WHAT should a theory of justice look like? Any successful answer to this question must find a way of incorporating and reconciling two moral ideas. The first is a particular conception of individual freedom: because we are agents with plans and projects, we should be accorded a sphere of liberty to protect us from being used as mere means for others’ ends. The second moral idea is that of equality: we are moral equals and as such justice requires either that we receive equal shares of something—of whatever it is that should be used as the metric of distributive justice—or else requires that unequal distributions can be justified in a manner that is consistent with the moral equality of persons. These twin ideas—liberty and equality—are things which no sound conception of justice can properly ignore. Thus, like most political philosophers, I take it as given that the correct conception of justice will be some form of liberal egalitarianism.

A deep and difficult challenge for all liberal egalitarians is to determine how the twin values of freedom and equality can be reconciled within a single theory of distributive justice. Of the many attempts to achieve this reconciliation, left-libertarianism is one of the most attractive and compelling. By combining the libertarian commitment to full (or nearly full) self-ownership with an egalitarian principle for the ownership of natural resources, left-libertarians offer an account of justice that appears firmly committed both to individual liberty, and to an egalitarian view of how opportunities or advantages must be distributed.

Left-libertarianism is now the subject of much philosophical attention, with many proponents and critics. Some critics argue that the very concept of self-ownership is incoherent or indeterminate; others claim that self-ownership

leads to repugnant or counter-intuitive conclusions;² while others argue that realizing egalitarian justice necessarily requires abandoning the commitment to self-ownership.³

Though it is not without problems, unlike these critics, I think self-ownership is a coherent, reasonably determinate, and deeply attractive moral idea. I do agree with the critics, however, that left-libertarianism faces a deep problem, but it is a problem that is tractable if we abandon a particular conception of equality that has become prominent in the literature.⁴

In this article I argue that left-libertarianism will fail to successfully reconcile freedom and equality so long as we conceive of equality in luck egalitarian terms. If we think equality requires eliminating any disadvantages suffered by persons as a result of brute luck, then self-ownership will regularly stand in the way of realizing egalitarian justice. The best left-libertarianism can hope for, on this view, is a highly contingent reconciliation of the two moral ideas. But unlike some critics of left-libertarianism, I don’t think this means self-ownership cannot be reconciled with equality. Instead I think it means left-libertarians have been focusing on the wrong conception of equality. I argue that self-ownership can be reconciled with a conception of equality where the aim is not to eliminate all inequalities caused by brute luck, but rather one whose aim is to ensure a fair distribution of the burdens of benefits of social cooperation. This Rawlsian idea of justice as reciprocity coheres very nicely with the commitment to self-ownership, and would allow left-libertarianism to avoid one of the most serious objections that can be pressed against the theory.

The article has the following structure. Section I explains in more detail the central challenge that left-libertarian theories face: how to reconcile, in a theoretically satisfying way, self-ownership with an egalitarian principle of distributive justice. I then argue that three main forms of left-libertarianism all appear unable to satisfactorily meet this challenge. Section II argues that left-libertarianism only appears unable to meet the challenge posed in Section I because its main contemporary variants assume a luck egalitarian conception of equality. Self-ownership and luck egalitarianism, I argue, cannot be reconciled except under limited circumstances. In Section III, I suggest an alternative, Rawlsian-inspired (but not Rawls’s), conception of equality which can be successfully reconciled with self-ownership since it differs from luck egalitarianism in several crucial respects. Section IV considers three different objections to my proposed reconciliation of self-ownership with equality. Section

³Cohen, Self-Ownership, Freedom, and Equality, ch. 4.
⁴I will not, in this article, be discussing some other problems that left-libertarianism faces, such as how to handle the issues of gifts, bequests, or compensation rights, nor will I have anything to say about how left-libertarianism might be practically implemented.
V concludes with some general thoughts on the relationship between Rawlsian and left-libertarian conceptions of justice.

I. THE CHALLENGE FOR LEFT-LIBERTARIANISM

Left-libertarianism is standardly understood to involve a commitment to two main ideas: (a) full or nearly full rights of self-ownership, and (b) an egalitarian principle of distributive justice to regulate the ownership of worldly resources. Let me elaborate a bit on each of these claims.

Self-ownership entails that persons or agents own themselves ‘in the same way that a (full) chattel-slave-owner owns a slave’.\(^5\) Full self-ownership thus entails: (1) control rights over the use of one’s mind and body; (2) rights to compensation if the rights described in (1) are violated; (3) enforcement rights to prevent the violation of the rights described above or to extract compensation for their violation; (4) rights to transfer any of the above rights to others; and (5) immunity against the non-consensual loss of any of the above rights.\(^6\)

The second aspect of left-libertarianism is the commitment to some egalitarian principle of distribution of worldly resources. Here it is more difficult to say anything generic that will be true of all left-libertarian positions since left-libertarians disagree about how this egalitarian principle is best construed.\(^7\) Roughly, there are two major dimensions of disagreement. First, left-libertarians disagree about whether worldly resources are jointly owned by everyone, or whether each person simply has a claim to an equal share of worldly resources. The former jointly-owned view poses notorious difficulties, since on one plausible interpretation of joint ownership, any individual would need the approval of everyone else before making use of, or at least before appropriating, any bit of the natural world. This outcome yields very counter-intuitive results, and appears to render self-ownership a relatively empty or formal concept—that is, one might own oneself, but this ownership right wouldn’t be worth much since one wouldn’t be able to own anything else in the world without everyone’s permission. I’ll thus assume from this point forward that standard conceptions of left-libertarianism allow that each person has a claim to an equal share of the world’s resources, and each can justly appropriate an equal share without requiring the consent of others. The other major division amongst left-libertarians with regard to egalitarian justice is how to measure equality, that is, how to determine what counts as an equal share. Here left-libertarians divide along lines familiar from the “equality of what debate?”: some favour a


\(^6\)Ibid., pp. 203–4.

\(^7\)A detailed account of these divisions is provided in Peter Vallentyne, ‘Left-libertarianism—a primer,’ *Left-Libertarianism and Its Critics: The Contemporary Debate*, ed. Peter Vallentyne and Hillel Steiner (Houndmills: Palgrave, 2000), pp. 1–22.
conception of equality of resources where resources are valued according to an idealized market price, others prefer a conception of equality which asks how much resources are required for each person to have an equal opportunity for welfare or advantage.

Full (or nearly full) self-ownership and an egalitarian distributive principle are the twin pillars of left-libertarianism, and it’s important to stress that they are two distinct pillars. Left-libertarians do not necessarily claim that the egalitarian component of their theory is somehow derived from the libertarian component, or vice versa. Because left-libertarianism includes two independent principles, it is naturally vulnerable to worries about the consistency or coherence of those principles. Showing that the two ideas can comfortably co-exist within a single theory—that is, without inconsistency, or without regularly requiring a zero-sum choice between the two values—is a central challenge for left-libertarians, and from this point forward I’ll refer to this simply as the challenge.

Of course some political philosophers are untroubled by conflicts between different values: they see such conflicts as the unavoidable result of value pluralism. Assessing the thesis of value pluralism is far beyond the scope of the present essay, but here, briefly, are three reasons why left-libertarians should be particularly reluctant to accept conflicts between the values of self-ownership and equality. First, and most obviously, left-libertarianism’s distinctive claim—as opposed to right-libertarianism—is widely assumed to be that self-ownership does not conflict with equality in any significant way. Second, many libertarians are committed to the choice or will theory of rights, where ‘a right exists when the necessary and sufficient condition, of imposing or relaxing the constraint on some person’s conduct, is another person’s choice to that effect’. Proponents of the choice theory, such as Hillel Steiner, argue that an essential feature of that theory is the idea that rights cannot conflict: that rights are compossible. If compossibility is a feature of rights, and if a theory of distributive justice determines who has which rights, then theories of justice cannot permit unresolved conflicts to occur between competing values, since this would entail something such theories are designed to preclude: conflicts of rights.

