

NOTES AND REPLIES

Rejoinder to Slenzok on Covid Once Again

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Keywords: COVID, libertarianism, modesty

<https://doi.org/10.35297/001c.142307>

Journal of Libertarian Studies

Vol. 29, Issue 1, 2025

In Block (2020), I took to task several otherwise excellent libertarian theoreticians who, I thought, jumped the gun in their analysis of COVID. They took an adamant position on how contagious it was, its seriousness, and other biological issues far removed from their expertise in political philosophy. In Slenzok (2021), this knowledgeable commentator criticized my views in the publication that started this debate, Block (2020). My turn came in Block (2022), which was responded to by Slenzok (2023), the article to which I am now replying. He rejects my analysis on two grounds: First, I employ and rely upon “a manifestly irrelevant thought experiment.” Second, my notion of libertarianism is extremely parsimonious and unduly obviates “empirical circumstances.” The present article offers my defense against these two very thoughtful criticisms. Along the way, I comment on several other issues that are hopefully of interest to libertarians.

It is an honor and a pleasure for me to join one of the brightest libertarian theoreticians in an attempt to get that proverbial one-millionth of an inch closer to the Truth with a capital *T* on the correct analysis of COVID from the vantage point of the political philosophy we both share. This author and I certainly agree on his depiction of libertarianism, which is based on the nonaggression principle and private property rights, predicated in turn on initial homesteading and subsequent voluntary arrangements.

We shall be discussing the universal antipandemic restrictions (UAPR), so perhaps it is good to start with a definition taken from the Guild for Human Services (Clontz 2020): “Cover your mouth when you cough or sneeze, using a tissue or the inside of your elbow. Wash your hands for 20 seconds with soap and warm water frequently and use hand sanitizer. If you have a fever or feel sick, stay home and call your healthcare provider. Clean and disinfect frequently touched surfaces. Get the flu vaccine, it’s not too late!” Professor



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Slenzok begins as follows: “It is these owners and only they who are in a position to stipulate who is permitted to roam their properties and under what conditions (including health-related ones).” This sounds reasonable from the libertarian perspective to which we both adhere, at least initially. But a moment’s thought will indicate that matters are not quite so simple and direct. Suppose there is an open window in this owner’s house and he or one of his guests sneezes. As a result, someone twenty miles away catches a disease. Given this possibility, it is unclear that the owners are fully free to, as he writes, “stipulate who is permitted to roam their properties and under what conditions (including health-related ones).”¹

Mainstream economists will call this a “market failure” of externalities. But we know better, thanks to Rothbard (1982). In his very correct view, that sneeze would constitute a trespass of particles containing germs—a rights violation. The owner of the house would not be acting fully within the bounds of libertarian law by harboring such a tortfeasor. The forces of law and order, whoever they are,² would be entitled to impose UAPR on the owner of this house and the sneezing guest.³ Slenzok responds to this modest libertarian proposal of mine as follows: “Correlatively, everybody else, members of the state included, is duty-bound not to interfere with their decisions. Thus, UAPR covering those venues are patently unjustifiable.” This learned scholar and I thus depart from one another on this matter.

Now, suppose, instead of the sneeze emanating from a privately owned home, it occurs on public property, terrain that has never been homesteaded. In my view, the same conclusion follows. The police, whoever they are, have a right, a duty even, to compel the sneezer to discharge into a plastic bag⁴ instead of letting loose virus particles into the air and into the bodies of others. Again, I believe the UAPR is justified, even if it includes compulsory vaccinations.⁵

My libertarian colleague and I diverge on the following statement of his as well:

Second, if a property has no identifiable rightful owner, no one possesses a right to stipulate the terms of its use. Consequently, no one has a duty not to use it, meaning that everyone, healthy or sick, inoculated or not, is at Hohfeldian liberty to use it (see Hohfeld 1913). As I tried to demonstrate in detail, so-called

1 Unless otherwise mentioned, all quotes in the present article are from Slenzok (2023).

2 These would be a government, in the case of minarchist or classical liberal libertarianism, or a defense agency, in the case of anarcho-capitalism.

