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The Concept of Nature in Libertarianism

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ABSTRACT

Libertarians are not famed as friends of nature – but is that a matter of principle? I examine consequentialist, deontological and teleological versions of left- and right-libertarianism on three dimensions: their concepts of natural law, geo- and biological nature, and human nature – the latter subdivided into what characterizes humans and what distinguishes them from other animals. Both a positive ‘new world’ as opposed a negative ‘old world’ appreciation of wilderness, and a more consistent appreciation of the human subject as imperfect and not all that different from some animals, can, I will argue, give libertarianism an exceptionally green hue.

KEYWORDS

Libertarianism; nature; environment

Introduction

Ecological thought has made a deep and apparently lasting impact on virtually every tradition in political theory (cf. e.g. Dobson, 2007) with the exception of libertarianism. While left- and right-libertarianism may themselves be marginal political movements (except in the USA), key libertarian concepts have a remarkable influence on economic and legal thought. Especially so-called proprietarian libertarianism has been put to use in the defence of native people’s (intellectual) property rights, already via Nozick (1974) against environmental harm to third parties, and more recently to identify valid and invalid grounds for compensation where natural resources are appropriated and exploited (cf. e.g. Davidson, 2014). And yet libertarianism itself, until recently, escaped the consecutive waves of modernization that made other schools of thought ‘green’, ‘environmental’, ‘sustainable’ and so on. At the very least, libertarianism’s lukewarm interest in ecological thought is an academic (i.e., scientific) problem that calls for an explanation: how do libertarians understand nature, and why that way?

Other explanations exist (some will be discussed below), but the intuitively simplest one would be that libertarianism cannot be green, that it cannot support a positive appreciation of nature. This article investigates and refutes that hypothesis by asking how libertarians conceive of nature – no systematic study of that question has been undertaken so far. In the remainder of this section, I shall distinguish various schools within libertarianism; in subsequent sections, I look at libertarian interpretations of the nature of rights, geo- and biological nature, and human nature, i.e., that which both
characterizes humans and that which distinguishes them as unique. In the section on nature as a geo- and biological phenomenon, I also discuss what it means to be ‘green’, or ecologist (thinking of nature as an ecosystem and attributing something like intrinsic value to it) rather than environmentalist (seeing nature as instrumentally valuable potential resources). In the end, we may conclude that libertarianism as it is today indeed often presumes a fairly shallow conception of nature, but not as a matter of principle. While libertarians of all shades and hues are unlikely to endorse humanity’s return to nature and submission to Gaia, I will sketch two quite viable courses towards a further genuine greening of libertarianism.

**Libertarianism(S)**

It is notoriously difficult to define libertarianism, even if one understands it as a family concept. For that reason, I will limit my characterization of libertarianism strictly to what is necessary in the present context. In continental European literature, libertarianism is often equated with anarchism. I will stick to a predominantly Anglo-Saxon convention that equates it with a preference for minimal government, plus voluntary association, the primacy of individual autonomy and of course the maximization of individual freedom (in so far as others are not harmed, i.e. their equal freedoms violated). While I would hold that one does not have to be a libertarian to embrace the free market, and that one can be a libertarian without making the free market the standard for all social institutions (cf. also Sagoff, 1992) – it is still true that there are exceptionally close ties between predominantly political libertarian and predominantly economic free market theories and theorists.

There may not be one unique libertarian doctrine, there is a libertarian canon, overlapping mostly with that of classical liberalism: Locke (1924/1690) is an example for many, as is the Adam Smith of The Wealth of Nations (1974/1776), rather than the Smith of The Theory of Moral Sentiments (1984/1759), and as is Spencer (1969/1884). Probably the most famous recent sources of inspiration are Friedrich von Hayek (1899–1992), Ludwig von Mises (1881–1973), Murray Rothbard (1926–1995) and Robert Nozick (1938–2002).

A central tenet of libertarianism is, as Vallentyne (2007, p. 187) put it, a ‘concern for individual liberty’, more precisely individual self-determination, above all else. Thus, in any cooperative venture including the state, the notion of consent (actual or rational, whichever protects autonomy most) plays a central role. While (most) libertarians can justify the state as a necessary instrument for the protection of the rights of individuals, they share with anarchists the conviction that autonomy trumps authority every time (cf. Wolff, 1990). Note that self-determination is tied to the classic notion of negative liberty for right-libertarians, while left-libertarians adopt more substantive conceptions of liberty, linking liberty to e.g. autonomy or effective liberty (cf. MacCallum, 1967).