Third, even for left-libertarians who do not accept this position regarding rights and compossibility, there are still good reasons to seek a theory which avoids generating conflicts between different fundamental values. Claims of justice are very important, indeed many argue that they have lexical priority over other considerations in our deliberations about how to act. If a theory of justice regularly allows for unresolved conflicts between fundamental values, this is surely a worrying feature of that theory since, in such cases, the theory is failing to do what theories of justice are generally meant to do, namely, provide a

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8Vallentyne, Steiner, and Otsuka, ‘Left-libertarianism,’ p. 208.
10This claim about justice and compossibility, of course, is one of the central features of Hillel Steiner’s theory.
determinate answer to disputes regarding what we are permitted to do or prohibited from doing. I assume that, other things being equal, a theory that can provide a theoretically satisfying way of avoiding conflicts between different values or considerations is therefore to be preferred over one that cannot.

I will now canvass three main ways left-libertarians have attempted to meet the challenge of reconciling self-ownership with equality. In each case I’ll suggest the challenge has not been met, though as we’ll see in Sections II and III, I think the way for left-libertarians to respond to the objections pressed in the current section is to repudiate a key assumption which underpins the objections. Some of these objections will already be familiar, but it’s necessary to raise them here before I can, in Section II, make a more general point regarding what the objections have in common.

A.

One way left-libertarianism can try and meet the challenge is by adopting what I’ll describe as a strict resourcist account of the metric of egalitarian justice. On this view, each person has a claim to an equally valuable share of worldly resources, where those resources include only the raw (that is, unimproved) resources of the external world. Specifically excluded from this metric are what Ronald Dworkin calls personal resources, that is, an individual’s natural talents or abilities. Thus, provided each person is allocated an equally valuable amount of external worldly resources at the outset of their adult life (or over the course of their life), and provided this allocation is done without infringing anyone’s self-ownership rights, the theory achieves a reconciliation of self-ownership and equality. Indeed, it should be possible, in principle, to distribute external resources equally without infringing anyone’s right to self-ownership. If anyone has more than an equal share of external worldly resources they can be coerced into paying compensation to others in order to realize an egalitarian distribution without that coercion constituting a violation of self-ownership, since we can say that a person who has more than an equal share of worldly resources has taken something that does not belong to them, and thus must give it back on pain of forfeiting some of their rights of self-ownership.

Of course the well-known objection to such strict resourcist conceptions is that they seem insufficiently egalitarian: they respect self-ownership at the cost of failing to realize a truly egalitarian distribution of worldly resources. Here is a simple example borrowed from G.A. Cohen (with slight modifications) which

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11This is roughly the position adopted by Hillel Steiner in his early work on this topic. See Steiner, ‘The natural right to the means of production,’ Philosophical Quarterly, 27 (1977), 41–9 or ‘Liberty and equality,’ Political Studies, 29 (1981), 555–69.


13Assuming resources are appropriately divisible into equal bundles.
illustrates the problem.\footnote{Cohen, \textit{Self-Ownership, Freedom, and Equality}, p. 103.} Suppose the world has two people in it, Able and Infirm. The world’s natural resources are divided equally, but due to Infirm’s serious physical disability, he cannot make use of his share of the world’s resources himself. In exchange for Able providing Infirm with the bare minimum food and shelter necessary to survive, Infirm is forced to trade his entire share of worldly resources to Able. An initially equal division of worldly resources thus quickly results in Infirm living on a subsistence wage and Able owning all the world’s resources and living a far more comfortable life.\footnote{Indeed, as Cohen points out, depending on Able’s preferences, Infirm might be left to die (i.e. if Able has enough resources to live and is uninterested in further material accumulation). See \textit{ibid.}, p. 103.} This seems unacceptably inegalitarian for a theory which purports to deliver an egalitarian distribution of worldly resources. Call this the \textit{egalitarian objection} to the strict resourcist approach.

Suppose, however, that a proponent of the strict resourcist conception was tempted to bite the bullet, and insist that while it is a tragedy that Infirm finds himself in this position, this is not something that left-libertarian justice should do anything about, since to compensate Infirm for his disability by requiring Able to work for Infirm, or by giving Infirm a greater than equal share of external resources, would be to concede that Able does not fully own his own natural talents. Able’s talents, the egalitarian objection seems to presuppose, are something which must be factored in to the metric of egalitarian justice, but this means Infirm has some claim on those talents or their fruits. This would be an unacceptable infringement of self-ownership, and as such cannot be mandated by any libertarian theory.

I don’t think this reply is plausible for several reasons. First, there is no violation of Able’s self-ownership rights (as they are set out in Section I) in giving Infirm a greater than equal share of the world’s resources.\footnote{As Michael Otsuka argues in \textit{Libertarianism Without Inequality} (Oxford: Oxford University Press, 2003), ch. 1.} Even if the \textit{motivation} for doing this is to compensate Infirm for his brute bad luck, this does not necessarily entail that Infirm somehow owns Able’s talents—it only entails that Able does not own as much of the world as Infirm, but there is an apparently valid and independent egalitarian reason for dividing ownership of the world in this way. So I don’t think the egalitarian objection is premised on the permissibility of violating self-ownership. Second, setting this fact aside, the response sketched above wrongly assumes that the difference in talent between Able and Infirm cannot be characterized as a difference in terms of what natural resources each person had access to. Suppose that Infirm is disabled as a result of a natural disaster on his half of the world that was wholly unpredictable (and the
kind of disaster for which insurance was unavailable).\textsuperscript{17} In this context it seems very plausible to say that Able has been given more than an equal share of the world’s resources since Able benefitted from living in a more valuable area where the disaster did not occur. It seems inconsistent with strict resourcism, even on its own terms, to allow the resulting inequality between Able and Infirm to persist since the cause of the inequality is an unequal division of nature’s bounty, in this case, the bounty of living in an area not struck by disaster.

I think it’s fair to say that most left-libertarians now believe strict resourcism is unacceptable because it is insufficiently egalitarian, and thus fails to meet the challenge of reconciling self-ownership with equality.

B.

In light of the difficulties with strict resourcism, left-libertarians might follow something like Steiner’s more recent approach, which I’ll call \textit{expansive resourcist}.\textsuperscript{18} Instead of limiting worldly resources to the raw materials of the external world only, this approach includes two new elements in the resourcist metric: (a) germ-line genetic information which determines individuals’ natural talents and abilities, and (b) brute luck whose source is entirely natural (events for which no person can be held responsible), and for which insurance was not available.

By adding these two new features into the basket of natural resources, the theory aims to ensure that people like Infirm, in our example above, need not be disadvantaged by their disability. Instead of simply giving Able and Infirm equally valuable shares of external worldly resources, the theory declares that Able’s greater natural talents means that he is in possession of more than an equal share of natural resources. In this case Able possesses a more valuable share of germ-line genetic information than Infirm, and thus the distribution of worldly resources must be adjusted to accommodate for this fact, perhaps by giving Infirm a much larger share of external resources.\textsuperscript{19} By defining germ-line genetic information as a natural resource, the expansive view can accommodate the insight that it is not sufficiently egalitarian to distribute external resources equally when different people have differential abilities to make use of those natural resources.

\textsuperscript{17}I take the basic form of this example from Michael Otsuka, ‘Owning persons, places, and things,’ \textit{Hillel Steiner and the Anatomy of Justice}, ed. Stephen de Wijze, Matthew Kramer, and Ian Carter (New York: Routledge, 2009), pp. 132–44 at p. 136.


