers. What are the indirect effects? These are harder to pin down. Often, they amount to a contrary-to-fact condition. For instance, a minimum wage of \$8 might preclude a far more dangerous one of \$25 per hour.¹ Such direct effects of the \$8 law, we stipulate, are “bad,” while the indirect effects are “good.” But what of the two together, amalgamated into overall liberty? This is more difficult to determine.

Block (2011A) gave good marks to Klein and Clark (2010) for innovativeness, originality, and creativity, while also remaining highly critical of this new approach. In the view of that essay, the main shortcoming was

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¹ To the prospects for employment by even the moderately skilled, let alone the unskilled.

that it would be all but impossible to determine if any law, act, or institution was pro- or anti-liberty, given the nebulousness of indirect and hence of both indirect and overall liberty. I argued that we should stick to the tried and true version of this concept, what these authors characterize as direct liberty, and reject the reforms they offer us.

Klein and Clark (2012) is a reply to Block (2011A). How do these authors defend what I characterize as their skeptical view against the criticisms I put forward in my earlier paper? They begin by acknowledging that “The virtue of direct liberty is its concreteness and definiteness.”² But they have not given up on indirect, and thus, overall liberty. They continue to defend it, asserting that, “The virtue of overall liberty is its more extensive view of an action’s consequences in terms of liberty.” The present essay is a reaction to and further criticism of this publication of theirs. In section II I respond to the specific criticisms of Klein and Clark (2012) vis à vis Block (2011A). I conclude in section III.

II. Responses

How, then, do Klein and Clark (hence, KC) attempt to rescue their concept of indirect liberty?³ They “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.” But from the outset they are hoist by their own petard. They concede that “...there is an ambiguity” here. But if so, how can they be so sure that the main tendency is for direct and overall liberty to agree?

Klein and Clark (2012) start off their defense with the claim that I (Block, 2011A) misunderstood them. In my paper, I did indeed elaborate on ownership and the non aggression principle (NAP), and this would be unnecessary for their concept of direct liberty.⁴ I would not presume to “correct (their) thinking” on so elementary a matter, at least for libertarians. However, they misunderstand me. The reason I ventured once again upon

² All otherwise unidentified quotes are from this article.

³ Indirect liberty is their key contribution. Without it, there can be no such thing as overall liberty. There can only be plain old or direct liberty.

⁴ I suspect that there is very little difference between me and my two libertarian colleagues on this matter: all three of us agree that (direct) liberty is predicated on private property rights, ownership, homesteading, respect for the NAP, etc.

these waters was *not* on account of direct liberty, where we all agree that “ownership,” etc., fully applies. Rather, it was my intention to focus on the fact that *indirect liberty* and thus total or overall liberty too have left their moorings in the private property rights, etc., to which all libertarians subscribe, at least when they focus on direct liberty. Yes, KC “affirm(ed) that very thing,” property rights. They could scarcely have done otherwise, and remained true to the libertarian philosophy. But we have no “misunderstanding” on this. Both sides of this dispute agree that ownership, etc., applies to direct liberty. Indeed, (direct) liberty consists of little or no more than protection of private property rights.⁵ Where we disagree, not “misunderstand” each other, is whether ownership, etc., applies, also, to indirect and thus total liberty; they say yes, I say no. Indeed, in at least one place they would appear to say as much: “The essence of our piece affirms a type of libertarianism *without* reconfiguring the foundational classical-liberal views on property” (emphasis added by present author).

What led KC into this morass of theirs? This attempt to answer the question can only be speculative, but my radar tells me they are adopting Milton Friedman’s (1991) opposition to “the more absolutist slogans” of the Rothbardian variety such as interpreting libertarianism as opposition to the NAP. I infer this out of KC’s support for the view that “sometimes coercion is our friend.” Well, maybe in some philosophical traditions,⁶ but certainly not in libertarianism. Friedman (1991) uses the example⁷ of grabbing someone who is about to jump off a bridge and commit suicide. He sees this as a good thing, even though⁸ it is coercive.