Two further topics on which libertarians are ever more fundamentally divided are initial ownership and ethical foundations. The question of initial ownership distinguishes right- from left-libertarians. While right-libertarians hold that nature, prior to initial acquisition by working individuals, was no one’s property (cf. e.g. Feser, 2005), the distinguishing mark of left-libertarianism (e.g. Michael Otsuka, Peter Vallentyne, Hillel Steiner, Philippe van Parijs) is that it thinks of nature as the collective property of all humanity or those in a given area (Otsuka, 2003; also cf. Wissenburg, 2018). Thanks to this assumption, left-libertarians can express their ‘robust concern for material equality’
Finally, but most importantly, there are deontological and consequentialist libertarians and supporters of virtue ethics. Examples of consequentialists are e.g. the classical utilitarian Miron (2010) and the Millian utilitarian Scriven (1997); virtually all proponents of free market-based libertarianism turn out to be consequentialists. Deontologists include Murray Rothbard (2002, 2006) and the face of libertarianism, Robert Nozick (1974), but also Michael Otsuka (2003) and Hillel Steiner (1994). Deontological libertarians typically formulate their views in terms of rights: not just contingent legal rights but, overruling positive law, first and foremost natural rights (Otsuka, 2003; Rothbard, 2002, 2006). The third school in ethics is represented by otherwise quite incompatible authors like Ayn Rand (1905–1982), Rasmussen and Den Uyl (1991), who defended a broadly Aristotelian foundation for natural rights, and Schmidtz and Zwolinski (2005).

As remarked above, nature was not a particularly hot topic among libertarians until quite recently. While Murray Rothbard occasionally flirted with environmentalist political movements, others remained silent on or even hostile towards the green agenda. If libertarianism and nature are mixed, it is almost exclusively to discuss and promote prudent use of limited natural resources, the classic examples being Julian Simon’s The Ultimate Resource (1981, updated 1996: The Ultimate Resource 2) and Anderson and Leal’s 1991 Free Market Environmentalism. The latter generated an exceptional number of reactions, though again few from within libertarian circles (cf. e.g. Critical Review (1992) and Shahar (2011); see also Hadley (2005), Hale (2008), Pasour (1979), Purdy (2005) and Sheard (2007)). There is only one monograph seriously addressing the compatibility of libertarianism and ecologism: Tal Scriven’s Wrongness, Wisdom and Wilderness (1997), a rule-utilitarian argument for anthropocentrism as a public environmentalist ethic and for ecocentrism as personal wisdom. With rare exceptions like Scriven or Schmidtz and Zwolinski (2005), the recent increased interest among libertarian academics for environmental issues can be characterized as exclusively ‘resourcist’.

And yet, nature is a crucial variable in libertarian thought – in fact three variables. In the next sections, I shall discuss the three dimensions along which, as we shall see, libertarian readings of nature tend to vary: nature as the referent of natural rights; geo- and biological nature as the origin of all physical resources, all artifice and all property; and human nature, both as that which qualifies humans as morally considerable and as that which would distinguish them from other entities, animals in particular.

The Nature of Rights

When libertarians talk about natural rights, the meta-ethical foundation of rights, we find no real link to medieval or older, more substantive conceptions of metaphysical nature or a shared essence of all individual things, nor to a realm of necessity (the apparent opposite of liberty), nor a realm of causation (Spinoza’s natura naturans), nor, finally, a unity of nature of which human nature and trees and rocks are emanations (Spinoza’s natura naturata). Not all libertarians use the concept of natural rights. Those who do, however, seem to think of this meta-ethical nature partly as a negative category, partly as human nature. It is a negative category in that authors use it to distinguish their most fundamental values (universal human rights) from what they are not – and while the
latter category is pinpointed, described, identified, the former remains merely indicated, vaguely sketched.

One of the most widely read (and most controversial) libertarians, Murray Rothbard, illustrates this well. In *The Ethics of Liberty* (2002, originally 1980; cf. also Rothbard, 1970, Rothbard, 1982, Rothbard, 2006), some 25 pages are devoted to the defence of ‘natural law’, more precisely to explaining what ‘a rationally established natural law’ (Rothbard, 2002, p. 3) is not: it is not an attack upon religion and it is not a defence of any religion. The positive definition is vague: ‘acting in accordance with right reason’ (e.g. Rothbard, 2002, p. 7). In a footnote only, Rothbard (2002, p. 3n) quotes the much more informative deontologist Edwin Patterson: natural laws are ‘principles of human conduct that are discoverable by “reason” from the basic inclinations of human nature, and that are absolute, immutable and of universal validity for all times and places’.

The human nature to which natural law refers is, for the most part, a purely mechanical, material phenomenon: the set of properties that, when an entity comes into contact with another entity, determines its reactions (cf. Rothbard, 2002, p. 9). What natural law does is ‘... elucidate(s) what is best for man – what ends man must pursue that are most harmonious with, and best tend to fulfill, his nature’ (Rothbard, 2002, p. 12). But what is best for man? For Rothbard, ultimately anything and any reason goes: ‘... it is a man’s right to do whatever he wishes to do with his person; it is his right not to be molested or interfered with by violence from exercising that right’ (Rothbard, 2002, p. 24).

We shall discuss human nature below; for now, what matters is the observation that meta-ethical nature is basically redundant in Rothbard’s work, as it seems to be for all ‘natural right’ libertarians from left to right (see e.g. Narveson, 2001; Otsuka, 2003; Widerquist, 2009). While some libertarians use the term nature in a meta-ethical context to refer to the foundation of rights, this ‘nature’ represents no deep, substantive metaphysics – but merely a post-naturalistic linguistic convention.