\textsuperscript{19}In Steiner’s theory it is Able’s \textit{parents} who must pay into a ‘global fund’ which compensates Infirm’s parents, since it is the parents who appropriated the relevant germ-line genetic information when they conceived Able and Infirm. See Steiner, \textit{An Essay on Rights}, pp. 273–80; Steiner, ‘Silver spoons and golden genes: talent differentials and distributive justice,’ \textit{The Genetic Revolution and Human Rights: The 1998 Oxford Amnesty Lectures}, ed. Justine Burley (Oxford: Oxford University Press, 1999), pp. 133–50 at p. 144.
Setting aside any doubts as to whether germ-line genetic information really is a finite resource which parents “appropriate”\(^{20}\), there is a more serious objection to the expansive resourcist view. The objection is simply that the expansive view does not fully meet the challenge of reconciling self-ownership with equality, even on its own terms. Here is an example, similar to the one used against the strict resourcist view, which illustrates the problem. Suppose we again have our two characters: Able and Infirm. Infirm is severely disabled in a way that means he cannot personally make productive use of raw natural resources—they are only valuable to him as a means of trading with others. Now suppose we have two options. Due to the severity of Infirm’s disability, it turns out that the only way to fully compensate for Able’s much more valuable possession of germ-line genetic information is to give the whole external world to Infirm.\(^{21}\) Even though, under this solution, it is rational for Able and Infirm to reach some agreement of services in exchange for resources, it nevertheless remains the case that we have a conflict between the two pillars of left-libertarianism.\(^{22}\) An egalitarian distribution of the world’s resources requires giving the whole external world to Infirm, but this conflicts with Able’s self-ownership. After all, Infirm owns the whole external world, and thus Able will not be permitted to move, or even exist (since existence requires the use of physical space) anywhere without Infirm’s consent. The upshot is that the egalitarian requirement of left-libertarianism (giving the whole external world to Infirm) strips Able of his self-ownership since his mere existence makes him a necessary trespasser: someone who cannot avoid violating other people’s landed property rights.\(^{23}\) As Vallentyne, Steiner, and Otsuka say, ‘full self-ownership is incompatible with someone else owning the rest of the world and denying the agent permission to occupy any space’.\(^{24}\)

But the other option will involve an inequality. We could divide the world so that Able has just enough worldly resources to exist without trespassing on Infirm’s property, but doing this would, ex hypothesi, fail to be suitably egalitarian since to fully compensate Infirm for his disability requires giving Infirm the whole of the external world. I do not see how the expansive resourcist proponent can deny, as a conceptual matter, the possibility that these types of cases might arise, that is, cases where a fully egalitarian distribution of worldly


\(^{21}\)The precise way the compensation is calculated is not, I think, relevant since any expansive resourcist is committed to the view that there must be a way of making these calculations, and the greater the genetic disadvantage, the larger the corresponding share of the external world that will be required as compensation. If the external world is small enough, or the genetic disadvantage is large enough, it then becomes possible that the whole external world will be necessary to compensate for a particular genetic disadvantage.

\(^{22}\)Note that because it is rational for Able and Infirm to reach some agreement of services in exchange for worldly resources, it is not true that each is initially allocated nothing of value: each does have something valuable that the other would like to obtain via trade.

\(^{23}\)For a description of necessary trespassers see Steiner, ‘Responses,’ *Anatomy of Justice*, p. 241.

\(^{24}\)Vallentyne, Steiner, and Otsuka, ‘Left-libertarianism,’ p. 204 n. 7.
resources requires giving the whole world to some people and leaving others with no external resources. These cases then leave the expansive resourcist conception caught on the horns of a dilemma: (a) distribute equally by giving the whole world to Infirm, but at the cost of Able’s self-ownership, or else (b) guarantee Able’s self-ownership at the expense of failing to realize an egalitarian distribution. Either way, it looks like there will be conditions under which the expansive view fails to meet the challenge of fully reconciling self-ownership with resource-equality.25

C.

The third conception of left-libertarianism I will consider is the one offered by Michael Otsuka, which I will call welfarist. Otsuka argues that across a fairly wide range of configurations of individuals who differ in terms of their capacity to derive welfare from resources, it will nevertheless be possible to distribute worldly resources in a manner that achieves equality of opportunity for welfare while also respecting each person’s self-ownership.26 The idea is that those persons who are relatively inefficient converters of resources into welfare can be given larger than equal shares of external resources to compensate for this fact. These people can then use their larger than equal shares to trade with individuals who are relatively efficient converters, thereby realizing equality of opportunity for welfare via an initially unequal distribution of worldly resources and a series of voluntary exchanges. Since the exchanges are voluntary, each person’s self-ownership rights are respected.27

Unlike some left-libertarians, Otsuka concedes that his account does not do more than show how self-ownership and equality can be contingently reconciled.28 He admits that we may sometimes be forced to choose between equality and self-ownership if, for example, the disparities between individuals’ natural endowments are very great, or the proportion of able-bodied to disabled persons is too small. Otsuka does, however, appear to believe that the range of cases where self-ownership will conflict with equality is relatively narrow. Otsuka declares that the conflict between self-ownership and equality is ‘largely an illusion,’ and that ‘a nearly complete reconciliation’ of the two moral ideas can be achieved as a matter of contingent fact.29 I want to suggest, however, that these

25I don’t say the example provided is the only way of showing there is a tension between self-ownership and equality in expansive resourcist theories like Steiner’s. I believe there are other ways in which the problem surfaces. For further evidence see Otsuka, ‘Owning persons, places, and things,’ pp. 135–9. But for Steiner’s reply see his ‘Responses,’ Anatomy of Justice, pp. 242–4.
26Otsuka, Libertarianism Without Inequality, ch. 1.
27Otsuka supplements this proposal with a further proposal whereby the unjust can also be conscripted to aid the disadvantaged in cases where the initial proposal on its own will not secure equality. I set this further proposal aside here since it’s not relevant to what I will say about Otsuka’s theory. See ibid., ch. 2.
28Ibid., p. 11.
29Ibid.
claims might be overly optimistic—that the range of circumstances where self-ownership can be reconciled with equality is perhaps narrower than Otsuka imagines.

According to economic models of bargaining, there are at least two important factors that affect how much someone takes away from a bargain: (1) their reserve utility, and (2) their bargaining power. Someone’s reserve utility describes how much he or she will have in the event of non-agreement. A person’s bargaining power is a function of his or her patience (i.e. how long one is willing to hold out for) and risk aversion.

Now consider the cases Otsuka has in mind, where Infirm people are given larger shares of resources to trade with Able people, bearing in mind that Otsuka wants to include among the Infirm ‘some of those who are completely incapable of farming, harvesting, or gathering any food from the land’. The reserve utilities of such people must be lower than those of able-bodied people assuming, with Otsuka, that the Able have been provided with enough of the external world to live even absent an agreement with the Infirm. In these cases the Infirm will be much worse off in the event of non-agreement than the Able since, ex hypothesi, the Infirm cannot personally use the resources they have been allocated, and thus we must assume they will die absent a bargain struck with the Able, whereas this will not be true for the Able. Even if we assume that some of the Infirm could make some small use of their resources on their own, we should plausibly assume that these Infirm people would suffer severe hardship in the event of non-agreement, that is, they will suffer a life so difficult and painful it cannot be conceived as equal in welfare to the life of an able-bodied person who is required to live off a small plot of land, even if the work involved for the able-bodied person would be arduous and difficult. I think this yields two worries for Otsuka’s proposal.

First, we cannot plausibly assume that the parties are equal in terms of their bargaining power. The Able can afford to be much more patient in striking a bargain with the Infirm since the Able are at no risk of dying or severe hardship in the event of non-agreement. The prospect of severe hardship or death does, however, loom over the Infirm in the event of non-agreement, and thus the Infirm will be in a far weaker bargaining position. Furthermore, the Able could refuse to reach an agreement with the Infirm, and wait until the Infirm have died at which point the resources of the Infirm would, on standard left-libertarian theories, once again become natural resources to be equally divided amongst the living.