3 Let us assume, *arguendo*, that it functions efficaciously and has no negative side effects.

4 Or some such other device that protects other people.

5 They must, however, be effective and without any negative side effects. If these stipulations are relaxed, we enter a gray area of continua, the examination of which is beyond the scope of the present article. But on this matter, see Block and Barnett (2008).

public property (i.e., locations arrogated to itself by the state) typically falls into this category of no-man’s-land. Therefore, the state (and everyone else) has a duty not to impose UAPR that extend to public property, since to do so would be to infringe upon individuals’ self-ownership rights.⁶

I find this highly problematic. If we take what he says here literally (and how else should we take it?), in addition to sneezing and spreading communicable diseases on public property—that is, unowned, or owned by the government—one would be entitled to engage in murder, rape, kidnapping, theft, or any other such illicit mayhem and criminal behavior. Surely, this is not what so insightful an author as Slenzok meant to say. I regard this as no more than a typographical error on his part.

Slenzok draws a parallel with the open borders position on immigration. I have never considered this analogy before, so I am grateful to him for mentioning it. Strangely, our author cites Hoppe in support of this type of analysis. I think we have in effect another typographical error here, since Hoppe is not at all a supporter of open borders—rather, the very opposite is true.⁷

States my libertarian partner, “My being free to light up a cigarette in my own apartment would be an instance of such a vested liberty protected by a claim-right (my ownership right in the apartment).” Yes, true—however, there is a contrary-to-fact conditional here, so beware: if the secondary tobacco smoke can be proved harmful enough,⁸ then all bets are off. The law that limits this otherwise nondebatably right would be a just one.

I find Slenzok, here, back at the same old lemonade stand: “Yet at the same time no one is entitled to show up where others have already gathered expecting this or that form of protection from possible contagion. It is to this degree that their liberty to roam is naked.” The key word here is “where.” Yes, if someone marches up to a sick person whose exhalation can be infectious at a distance of two feet, then the marcher may not legally complain of the contagion. But suppose this person locates himself twenty miles from the COVID carrier, all on public and thus not rightfully owned property, and, we stipulate, contracts this disease from him. Then, assuming we have at our

⁶ Unless otherwise indicated, I omit Slenzok’s footnotes when I quote from his essay.

⁷ The following libertarians make the case for restricted immigration: Brimelow (1995); Huerta de Soto (1998); Hoppe (1999, 2001b, 2001a, 2002, 2004, 2006, 2014, 2015, 2018, 2021); Hospers (1998); Kinsella (2005, 2009); Bionic Mosquito (2015d, 2015c, 2015b, 2015f, 2015g, 2015e, 2015a, 2016); Rockwell (2015); Rothbard (1994); Ruark (2014); Taylor (1998). For libertarian arguments for open borders, see Block (1998, 2004, 2011a, 2011b, 2013); Block and Callahan (2003); Gregory and Block (2007); Hornberger and Ebeling and Hornberger (1995); Todea (2010).

⁸ It cannot be, insofar as my limited knowledge of this matter stretches.

disposal an injection that will cure COVID with no negative side effect, the forces of law and order would be justified in compelling this health menace to submit to that medical treatment, Slenzok's contrary view notwithstanding.

Our author is very much on point when he asserts "that the existence of the public domain is in and of itself a breach of rights does not entail that the state may add insult to injury by committing further rights violations within that domain." The issue, however, is this: Is an effort by the forces of law and order to reduce or eliminate the spread of diseases such as COVID by compelling injections legitimate or not? My take is that it is easily possible to concoct a scenario in which it is. Thus, there is nothing per se impermissible, on libertarian grounds, for doing so.⁹

My colleague and I are on opposite wavelengths when he writes, "And this is precisely what happens when government coerces people into not doing things they are at liberty to do (e.g., walk unvaccinated. . . through a public park)." Yes, ordinarily, this is entirely correct. Slenzok, however, writes as if this could never be the case—but surely it could be. It is easy to describe an entirely made-up scenario in which it would not only be justified for the police to do exactly this but would be their clear duty to do so. The nonaggression principle is a serious consideration. Yes, it can be violated by the usual suspects—murder, rape, kidnapping, and theft—but this basic foundation of libertarianism can also be violated by the spread of communicable diseases. Nor is this a matter of mere prudence, as our author suggests. My point is clearly deontological, so I share Slenzok's disdain for basing libertarian theory on prudence.

