



# REJOINDER TO ORWELLIAN LIBERTARIANISM: GORDON AND NJOYA'S TOPSY-TURVY WORLD OF TWILIGHT ZONE LIBERTARIANISM

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JEL category: **P1**

## **Abstract**

*Gordon and Njoya, in their work "Orwellian Libertarianism: The Topsy-Turvy World of Walter Block," heavily criticize me on a variety of issues related to libertarian theory, including shields, swords, negative homesteading, Hamas, and Rothbard. This paper serves as my response to their critique. These two authors uniquely claim that libertarian philosophy is perfect as it currently stands and that any changes or alterations are inherently flawed. This is particularly interesting because both scholars have made significant and novel contributions to the philosophy of freedom, thereby contradicting their new thesis. Talk about being hoisted by your own petard. They are highly critical of my introduction of the concept of "negative homesteading" to libertarianism. However, they do not provide any substantial criticism of this idea; they only dismiss it because it is novel. This stick-in-the-mud viewpoint is very surprising and disappointing, especially coming from two world-class philosophers who have previously shown great innovation and open-mindedness in their academic pursuits.*

**Keywords:** Orwell, Twilight Zone, Libertarianism, Shields, Swords.

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## **REJOINDER TO ORWELLIAN LIBERTARIANISM**

Gordon and Njoya (2024A)<sup>1</sup> join an increasingly long list of authors who maintain at best that my understanding of libertarian theory is imperfect, and, at worst, "unhinged."<sup>2</sup>

<sup>1</sup> Unless otherwise specified, all references to these authors will be to this one article of theirs, GN (2024A).

<sup>2</sup> This is the assessment of Hoppe, 2024. Other libertarian theorists who maintain that my views on libertarian theory are gravely mistaken in that I support



They start off their essay as follows:

“Walter Block asks us to consider the following case: Suppose someone is shooting at you. He has two babies strapped in front of his body. He is clearly an aggressor and, of course, you have the legal right to shoot back in self-defense. The moral and ethical (sic) considerations as to whether you ought to shoot back are the subject of debate, and Murray Rothbard has addressed those debates extensively, but from the perspective of libertarian law, there is clearly no legal dispute here. This is not a matter in which there are legal arguments on both sides, though there may be debates about what counts as proportionate use of force in defending yourself.

“Walter Block thinks otherwise. He thinks that, according to the non-aggression principle, you cannot use force in these circumstances, as shooting back would put the babies in the line of fire. He has invented a non-existent legal problem to bypass the powerful moral and ethical arguments advanced by Rothbard. Here is what Walter says:

“A GRABS B TO USE as a shield; A forces B to stand in front of him and compels him to walk wherever A wishes. A then hunts C to murder the latter by shooting him. C also has a gun. Is it legally permissible for C to shoot at A in self-defense under libertarian law? Were C to do so he would have to kill B, the innocent shield, to defend himself against the perpetrator, A. Assume that this tableau takes place on unowned property so that the issue of the owner’s rules does not come into play.

“The first answer that comes to mind is that it is not. After all, B is a completely innocent person, and, seemingly, the non-aggression axiom of libertarianism was meant to apply to cases precisely like this one. This axiom states that it is illicit to initiate aggression against any non-aggressor, and B, by stipulation, is a non-

aggressor. There are no exceptions to this general rule. Thus, it is difficult to see how C shooting B to get to A can be reconciled with libertarianism.”

When I first read this excerpt to which they refer I was appalled at myself. This perspective is the exact opposite of what I have long believed. I could not believe that I had written this erroneous material. My first thought was that I should reread the entire essay from whence these mistaken words emanated. Gordon and Njoya (2024A)<sup>3</sup> did not even cite the article in which it appeared.<sup>4</sup> I spent a half hour frantically trying to locate it. I learned it was published in 2011A, thirteen years ago. I thought I had gained some wit and wisdom since then, but I was appalled that I had so severely misconstrued libertarian theory at that earlier time. I was thinking in terms of making an apology for these misbegotten words. Then, finally, I reread Block (2011A). I was relieved. I was then attacking these error-laden thoughts, the ones cited by GN as if they conveyed my view; I was not supporting them. That is to say, GN attributed to me the very opposite of my viewpoint, the one I had laid out in Block (2011A) in order to criticize.