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31 Otsuka, Libertarianism Without Inequality, p. 34.
32 This is to ensure the Able have what Otsuka refers to as a ‘robust’ right of self-ownership. See ibid., p. 32.
Able-bodied persons. Bargaining theory therefore tells us that the resulting bargain will, far from realizing equality of utility, in fact yield an unequal outcome. Of course, competition among the Able will benefit the Infirm, but nevertheless the described inequality in bargaining power will be an important factor mitigating against equality.

Second, I think Otsuka’s proposal depends on the assumption that what the Infirm have been given (land or other external resources) will be at least as highly valued in market terms as any genetic talent possessed by any Able person. Suppose, for example, that an Able person named Rooney is an exceptionally, and innately, gifted footballer. He is, accordingly, given only a tiny share of external resources at the outset of his adult life. Whether or not equality of opportunity for welfare will obtain between Rooney and a given Infirm person depends on the premise, I think, that the land given to the Infirm person will be as marketable as Rooney’s footballing talent. Otherwise, competition for Rooney’s talents will always be greater than competition for the resources of the Infirm person. But it’s not clear this premise will reliably be true in the world as we know it with its particular demographics and preferences. Many millions of people may be willing to pay to watch Rooney play football, and it’s unclear to me that there would be many feasible arrangements whereby each Infirm person could be given external resources of sufficient value to match the market value of Rooney’s talents. If Rooney’s talents are more marketable than the share of resources that can be given to each individual Infirm person, then we don’t realize equality of opportunity for welfare.

On Otsuka’s view, for example, the Infirm cannot avoid this result by threatening to destroy their share of the world’s resources (assuming they are able to do so) since, for reasons of intergenerational justice, each person is under a duty to leave resources at least as valuable as those acquired for future generations. See ibid., p. 37.

Otsuka suggested to me (private correspondence, 21 February, 2010) that the entitlement of the Able to appropriate any external resources beyond those needed to secure ‘robust’ self-ownership could be made conditional on the Able striking a bargain with the Infirm, thus preventing the Able from waiting until the Infirm die in order to gain access to their resources. I think there are at least three difficulties with this solution. First, it appears to give the Infirm rights against the Able that would persist beyond the death of the Infirm. That is, if the Able refuse to strike a bargain with the Infirm and the Infirm die, the Able would be prohibited from acquiring further external resources. The thesis that the dead can have rights against the living is controversial, and as Steiner persuasively argues, it is inconsistent with the choice or will theory of rights. See Steiner, An Essay on Rights, pp. 249–58. Second, it is awkward, I think, for a libertarian theory of justice to assert that an individual can lose a natural right to which they are otherwise entitled (the right to acquire an equally valuable share of the world’s resources) by refraining from an action (striking a bargain with the Infirm) when that refraining is not a violation of anyone’s rights. Third, the mooted solution will not entirely eliminate the inequality between the Able and the Infirm since death will still loom over the Infirm in the event of non-agreement, but the same is not true of the Able.

In his commentary at the Manchester conference (20 November, 2009) Otsuka pointed out that any income Rooney derived could be subject to an egalitarian tax without this tax constituting a violation of his robust right of self-ownership. I concede this is true, but I would make the following point in response: the proposed egalitarian tax appears inconsistent with the choice or will theory of rights. If one person, Albert, wishes to use some of his resources to pay Rooney to play football, but doing this generates an inequality of welfare between Rooney and some third party, Betty, Otsuka says we could tax this income and re-distribute some of it to Betty thereby re-establishing equality of welfare between Rooney and Betty. But this entails that Albert does not have the right to give this
In sum, I think Otsuka’s theory faces two significant limitations. First, each Able person’s bargaining power, in terms of his patience, is likely to be much greater than an individual Infirm person’s. Second, given certain plausible assumptions about preferences, demographics, and available territory, I think it may be unlikely that we could give each individual Infirm person a share of resources that was equal in market value to the market value of the most talented Able person in society.

II. LUCK EGALITARIANISM AND SELF-OWNERSHIP

In the previous section I suggested that three major left-libertarian attempts to reconcile self-ownership with some egalitarian principle of distributive justice do not succeed. In this respect it might seem I am simply echoing the conclusion of G.A. Cohen, who famously argued that ‘no egalitarian rule regarding external resources alone will, together with self-ownership, deliver equality’. I believe, however, Cohen’s sweeping conclusion to be false because it relies on a particular conception of equality, one that contemporary left-libertarians have embraced, but one which they need not, and should not, embrace.

The conception of equality I am referring to is luck egalitarianism. I understand luck egalitarianism as follows: ‘an unequal distribution whose inequality cannot be vindicated by some choice or fault or desert on the part of (some of) the relevant affected agents is unfair, and therefore, pro tanto, unjust’. Of course, luck egalitarianism comes in many guises, but the central idea common to all variants is that inequalities between persons that result from brute luck are unfair and no theory that permits such inequalities can be declared fully or truly just by egalitarian standards. Inequalities that arise from responsible choices, on the other hand, are regarded by luck egalitarians as presumptively just.

Contemporary left-libertarians like Steiner, Otsuka, and Vallentyne embrace this conception of egalitarian justice, and it is the one which they aim to reconcile with self-ownership. Steiner says, for example, that theories that determine people’s entitlements should reflect people’s choices and not their circumstances, and he declares that his theory is one ‘which integrally embodies the requirements

money to Rooney. Who then possesses the right to give Albert’s money to Rooney, if not Albert? The choice theory of rights declares that someone must possess this right, in which case there must be someone who has the right to create the inequality between Rooney and Betty that troubles Otsuka. But Otsuka appears committed, contra the choice theory of rights, to the view that no one can have the right to give the money to Rooney if this will create an inequality of welfare between Rooney and Betty. See Steiner, ‘Responses,’ pp. 242–4.

36Cohen, Self-Ownership, p. 105. In the quoted passage Cohen actually says ‘deliver equality of outcome’ but I have omitted the last two words since they might misleadingly suggest that Cohen was interested in seeing whether self-ownership could be reconciled with equality of outcome, whereas it’s clear his interest was in whether self-ownership could be reconciled with some version of equality of opportunity or responsibility-sensitive egalitarianism.

of the equal opportunity principle,’ and by that he means the luck egalitarian account of equal opportunity.\(^{38}\) Similarly, Otsuka’s theory relies on the luck egalitarian idea that no one should be permitted to acquire a share of resources that gives him or her greater than equal opportunity for welfare.\(^{39}\) Likewise, Vallentyne has defended a version of luck egalitarianism which aims to equalize persons’ initial opportunities for advantage.\(^{40}\)

My suggestion is that this common view of prominent contemporary left-libertarians is a mistake. I do not claim it is a mistake on the grounds that luck egalitarianism is independently false or problematic as a principle of justice (I can be agnostic on that issue here). Rather, I argue it’s a mistake \textit{for left-libertarians specifically} because self-ownership cannot be reconciled with any plausible version of luck egalitarianism. This general truth is what underpins the more specific objections I pressed against each version of left-libertarianism in Section I.

Luck egalitarianism, as I understand it, has at least two important characteristics. The first is that it is a principle which evaluates \textit{states of affairs}. It tells us that a state of affairs where there are inequalities between persons caused by brute luck is, at least in one respect, unfair and therefore unjust. The second is that it is \textit{unrestricted in scope}. That is, once we have identified the relevant metric of justice (e.g. resources, or welfare, or whatever) there is no principled reason to focus only on some sub-set of that metric, for instance, cases where the currency of justice is unequally divided due to human, rather than natural, causes. The intuition underpinning luck egalitarianism is that arbitrary inequalities are unfair and unjust. Once the force of this intuition is conceded, there is no principled reason to focus on some arbitrary inequalities while ignoring others.

With these characteristics in mind it is, on reflection, easy to see why self-ownership cannot be reconciled with luck egalitarianism in any of its standard guises. The simple problem is that sometimes there may be no way to eliminate brute luck inequalities without violating self-ownership. No amount of philosophical ingenuity can change the fact that Able can survive unaided with very few resources, whereas Infirm will die without Able’s services. Try as

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\(^{38}\)Steiner, ‘Choice and circumstance,’ p. 311.