This is a complete and utter misconstrual of libertarianism. Yes, grabbing the would-be suicide and thereby preventing him from killing himself is a good thing, not *because* it utilizes coercion and is thus a rights

⁵ Private property rights in the human person are of course the most important of these property rights. This means that laws against murder, rape, kidnapping, are embodiments of private property rights.

⁶ I go so far as to include *all* political philosophies here, with the exception of the one true faith, the freedom philosophy.

⁷ For a criticism of this essay, see Block, 2010. For a critique of Friedman’s claim to be a libertarian, see Block, 1999B, 2003A, 2010, 2011, 2013; McChesney, 1991; Rothbard, 2002; Friedman and Block, 2006; Friedman and Block, 2006; Kinsella, 2009; Lind, 2012; Machan, 2010; McChesney, 1991; North, 2012; Rothbard, 2002; Vance, 2005; Wapshott, 2012; Wenzel, 2012; Wilcke, 1999.

⁸ Perhaps *because*, perish the thought.

violation, but *in spite of* that fact. If assault and battery and kidnapping were good things, and thus compatible with libertarianism, this would completely negate this viewpoint.⁹ It would constitute a 180 degree turn away from this philosophy. No, the correct analysis of the person who saves the would-be suicide by grabbing him is very different. There are two options here. The first is to interpret the life saver as a hero, because he saved a life, and is also willing to pay for this relatively slight violation of the NAP.¹⁰ The second is that we can interpret the action not as two separate ones, one a NAP violation the other a life-saving effort, but rather as one unified action consisting of two parts, grabbing-jumper-and-saving-him, where the sum total is a positive, not a negative.¹¹

But whatever our interpretation, we must resist KC's (and Friedman's) denigration of "absolutist slogans" such as the NAP. In that way we move away from libertarianism, real libertarianism, and direct libertarianism, not toward them. Yes, "coercion can sometimes be our friend" but if analyzed as above, it is powerless to undermine the NAP, as an "absolute" slogan, as Klein and Clark would have it. None of these types of cases, such as the

⁹ I speak here of course of direct libertarianism, the only correct version of this perspective.

¹⁰ I presume that a private court, or even a government one, would go easy on a life saver who as part of this process injured the person he saved. On private courts, see Benson, 1989, 1990; Guillery & Tinsley, 2009; Heinrich, 2010; Long, 2004; Rothbard, 1973, 1998; Stringham, 2007; Tannehill, 1984.

¹¹ If bridges were privately owned, they would either erect fences making it impossible for anyone to jump off of them to his death. Or, presumably they would contract with anyone who ventured out on them that if they tried to commit suicide they would relinquish the right they would otherwise have to complain about someone who man-handled them in order to save their lives. If bodies of water were owned (Anderson, 1998; Anderson and Hill, 1996; Hannesson, 2004, 2006; Motichek, Block and Johnson, 2008; Rothbard, 1955, 1956, 1985, 2007; Tucker, 2008; Whitehead and Block, 2002; Whitehead, Gould and Block, 2004), those who swam in them would likely first have to sign a contract indemnifying the lifeguard who had to harm them in order to save their lives. If streets and highways were privately owned (Block, 2009C), something similar would apply to the person who saved a victim from an onrushing truck while breaking his arm. After all, if you contractually agree with these rules, you may not properly then complain that aggression has been used against you when you are hurt in the process of saving your life. In like manner, when you enter into the boxing ring, you may not sue your opponent who punches you (above the belt) because you are contractually precluded from doing so.

savior of the bridge jumper (or many other, similar ones), requires “a reduction in direct liberty (which) augments overall liberty.” It only appears this way because we do not have full and complete property rights in bridges, highways, lakes, oceans, etc. Even apart from that, KC are in no position to point to “a reduction in direct liberty (that) augments overall liberty.” For the saved person in this type of scenario might be our proverbial Mao, a Stalin or a Hitler, and thus saving him might *reduce* overall liberty, according to their own viewpoint. So ambiguous, however, is the Klein and Clark concept of overall liberty that we cannot even say *that* with any assurance. For perhaps the preservation of our friends Mao, Stalin, and Hitler could be *beneficial*. Had these worthies not perpetrated their evil deeds, maybe something even *worse* might have eventuated. With indirect and hence overall liberty, no one can say anything, definitively, about anything.

