

## **BOOK REVIEWS**

Edited by N. Stephan Kinsella\*

**J.C. LESTER.** *ESCAPE FROM LEVIATHAN: LIBERTY, WELFARE, AND ANARCHY RECONCILED.* NEW YORK: ST. MARTIN'S PRESS, 2000. PP. XI + 246.

One of the many virtues of Jan Lester's excellent book<sup>1</sup> makes the task of the reviewer difficult: It is packed with important and interesting arguments. Just when you think you have grasped one of his claims, this rapidly moving writer has gone on to something else. Only a review comparable in length to the book itself could do justice to all the points raised by this endlessly fertile writer. Here we attempt a much more modest task. We shall comment on only a few of the main arguments Lester presents.

Lester defends the compatibilist thesis that liberty and welfare do not clash as social goals. Quite the contrary, a society that maximizes liberty also promotes welfare to the greatest extent possible. In elaboration of his claim, Lester sets forward distinctive accounts of both "liberty" and "welfare." He also contends that both liberty and welfare, as he understands them, fit well with a concept of rationality developed by the Austrian school of economics. The society that best promotes liberty and welfare, Lester further maintains, is one of libertarian anarchy. In it, private agencies, rather than a central state, provide law and order.

We must here apologize: We have said that the author "defends" certain views, but this does not have the connotations that readers might expect. Lester does not offer arguments in support of the views

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<sup>1</sup>We ought to say that one of us read a manuscript version of the book, many years ago, as Lester generously acknowledges (p. x).

just canvassed, i.e., he does not claim that self-evident or plausible premises entail these views. He is a follower of Karl Popper; as such, he advances various theses and endeavors to subject them to the most severe tests he can devise. If Lester is right, then, he has not “justified” the compatibility thesis, since to attempt such a task is to fall victim to a false picture of the nature of inquiry. He has instead shown that the compatibility thesis survives critical scrutiny.

Lester differs in yet another way from most philosophers concerned with political affairs. He does not advance his compatibility thesis as a proposition of morality. Moral arguments in political philosophy generally arise over conflicts between liberty and welfare: Which of these, and in what circumstances, should take precedence? Since Lester’s compatibility thesis denies that this sort of conflict exists, no need for moral argument of this kind arises:

A moral defense is necessary only insofar as critics have moral ends that trump both human liberty and human welfare. Such critics are rare and can have little effect in practice. (p. 4)

Given Lester’s commitment to Popperian views, we do not propose to evaluate him by standards alien to that form of thought. We shall not ask whether the compatibility thesis is justified. Rather, we shall see if he has followed his own directives. Does he “conjecture theories that are as bold as possible and then attempt to test them rigorously”? (p. 5) When a Popperian speaks of a test, he has in mind an effort to refute a conjecture. Popper and his school reject induction; they do not believe that “confirmations” of a hypothesis increase the probability that it is true.

A danger threatens prospective Popperians, one that we contend that Lester has not altogether avoided. People often do not like to surrender their pet views even when evidence seems to show them false. Faced with facts that contravene their theory, they endeavor to explain away the recalcitrant data. One way to do so is to devise an auxiliary hypothesis. This, combined with the original view, defuses the force of the counterevidence. However, salvation is bought at a price: The new, combined hypothesis is usually less bold than its predecessor. Someone who takes this course stands in danger of making his hypothesis immune from refutation.

An example will clarify what we mean. Darwin’s theory of evolution maintains that present-day types of animals descend, with modifications, from earlier types. If so, we would expect that transitional

forms should be found between the ancestral animals and their successors, but these have not always turned up. In response, Darwinists suggest that the fossil record is incomplete. They may well be correct to claim this; indeed, according to prevailing scientific thought, they *are* correct. But the new claim makes the original hypothesis less bold. When does adding auxiliary hypotheses go “too far”? No fixed formula tells us this; the matter calls for judgment. We shall endeavor to show that Lester sometimes falls into methodological sin on this score.

We must first embark on a detour. Lester’s discussion of rationality involves little reference to Popper. On this topic, he defends the views of the Austrian school. Certain propositions about action are either tautologies or in some other way known *a priori* to be true.