\(^{39}\)Otsuka, \textit{Libertarianism Without Inequality}, pp. 23–7. In his commentary on my article Otsuka denies that his theory of Lockean left-libertarianism is luck egalitarian, since the egalitarian principle in his theory applies only to worldly resources and not to body parts. I agree that Otsuka’s theory is not \textit{fully} luck egalitarian in this sense, but I maintain his theory contains a commitment to the luck egalitarian ideal. For example, the reason why Otsuka rejects a first-come-first-served principle of acquisition is because such a principle ‘has the consequence that someone will have the opportunity to acquire a much greater share of resources than others as a result of factors beyond the control of individuals,’ (\textit{ibid.}, p. 23). I believe this luck egalitarian idea is difficult, if not impossible, to non-arbitrarily limit in application to acquisition of worldly resources given Otsuka’s endorsement of opportunity for welfare as the relevant metric of egalitarian justice. I expand on this in the paragraphs below.

\(^{40}\)Peter Vallentyne, ‘Brute luck, option luck, and equality of initial opportunities,’ \textit{Ethics}, 112 (2002), 529–57.
left-libertarians might, this arbitrary inequality between Able and Infirm cannot be eliminated without threatening Able’s self-ownership. This conflict might not be so troubling for left-libertarianism if we lived in a world where people’s natural talents were roughly equal: in such a world conflicts between luck egalitarianism and self-ownership might be very rare. But we live in a different world, one where there are vast differences between individuals’ natural talents, and there is no prospect of this natural fact changing anytime in the foreseeable future. Thus, the potential for conflict between self-ownership and luck egalitarianism is not some remote possibility, rather it is a regular and deep fact of the human condition.

In G.A. Cohen’s terms, what we have here are two distinct fundamental principles, and while we might design rules of regulation which minimize the conflict between the two fundamental principles, we cannot ensure that they will never conflict because we cannot control all the factual circumstances we might find ourselves in. Sometimes there may be no way to eliminate brute luck inequalities without violating self-ownership. At this point, however, I part company from Cohen’s critique of left-libertarianism. Partly because Cohen believed luck egalitarianism to be the correct conception of equality and because he was strongly committed to equality, he concluded that self-ownership ought to be rejected since it will regularly conflict with equality. But this is only one possible solution. Here, roughly speaking, are some of the main options we face in light of the inevitable tension between self-ownership and luck egalitarianism:

1. Reject left-libertarianism by rejecting self-ownership (Cohen and many liberal egalitarians).
2. Reject left-libertarianism by rejecting egalitarianism (Nozick and right-libertarians).
3. Re-cast left-libertarianism as a theory which aims only to minimize the possible conflicts between self-ownership and equality (Otsuka).
4. Revise left-libertarianism by rejecting luck egalitarianism and finding a suitable alternative conception of egalitarianism that does cohere with self-ownership.

No contemporary political philosopher, to my knowledge, has seriously considered the fourth option from this set. I think this is because those who are

41See Cohen, Rescuing Justice and Equality, ch. 7.
42I say partly because Cohen also thought self-ownership was independently problematic as a moral principle. See Cohen, Self-Ownership, ch. 10.
43There are, of course, other options, including the option of lexically ranking either self-ownership or equality to avoid conflicts. I don’t discuss this possibility in detail for several reasons, one of which is that if one is truly committed both to the idea that violations of self-ownership are unjust and to the idea that arbitrary inequalities are unjust, lexically ranking self-ownership over equality (or vice versa) will not eliminate the judgement that when conflicts do occur an injustice will result, it will only lexically order the possible injustices.
interested in left-libertarianism tend to assume some version of luck egalitarianism is the correct conception of equality, and so this option just doesn’t occur to many philosophers interested in the left-libertarian project. But it is an option, and in the sections that follow, I suggest it is the best route available to left-libertarians who want to reconcile self-ownership with equality at the level of fundamental principle. I also hope my proposed reconciliation of self-ownership and equality will seem independently appealing to those who are not left-libertarians, but I don’t pretend to be providing anything like a comprehensive account or defence of the proposed conception of justice—all that is offered is a very brief a sketch.

III. SOCIAL COOPERATION, RECIPROCITY, AND SELF-OWNERSHIP

John Rawls famously offers us a theory of social or distributive justice whose focus is how to fairly distribute the burdens and benefits amongst people who engage in social cooperation for mutual benefit. Libertarians, both left and right, as well as many non-libertarian egalitarians, find Rawls’s focus on social cooperation to be, at best, puzzling. Nozick was perhaps the first to express this puzzlement:

Why does social cooperation create the problem of distributive justice? Would there be no problem of justice and no need for a theory of justice, if there was no social cooperation at all, if each person got his share solely by his own efforts? If we suppose, as Rawls seems to, that this situation does not raise questions of distributive justice, then in virtue of what facts about social cooperation do these questions of justice emerge? What is it about social cooperation that gives rise to issues of justice?

Nozick concludes that ‘the reasons for the view that social cooperation creates special problems of distributive justice otherwise not present [are] unclear if not mysterious’. Nozick, of course, favours his entitlement theory of justice, but the point doesn’t depend on adopting Nozick’s theory. Left-libertarians and non-libertarian egalitarians (e.g. Cohen) similarly insist that the principles of distributive justice apply even when social cooperation does not exist, and thus the fact of social cooperation should not affect our more basic views as to what distributive justice requires. I also used to find this part of Rawls’s theory very puzzling. But reflecting on the challenge that left-libertarianism faces—reconciling self-ownership and equality—has helped me to see that there

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44I don’t deny that some who are drawn to left-libertarianism may feel that it is preferable to retain a commitment to luck egalitarianism even if this means abandoning the effort to fully reconcile self-ownership with equality, since some may feel luck egalitarianism has sufficient independent merit as a conception of egalitarian justice.


47Ibid., p. 189.
is a potentially deep and powerful reason for a theory of distributive justice to focus on social cooperation in this way.

Consider two well-known ways of thinking about equality. On the first view, the goods or advantages to be distributed are like manna from heaven, and the only aim is to realize a state of affairs where those goods are equally distributed amongst persons (usually in a responsibility-sensitive manner). Any state of affairs which fails to realize an equal distribution is, in one respect, disvaluable. This is, in Derek Parfit’s terms, a telic conception of egalitarianism. Telic conceptions have nothing to say about the means by which equal distributions are brought about, the focus is only on the end result of realizing an equal distribution.

Luck egalitarianism, as described in Section II, is a telic view of justice: it declares states of affairs to be in at least one way unjust if they contain inequalities caused by morally arbitrary features. Parfit does not say telic theories are necessarily theories of justice, only theories of value, though he allows telic theories can be theories of justice. Luck egalitarianism, I believe, possesses the key feature of telic theories, namely, the claim that equality has not been fully realized or honoured as a value unless a certain state of affairs obtains: one where there are no brute luck generated inequalities between persons.

On a second view, the value of equal distributions does not inhere in the state of affairs itself, rather the value of equality is to be located in the manner by which distributions are brought about. What matters, on this view, is that people treat each other as equals when it comes to the distribution of goods or advantages, and while this will often, if not always, have the consequence of realizing an equal distribution, bringing about this state of affairs is not the point. The point is that equality, suitably construed, requires certain forms of treatment and precludes others. The view I am describing is one version of what Parfit calls deontic egalitarianism. It is deontic because the focus is on how we should act, and not on what states of affairs have value (apart from actions).

Consider the telic view of equality. If we are trying to bring about an egalitarian state of affairs, and people are relatively close in terms of their talent differentials, then obviously we can achieve equality via the right distribution of worldly resources—no cooperation between the individuals needs to occur. But
under most circumstances we face substantial, even massive, talent differentials between persons such that no distribution of worldly resources, on its own, can generate the right kind of equality. Only by inducing individuals to engage in cooperation of some kind (most notably trading labour for external resources) can we achieve the egalitarian state of affairs.