Our authors next attempt to deflect this very criticism. They state “a principle does not lose worth just because there are cases of ambiguity and exception.” Cases of ambiguity and exception? Their initiation here is *nothing but* “ambiguity and exception.” In order for there to be “ambiguity and exception” there has to be at least *one* clear cut case. I submit that there are *none*. I search in vein in CK (2010, 2012) for any such thing. We cannot even determine if the acts of Mao, Stalin, and Hitler are pro- or anti-indirect and hence overall liberty!

Our authors continue: “the vice (the student) 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.” I am not worried about the *failure* of the KC notion of indirect and overall liberty. I am concerned that neither they nor anyone else can point to a single solitary case of unambiguous *success*. I challenge the authors to provide even one such, where a plausible counter example cannot be readily concocted. There are simply no paradigm cases to which they can point. In contrast, we can clearly and unambiguously offer instance after instance of pellucid violations of (direct) liberty: the Indian rapes in Delhi, the monstrous murders of school children at Sandy Hook to snatch headlines from the news as I write. Of course, there are also those old standbys, slavery in the U.S. before 1865, the Holocaust, the activities of our friends Hitler, Stalin, and Mao, etc.

Klein and Clark list no fewer than nine instances where I am guilty of making “points that are unhelpful.” Unhappily, they merely *list* them, and give no *reasons* why these contributions of mine are “unhelpful.” Thus, it is difficult to know how to respond. But there is one exception, their point five, where they say: “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.”

Why did these authors insert the words “at least not in” in their statement? In rereading this, it still seems to me that they are strongly implying that if it is not in this modern context, then all bets are off. But if all bets are off, then they are at least *open* to the possibility that in the backward parts of the world it would be justified to reduce liberty, because “too much liberty will lead to licentiousness and dissoluteness” *in these benighted locales*. Now I do not accuse KC of engaging in a blatant logical self contradiction here. They still *could* adhere to the NAP, and insist upon allowing full liberty in uncivilized areas of the world, *even though* that “will lead to licentiousness and dissoluteness” *there*. But they are strongly implying opposition to this stance, in contradiction to libertarianism, at least insofar as most libertarians understand that concept.

Klein and Clark’s next objection to Block (2011A) is that I “misread ...our raising for a particular case the possibility of disagreement between direct and overall liberty as a conclusion that such a possibility is weighty.” I do not at all claim, in one sense, that such disagreements are “weighty.” Rather, my critique is that I do not know if they are “weighty” or not, and I cannot know this because I am given no criterion on the basis of which to make any such determination. I argue that *no one* can determine whether they are “weighty” or not, not even KC themselves, since their concept is a will o’ the wisp. It is like trying to nail jelly to the wall or making interpersonal comparisons of utility. It would appear that the burden of proof rests with the *authors* of an intellectual initiative to offer criteria on the basis of which such determinations can be made.

But there is another sense in which it is painfully obvious that this divergence is indeed “weighty.” Klein and Clark are making a frontal attack on libertarianism. If they prevail, in my view, this important philosophy will go by the boards. Since I regard libertarianism as the last best hope for the prosperity and even survival of mankind, their attack upon it is certainly “weighty.”

I do believe that KC ultimately “embrace Rothbardian libertarianism” with regard to direct liberty, at least most of the time. I see no reason to doubt this, nor do Klein and Clark (2012) offer any evidence to the contrary. One of the many problems I have with this argument of theirs, however, is that much of what they say is vague and amorphous. They rarely mention specifics, contenting themselves for the most part with generalities. Happily, they do not carry through in this vein as concerns the Civil Rights Act of

1964. Here they blessedly focus on a specific point, so we can come to grips with actual issues. They state of my view of this law “because it included anti-liberty provisions, ‘[a]nyone who favors the law because of its admittedly pro-liberty aspects, acts against (direct) liberty on this occasion’ (p. 131). He [Block] 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.”

Well, yes, I did indeed refuse (in Block, 2010), and do now as well. Why? It is because to do so would be to rank incommensurables. Just as there are no units of happiness or utility,¹² so, too, are there no non-arbitrary units of liberty.¹³ So it is impossible, and methodologically impermissible,¹⁴ to determine, whether or not a two part act, one of which is pro-liberty, the other anti-liberty, are when added together inclined in the one direction or the other.