**Nature as Resources**

A second concept of nature present in libertarian thought is that of nature as a geo- and biological phenomenon. While all branches of environmental philosophy have generated or adopted a wide range of interpretations of geo-/biological nature, libertarianism has, with few exceptions, limited itself to the shallowest possible options.

Probably the most fundamental distinction (and measure for ‘greenness’) in environmental thought is that between the ontologies of ecology versus environment, in political thought reflected as ecologism versus environmentalism and in ethics as ecocentrism versus anthropocentrism or intrinsic versus instrumental value (cf. Dobson, 2007; Scriven, 1997; Wissenburg, 1993, 1998). On the one side is nature interpreted as ecology, a resilient yet vulnerable interconnected and interdependent system of living and dead matter, in eternal flux yet constantly pointing towards harmony; on the other stands environment, the set of raw resources and as yet unused or useless goods surrounding humans – a perspective in which the concept and term ‘nature’ is in fact redundant. The ontological dichotomy is fundamental, and presupposed in the correlated dichotomies in ethical, meta-ethical, action-oriented and political discourses. Thus, interpreting nature as (something similar to) ecology is a necessary condition for
the ethical attribution of any sort of value other than that derived from the meaning of nature as a resource, as an object relative to a human subject.\(^3\)

That the ontological understanding of ecology is a necessary condition for its ethical appreciation does not imply that it is also a sufficient condition – obviously, and as illustrated by libertarianism. While only a few libertarians explicitly exclude the ontological possibility of conceiving of nature as an ecosystem, none ever discuss nature as having any value independent of that to individual humans – well illustrated by Hillel Steiner’s words on obligations to future generations:

You don’t need to be an expert in statistical extrapolation to perceive the broad outlines of the threat many current activities pose to the eventual inhabitability of this planet. Nor, therefore, is it unwarranted to claim that present persons have moral duties to conserve the environment for their more remote descendants and to restrict their own standards of living accordingly (Steiner, 1994, p. 259).

There is no real difference here between left- and right-libertarianism. When Murray Rothbard discusses ‘Conservation, ecology, and growth’, he equates ‘left-liberal intellectuals’ with ecologists (2006, p. 301), and reduces their agenda to an anti-growth and anti-materialism campaign (‘For the mass of the world’s population still living in squalor such a cry for the cessation of growth is truly obscene’, Rothbard, 2006 p. 304; see also, 1970). The conservation of natural resources is the only commendable objective one can have; even the fight against pollution is relevant only because it concerns ‘protecting property in one’s lungs, fields, and orchards’ (Rothbard, 2006, p. 319). The same reduction of ecologism to resource preservation, using the same terminology, can be found in the work of other right-libertarian authors like Pasour (1979) and Zwolinski (2014), free-market environmentalists Anderson and Leal (1991), Pennington (2005) and Tomasi (2012), economists Reisman (2002), Bradley (2007), Yeager (1992), DeCanio (1992), Cordato (1997), Simon, (who suggests nature protection adds ‘ambiance’; 1996, p. 191) and MacCallum (2003), and left-libertarians like Hadley (2005) and Sheard (2007). The evidence is indirect: the libertarians’ thundering silence tells us nothing that excludes an understanding of nature as ecology, and little more about this attitude towards valuing nature ‘as such’, i.e. independent of human interests, than that it is apparently irrelevant or – in the case of Simon (1996, p. 565ff.) – misguided romanticism at the expense of human wellbeing.

Jan Narveson is exceptionally outspoken, though (not to say sneering): ‘your particular faith, sensitivities or convictions cannot limit my property rights – I may tear down my house even if it is some famous guy’s birth place, or even if it would harm “ecological integrity” or some such thing that we ordinary folk do not understand’, and: ‘Environmental concern that extends beyond concern for humans is not a matter of right or wrong, but a mere matter of taste’ (Narveson, 1998; cf. for similar sentiments Stroup, 2003).

Despite the strict, in the case of Nagel even harsh, rejection of ecology as an ethical category, libertarianism does not necessarily reject the concept as such. In fact, Tal Scriven argued that nature should be conceived of as an ecosystem because it is more prudent, i.e., makes more sense of current ecological problems; and even though ecocentrism as a social ethics should be rejected, it would still make sense as a cornerstone of personal wisdom (Scriven, 1997). Bruce Purdy moves even further away from the Rothbard-Narveson ‘private conviction’ line; he argues that thinking (ontologically) of humans as part of an ecosystem allows the development of a (moral and legal) notion of ‘ecological harm’ to the individual’s
‘right to undiminished ecosystems conditions’ (Purdy, 2005, p. 34). More can and needs to be said on the consistency of banishing ‘the value of nature’ to the private realm – but not just yet.