But we then face the issue of how to induce this cooperation. We can sometimes distribute resources such that it will be rational for individuals to trade in a way that also realizes equality, but this is contingent on individuals having certain preferences regarding production and consumption. As we’ve already seen, there will be many circumstances when, as result of individuals’ preferences and/or large talent differentials between individuals, we cannot ensure that individuals will freely choose to cooperate in an equality-promoting fashion. When this is true, we then face the apparently ugly choice between realizing equality at the expense of self-ownership, or vice versa.

One solution is to suppose that equality does not require some egalitarian state of affairs be brought about via cooperation—cooperation that individuals qua self-owners have a right to withhold. Instead, equality might only regulate cooperative activity that persons have freely engaged in. That is, we don’t force people to interact in order to realize an egalitarian distribution, rather we declare that when they interact, they must do so on egalitarian terms. Put another way, if we conceive of the requirements of egalitarian justice as conceptually prior to the issue of social cooperation, then egalitarian justice may require that people trade with one another whether they want to or not, thus generating the conflict with self-ownership. However, if we conceive of the egalitarian principle as one which only applies to acts of trade or cooperation, then individuals can never be required, as a matter of egalitarian justice, to come to the aid of others. This is a version of deontic egalitarianism which promises to reconcile equality with self-ownership.52

Equality, on the view proposed here, regulates the distribution of goods or advantages that we produce together when engaged in social cooperation. A cooperative relationship exists whenever: (a) there is an organized attempt to ensure at least one person benefits from another person’s actions (or inactions), (b) where these actions (or inactions) go beyond the mere respect of self-ownership rights, (c) where these actions (or inactions) are not simply gifts or similar one-off interactions, and (d) where a mutually beneficial set of arrangements is possible.53 So, for example, a cooperative relationship is triggered between Alpha and Beta if Alpha can only successfully farm a bit of land so long as Beta stays off the land. Similarly, a cooperative relationship is triggered if Beta can only protect herself from attack by relying on a wall which

52 Parfit notes that many deontic theories appeal to reciprocity or mutual benefit. See ibid., pp. 94–5.
53 Further details obviously need to be filled in regarding this conception of social cooperation, but I won’t attempt to do this here.
Alpha could construct around the area where they both live. On this expansive conception of social cooperation, all conventional rules regulating private property and trade, the rule of law more generally, and almost all of the benefits associated with the modern legal state are the fruits of social cooperation. These fruits ought to be regulated by an egalitarian principle of distributive justice (I deliberately leave the specific content of this principle undefined) since to do otherwise would be to treat those with whom we interact as less than our equals, as entitled to less than an equal share of goods which we cooperate together to produce. This is a conception of equality that we can call, following Rawls, *justice as reciprocity*.54

Justice as reciprocity ensures that no person is required to come to the aid of any other person in the name of realizing some egalitarian distributive pattern.55 Consider Cohen’s apt description of Rawls’s view:

> the theory constructed in *A Theory of Justice* is proposed for a context of mutual provision in which, although people’s productive powers are different in kind and extent, the activity of each enhances the reward available to all . . . the question answered by principles of justice is not: who should (unilaterally) help whom and to what extent? But: how should the fruits of co-operation, a process in which everyone benefits everyone, be divided?56

Thinking about justice in this way ensures that no person is forced to sacrifice ‘life, limb, or labour’ for someone else.57 Instead, each person is asked to do their fair share in exchange for a fair share when they engage in cooperation with others. There is no obligation to cooperate, only an obligation to cooperate on terms that are fair.

This alternative conception of the *site* of egalitarian justice naturally has implications for the *metric* of egalitarian justice, as well as implications regarding its *scope*, and its *constituency*. Let me briefly say something about each of these issues. First, this view identifies only the burdens and benefits of cooperating with others as the relevant currency of distributive justice. Thus, for example, the brute fact that I am exceptionally good-looking is not part of the metric of egalitarian justice, even if it is the result of my genetic make-up which is in Steiner’s sense a natural resource. However, the fact that I live in a society where others value my good looks, enabling me to become a movie star, is a benefit of living in a cooperative society with others, and thus any income I derive as a result of my movie-star-good-looks can be subject to an egalitarian principle of distributive justice. As Rawls says, it is not my talents themselves which are commonly owned on this view, but rather my place in the distribution of talents

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55Though it doesn’t preclude being required to come to the aid of others for some other non-egalitarian reason.


57Otsuka, *Libertarianism Without Inequality*, p. 32.
that is treated as common property. This makes sense, since I can have no place in a distribution of marketable talents without the other members of that distribution, and without other individuals having the preferences which make that distribution take one shape rather than another. So it is only the goods or advantages that are made possible by cooperating with others that become subject to egalitarian principles. The metric is not the natural resources of the world, since we might benefit from these without requiring anything from others, nor is it the more general metric of welfare which we derive only in part from our interactions with others. The metric is restricted to those things that are specifically produced via systems of social cooperation, for example, the protections afforded by the rule of law, employment opportunities, and a general system of private property which also makes possible the accumulation and exchange of income and wealth.

Second, and relatedly, when there is no cooperation between persons, the principles of egalitarian justice do not apply. That does not mean, of course, that no principles of justice apply to such non-cooperative contexts, only that whatever principles apply, they will be different principles (perhaps more minimal principles precluding certain forms of harm). It seems plausible to me that a principle of distributive equality should not apply in these contexts, but I’ll say nothing in defence of that intuition in this section, though I’ll say something in its defence in Section IV.

Finally, the constituency of egalitarian justice is clearly different on this view than on standard left-libertarian views. Only persons who engage in social cooperation for mutual benefit can be included within the scope of egalitarian principles. People who choose not to cooperate with others, or people who are incapable of cooperating productively with others, will not be subject to the egalitarian rules that regulate social cooperation.

Clearly, objections can be pressed against justice as reciprocity on each of these points (metric, scope, constituency), and I address some of these objections in the following section, but I want to conclude this section by emphasizing why reciprocity-based egalitarianism ought to be appealing to philosophers whose aim is to reconcile self-ownership with equality.

The view proposed here declares that egalitarianism is a principle that applies to our treatment of others. Equality is not a state of affairs that people are morally obligated to bring about. As self-owners we should be free to decide whether or not we wish to cooperate with others for mutual benefit. But if we do

58Rawls, A Theory of Justice, p. 89.
59Note this does not mean that some limited version of luck egalitarianism (or what Rawls calls the principle of redress) does not play a role in formulating what counts as an equal share of the fruits of social cooperation. Clearly, for example, a principle which distributes income and wealth equally despite the fact that the market does not value people’s talents equally is, in one sense, realizing a similar aim as a luck egalitarian principle. The key difference is that in the Rawlsian framework, the principle of redress is only a prima facie consideration which is balanced against others in reaching an overall judgement regarding what fairness requires. See Rawls, A Theory of Justice, pp. 86–7.
cooperate with others, if we try and benefit from the labour or services of others, or if we want to create a system of ownership over the natural world that others will respect, then we owe it to those others to cooperate on terms that are fair. This conception of equality cannot conflict with self-ownership because it leaves each person as the sovereign authority over whether or not to cooperate with others. A principle that regulates the terms of cooperation need not infringe self-ownership in the way that a principle which might demand cooperation as a means to realize a certain state of affairs obviously can. This conception of egalitarian justice can thus be expressed by the following slogan: cooperative activity is not a means to achieve equality, equality is a principle to regulate cooperative activity.60

This picture of egalitarian justice is Rawlsian in one sense, but it is not Rawls’s own view. I am not claiming Rawls’s theory of justice as fairness is in fact a version of left-libertarianism, nor am I claiming that Rawls’s aim was to reconcile self-ownership and equality (this was clearly not Rawls’s aim). The only sense in which the proposal I’ve offered is Rawlsian is that it relies on the idea that principles of distributive justice only apply to the distribution of the burdens and benefits of social cooperation (though I have also defined social cooperation differently than Rawls does). Appealing to this idea of reciprocity shows that self-ownership can be reconciled with an egalitarian principle of distributive justice provided that principle is a deontic one which regulates the terms on which persons cooperate with one another, rather than one which requires people to cooperate in order that a certain state of affairs be brought about.