However, this apriorism is not viciously vacuous or in any way a threat to the scientific nature of economics. On the contrary, it is an enlightening apriorism that allows fruitful economic analysis to proceed. (p. 45)

If Lester is right about the Austrian view of action, though, does this not throw into question other parts of his project? If truth about action can be attained by conceptual analysis, why not in other subjects as well? Perhaps there are logical connections between liberty and welfare that can be known *a priori*. It is not at all evident that one must follow the Popperian view that one’s theory is, at best, a conjecture that has survived testing. To ask this question is of course not to show that an *a priori* method in philosophy works.

Rather, our point in raising the issue is this: Popper’s view that theories are conjectures rests on his rejection of induction. No finite number of observations, he holds, can show true a statement that claims universal truth.

As Hume showed, it is logically impossible to support a universal theory with evidence. All corroborating evidence, even if accurate, is an infinitely small proportion of what the theory predicts. But one counter-example shows a universal theory to be false. Thus the only rational way to pursue truth is to conjecture without supporting evidence and then deliberately to seek refutation. (p. 136)

But this view rests on the contention that nature does not disclose necessary relations to us. Why must we import this metaphysical doctrine into philosophical analysis? If philosophy is an *a priori* discipline, Popperian doubts about induction do not confine us to the conjectural. We suspect that Lester would answer this with a distinction. Conceptual

analysis may lay bare a structure, but whether this structure applies to reality brings us back to the realm of conjecture and refutation. Is this contention correct? We shall not pursue the question further here, but it seems to us that Lester has too readily jumped from a point about scientific accounts of the physical world to a claim about philosophical arguments.

Lester's view of action differs from that of Mises and Rothbard in an important particular. A basic theorem of praxeology is that an actor always chooses his most highly valued alternative, of the actions available to him. In this sense, the actor aims to maximize his utility, but "utility" is understood here in a purely formal sense. Mises does not claim that everyone is out to maximize certain pleasant sensations, or minimize painful ones. Lester maintains exactly that:

When one desires or wants to do, one has utility (felt satisfaction, in a very general sense) at the thought of having, achieving, or doing. This requires *conscious* . . . desires to motivate us as agents. (p. 47)

Lester contrasts his view with the less exigent claim that only an order of preferences is required for action. He rejects this latter view: Without feelings of desire, measurable roughly in cardinal terms, "we are left without the notion of conscious beings" (p. 48).

Here we must avoid a misunderstanding. Lester's view is not that the actor considers the available alternatives and selects the one that he now thinks will produce the greatest amount of pleasant sensations in the future. Rather, he thinks that the actor will choose the alternative, contemplation of which *now* arouses in him the most felt satisfaction.

Lester is right that in order to act, one must be conscious of what one is doing, but why is felt desire a necessary condition of being conscious in the required fashion? Why is it not enough if one recognizes a reason to act in a certain way? Suppose, to use a famous example by Thomas Nagel, that someone buys a loaf of bread because he thinks he will be hungry tomorrow. Why must his act of purchase be accompanied by feelings, e.g., anticipatory hunger pangs? It hardly seems part of the concept of action that feelings must always direct a choice; at best, this is a hypothesis, and, we think, an implausible one.<sup>2</sup>

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<sup>2</sup>Thomas Nagel, *The Possibility of Altruism* (Oxford: Clarendon Press, 1970), pp. 29–30.

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Lester wishes to show the compatibility of liberty and welfare, but it soon transpires that he has a conception of liberty very different from that held by most libertarians. He rightly says that libertarians characterize liberty as “people not having constraints imposed upon on them by other people” (p. 57). But he does not seek to define these constraints by reference to coercion. Instead:

Liberty is here formulated as people not having a subjective cost initiated and imposed on them (that is, without their consent) by other people. . . . Liberty is the absence of imposed cost. In the event of a mutual clash of imposed costs, observing liberty entails minimizing imposed costs. . . . A “subjective cost” is, roughly, the loss of what one wants; a “benefit” is a gain. (pp. 57–58, emphasis removed)

At first glance, this conception seems grossly mistaken, but Lester launches a sharp counterattack against the criticism he is right to anticipate. He considers this case: A society in which the majority of people profess a certain religion has a small minority who oppose this religion. If those in the majority are sufficiently upset, can it not turn out that the cost-minimizing policy requires that the dissenters be suppressed? But surely this violates liberty, as we ordinarily understand it. For example, consider novelist Salman Rushie:

[He] is supposed to have greatly offended many millions of Muslims by criticizing, or satirizing, their religion. . . . Perhaps his presence is now so great a cost to so many Muslims that those offended have an imposed-cost-minimizing claim to take his life. (p. 66)

Before we look at Lester’s ingenious response, two preliminary points require attention. First, we can eliminate the issue of provocation by the minority. Suppose that Rushdie had not written his novel, but that a large number of Muslims was upset by the mere fact that he did not adhere to that religion. Exactly the same problem arises as the one Lester considers.