Slenzok is kind enough to quote me as follows: "Anyone who refuses a jab of it, which works perfectly and has no negative side implications, is in effect a mass murderer. Are the forces of law and order justified in imposing UAPR on every last person on the planet? Absolutely" (Block 2022, 265). He objects to my view because he is talking about an actual COVID case, while I certainly was not. He goes so far as to put this point of his in italics, lest there be any misunderstanding about it.

My response is twofold. First, and most importantly, there does not seem to be much of a gap between our views on these matters. We both agree that, yes, under these heroic and very unrealistic assumptions of mine, compulsory UAPR would be justified. We are also on the same page as regards actual COVID: mass compulsory inoculation is certainly not justified.

⁹ I am sure it need not be said—but I will say it anyway—that this does not at all mean I support in any manner, shape, or form the actual policies of the US government during the COVID outbreak.

Second, and less importantly, it is not clear why this author saw fit to quarrel with what I said in Block (2020) about his (2021) article. In my original essay of 2020, I was intent only upon demonstrating that it would not be a *per se* violation of libertarian theory to concoct some wild-eyed version of the mass-murder-through-exhalation scenario. Now, it has belatedly turned out, after Block (2020, 2022) and Slenzok (2021, 2023) that there is no real disagreement between the two of us, at least on this one point crucial to the debate.¹⁰ Hey, I was the first to start in on this issue. Slenzok is a Johnny-come-lately to the series. So, it is not for him to claim that I am changing topics midstream. This criticism applies to him, not me.

According to this author, “like the flu or the ordinary cold, COVID is contracted via proximate contact with a carrier, which in the vast majority of cases takes place *within* the boundaries of property domains. Therefore, my argument—as a case against *anti-COVID* policies—stands firm.” Slenzok is entirely correct here, but we are like ships passing each other in the night. I never denied that property owners have the sole right to determine what occurs *within* the confines of their own property—that is what private property rights are all about. I was making a point about rights violations that cross property boundaries. I was correcting libertarians who maintained that under no circumstances would compulsory injections be justified under the libertarian code. They, not Slenzok, are mistaken in this regard.¹¹

I am delighted to return, once again, to claims on which Professor Slenzok and I actually disagree.¹² I refer to his charge that I am too agnostic about COVID. I am aware of the intellectual power that my learned friend brings to this criticism, and I congratulate him upon it, but I must demur. Surely, libertarians qua libertarians are invincibly ignorant about the facts of contagion, biology, and epidemiology. And they were certainly ignorant about COVID in its early days—but so were experts in the field. Thus, we are necessarily limited to “if . . . then” statements. *If* the disease is such and such, *then* and only then does solution X fit the libertarian bill—however, if COVID is the disease, then Y is the conclusion of our beloved philosophy.

Slenzok is quite right to bring in Austrian economics to make this point. But I fear he takes a wrong step in his analysis. Take the minimum wage law: We are never in a position to assert that if such a law is enacted, or if the minimum wage is increased, then (more) unemployment will ensue. We can only do so *ceteris paribus*. But this is precisely the sort of “agnosticism” I am urging upon libertarians. I wrote Block (2020) because too many libertarians

¹⁰ If I am correct in this interpretation, I still think this series of articles was beneficial. My partner and I are wrestling with highly complex issues, and several other points of interest to libertarians were raised therein, such as getting to the roots of rights and their violations, private property, public property, harm, and continua.

¹¹ See my original contribution to this series, Block (2020).

¹² It is difficult to engage in a debate with too much agreement!

were pontificating about COVID. They were not saying anything of the order of “if such and such prevails, then the libertarian position is such and such.” They were going out on a limb, way out on a weak branch of the tree, and thus embarrassing our freedom philosophy. This would apply to any Austrians making similar prognostications. They would bring praxeology under ill repute. Praxeologists qua praxeologists do not properly bet on future economic events. That is because our entire science is predicated upon *ceteris paribus* conditions, which *never* prevail.