IV. OBJECTIONS

In this section I briefly consider three different objections to my proposed reconciliation of self-ownership and reciprocity-based equality. Limitations of space prevent me from developing comprehensive replies to each objection (or responding to further objections),61 but hopefully the brief replies offered here suffice to give the reader a sense of why I think each objection fails.

A.

The first objection focuses on the fact that justice as reciprocity will not secure any form of egalitarianism when we face so-called divided world scenarios, that

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60There is a related contrast drawn by Rawls between utilitarian theories, where the idea of society is as a system organized to produce the most good, as opposed to social contract theories, which view society as a system of social cooperation amongst persons which then incorporates various moral ideas, including equality. See Rawls, *Justice as Fairness*, pp. 95–6.

61For my replies to the objections: (1) that reciprocity-based theories cannot be egalitarian because they presuppose an inegalitarian non-cooperative benchmark, and (2) that reciprocity-based theories wrongly exclude the severely disabled or infirm, see my ‘Contractualism, reciprocity, and egalitarian justice,’ *Politics, Philosophy & Economics*, 6 (2007), 75–105.
is, situations where two different groups of people live on different worlds, or
different parts of the same world without the possibility of interaction. Under
these conditions there can be no fact of cooperation between the two groups, and
thus even if one group has access to much more valuable natural resources than
the other group, reciprocity-based egalitarianism fails to condemn this situation
as unjust. Such divided world cases are meant to be clear instances of inequality
and injustice, and thereby serve as litmus tests for any purported conception of
equality.

I have several brief responses to this type of objection. First, divided world
cases do not always elicit firm intuitions, and thus it’s not clear they represent
fixed points in our moral reasoning about distributive justice. Second, we might
accept that the inequality we see in divided world scenarios is bad. What deontic
theories will deny is that divided world scenarios, where there is no possibility of
interaction, are unjust. Because deontic theories focus on human action (or
inaction) they cannot condemn the inequality itself as unjust since there is, ex
hypothesi, no individual action (or inaction) which brings about the inequality,
and thus no individual (in)action which can be condemned as unjust
from an egalitarian point of view. Finally, note that the type of
egalitarianism—telic—which underpins the divided worlds objection is the type
of egalitarianism that I’ve argued poses problems for left-libertarianism’s attempt
to reconcile self-ownership with equality. Telic egalitarianism can always
potentially put self-ownership in conflict with equality, since there is always the
possibility of a situation whereby the only way to bring about an equal state of
affairs is by violating someone’s self-ownership.

B.

The second objection appeals not to hypothetical divided worlds, but rather to
the world we find ourselves in now. A number of philosophers deny that
egalitarian (or prioritarian) principles of distributive justice apply at the global
level.62 One of the reasons these philosophers sometimes advance for denying that
the scope of distributive justice is global is that there is no global system of social
cooperation (in the Rawlsian sense of that term), and since the principles of
justice only apply to the fruits of social cooperation on the Rawlsian view, there
can be no Rawlsian case for global egalitarianism. But what these philosophers
endorse as a conclusion, others cite as a decisive reason to reject the Rawlsian
approach. If the Rawlsian approach denies that principles of distributive justice
apply at the global level in our current conditions, then this is simply evidence of
a fundamental flaw in such reciprocity-based theories.

62See Rawls, Law of Peoples (Cambridge, MA: Harvard University Press, 1999); Samuel Freeman,
Justice and the Social Contract (New York: Oxford University Press, 2007), ch. 8; Andrea
2–39.
My response to this objection is to deny the key premise: I think it’s clear that the current global economic order does represent a system of cooperation (even if not in the technical Rawlsian sense), albeit a system which is currently not regulated by fair principles. It is thus equally clear, according to the version of justice as reciprocity sketched in Section III, that this global order ought to be regulated by principles of distributive justice. Any organized system where some people trade with others, or where some appropriate resources or property and demand those appropriations be recognized by systems of law and protected by enforcement agencies, or where some people are prevented from entering territories on the grounds that those territories are owned by particular political entities, or where some people are prevented from freely trading with others by political entities are clear instances where social cooperation is occurring, or is being attempted and thwarted. I therefore deny what some global egalitarians and their Rawlsian opponents jointly affirm, namely, that reciprocity-based versions of justice do not ground global egalitarianism because there do not exist global practices of social cooperation.63

C.

Whereas the previous objections accused justice as reciprocity of being insufficiently egalitarian, the objection in this section challenges the conception’s claim to respect self-ownership. The objection is that people don’t, as a matter of empirical fact, have the opportunity to avoid cooperative activity with others, and so it is inaccurate to present social cooperation as something which individuals freely engage in. The reality is that we find ourselves enmeshed in complex systems of social cooperation from which it is virtually impossible to escape. So long as individuals lack the ability to exit systems of social cooperation, then any egalitarian principles regulating those systems are just as much of an imposition, and thus just as much of a threat to self-ownership, as any telic conception of equality. In neither case do individuals have the opportunity to avoid the requirements of egalitarian justice, and so there’s a real sense in which individuals are conscripted to the egalitarian cause.

There are at least two possible responses to this objection. First, we could appeal to the idea of hypothetical consent. The principles regulating a liberal egalitarian state would be accepted by all suitably idealized persons, and thus we needn’t be troubled if some actual people refuse to consent to those principles. Rawlsians and other social contractarians might find such appeals to

63There may, of course, be other valid reasons to resist global egalitarianism (e.g. concerns about creating space for considerations of national responsibility), and I take no view on those arguments here.
hypothetical consent sufficient, but this move is unlikely to appease libertarians, for whom hypothetical contracts generally aren’t worth the paper they’re not written on.64

But there’s another way the reciprocity approach could defuse the objection. A certain part of the earth’s habitable land might be set aside for those who wish to avoid all forms of organized social cooperation.65 A person is then free to exit society, along with its egalitarian rules regulating social cooperation and live by their own devices in a state of nature. However, individuals who withdraw from society would not be entitled to an egalitarian share of the earth’s natural resources. The only rights people in this territory would have would be ones generated by self-ownership.66 No one, furthermore, could claim ownership of any more extensive part of the external world other than those parts they are currently using or depend upon for their survival, since doing so would trigger cooperative (and hence egalitarian) relations with others, who would be required to respect these alleged ownership claims over the external world. Finally, anyone entering into that state of nature would not be entitled to the protection of law enforcement and judicial agencies since these are fruits of social cooperation.

If someone does not wish to cooperate, they should be free, as a self-owner, to make that choice, but the choice should carry significant consequences. One cannot expect to continue to receive the benefits of society if one is unwilling to contribute to society on fair terms. Those who want to withdraw cannot complain that they have been deprived of their equal share of anything, since on the account proposed here the only thing to which they have an equal claim is the fruits of social cooperation provided they are willing to participate on fair terms. The choice such individuals face should thus be roughly equivalent to the one Rawls imagines parties in the original position know they face: the general egoism of the state of nature (though constrained by the principle of self-ownership) versus an egalitarian form of social cooperation for mutual benefit. This choice respects people as self-owners, while ensuring that there is a strong incentive for everyone to opt in to an egalitarian social arrangement.