GN state: “Walter Block thinks otherwise.” However, do they quote me and cite the source of me saying or writing “otherwise?” That would seem to be the appropriate thing to do upon such an occasion. They do not; they do no such thing. Instead, they ascribe to me the very opposite of what I do say and write on more than several occasions. They really ought to do their homework a bit more assiduously and thoroughly.<sup>5</sup>

Whereupon some further considerations occurred to me. This essay of mine appeared in the Journal of Libertarian Studies. JLS is the gold standard for libertarian philosophy. How did this mistaken material ever get published by that journal in the first place? Happily, this was not at all the case.

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Israel on Hamas include Rothbard (1967), Hoppe (2024), DiLorenzo (2024), McMaken (2024), Rectenwald (2024), Joffe (2024), Burgis (2024) and Mosquito (2018, 2023). For refutations of these papers, see, respectively, Block and Futerman (2021) on Rothbard; Block and Futerman (2024) on Hoppe; Block (2024A) on DiLorenzo; Block (2024B) on McMaken; Block (2024C) on Rectenwald; Block (2024D) on Joffe; Block (2024E) on Burgis; Block (2025), Farber, Block and Futerman (2018) on Mosquito. See also Gordon

and Njoya (2024B) and this response to them: Futerman and Block (2024).

<sup>3</sup> Hence GN

<sup>4</sup> This is unusual in the scholarly literature, to say the least.

<sup>5</sup> And stop scaring me by quoting material I am criticizing as if I am supporting it.

GN attributed to me ideas I was criticizing, not supporting. Soon after the material GN attributed to me in Block (2011A), I wrote the following, introducing my own, correct, theory:

“In this scenario, either B or C must die, and the theory we have so far considered favors B, because, when we focus on only the two of them, B and C, and ignore A, it is C who ‘initiating’ violence against B, and not the other way around. However, there is another theory that I contend also deserves to be characterized as libertarian, which leads to the opposite conclusion. I call this the theory of negative homesteading.”

This is why I refer to the Twilight Zone in the title of this paper. It is only in that neck of the woods do world-class scholars such as GN attribute to an author the exact opposite of what he is actually contending.

Next, consider this statement of GNs. Here, they do not attribute to me the exact opposite of my actual view, but they do, nevertheless, continue to misinterpret me:

“Walter’s interpretation of the case is that when C shoots at A, he might hit B—who is in the line of fire—and, as Walter sees the matter, unless we can somehow depict B as an aggressor, C violates the non-aggression axiom. Clearly, Walter has made a mistake in presuming that the legality of self-defense in these circumstances requires that B must be viewed as an aggressor. In libertarian law, defending yourself does not violate the non-aggression axiom merely because an innocent person may somehow be in the line of fire. A has violated the non-aggression axiom by seizing B and putting B into the line of fire. If B is killed, A is the one who is legally responsible for his death, not C. The non-aggression axiom does not take away C’s right to defend himself by firing back at A.”

Wherein lies GN’s error in this case? Here is one mistake. In my view, C, in self-defense against A, will *necessarily* shoot B, the innocent person, by posited assumption. GN, in sharp contrast, attribute to me the view that B “may somehow be in the line of fire.” But, surely, there is all the world of difference between a situation where the

defender may possibly kill an innocent person in self-defense, and one where this is the necessary, inevitable, and ineluctable result. I go so far as to claim that in each and every case of self-defense, there is at least the possibility that an innocent person may be negatively impacted, physically.

The second error is the GN write as if I disagree with their conclusion; they are writing as if to correct me in this matter: “If B is killed, A is the one who is legally responsible for his death, not C. The non-aggression axiom does not take away C’s right to defend himself by firing back at A.” But this is precisely my own conclusion, repeated over and over again, in all of my publications on this subject.

We now arrive at this further GN criticism of my work in this area: “There is a further problem with Walter’s analysis. He wrongly thinks that shooting at B—the person in the line of fire—violates the non-aggression axiom, but this mistake now puts him in a difficult position because he also wants to say that C can shoot at A in self-defense. How can he climb out of the hole into which he has dug himself? His strategy is ingenious but depends on the false premise that shields are swords. By means of this strategy, he attempts to turn B into an aggressor. He offers an analysis that is impeccably reasoned but depends on the false premise that shields (in this case the babies) are swords (that is, in his view, the babies are aggressors). This premise is patently absurd. Shields are not swords and calling them swords does not change this. An argument with a false premise lends no support to a conclusion.”

Let me first thank these scholars for the compliment that my reasoning is “impeccable” and that my “strategy is ingenious.” However, I must demur on several points.