Consider what our good professor says here: “To make sense of, for instance, the Great Depression, the *a priori* alone will not do. In the first place, the economist needs to know that the crisis occurred. Before harnessing the Austrian business cycle theory, he also needs to find that in 1929, institutions such as fiduciary media and fractional reserve banking were in operation. Then and only then can he apply his deductive theory to those realities.” There are problems here. First, there is a false analogy: The libertarian, again qua libertarian, knows nothing about contagious diseases. But the same cannot be said about the Austrian economist, qua dismal scientist, regarding fiat currency, fractional reserve banking, interest rates, and cycle theory. Second, praxeologists qua praxeologists are indeed agnostic when it comes to predicting the exact turning point of a cycle. That is a matter of empirical reality, about which the Austrian has no inner track. If he did, he would be far richer than he now is. Mises once told his wife something to the effect that he knew quite a bit about monetary theory but, alas, would never have a great amount of it. Mises was properly agnostic; Slenzok, unhappily, does not follow him in this regard. John Maynard Keynes, on the other hand, had a dismally incorrect theory of the business cycle yet was able to amass a fortune on the stock market. The two do not necessarily go together. When Austrian economists make predictions about the real-world economy, they do not do so qua praxeologists.

The same is true of libertarian ethics. No truer words were ever written than these, by my debating partner: to make an accurate moral judgment in a concrete situation, the libertarian has to (1) correctly understand the ethical theory itself, (2) grasp what is actually going on empirically, and (3) apply the theory accordingly to the case at hand. My point is—and it particularly applies to when COVID first broke out and even biologists specializing in this sort of thing were puzzled—libertarians were pontificating about it but had no grasp of what was actually going on empirically.

Slenzok accuses me of urging libertarians “to ‘stick to our knitting’ by recounting ad nauseam the principles of libertarian justice while declaring forlorn agnosticism as to whether (murderer) A violated them.” The same difficulty arises herein. Libertarians are not biologists, nor are we detectives. Yes, if A is a murderer—if this is stipulated—we are indeed entitled to apply libertarian punishment theory to him. But what gives us special insight as

to whether this is true? A little modesty goes a long way. It can save us from besmirching the freedom philosophy. Also, I do not much care for his rejection of “recounting ad nauseam the principles of libertarian justice.” In my view, this is an honorable and important scholarly activity for libertarians to engage in—in fact, we are both doing it right now.

Our author maintains that if we follow my agnosticism on COVID, we libertarians will not be able to make any judgments whatsoever on the “gulag, the Great Leap Forward, or the Holocaust; on Stalin, Mao, or Hitler. For these are all historical (and thus empirical) events and figures, and libertarians—qua libertarians—are not experts on them. Yet we do not have to succumb to such paralyzing skepticism.” In my view, this is quite a stretch from trying to impart a bit of modesty to libertarians in their pontification about COVID in its early stages. Suppose someone were to claim that Stalin was actually a libertarian—a free enterpriser, not a communist—filled with the milk of human kindness, and that he never caused a single death.¹³ He was a sort of Ron Paul of the Soviet Union. How could the libertarian who is not a professional historian deal with that assertion? In refuting his absurd declaration, how much of the work of the libertarian would be qua libertarian, and how much qua amateur historian? I would contend that 1 percent would describe the former and 99 percent the latter, and I might well be erring in elevating my former guesstimate. The point is that libertarianism qua libertarianism has very little if anything to say about the empirical claim that Stalin was a mass murderer. The foundational elements of our philosophy are the nonaggression principle, private property rights based on homesteading and voluntary capitalist acts, and free association. How does any of this help, even in the slightest, in the determination of whether Stalin’s actions were compatible with libertarianism? I think Slenzok is here guilty of a category mistake. He misconstrues our philosophy. He thinks it helps us become better biologists or historians. He might as well proclaim it makes us better musicians or chess players. This hardly constitutes “paralyzing skepticism” on my part. Rather, the specialization and the division of labor apply to the intellectual sphere as well as to all others.