Further, our modification of Lester’s example shows that Lester’s distinction between harm and benefit faces collapse. In ordinary terms, we would think that Rushdie’s failure to profess the Muslim faith does not harm Muslims: At most, it fails to confer the benefit they would obtain were he to join them. But if the Muslims find upsetting Rushdie’s refusal to confer on them the benefit of his conversion to their faith, they are harmed.

Lester recognizes this point. He says, “Others’ benefits impose no cost on use except insofar as we feel unavoidably covetous or envious”

(p. 77). It would not be plausible to answer that Lester here means only a benefit to someone else, i.e., that he does not acknowledge that your feelings can convert the failure to confer a benefit on you into harm. In the case Lester considers, someone's failure to share water from his well makes his covetous neighbor upset, thus harming him. Here, precisely the failure to benefit someone becomes a harm to that very person.

Our author's first response to the challenge seems weak. If Rushdie angers the Muslims, they have only to change their feelings, and all will be well.

A first thing to notice is that people can more or less control their emotional response to mere opinions—especially in the long term. The angry Muslims more or less chose to react angrily. (p. 66, emphasis omitted)

Here Lester has simply helped himself to a convenient auxiliary hypothesis. Faced with the objection that his conception of liberty arrives at an implausible result, he produces out of thin air a hypothesis that, he hopes, will defuse the counterexample. In so doing, does he not render his conception immune from falsification, just as Popperians are not supposed to do?

But are we here too severe on Lester? As we have earlier noted, is it not a common occurrence for a scientist to add an auxiliary hypothesis to his initial theory? If Darwin can do so, why not Lester? The addition of the new hypothesis usually makes the original conjecture less bold. Previously, we conjectured that X is true, *simpliciter*: We now conjecture that X is true, if Y. But is not the price sometimes worth paying? We suggest as a criterion for an auxiliary hypotheses that it itself be a conjecture that has survived testing.<sup>3</sup>

Our suggestion can usefully be compared with Popper's own:

As regards *auxiliary hypotheses*, we decide to lay down the rule that only those are acceptable whose introduction does not diminish the degree of falsifiability or testability of the system in question, but, on the contrary, increases it.<sup>4</sup>

Lester has met neither our requirement nor Popper's, and his auxiliary hypothesis suffers from a further failing. Contrary to what he says, it

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<sup>3</sup>Note that this criterion is recursive. If the auxiliary hypothesis avoids refutation only through bringing in another auxiliary hypothesis, this one must also have survived efforts to refute it, etc.

<sup>4</sup>Karl Popper, *The Logic of Scientific Discovery* (New York: Basic Books, 1959), pp. 82–83 (emphasis in original).

seems to us that emotional responses to opinions often resist efforts to alter them. But let us grant Lester his claim. Suppose that the Muslims could extinguish their ill feelings about Rushdie and his book. Why are they obligated to do so, on Lester's principle of minimizing imposed costs? That principle says nothing about people having to change their views about harms to them, and to require someone to adjust his preferences in this way seems open to counterexamples. Is a rule that requires everyone to become a vegetarian required by liberty, if it turns out that meat eaters could easily alter their preferences about food, but vegetarians cannot expunge their feelings of revulsion at the thought that some people eat meat?

Even if the principle of liberty discounts people's "controllable" preferences, why is it the Muslims rather than Rushdie who must change? Might it not be easier to induce Rushdie to curb his (surely voluntarily adopted) preference for writing novels designed to provoke his readers than to demand that several million Muslims change their reactions?

Lester's second response to the Rushdie counterexample seems at first sight better. Even if doing away with the unpopular novelist minimizes imposed costs in the short run, bad results will ensue.