First, I do not “wrongly think ... that shooting at B—the person in the line of fire—violates the non-aggression axiom...” I do not think this is a wrong thought at all. Rather, in my view, the very opposite is the case: C has every right to shoot A, even though by stipulation the innocent person B will also perish.<sup>6</sup>

<sup>6</sup> I am continually shocked that these very careful authors could so often and so egregiously misinterpret my clearly stated views.

Second, shields cannot be used as swords? These authors have obviously never seen any movies about ancient Roman gladiators who do this exact thing to each other: bashing their opponent with a shield. GN would not at all appreciate it if someone were to bash them in the nose with a heavy metal shield.<sup>7</sup> They would then rightly realize that this ostensibly defensive weapon could also be used offensively. This is hardly “patently absurd.” Indeed, the very opposite is the case.

Third, those strapped on babies while not themselves purposeful aggressors<sup>8</sup> are nevertheless being used in an aggressive manner; they are being used against C by A as a sword/shield in order for the latter to murder the former.<sup>9</sup>

Another problem I have with these authors is that they are mighty shy about giving their own views. They write things like this: “... but from the perspective of libertarian law, there is clearly no legal dispute here. This is not a matter in which there are legal arguments on both sides,” And this: “... there is no legal question of whether C has the legal right to defend himself against A, who is trying to murder him by shooting him.” But enquiring minds want to know: what is their own view on these matters? They vouchsafe their readership with little or no response.

GN are by no means finished with denigrating my perspective on libertarianism. It turns out that they are not at all on board with my concept of negative homesteading. They write as follows:

“Walter has ‘defended’ the false premise that ‘shields are swords’ with this notion of ‘negative homesteading,’ but his defense fails, for two

reasons. First, ‘homesteading’ has a clear meaning in libertarian theory. You homestead unowned property by mixing your labor with it and thus acquiring it. But there is no such concept as ‘negative homesteading’ in libertarian theory. Walter acknowledges that this concept is not found in ‘classical libertarianism,’ but that is the only libertarianism there is. ‘Negative homesteading’ makes no sense. It is like saying that a doctor who gives first aid to someone who has been shot is ‘negatively shooting’ them. Orwellian language of this sort that transforms things into their opposites is an assault on clarity.”

GN are in effect claiming that libertarianism is a closed system. Nothing else can be, may be, or should be added to the mighty edifice created by Rothbard (1973, 1982). Rothbard himself would scarcely agree. Evidence for this claim? Rothbard’s (1988) reaction to Hoppe’s (1988, 1993, 1995) brilliant argument from argument.<sup>10</sup> This pertains to the justification of libertarianism itself. Previously, Mr. Libertarian<sup>11</sup> had predicated this philosophy, along with its two major foundations, the non-aggression principle and private property rights based on homesteading, on natural law. But when Hoppe (1988, 1993, 1995) offered his argumentation ethics, Rothbard (1988) readily, and enthusiastically, embraced it. Thus did libertarianism grow, GN to the opposite viewpoint notwithstanding. Have there been other additions to the libertarian structure? Certainly, there have been.

For example, if we include Mises (1949) as a libertarian<sup>12</sup>, Rothbard (1962, chapter 10) completely annihilated the former’s view that there could even exist such a phenomenon as a market monopoly.<sup>13</sup> Then there is Kinsella’s (2008, pp. 47

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<sup>7</sup> I am inspired here by Johnson’s refutation of Berkeley’s theory of immaterialism by kicking a stone and saying, “I refute it thus.” <http://www.grubstodger.uk/2023/06/i-refute-it-thus-in-which-johnson-kicks.html>

<sup>8</sup> They are too young to have any such purposes

<sup>9</sup> By extension, Hamas (A) uses Gazans (B) as offensive shields to attack Israelis (C) by placing rocket launchers, missiles, and drones, in hospitals, schools, residential areas, etc. It is as if Hamas were strapping their babies onto the fronts of them, attacking Israelis, and then complaining of “genocide” when the latter shoot them. This is indeed the view of world opinion, and also of too many libertarians, see fn. 2, but it is gravely mistaken.