On the whole, the libertarian vocabulary reflects a reading of nature as physical resources only. Rothbard refers to ‘natural resources’ (Rothbard, 2002, p. 31; 2006, p. 308) or ‘raw materials’ (Rothbard, 2006, p. 308). Otsuka, carefully avoiding any reference to biology, speaks of ‘worldly resources’ (Otsuka, 2003, p. 17ff.). Narveson once offered a quite picturesque description: ‘state-of-nature real estate’ (Narveson, 2001, p. 93). Steiner varies between ‘land’, ‘unowned things’ and ‘raw natural resources’ (1994, p. 235–6). Only Miron, for whom the protection of endangered species includes the protection of their ‘habitat’, conceives of the habitat of animal and human in richer terms: ‘Economic development can also deplete non-renewable resources such as oil and coal, endanger plant or animal species, or destroy green space and unique natural settings’ (Miron, 2010, p. 71). He remains a resourcist, though; like Narveson, he believes the value of nature is a matter of taste alone: ‘If markets do not protect such species, it simply means that society does not place that much value on their continued existence. But that doesn’t mean that individuals couldn’t pay a premium for their preservation, if they really cared’ (Miron, 2010, p. 69).

Reflection on the character of nature is simply not part of the standard repertoire of libertarianism. The fact that some left-libertarians are willing to include such unorthodox resources as one’s ‘unchosen germ-line genetic information’ (Vallentyne, Steiner, & Otsuka, 2005, p. 209; cf. Steiner, 1994) and ‘talents and propensity for hard work’ (Fried, 2004, p. 86) makes no difference here: nature remains usable, resources. One cause seems to lie in the political agenda of the libertarian community: if, when and in so far as nature has a key role, it is as the medium through which self-ownership, thereby individual liberty or autonomy, is transubstantiated into property. Consequentialist libertarians, often using the vocabulary of welfare economics and public choice, do not even have concepts that represent nature as other than resources or instruments. It is not so much that libertarians want or need to argue that nature has (only) instrumental value, it is that the question of nature’s value is not what concerns libertarians in the first place (cf. Hale, 2008). Their primary concern, the promotion and protection of individual political and economic freedom, forces them to see nature as instrumental, not by definition but ceteris paribus.

Even so, there are moments when libertarians hint at an ethical appreciation of nature that goes beyond mere resources and beyond personal taste, though in an unexpected way. One example can be found in Ayn Rand’s work. According to Gregory Johnson, in particular Rand’s 1943 novel The Fountainhead depicts the natural world as having no intrinsic value, as ‘merely the stuff from which man creates values’ (Johnson, 2000, p. 231; cf., 1999). Howard Roark, the book’s hero, describes it as ‘waiting for the drill, the dynamite and the voice; waiting to be split, ripped, pounded, reborn; waiting for the shape my hands will give them’ (Rand, 1993, p. 16). Nature is incomplete; humans perfect it – as a teleological Rand characterizes a house on a cliff: ‘the purpose for which it had been waiting’ (Rand, 1993, p. 124).

While Rand’s appreciation of nature as wilderness may be traditionally negative, it is still an appreciation of wilderness, not of dead or inanimate stock; wilderness is biology, geography and geology in the absence of active human design, control or intervention.
This is definitely a more substantive conception of environment than that used in the self-ownership/world-ownership debate. It is all the more substantive since Rand contrasts wilderness with an alternative environment: an environment merged with human work into landscape, an artefact which constituent parts may still – within the aesthetical and teleological boundaries set by the landscape – flourish in natural ways. Note that teleological sentiments similar to Rand’s are totally absent in both Rasmussen and Den Uyl’s (1991) work and in more modern combinations of virtue ethics and libertarianism (e.g. Schmidt & Zwolinski, 2005): their interpretation of Aristotelian teleology and human natural ends is devoid of any references to the idea of a life in harmony with nature – not as wilderness and not as landscape.

In an only slightly less literary style, Murray Rothbard expressed the same Randian-Aristotelian sentiment when he used the image of a Robinson Crusoe stranded on a desert island and initially living as a fruitarian to explain the fundamentals of world-ownership: ‘But for almost all of his wants, Crusoe finds that the natural world about him does not satisfy them immediately and instantaneously; he is not, in short, in the Garden of Eden. To achieve his ends, he must, as quickly and productively as he can, take the nature-given resources and transform them into useful objects, shapes, and places most useful to him – so that he can satisfy his wants’ (Rothbard, 2002, p. 30).

What the cases of Rand and Rothbard show is that libertarianism is not destined to embrace only the shallowest appreciation of nature and environment. Yet whether in particular Rand’s position is consistent (as doubted by e.g. Johnson, 1999; Bubb, 2006), and whether alternative but equally substantive conceptions of environment, perhaps even some more appreciative of independent natural processes, fit in the libertarian mould, remains to be seen.

**Human Nature**

Human nature, our third concept of nature next to geo-/biology and meta-ethics, plays two roles in the libertarian drama: one as that which characterizes humans and makes them morally considerable, the other (to be discussed in the next section) as that which would distinguish humans from other entities. In either case, human nature is understood as anything humans have in common as biological creatures, and as usual, libertarians do not discuss most of what characterizes humans but focus only on those propensities and properties that directly support libertarian political philosophy. That humans are mostly bald, bipedal and beakless is irrelevant because it cannot serve as a foundation of natural rights (for deontological libertarians) or of wellbeing (for consequentialists).