For example, suppose there is a bill that raises the minimum wage by 7%, but also lowers tariffs by 6%. Would such a law be pro- or anti-libertarian?¹⁵ Or posit that a law lowers taxes by 5%, but inaugurates rent controls. Is this a plus or minus on the liberty account? There is no telling. Similarly, the 1964 so-called Civil Rights Act violated private property rights¹⁶ but also had important salutary implications for reining in Jim Crow legislation. Again, it is impossible to make any liberty calculus out of this complex legislation, KC to the contrary notwithstanding.

What about extreme cases? Suppose there were a law lowering taxes or minimum wage levels by 1%, but calling for the execution of all first born or reinstating coercive slavery. Could we not definitively say that such an enactment, with both pro- and anti-liberty elements in it, inclines in the latter direction, and strongly so? Yes of course, as a matter of common sense. But as a technical issue, no, we cannot do any such thing. A similar situation

¹² Barnett, 2003; Gordon, 1993; Herbener, 1979; Rothbard, 1997.

¹³ Gwartney, Lawson and Block, 1996, is not a counterexample to this claim. Rather, those authors define liberty or freedom operationally, as certain scores on given surveys, statistics.

¹⁴ At least for those of us who are concerned with dimensions: Barnett, 2004.

¹⁵ In the direct sense, of course. My claim is that even such a relatively simple question cannot be answered. For indirect liberty, or total liberty, the difficulty is far greater.

¹⁶ The free association rights of store owners to discriminate against certain types of customers.

applies to “indifference.” We all know how to use this common word, and to accurately apply it. But as a matter of technical economics, there can be no such thing.¹⁷ Suppose the government takes \$1 way from A, and gives \$1 million to B. Has the utility of the two of them, put together, increased or decreased? From the layman’s point of view, we might venture the former answer. But as a matter of technical science, we simply cannot say.

Take another case. Legalizing marijuana is clearly pro-liberty. But if it will be taxed, and the government will thus have more revenue with which to promote evil, this constitutes an unambiguous loss of liberty. So is legalization and taxation of this substance pro- or anti-liberty? The best way to analyze this is to break it down into two separate constituent acts. Marijuana legalization is per se pro-liberty. The government need not tax this drug just because it becomes legal. That is an entirely separate act. If the government follows legalization up with a new tax, the first act is pro-liberty, while the second veers sharply in the opposite direction.

What about the two together? As a technical matter, libertarianism offers no answer. A pure libertarian might well vote against this portmanteau act, since at least one aspect reduces liberty. As libertarian analysts, all we can say is that the first part of the two stage act is compatible with our philosophy, the second not. If we try to measure both, we get sucked into something akin to the overall liberty trap set up by Klein and Clark.¹⁸

Let us set aside the tax for the moment. The mere act of legalization will, let us suppose, have salutary effects on people’s perception of government. They will like the state more than otherwise, I posit. But this institution is intrinsically evil, and with more public support, it will be better able to perpetuate its usual abominations (e.g., more drone strikes against innocent people). So even the actual legalization on its own, totally apart from the issue of taxation, is called into question. But only if we agree to

¹⁷ See on this Barnett, 2003; Block, 1980, 1999A, 2003B, 2007, 2009A, 2009B, Block and Barnett, 2010; Hoppe, 2005, 2009; Hulsmann, 1999; Machaj, 2007; Nozick, 1977; O’Neill, 2010.