According to my interlocutor, “the available knowledge (of COVID) has been by all means sufficient from the very outset of the pandemic.” This is an empirical claim with which I take great exception. I do this not qua libertarian but as a matter of common sense. I do not think that Professor Slenzok is sufficiently appreciating or recognizing the unique contribution made by libertarian theory. Instead, he is erroneously deprecating it and elevating other universes of discourse.

13 This description is but a slight exaggeration of the reportage of Walter Duranty of the *New York Times*. See Folkenflik (2022).

As for my incessant addition of “tedious caveats,” I have enough of a paper trail to demonstrate that this simply is not the case. I am perfectly willing to accept the fact that the government owns and mismanages the roads and highways (Block 2009), that wages in certain demographics are not due to discrimination (Block 2010), and that Israel is in the right in its land claims vis-à-vis its enemies (Block and Futerman 2021). I am open to the charge that all my publications are “tedious,” but I reject the notion that this stems from “tedious caveats.”

Challenges Slenzok, “Does condemning Hitler as a perpetrator of the Holocaust therefore also transcend the purview of libertarianism? I do not think so.” I strongly disagree. Whether Hitler perpetrated the Holocaust is simply not a question libertarians have any comparative advantage whatsoever in answering. How does knowing all about the nonaggression principle and the case for privatization, free association, and homesteading help us even in the slightest to determine the role that Hitler played in history? It will do no such thing, not even to the slightest extent. Slenzok vouchsafes us no answer to these pertinent questions. And there are many other issues beyond the scope of libertarianism: Was Bach a better composer than Mozart? How bad is the obesity problem in the US? Which is the better sport—track or swimming? Is the refusal to answer these qua libertarian an instance of undue modesty or excessive parsimoniousness? I think not.

Continues my intellectual opponent, “As the analogy to Austrian economics indicates, assessing the controversy in question and judging Hitler accordingly is part of the job of (applied) libertarian theorists, just as analyzing America’s Great Depression is the Austrian economist’s occupation.” It cannot be denied that one of the jobs of (applied) libertarian theorists is to judge Hitler. But we have to rely on others, historians in this case, to supply us with the facts—unless the libertarian in question has some direct knowledge of this historical episode. Discerning the facts surrounding what this mass murderer did is not an ability of libertarians qua libertarians.

Matters are precisely the same when applying Austrian business cycle theory to the events of 1929–45. Austrians supply the theory, to be sure, but the facts come from specialists in statistics, who need not be praxeologists. Everyone has heard of the economics joke regarding cans of food: we have to *assume* a can opener. This is not a misconstrual of the dismal science—it is part of the nature of reality, specialization, and the division of labor.

Is this a “gotcha” moment? States Slenzok, “Professor Block does not appear to believe this himself. Elsewhere, Block (2018, 62) criticizes a libertarian organization for refraining from taking a stand on US foreign policy.” Here is a quote from that article of mine (2018, 62):

SFL (Students for Liberty) doesn't have an official stance on foreign policy. . . . But this is no less than preposterous. There are only three broad areas on which libertarians may have a position: economics, personal liberties, and, wait for it, foreign policy. To say that an ostensibly libertarian organization such as SFL has no stance whatsoever on the third of these is akin to saying Mozart has no view of string instruments, Mises has no perspective on one third of economics, Dr. Paul is oblivious to one third of medicine, Muhammad Ali had no position on the right cross or of stinging like a bee.

This organization portrays itself as an introduction to libertarianism for the masses. I do not think it is logically inconsistent to point out this lacuna. In my present debate with Slenzok, I take the position that libertarianism is a specialized field, consisting of what is proper law. We libertarians have no particular skill in ferreting out the facts of many cases. We are forced to argue, at least always implicitly, that if Hitler has murdered millions of people, he deserves to be punished by law, and if not, then not. We are not set up qua libertarians to know what this historical figure actually did. We proceed *arguendo*. In my 2018 publication, I merely assert that the offerings of a libertarian organization, SFL, are incomplete if it entirely ignores foreign policy. I am now prepared to make the extremist statement that if it ignores economics or personal liberties, it is also not engaging in full coverage.