According to Steiner and Vallentyne (2007), libertarians have almost universally adopted a ‘choice-protecting conception’ of the nature of rights: it is, in some form or other, the capacity to make choices that justifies the moral considerability of humans expressed through rights (or stakes in the ‘stock’ of wellbeing). While that characterization is correct, it is also incomplete – choice is the lowest common denominator in libertarian theories of human nature. In many cases, the libertarian characterizes humans as by nature possessing individual autonomy, having personality or being persons (Barry, 1986; see also Clark, 1987) – characterizations that combine choice with will, consciousness and rationality.

Choice, Rothbard for example suggests, would be nothing without rationality: ‘And so man, not having innate, instinctive, automatically acquired knowledge of his proper
ends, or of the means by which the can be achieved, must learn them, and to learn them he must exercise his powers of observation, abstraction, thought: in short, his reason’ (Rothbard, 2002, p. 330; cf. Rasmussen & Den Uyl, 1991, p. 65). Michael Otsuka (2003) includes as part of humans’ rationality, universal ethical intuitions that serve as standards for moral reasoning.

Next to choice and rationality, Ayn Rand added ‘will’. In Ayn Rand’s work, man is characterized by ‘volitional consciousness’, the combination of a will and a consciousness controlling that will (cf. Bubb, 2006). Rasmussen and Den Uyl (1991, p. 71) seem to have this same concept in mind when they describe human autonomy as acting ‘from his own knowledge and understanding and thereby [exercising] control and direction over his actions’.

Finally, if the attribution of rights is to make sense at all, it is essential that (conscious, rational, willing, choosing) humans also have physical presence and power, that they have an actual impact on the world outside of their consciousness or imagination. Siegfried Van Duffel (2004) referred to this quality as sovereignty or ‘natural dominion’; it is a necessary condition if rights are to mean anything (cf. also Barry, 1986).

How exactly human nature or the possession of these particular human traits implies natural rights is an entirely different debate for an entirely different occasion – what matters here and now is that they are supposed to be sufficient, first, for man to matter, and second, for man to matter to man. It is, first, the presence of the typically human traits choice, consciousness, will and rationality that makes an existence worth anything to the existing subject. It is, second, (consistent with the ‘modern’, egalitarian conception of natural rights described above) sufficient to imply mutual obligations and rights in the sense that I should respect your existence in (say) volitional consciousness because I value my own and want you to respect that in me. ‘What is implicit in the Lockean and all natural law classical liberal positions, is the concept of an equal liberty – that the only moral justification of the limitation of a person’s liberty lies in the existence of a like freedom of action of others’ (Barry, 1986, p. 13).

Libertarian literature is relatively silent on what else constitutes human nature, again probably because this might seem irrelevant, relative to the libertarian’s primary political concerns. Thus, little or nothing is said on the genesis of preferences, on the existence of and mastery over the passions, on the balance between nature and nurture, on the relation between body and mind, or on the distinction between basic physical needs and all further wants, desires and aspirations. In fact, the attribution to fortune (and to the public treasury) of talents, handicaps and genetic make-up that some left-libertarians embrace suggests that for them, none of these random attributes should be considered part of the essence of an individual. Human nature as an independent realm of causation (cf. Spinoza’s *natura naturans*) is relevant and therefore explicitly discussed; but human nature as a biological or psychological consequence, the (pre)determined automaton part of us, remains a blind spot – to not even mention the notion of a unity of nature of which humans, trees and rocks are mere emanations (cf. Spinoza’s *natura naturata*).

Again, there is an exception. Libertarianism is dominated by deontological and consequentialist ethics, two schools which, while incompatible, exist surprisingly peacefully alongside each other, firmly convinced that the other’s position is really just a special case of one’s own (cf. Miron, 2010). There is, however, a minority group arguing
for virtue ethics or at least an Aristotelian naturalist anthropology and teleology as the backbone of libertarian political ideology. In the past, this group was represented by Ayn Rand (cf. Barry, 1986; Bubb, 2006; Johnson, 1999, 2000); in more recent years, by Rasmussen and Den Uyl (1991, p. 29; cf. Kraut, 1997). In both cases, the flourishing of the human individual through excellence in his or her innate capacities or virtues justifies, and is best served by, a libertarian order founded on the natural right to property, thus guaranteeing maximum individual freedom and maximum room for autonomy and personal responsibility in so far as compatible with those of others.8

‘One is only obligated to restrain one’s actions in such a way that the moral territories of others are not penetrated without permission’ (Rasmussen & Den Uyl, 1991, p. 128).

Humans and Animals

What characterizes humans need not be what distinguishes them from allegedly ‘lower’ beings like animals – or indeed from supposedly ‘higher’ beings like, in Kant’s philosophy, angels, in Nozick’s work aliens, or even robots. Some of the most interesting contributions to libertarianism have been developed in order to limit natural rights (or moral considerability, or eligibility for inclusion in the calculus of wellbeing) to humans – with remarkably little success.