¹⁸ There are some libertarians who would favor the complex two-stage act consisting of legalizing addictive drugs and also taxing them. For example, Steve Easton (for a refutation, see Block, 2011B). They mistakenly believe that more money in the coffers of government is compatible with promoting liberty. The correct position, if we were all dragged somehow, kicking and screaming, into the swamp of overall liberty, would be to favor legalization-taxation in spite of, not because of, the fact that the revenooers will now have more wherewithal with which to conduct their nefarious schemes.

something similar to the KC notion of indirect liberty. If we keep our wits about us, we can see that legalization of marijuana promotes liberty, and more support for government reduces it, period. Would a consistent libertarian vote for or against the legalization of marijuana, given this possible threat to liberty? In favor, of course. That is because there is a disanalogy between this scenario and the Civil Rights Act of 1964. In the latter case, there is clearly a rights violation. But not in the former. Just because people are now (by stipulation) more likely to “like” the government is not a *per se* violation of rights.¹⁹ Would Klein Clark vote to legalize marijuana given this element? If I understand them, if they looked at indirect and overall liberty, they would prevaricate. It is only if they viewed drug legalization from the direct liberty point of view that they would interpret this as pro-liberty, as would, presumably, all other libertarians.

Next, consider the following claim of KC:

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...

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.

This is a powerful argument. One problem I have with it is that it does not give sufficient weight to the normative-positive distinction. Libertarianism is in my view clearly in the former category. The minimum wage law is a rights violation no matter *what* are its economic effects. As an economist, I maintain that it will increase unemployment for those whose

¹⁹ That might well have bad *effects*, but that is a separable issue (for more on this see below).

discounted marginal revenue product lies below the level set by this law. But suppose the economically illiterate were correct, and the minimum wage law would instead raise wages for these people and there would be no unemployment effects at all. Then would this pernicious legislation be compatible with libertarianism? Of course not. This is a normative matter entirely. Forbidding a capitalist act between consenting adults (such as A working for B for \$1.00 per hour) is a rights violation under any and all possible scenarios regarding economic effects.

Yes, if I were a betting man, I would put my money down for Nadal over Ferrer. If I had to bet, I would say that it is unlikely in the extreme that reducing or increasing taxes or tariffs by 5% will have anything at all much to do with the rise of the next Hitler. But this point of Klein and Clark's is a red herring. It is taking us away from the analysis of libertarianism, which I insist is solely a normative enterprise, not at all a combination of both the normative and the positive.²⁰

I do, sometimes, insist upon "absolute certainty"—in the normative realm.²¹ When a minimum wage law prohibits contracts for wages lower than specified, or a rent control law precludes rental agreements at higher levels than stipulated, or a quota renders what should be free trade into smuggling, or when alcohol or addictive drugs are outlawed, I am very certain indeed that these are rights violations, and hence incompatible with direct liberty. These are paradigm cases. But at other times, "absolute certainty" is far beyond our capacity, even assuming a God's eye view of full knowledge where the facts of the case are not in dispute. For example, the continuum problem: just how far does A's fist have to be from B's nose, and in what context, before the latter is justified in taking violent defensive action against

²⁰ I speak too quickly here. We must always have *some* understanding of real-world cause and effect in order to make ethical determinations. Shooting someone with a bullet is a violation of the NAP because of what empirical effects such an act has on the target. Looking at someone askance, or sticking a pin in a doll, is not a rights violation also because of the (non-existent in this case) physical effects. But suppose we lived in a world where the opposite was the case. Harsh looks and voodoo could kill, but bullets would not harm at all. Then libertarianism would require people to avert their eyes, and keep their hands from dolls and pins, but would no problem with spraying bullets here, there, and everywhere. So yes, some basic understanding of physical and empirical reality cannot be entirely jettisoned when doing libertarian analysis.

²¹ For the distinction between absolute certainty in the sense of dogmatism, on the one hand, and praxeology in economics on the other, see Block, 2012.

the former? This is an issue that does not admit of “absolute certainty,” even for “mere” direct liberty.²² But with regard to indirect and hence overall liberty, there simply *are* no paradigm cases. *Absolute* certainty? There is no certainty there at all. There are no probabilities or possibilities either. A Hitler may pop up at any time, at any place, for any reason. At least with Nadal and Ferrer, we have something to go on: their past records against each other. But how can we ever determine whether a Hitler will pop up if we legalize drugs, engage in free trade, and end rent controls or minimum wages?²³ We have not a clue. These are imponderables.