But there are general consequences of admitting, and institutionalizing, the principle that taking offense at a voluntary communication . . . can become a justification for imposing restrictions on people. Any serious consideration of the universalized effects must reveal a system that would itself be a huge cost-imposition. It would undermine any toleration and stoke up mutual hatred all round. Non-Islamic people could similarly choose to work themselves into a frenzy about the opinions expressed by certain Islamic leaders. (p. 67)

Lester seems to us on firm ground in thinking that a general rule allowing any offended group to suppress people who disturbed it would quickly lead to disaster. But this is not what we have here to consider. In the Rushdie example, a very large number of people are greatly upset by the statements made by one person. We should consider a rule tailored to *this* situation, not the "anything goes" principle of suppression that Lester considers. It is not at all evident that this more restricted principle would "undermine any toleration."

To this, Lester might reply that the principle could not be thus limited. But why not? Lester has once more helped himself to a convenient auxiliary hypothesis. Once more, though, let us give our author what he wants. Let us suppose that a limited principle of suppression

of offensive speech would, in time, collapse into an unacceptable rule. What then follows?

According to Lester's principle, we are to minimize imposed costs. Is not a natural reading of the principle to take it as saying that at each time the principle is in effect, one ought to minimize imposed costs at that time? If so, then offensive speech should be suppressed up to the point at which the attempt to do so no longer minimizes imposed costs. Why should the fact that suppression will *in time* lead to bad results prevent us from applying it *now* when it has good results?

Lester may respond that future consequences should be weighted more heavily than this. If suppression of speech will eventually produce bad consequences, that alone suffices to rule out this policy now. But why should future consequences count for so much? Lester, should he take this line, owes us some account of how present and future consequences of a policy are to be assessed.<sup>5</sup>

If, finally, Lester answers that suppressing speech, even under the restricted circumstances we are considering, would immediately lead to disaster, has he not helped himself to yet another auxiliary hypothesis to prop up his case?

Our author next proceeds to an account of welfare. If we understand welfare as preference satisfaction, then, he claims, a society that follows his principle of minimizing imposed costs will maximize welfare. Lester, unlike Mises and Rothbard, maintains that interpersonal comparisons of utility are possible.

Lester discusses in considerable detail various objections that John Rawls, Bernard Williams, and Amartya Sen, among others, have raised against preference utilitarianism, but in our view he has not successfully met a key objection to his thesis. This we can present in brief compass, as it is a variant of a criticism that has already been offered

Let us return once more to Salman Rushdie and the Muslims. We contended previously that the subjective costs that Rushdie's unbelief imposes on a large number of Muslims might require, on Lester's minimizing imposed costs principle, that Rushdie be silenced or done away with altogether.

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<sup>5</sup>A classic account, in many respects never surpassed, of some of the problems in assessing long-term consequences is contained in John Maynard Keynes, *A Treatise on Probability* (London: Macmillan, 1921).



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We have only to modify the case slightly to have a counterexample to Lester's thesis that minimizing costs maximizes welfare. Here, we first suppose that the Muslims, as Lester wishes, dissipate their angry feelings toward Rushdie, so allowing him to live satisfies the minimizing costs principle. It transpires, however, that the Muslims would be made extremely happy by Rushdie's demise. No doubt, his life is worth more to him than the satisfaction his death would provide to any small number of his religious antagonists. But there are so many among this group that their total satisfaction outweighs Rushdie's reluctance to give up his life. In this case, minimizing imposed costs and maximizing welfare lead to different results: Lester's harmony thesis is *prima facie* refuted. In addition, Lester's account of welfare, taken by itself, leads to a counterintuitive outcome, so it also stands refuted.

What has he to say against this? Again he appeals to indirect consequences. He considers a case in which a million Nazis want to kill one Jew. To show that preference utilitarianism does not endorse the murder, he says:

We would have to appeal to the indirect consequences of allowing any sufficiently large majority to persecute a sufficiently small minority. (p. 159)

Once more, Lester has simply helped himself to a convenient auxiliary hypothesis. The case he has described would, absent certain assumptions about indirect consequences, show false his thesis about welfare. Therefore, we may regard as true these assumptions about indirect consequences.

Is this not a textbook case of what Popper terms an immunization strategy? Concerning arguments of this type, "let us not speak of these, but pass on."<sup>6</sup>

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<sup>6</sup>Dante, *Inferno*, III, 51.