V. CONCLUSION

If the arguments offered thus far are persuasive, does this imply that we ought to reject contemporary left-libertarianism and simply adopt some version of Rawls’s liberal egalitarianism? On this view my article might seem to be in the same spirit

64Otsuka, for example, shares A. John Simmons’ suspicion that Rawls’s commitment to voluntarism (via hypothetical consent) is half-hearted at best. Libertarianism Without Inequality, p. 131 n. 34.
65Otsuka also proposes that left-libertarianism must allow individuals the option of withdrawing from an existing society or state to live in isolation, but his proposal is substantially different than the one offered here. See ibid., pp. 103–5.
66They would, by choosing to enter this area, forfeit the claims they would otherwise have in virtue of being in a cooperative relationship with others.
as Barbara Fried’s recent critical review of left-libertarianism.\(^{67}\) In her review
Fried suggests, among other things, that left-libertarianism is not a successful
alternative to liberal egalitarianism.

This way of framing things, however, misconstrues the question we face. As
Steiner, Vallentyne, and Otsuka make clear in their reply to Fried, left-
libertarianism is not best conceptualized as a rival to liberal egalitarianism—it is
rather a type of liberal egalitarianism.\(^{68}\) The question is not: should we be
left-libertarians or should we be liberal egalitarians? The question is this: what
kind of liberal egalitarians should we be? Unlike Fried, I think left-libertarianism
is one of the most plausible answers to that question. It accommodates a number
of powerful intuitions which many liberal egalitarians share, and it proposes a
reconciliation of those intuitions which, if successful, demonstrates that
egalitarians can embrace a premise—self-ownership—that had previously
seemed to be the preserve of the anti-egalitarian right.

Of course it is true that the way I have suggested we might reconcile
self-ownership and equality deviates in major ways from existing accounts of
left-libertarianism. Most notably, the proposal offered in the latter sections of this
article dispenses with the Lockean proviso. It might also appear to dispense with
self-ownership, and thus simply confirm Fried’s view that under most
formulations of left-libertarianism, self-ownership more or less drops out of the
picture, and so what we’re left with is, as she says, liberal egalitarianism in drag.\(^{69}\)
But this is misleading. It’s false that self-ownership plays no significant role in the
left-libertarian theories of, for example, Steiner and Otsuka. On the
left-libertarian picture, because you own yourself and your labour, you must have
the right to use your body and labour in any way you see fit consistent with the
rights of others. So, if you want to sell your sexual services, you have a right to
do so. If you want to sell your organs, you should be free to do so. If you want
to take recreational drugs, it’s your mind and body to do with as you see fit.
Left-libertarians thus offer a more genuinely liberal theory than those offered by
Rawls and some other liberal egalitarian philosophers whose theories protect
only certain basic rights and liberties (some of which are declared inalienable),
while leaving many other specific freedoms at the mercy of democratic majorities
or perfectionist principles.\(^{70}\) In this respect left-libertarianism seems to me to be
a better version of liberal egalitarianism, one that is more true to the liberal
injunction against all forms moralistic paternalism. I believe any liberal
egalitarian theory ought to reflect these self-ownership rights to use one’s body
and mind as one sees fit, consistent with the rights of others, but the liberal
egalitarian theories of Rawls, Dworkin, and others lack this commitment.

\(^{67}\)Fried, ‘Left-libertarianism.’
\(^{68}\)Vallentyne, Steiner, and Otsuka, ‘Left-libertarianism,’ p. 208.
\(^{69}\)Fried, ‘Left-libertarianism,’ pp. 84–5.
\(^{70}\)The contrast on the issue of alienability is made in Vallentyne, Steiner, and Otsuka,
‘Left-libertarianism,’ p. 212.
So unlike Fried, I think the commitment to self-ownership represents the compelling part of left-libertarianism, not the problematic part that ought to be jettisoned. I’ve suggested that contemporary left-libertarianism’s weakness is rather its conception of equality. As long as left-libertarians embrace a version of luck egalitarianism, they will be unable to achieve a theoretically satisfying reconciliation between self-ownership and equality. Luck egalitarianism, being a telic view, will always put self-ownership in potential conflict with realizing an egalitarian state of affairs. Instead, I think self-ownership is best reconciled with a deontic conception of equality, one that requires the burdens and benefits of our cooperative activity to be fairly distributed. This view of equality coheres with a liberal idea of persons as free, and of society as a form of social cooperation which we freely engage in for mutual benefit, rather than as a means to realizing a morally obligatory distributive pattern. As such, the recommendation in the title of this article is one that applies to all forms of liberal egalitarianism.71

APPENDIX: RESPONSE TO OTSUKA

In this appendix I reply to Otsuka’s claims (mentioned in note 50) that his egalitarian principle is deontic and not telic because it applies only to acts of acquisition over the external world, and that the reciprocity-based conception of justice proposed in this article converges substantially with his own since my conception of what constitutes cooperation is very expansive. I disagree with both of these claims, and below I provide an example which shows that Otsuka faces a dilemma. He cannot claim both: (a) that each person is entitled to acquire an equally valuable share of the world’s resources if and only if they leave enough so that others can do the same, and (b) that this principle is deontic and not telic.

Suppose that Albert and Betty are the only two people in the world. Albert lives in one part of the world, Betty in another part. There is no way for Betty to access Albert’s part of the world or do anything to diminish Albert’s enjoyment of his part of the world (and vice versa). It’s also the case that Albert’s part of the world contains more valuable resources than Betty’s part of the world, and thus Albert has greater opportunity for advantage than Betty. On the conception of justice proposed in this article, the rules of egalitarian justice do not apply in such non-cooperative circumstances, and thus Albert’s decisions about what to do with his share of the world are not constrained by any egalitarian principles.

71This paper was originally prepared for a conference in honour of Hillel Steiner, hosted by the Manchester Centre for Political Theory at the University of Manchester in November, 2009. I was delighted and privileged to participate in that conference—Hillel’s brilliance and generosity are well-known, and I have benefitted from both beyond all measure. The paper was also presented at seminars at the University of Birmingham and the University of Sheffield. For comments and discussions on earlier drafts I’m very grateful to Jethro Butler, Joanna Firth, John Guelke, Joe Horton, Dan McDermott, Tom Porter, Matt Sleat, Tom Sorell, Hillel Steiner, Zofia Stemplowska, Rebecca Stone, Peter Vallentyne, Andrew Vincent, an anonymous referee, and particularly Mike Otsuka, who was the discussant for this paper at the conference in Manchester, and offered comments on multiple drafts.
Albert is, on my view, allowed to appropriate all of his part of the world, even though in doing so he would be appropriating more than an equal share.

Otsuka, I believe, faces the following problem. Either he agrees with me that Albert is not constrained by any egalitarian principle because no cooperation is possible, in which case our views do substantially converge. But if he does agree with me in this way, this conflicts with his egalitarian proviso which states that ‘you may acquire previously unowned worldly resources if and only if you leave enough so that everyone else can acquire an equally advantageous share of unowned worldly resources’\(^7\) I maintain in this case Albert can acquire all of his part of the world, even though he acquires a greater than equal share of the world if he does so. If Otsuka agrees with me, he needs to renounce or modify his egalitarian proviso.

Suppose, however, Otsuka believes his egalitarian proviso does still apply, and so Albert is under a duty to only appropriate an egalitarian portion of the world, even though this means he must leave part of the world to which he has access unappropriated. Since there has been, and can be, no interaction between Albert and Betty, the reason why Albert is subject to the egalitarian duty seems most naturally explicable in terms of a telic conception of equality where the aim is to realize a particular state of affairs. It is, I think, implausible in this case to claim that the requirement that Albert appropriate less of the world than he could do in order to realize equality could be conceptualized in deontic terms. This requirement cannot plausibly be construed as a form of treatment which Albert owes to Betty since she cannot benefit from this action, she can have (we can suppose) no knowledge of this action, there is no sense in which Albert’s actions affect Betty, and Albert makes no claims on Betty.

So, to repeat, I believe Otsuka’s theory faces a dilemma. He cannot consistently affirm both: (a) that each person is entitled to acquire an equally valuable share of the world’s resources if and only if they leave enough so that others can do the same, and (b) that this principle is deontic and not telic.

\(^7\)Otsuka, *Libertarianism Without Inequality*, p. 24.