<sup>10</sup> For more on this see Block, 2004, 2011B; Gordon, 1988; Kinsella, 1996, 2002; Meng, 2002;

<sup>11</sup> Rothbard, of course

<sup>12</sup> That is a total no-brainer

<sup>13</sup> Sorry, I cannot resist telling my monopoly joke. If a business organization sells at a higher price than everyone else, it is profiteering; if it offers goods at the same price as others (this is difficult to contemplate since by definition it can have no competitors, but, hey, this is only a joke), it is guilty of collusion; if its prices are lower than those of other entrepreneurs, it is guilty of predatory price cutting.



et seq.; 2023b, Part III.C & n.86; 2023c, at p. 415, n.46) successful critique of Rothbard's (1998, p. 123 et seq.) support for patents.<sup>14</sup> Further, there is what Kinsella (2007, 2009) characterized as the "Blockian Proviso" in contrast to what is well known in our profession as the "Lockean Proviso."<sup>15</sup> Another addition to the ever-growing libertarian philosophy is evictionism, which in at least some opinions has superseded the pro-choice position of Rothbard (2007) and the pro-life stance of Ron Paul (LA Times, 2011).<sup>16</sup> Then there is the negative homesteading of Block (2010, 2011A, 2019), to which GN object, which contrasts with the positive homesteading phenomenon of Locke (1689). Also, Rothbard (1962, 1973, 1982) has substituted anarcho-capitalism for the more moderate view of libertarians who came before him such as Mises (1949), Rand (1957), Hayek (1944),<sup>17</sup> Friedman (1962). To this list we must add Block's (2010, 2011A, 2019) analysis of the shield and missile, vis a vis Rothbard's view to the contrary, Rothbard's amalgamation of economics, personal liberty, and foreign policy into one grand configuration)<sup>18</sup> and Rothbard's (1997) displacement of George (1879) on the 100% tax on land issue. Libertarianism is thus a living breathing enterprise, continually changing and hopefully always improving, and not the stultified written in concrete perspective maintained by GN.

Consider, alone, Hoppe's brilliant argumentation ethics. GN would be logically obligated to reject

this as an important contribution to libertarian theory, not because it is wrong; but rather, only due to the fact that it is new. This seems to be a perspective difficult to defend.<sup>19</sup>

But GN are by no means finished in maintaining that my version of libertarianism is "Topsy-Turvy." They then aver as follows:

"The second reason Walter's<sup>20</sup> defense of 'shields are swords' fails is that the legal right to defend yourself has nothing to do with homesteading, genuine or imaginary. Libertarian homesteading is an account of the way property is acquired. This account belongs to a theory of justice and has nothing to do with the legal right of self-defense."

Here, GN are entirely correct. "Homesteading," traditionally in libertarian theory, concerns, only, the initial step in justifying property titles. But that is limited to regular, traditional, or ordinary, or usual libertarian theory. I have invented a new term, negative homesteading. It is addressed to the issue of whether or not people have a right to transfer misery, being hit with a lightning bolt, to others. My claim is that they do not, and this issue most certainly has plenty "to do with the legal right of self-defense." I note that GN have no argument to use against this admittedly new concept, except for the fact that it is novel. That hardly constitutes a valid argument against it.

Here is one last criticism on the part of these authors:

<sup>14</sup> Further initiatives along this line include Block, 2013, 2020; Boldrin and Levine, 2008; De Wachter, 2013; Kern, 2019; Kinsella, 2001, 2008, 2011, 2012A, 2012B, 2012C; Long, 1995; Menell, 2007A, 2007B; Mukherjee and Block, 2012; Navabi, 2015; Palmer, 1989; Sandefur, 2007

<sup>15</sup> "... at least where there is enough, and as good, left in common for others". (Locke, 1689, Chapter V, paragraph 27.)

<sup>16</sup> There have been cancellations, excommunications, and refusals to debate, over disagreements regarding Israel. (See fn. 2, supra). However, none have occurred on this issue, which, arguably, involves the deaths of far more innocent people worldwide than that one.

<sup>17</sup> For a critique on this book, see Block, 1996; for debate over it, see Friedman and Block. 2006.

<sup>18</sup> States McElroy (undated) on this important achievement of Rothbard's: "Murray N. Rothbard (1926-1995) – the greatest libertarian theorist of the 20<sup>th</sup> century ...In forty-five years of scholarship and activism, Rothbard produced over two dozen books and thousands of articles that made sense of the world from

a radical individualist perspective. In doing so, it is no exaggeration to say that Rothbard created the modern libertarian movement.<sup>3</sup> Specifically, he refined and fused together: natural law theory, using a basic Aristotelian or Randian approach; the radical civil libertarianism of 19th century individualist-anarchists, especially Lysander Spooner and Benjamin Tucker; the free market philosophy of Austrian economists, in particular Ludwig von Mises, into which he incorporated sweeping economic histories; and, the foreign policy of the American Old Right – that is, isolationism."