As said above, deontological libertarians prefer a ‘choice-protecting conception’ of the nature of rights over an ‘interest-protecting conception’ (Steiner & Vallentyne, 2007), possibly because the former implies that the subject takes an actual interest in its interests, thus making interests meaningful for the choosing subject. Under the assumption that only adult humans can make choices, the first perspective excludes ecosystems, the weather, children and all other real-existing animals. There are, however, problems with the choice-protecting view. Not only is it based on an empirically dubious assumption (cf. e.g. Garrett, 2016; the Great Ape Project, for example (DeGrazia, 1996), has called into question much of what we assumed distinguished us from apes), but from a philosophical point of view, so-called marginal cases also present fairly disturbing dilemmas. Finally, not all libertarians are deontologists. From a consequentialist point of view, where ‘the capacity for wellbeing is sufficient for moral standing’ (Vallentyne, 2005, p. 403, paraphrasing Bentham), the interest-protecting conception is the more obvious choice – but it is far less easy to limit interests (especially interests in wellbeing) to grown humans.

The libertarian baseline position is to assume that it is self-evident that humans are rational (and are as necessary preconditions conscious and have a will, etc.) while animals are not. The natural rights that humans thereby gain protect them against slavery, forced organ donation, random killing and being used as cattle. Animals, on the other hand, can be legitimately conceived of as resources. Such is, for instance, Murray Rothbard’s attitude towards sea life: ‘Even now there is a simple but effective technique that could be used for increasing fish productivity: parts of the ocean could be fenced off electronically, and through this readily available electronic fencing, fish could be segregated by size. By preventing big fish from eating smaller fish, the production of fish could be increased enormously’ (Rothbard, 2006, p. 315; cf., 2002, p. 29ff.; see also Narveson, 1983, 1986). Fish are livestock, humans are not. Human rationality (et al.) also has disturbing consequences for the status of children: ‘Abortion should be looked upon … as the expulsion of an unwanted invader from the mother’s body’ (Rothbard,
2002, p. 98); but the same premises and logic also leads him to argue, to the embarrassment of virtually all libertarians, ‘... that a parent does not have the right to aggress against his children, but also that the parent should not have a legal obligation to feed, clothe, or educate his children ... the parent should have the legal right not to feed the child, i.e., allow it to die’ (Rothbard, 2002, p. 100). Equally strong though in practical terms usually less radical positions have been defended by libertarians from left to right, like Narveson (2001), Otsuka (2003) and Steiner (‘... minors ... strictly speaking ... cannot have rights’- Steiner, 1994, p. 245).

But let us focus on animals once more. Some libertarians, while remaining extremely skeptical about animal or species rights, admit the hypothetical possibility that they can be given ‘a clear legal and philosophical basis, and not just emotional expression’ (Simon, 1996, p. 457). As among others Graham and Nobis (2007) argued, the absence of the qualities and capabilities that make humans unique do not prove the absence of all interests, needs or (by implication) moral rights of animals. In other words, having reason to protect ‘choice’ in itself does not exclude that ‘interests’ are morally considerable as well. If libertarians however adopt the alternative interest-based view, a threat to humans immediately appears: even if interests are limited to an interest in wellbeing, and even if each non-human can and will experience far less wellbeing than any human, there still are far, far more mice than men – not to mention other beings with an interest in wellbeing (Vallentyne, 2005). Then again, the choice perspective raises the question of our obligations to ‘marginal cases’, humans who temporarily or permanently lack either volitional consciousness or whatever other quality makes humans uniquely valuable. No libertarian would want to argue that natural rights cease the moment someone drops into a coma or worse, simply takes a nap.

Enter Robert Nozick (1974). In between the rock of marginal cases and the hard place of animal numbers, Nozick argued that the distinction between humans and animals is a matter of qualities, context and degree. Choice (rationality, volition, consciousness, autonomy) is not the only set of qualities that characterizes and distinguishes humans, and that justifies the attribution of natural rights. While (for example) sleeping, unconscious or comatose, humans have no ‘choice’; yet we do not take away their right to vote and we do not abuse our advantage to (say) unburden them of their momentarily apparently morally unprotected organs. And we do not do this because other qualities, other aspects of human nature give rise to other moral rights – in the context of sleeping, for instance, due to the continued capacity for sentience, a right to awaken; in all three contexts mentioned, due to being alive, a right not to be killed. Mutatis mutandis, entities possessing those same qualities have by definition the very same rights implied by that quality, be they human, tiger or gnat. While there is more to life (and to the nature of beings) than wellbeing or the quality of sentience alone – allowing for a weighting of qualities and a reduction of the severity of Vallentyne’s paradox of mice and men – it remains true that human nature contains unique qualities, unique both for the species (which is not so remarkable: bats and blind fish have their own unique qualities) and unique in implying extra natural rights over and above those enjoyed by other species.

Nozick admits that moral theory (not just libertarianism) is underdetermined when it comes to distinguishing humans. More research is needed, and that research will also have to find a reply to the question whether a theory allowing for more than one moral
divide between more than two categories of animals might allow one ‘… on the other side of human beings’ (Nozick, 1974, p. 46) – Nozick thinks here of aliens claiming superiority over humans, but one could just as easily make the same case for genetically enhanced humans.