In that article, I also criticize Mercer (2017). She maintains that the US military has been weakened by political correctness and concludes that this is unlibertarian. In my view, US foreign policy was unlibertarian, since it was not limited to self-defense, but that claim was not made in my role as a libertarian. Should I limit myself to writing only from a libertarian point of view? I was then taking what I think is the libertarian perspective. From an anarcho-capitalist point of view, there should be no government at all. From the perspectives of limited-government libertarianism, minarchism, or classical liberalism, given that there is a national state, in the words of Adams (n.d.), it does not go “abroad in search of monsters to destroy.” With some eight hundred foreign military bases,¹⁴ the US must be considered an imperialist power and thus incompatible with libertarianism. Its weakening due to diversity, equity, and inclusion should therefore be applauded by libertarians, not regretted—as it is by Mercer, an eminent libertarian herself, though in my view mistaken in this one instance.

Slenzok maintains that I am contradicting myself since I upbraided libertarians at the very beginning of the COVID episode for adamantly taking one side of this debate as presenting the only factual situation compatible

¹⁴ This is a statistic I take from others. Full disclosure: I am assuming this *arguendo*.

with libertarianism. Libertarians who either took the other side or were, like myself, unsure about the biological facts, were labelled nonlibertarian. But in Slenzok's view, there is no difference between these two positions. I fear I must disagree: I see a gigantic, stupendous disanalogy between them.

The doctor does not look too carefully into the work of the manufacturer of the stethoscope. As long as it works, he tends to his own medical business. Ditto for the astronomer and the telescope, the motorist and the bridge, the chef and the salt and pepper. In like manner, the libertarian must rely sometimes on the historian, on other occasions on the statistician, and so on. When there is a dispute between reputable members of these other callings, does the libertarian weigh in? Not unless he is also an expert in those callings as well as political philosophy. Astronomers are debating over whether Pluto is a planet or not. What, pray tell, is the proper libertarian position on that matter? I don't know. No, au contraire, I do know: respectful silence. Physicists dispute whether reality is akin to a particle or a wave. What, pray tell, is the proper libertarian position on that matter? If we had any sense, a bit of modesty would be called for. Is there life on planets in other solar systems? I am not even sure who has weighed in on that one, so far removed is any limited expertise I might have on this question. What, pray tell, is the proper libertarian position on that matter? You guessed it: just a little bit of modesty.

In Block (2020), in the early stages of COVID when specialists in disease were contradicting one another all over the place, this is exactly the point I was trying to make. All too many libertarians were making adamant opinionated declarations about this, on the basis of no knowledge at all that I could discern. That is all I was warning about, but Slenzok is having none of it. He constructs a mountain out of this molehill, extrapolating from my modest critique against these libertarian authors that no libertarian is justified in saying anything about just about anything. I reject his criticism, however clever and even brilliant it may be—I'm glad he is not an opposing lawyer in a case of mine!

The libertarians I wrote about in Block (2020) were not epidemiologists or physicians and had no knowledge of contagious diseases. They relied solely on their undoubted expertise in libertarianism to pontificate about the causes, cures, and best public policy concerning COVID. In so doing, they besmirched our philosophy. If they but had expertise in these medical fields, I never would have written what I did about them.

Slenzok accuses me of radical agnosticism, but he overgeneralizes. He errs in assuming that someone who would take such a position must also agree to the notion that no libertarian may ever take a stance on any issue of public concern. Not so, not so. Libertarians may not do so, properly, I contend, with

the knowledge of their calling alone. But many libertarians are also experts in history, economics, sociology, medicine, and so on. Surely, there is no problem if they have at it concerning the issues of the day.

It is time to conclude. I am very grateful to this author for his criticisms of my views. He has forced me to think far deeper about them than I would have otherwise done. Without his essay, my understanding of the philosophy we share would be far inferior to what it is now. With the future of libertarianism in the hands of bright scholars such as this young man, I can rest easy about the prospects for our philosophy.

Submitted: March 24, 2025 CDT. Accepted: May 22, 2025 CDT. Published: July 23, 2025 CDT.

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