I have never once said or written “that murder of an innocent person is not a violation of the non-aggression principle.” I have never once said or written “that murder of an innocent person is not a violation of the non-aggression principle provided that the murderer is properly punished.” I did say and write, and still believe, that such a person could be considered heroic, but that is entirely a different matter. I did and still believe that if there were even one heir of any of the victims of such a person who wanted to put this murderer to death, that that would be justified. It could hardly be denied by a libertarian, or indeed by most people, that such a murder would be in violation of the NAP. Klein and Clark really ought to read me more carefully.

Next, consider this statement: “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.” However, while great faith, courage, bravery, and robustness are virtues in many contexts,²⁴ this is far from universal. In some arenas, math, logic, science *and* political economic philosophy, yet another virtue might be just as important, or even more so: accuracy. If a scholar wants to expand libertarianism, I am all in favor.²⁵ But in so doing I think it is incumbent upon him to do so while preserving its

²² For a libertarian analysis of these challenging cases, see Block and Barnett, 2008.

²³ See on this Levin, 1976.

²⁴ Even the present one; if no one were brave enough to challenge mainstream libertarianism, this philosophy would stultify.

²⁵ I offer the following as examples of extensions, expansions, and clarifications of this philosophy: Rothbard, 1973, 1998; Hoppe, 1988A, 1988B, 1988C; Kinsella, 2001; Nozick, 1974. I agree wholeheartedly with the first three, but not the latter. See the critiques: Barnett, 1977; Block, 2002; Childs, 1977; Evers, 1977; Rothbard, 1977; Sanders, 1977.

basic tenets.²⁶ While I do indeed sincerely applaud KC for their courage and creativity, I cannot see my way clear to agreeing that they have enhanced *libertarianism*. Rather, I maintain that for all of their undoubted courage, robustness, originality, inventiveness, etc., they have not promoted this philosophy; instead they have undermined it.

Our authors aver: “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...” Yes, this is a prudential concern. But it is also, and far more importantly, a deontological issue as well. The whole idea of so-called indirect liberty stands in contradiction to true, correct, direct liberty. Overall liberty is a veritable loophole in the body politic of libertarianism. It allows enough space to drive the metaphorical truck through. It encompasses, justifies, and defends just about anything, up to, or rather I should say down to, the actions of a Hitler. I was correct in my original statement, quoted by the authors: “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.”

My fellow libertarians attempt a *tu quoque reductio ad absurdum* against my critique of Klein and Clark (2010): “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?”

I fail to see this. Let us take the case of rent control. The libertarian credentials of this act are easy to assess, and they are zero. This is a paradigm case of an anti free market initiative. This law forbids a real estate owner to ask whatever price he wishes for renting his dwelling space, and also precludes a tenant from paying a higher rent than stipulated by law. That is all. No more needs to be said in such a determination. Rent control is a blatant violation of direct liberty. There is no such thing as indirect liberty involved here, at least not for the libertarian. Now, of course, there are economic *effects* of this enactment. Less new building, more landlord-tenant strife, greater disrepair of the housing stock, lower vacancy rates, black markets, etc. But these are mere economic *effects*. As an Austrian economist, I

²⁶ The NAP coupled with homesteading, free association, and legitimate (voluntary) title transfer.

maintain that these results are not at all akin to “knowing the future.” Nor is “Knightian uncertainty” at all relevant. Rather, these effects of rent control are very likely, based on the usual analysis of rent control, and it is even praxeological to say that quality-adjusted supply will decrease, demand will increase, and non-price rationing will occur. We can know this with apodictic certainty.²⁷ But, allow me to now step into the positivistic economics of KC, arguendo. Then, these traditional results of rent control are known on the basis of empirical evidence. “Knightian uncertainty” can come into play. What our authors call direct liberty consists of these effects. But this is a category mistake on their part. Rent control is *per se* a violation of direct liberty. It matters not one whit, practically speaking, what are its economic effects.²⁸ This law does not allow landlords and tenants to come to a voluntary contractual agreement. This should be sharply distinguished from the *effects* of this violation of liberty. What Klein and Clark mean by indirect liberty is also no such thing. Rather, it consists of secondary and tertiary *effects* of the rent control law. For example, if we have a housing shortage²⁹ will this increase or decrease the chances of a new Hitler arising, who will then go on to violate liberty in a significant way? That is not any kind of liberty, direct or indirect. It is instead a possible secondary or tertiary *effect* of this legislation. Failure to fully know the future, and lack of ability in overcoming uncertainty, pertain to effects, for the non-Austrian. But they apply ever so much more stringently to the secondary and tertiary effects than they do to the primary or direct effects. So, their *tu quoque* argument fails. Their charges do indeed apply to me.³⁰ But they apply far more strongly to Klein and Clark’s remote effects than to their direct effects, and not at all to the issue of *liberty*. Perhaps these authors will appreciate this point if they realize that they are confusing whether something is a *per se* violation of liberty with the effects of such a rights violation.