Thus, libertarianism seems anthropocentric but on closer inspection the signals turn out to be mixed. There is a richer understanding of human nature at work in at least some libertarians’ work than one limited to choice (rationality, volition, consciousness, autonomy) alone; human nature can include qualities shared with other entities – identity, capacities for commitment and empathy, even life (cf. Scriven, 1997). For example, Ayn Rand, discussing the uniqueness of ‘man’ (her term; cf. Bubb, 2006; Mack, 2003), initially characterized ‘life’ as the quality that imbues an entity with value, – a position that would, without further qualification, commit her to a form of biocentric ethics – while in later work she developed the notion of volitional consciousness as the sufficient condition for moral considerability, life remaining a necessary condition.

Since libertarianism, especially left-libertarianism, can conceive of humans as biological and not just intellectual creatures, it is not irrevocably committed to anthropocentrism, but remains open to sentientism or zoocentrism. It can understand humans as part of an ecosystem – Scriven argues that this is even the prudent thing to do – but it will always focus on the individual entity as a carrier of qualities that make it morally considerable (e.g. Clark, 1987). It can, in other words, morally recognize individuated parts of nature as fellow users of natural resources, but it cannot recognize the whole as a moral subject – then again, nor can any other individualist ethics (cf. Sagooff, 1984).

Nature: Liberation or Negation?

The overwhelming impression one gets of libertarianism, if one sticks to the letter of the text, is that it has the shallowest of appreciations for nature. There is no explicit acknowledgement even of the fact that nature plays foundational roles in libertarianism, no analysis of concepts, no reflection where (most notably in the case of Rand) inconsistencies emerge. We have also seen, however, that there are traces of more substantive, more robust conceptions of nature under the surface: Rasmussen and Den Uyl’s teleological human nature, the ‘extensionist’ movement towards inclusion of animals in recent years, the increased attention for ecosystem-sensitive prudent resource management, and Tal Scriven’s plea for a deep green appreciation of nature in private. A second conclusion then must be that the libertarian silence on nature is not silence but a whisper rising ever louder, and an accidental rather than necessary silence.

Above, I have already discussed one main reason for libertarianism’s environmental shallowness: not every item can be number one on the agenda of any theorist or school of thought. Libertarianism, a first and foremost politico-economic philosophy, by definition focuses primarily on human political and economic interests. Hence the priority of questions of rights, freedom and self-rule, market and voluntary associations versus the state, natural versus conventional human rights. The liberation of humans takes priority over that of nature. We could call this – slightly ironically – an environmental explanation, since it is a matter of prudent use of limited, often non-renewable resources.

There is an intrinsic explanation too, however. Through the cracks of a ‘resourcist’ discourse, in some authors (e.g. Rand, Nozick, Scriven, Pardy, Vallentyne) as yet
underdeveloped substantive conceptions of nature became visible – flashes promising a potential for a more robust conceptualization of nature. What unites these potentially post-resourcist libertarians seems to be a ‘New World’ rather than ‘Old World’ understanding of (in particular geo-/biological) nature.

Tal Scriven described the Enlightenment understanding of nature as a form of ‘red in tooth and claw’ thinking: ‘… nature, as a whole, is devoid of any teleological ends; it is brute mechanism, holding no good clues about what we ought to value, and, furthermore, it is generally hostile to our legitimate goals as individuals and societies’ (Scriven, 1997, p. 7). In this typically European, Grotian, ‘Old World’ view, we recognize the discourse of strict environmentalism, of nature as physical natural resources waiting to be tamed, killed, cut down, dug up and made useful. Any value or meaning given to this nature is, to use a Narvesonian description, tolerable only as long as that conviction is professed in the private sphere as a personal taste and no more. This (the resourcist) type of libertarianism is and remains anthropocentric, with really no room for duties and rights of nature and regarding nature. Yet, moving substantive appreciation of nature to the private sphere does put it on a par with religion – and weird as that may sound, this might in the end justify actively enforced protection of species and places as, in a secular sense, holy.

Scriven also described an alternative understanding of nature, ‘… a distinctively American understanding of the significance of the wilderness experience and wilderness narrative … revered by a long line of thinkers … The wilderness experience is not a mere escape from the senselessness and fragmentation of modern life (…); it is an opportunity, to use an unfortunately tired phrase, to “find oneself”’ (Scriven, 1997, p. 185). American authors from Thoreau to Leopold have given voice to a nature that is not necessarily an enemy or a thing waiting to be used – the Wilderness Experience:

Everything has a story in the wild, and one that makes sense and has a meaning. These are not the stories of other times and other people fancifully burgled and fenced into the present. These are the stories of real living beings pursuing their own goods. The narratives of Thoreau, Muir, and Leopold are not those of long-gone tribal cultures but, rather, those of serious students of nature and of what science tells us about the interdependence as well as about the individuality of living things (Scriven, 1997, p. 188).

It is this reading of nature that shines through when libertarians focus, for a moment, on nature in another context than that of property rights to be defended against the lazy, greedy and violent. And it is this reading that shows, pace Narveson, that the dominant ‘Old World’ interpretation of nature is just as much a mere ‘special interest’ and a ‘taste’ as any other (including, as Sagoff (1992) rightly argued, libertarian key values that are allowed to rule the public sphere like efficiency or liberty). As long as their political agenda tempts libertarians to focus on resources only, we may expect no ‘New World’ libertarianism-for-nature, and no creative re-thinking of the border between special and universal interests, tastes or preferences.