I now consider this sally of theirs:

Imagine Mitt Romney, Barack Obama, Bill O’Reilly, or Paul Krugman saying: “This act which I favor admittedly reduces direct

²⁷ The author wishes to thank Matthew McCaffrey and Bill Barnett for clarifying his understanding of this matter.

²⁸ This is subject to points made *supra*, fn. 20.

²⁹ This is a direct *effect* of rent control, not a *per se* aspect of its liberty reducing characteristics; shortage of apartments can arise from any sources having nothing to do with liberty, such as being in a disequilibrium.

³⁰ Assuming logical positivism is correct and praxeology incorrect, arguendo.

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.

There are problems here. For one thing, it is not clear that this is a *net* step forward. Yes, it is an improvement in that the likes of Mitt, Barack, Bill and Paul³¹ will now have to speak in terms of ownership, classical liberalism, and voluntary acts versus coercive ones. But on the other hand, these politicians and pundits can still adhere to their barbaric views, and still claim the mantle of libertarianism. I see this not as a "step forward," let alone a "big" one, but rather as three steps backward and one forward, netting out as two steps back.

However, matters are even worse. For KC themselves do not limit libertarianism to a distinction between the voluntary and the coercive, as they should. Instead, they conflate this with its effects, short- (direct) and long-term (indirect). If even Klein and Clark labor under this misunderstanding of elementary libertarianism, how can we rationally expect anything at all from the likes of Mitt, Barack, etc? Thus, even the one step forward comes under suspicion.

III. Conclusion

I conclude with an analysis of the last few sentences of Klein and Clark (2012):

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

³¹ I heartily approve of these authors choosing for illustration purposes two lefties and two righties. This demonstrates that *both* are conceptually distinct from us libertarians. All too many libertarians err in thinking that right wing conservatives are closer to us than left wing liberals. I enthusiastically join Klein and Clark in illustrating their point in a manner consistent with interpreting libertarianism as equidistant from both.

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.

I disagree. I propose that “One of the reasons that libertarianism is not more effective(ly)” spread is because leading spokesmen for this philosophy, such as these authors, do not fully understand it. I do not say that our viewpoint would prevail were this not the case. There are many other obstacles to its adoption besides this one. But it is surely a necessary condition for the acceptance of liberty—albeit not a sufficient one—that its leading scholars know the substance of their own position. If KC continue to “go off the reservation” or “go native” with mischievous interpretations of it, the attempt to promote the freedom philosophy will become that much more difficult.

KC turn a coherent philosophy with definitive answers and principles (direct liberty), into something (total liberty) on the basis of which it is well nigh impossible to determine whether any institution or act at all is pro- or anti-liberty. This is a recipe for radical skepticism. If adopted by libertarians in place of our present understanding, it would spell the death knell, in my view, for this philosophy. For who could champion a viewpoint with no clear implications whatsoever for real-world events? On the basis of such a view, a Ron Paul would no longer be able to definitively oppose the Fed, the drug war, or imperialism because, perhaps, these acts which are incompatible with direct liberty might be compatible with indirect liberty, and the latter might outweigh the former in the liberty calculus. If so, libertarians should favor the Fed, the drug war, and imperialistic war-mongering.

Let me end on a pragmatic note. Lord knows, we libertarians have trouble enough with direct liberty. Libertarians disagree on abortion, immigration, and intellectual property just to name a few prominent issues. Once indirect and overall liberty are allowed to enter into the fray, it will no longer be true that if you ask the opinion of 10 libertarians, you will get 11 answers. Now, you will get dozens, scores, and perhaps hundreds.

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