That said, even a ‘New World’ inclusive conception of geo-/biological nature, thereby a more sophisticated or enlightened understanding of human self-interest, apparently remains one that sees nature as ‘there’ for humans only. Single libertarians can embrace ecocentrism on an individual basis as a moral doctrine, libertarianism cannot – it would then become a prescriptive political doctrine, at odds with liberty, autonomy, voluntary consent and everything else it stands for. But one recent development in political
philosophy may yet make it (even) more inclusive: the politicization of the status of animals. A libertarianism that has the courage to face the weak, innocent and not always rational, the people we sometimes are and usually have to care for, needs a more Hayekian, inclusive conception not just of nature but also of the subject. While moral agency may require qualities unique in, and in actual fact rare among, humans, moral considerability requires others.

With this in mind, it becomes much easier for libertarians to also engage, both in theory and in practice, with such radically innovative ideas as Sue Donaldson and Will Kymlicka’s. In their controversial and exiting Zoopolis (2011), they propose an attribution of different types and categories of political rights to non-humans in alignment with their different qualities as contributors to the political community. Not all animals are equally considerable, not all have the same qualities and needs nor deserve the same rights – but Donaldson and Kymlicka argue that for at least some animals, there may exist what Narveson (1986, p. 203) sees as a conditio sine qua non for animal rights: a genuine collective interest in how they fare.

Once we leave behind the idea that only ‘genuine’ agents who consciously, purposefully wield rights, are morally considerable, we automatically extend the circle of moral concern to include all those who have interests and can be harmed, to whom we can assign rights – all, both human and nonhuman. By implication, more interests count, more subjects can be harmed by the violation of their sphere of action – and thus more, and more varied, legitimate claims to ‘enough and as good’ natural resources have to be weighed. If libertarianism was a theory of the body politic, it now needs to, and can, become a theory of the body ecologic. That way, perhaps even the abyss between the libertarian’s private morality and libertarianism’s political philosophy can be bridged.

Notes

1. For more extensive attempts to define libertarianism and distinguish it from schools like liberalism and anarchism, see e.g. Kymlicka (2002), or Tomasi (2012).
2. As one of the referees remarked, it may well be true that not all parts or incarnations of ‘nature’ can be owned in any conventional sense. For a further discussion of original ownership, see (Wissenburg, 2018). For a creative alternative to original acquisition of resources, based on the (questionable) notions of ecosystem services and ecological equilibrium, see Walshe (2014).
3. I will avoid the fairly technical question whether political ecologism or Naessian deep ecology needs to specifically attribute intrinsic value to nature.
4. For the sake of simplicity, I shall usually omit references to wellbeing in the remainder of this section; claims made here for natural rights-based libertarianism apply to consequentialist libertarianism as well, provided the necessary (and sometimes significant) changes are made. And for the sake of completeness: note that probably all that is said in this section about libertarians applies equally to liberals as a rule, up to and including Martha Nussbaum.
5. For libertarians from Rothbard to Otsuka, it seems that anything goes; any preference is intrinsically legitimate. Only Thaler and Sunstein’s (2003) libertarian paternalism, if it can be called libertarianism at all, questions the validity of ‘original’ preferences.
6. Libertarian literature neither supports nor rejects the validity of the two complementary concepts of body and mind (or psyche); it uses both concepts without prejudice. Belief in the existence of a third party, the soul, is an entirely different matter: the soul belongs in the sphere of personal taste, along with religion, art and other RPGs.
7. A rare exception to this rule is Robert Nozick’s work (1981, 1989).
8. On this topic, the operationalization of state neutrality, as so often on others, the difference between libertarianism and (particularly classical) liberalism seems to be a matter of degrees only.

9. Instead of using the concept of rights, which some authors would want to be enforceable and/or owed to a ‘full’ moral subject, the same claim can be expressed in terms of impersonal duties, i.e., duties owed not to a subject but per se (or in more romantic terms, to oneself or to the universe).

10. I will not offer an opinion here on the relative chances of success for a more sophisticated or enlightened understanding of human self-interest, and for extending the circle of moral relevance to animals, as ‘greening’ strategies for libertarianism. Both paths are open, consistent and compelling.

11. It is also probably true that libertarians (certainly Narveson and Rothbard) felt that environmental problems, if they were even worth being called that, were less urgent. As one reviewer put it, they were not ‘impressed by the notion of an ecological crisis’ and often express ‘a remarkable optimism regarding nature’s resilience and technological inventiveness’.

12. Which can also be traced in the work of three present-day green thinkers engaging with libertarianism: Sagoff (1974) defending the aesthetic value of nature as intrinsically worth protecting; DiZerega (1992) trying to include a broader than instrumental appreciation of nature in an evolutionary liberalism, and Simon Hailwood (2004) arguing for a pragmatic understanding of nature as other having constitutive meaning (and value) for us.

References