<sup>19</sup> Murray's (2003) entire book is dedicated to the notion that the human condition is predicated upon intellectual, artistic, musical, scientific growth, change, and alteration. GN would undoubtedly agree this his thesis, but, presumably, with the sole exception of libertarianism.

<sup>20</sup> Just out of curiosity, I wonder at their continual use of my first name. Typically, in scholarly interaction, last names are utilized.

"The essential problem with Walter's interpretation of the legal rules of self-defense appears to be that he does not like the conclusions to which Rothbard's theory of justice leads. In an attempt to derive the opposite conclusions from those arrived at by Rothbard, Walter attempts to reinvent the meaning of libertarianism and to that end, he relies on an Orwellian transformation of 'shields' into 'swords.' His fundamental mistake is to treat a question of positive law—when do you have the legal right to shoot back in self-defense?—with the normative question of whether you ought to do so, given the presence of the babies. No wonder he finds himself in a topsy-turvy world."

Au contraire, I never once in all of my writings on the general issue of libertarianism, addressed the issue of "whether you ought to do so." Rather, I have confined myself to wrestling with the issue of "when do you have the legal right to shoot back in self-defense?" Libertarianism, properly understood, is limited to the proper use of violence; it is a theory of what kind of law is compatible with justice.

Indeed, in Block (2003) I explicitly made this very point, in response to several erstwhile libertarian critics of this philosophy:

"They misunderstand the nature of libertarianism. These arguments implicitly assume that libertarianism is a moral philosophy, a guide to proper behavior, as it were. Should the flagpole hanger let go? Should the hiker go off and die? But libertarianism is a theory concerned with the justified use of aggression, or violence, based on property rights, not morality. Therefore, the only proper questions that can be addressed in this philosophy are of the sort, if the flagpole hanger attempts to come into the apartment, and the occupant shoots him for trespassing, Would the forces of law and order punish the homeowner? Or, if the owner of the cabin in the woods sets up a booby trap, such that when someone forces his way into his property, he gets a face full of buckshot. Would he be guilty of a law violation? When put in this way, the answer is clear. The owner in each case is in the right, and the trespasser in the wrong. If force is used to protect

property rights, even deadly force, the owner is not guilty of the violation of any licit law."

These authors actually agree with my interpretation of libertarianism but write as if we are 180 degrees apart. They accuse me of writing the exact opposite of my actual view. Most problematically, GN attribute to me the view that when the would-be assassin straps his own two children to his body, using them as a shield, the victim, his target, has no right to defend himself, given that by stipulation the only way he can do so is to shoot the two babies, to reach their father, the killer. They aver as follows: "Walter Block ... thinks that, according to the non-aggression principle, you cannot use force in these circumstances, as shooting back would put the babies in the line of fire."

No, no, no, I am on record as writing the exact opposite (Block, 2024F)<sup>21</sup>: "I (I am Hamas) am going to kill you (you are Israel). I have a knife. I am going to murder not only you, but also your wife, kids, parents, siblings. I have strapped to the front of me my two young children, aged three. You have a gun. The only way you can stop me from killing you and your loved ones is to shoot me. However, if you do so, we posit that you will necessarily kill my completely innocent children."

Whereupon I take the position that Israel is in the right in killing two innocent children, in order to save its own life. I specifically criticize Rothbard for taking the opposite point of view.

We can't invent negative homesteading? It is to be rejected solely on the ground that it is entirely new? No, libertarianism does not belong in a mausoleum. There is no law, philosophical or otherwise, preventing this brilliant perspective from growing. A shield cannot be used as a sword, as an offensive weapon? Tell that to a Roman gladiator who had his head half taken off when the enemies shield was employed against him. There is simply no reason why the very same implement cannot be used for two different purposes. A metal shield can certainly be used as both an offensive and a defensive weapon. A truck can be used both as a consumer and a capital good. So can a violin.

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<sup>21</sup> Note that 2024F was published on October 18, 2024. GN did not appear in print until a month later, on

November 30, 2024. So, I could not have written this essay in response to their critique.

There is more in the libertarian philosophy than exhibited by GN.<sup>22</sup>

I am very grateful to GN for calling into question these views of mine. So far, they are only ones of a few to address my introduction of the new concept of negative homesteading. By far, the worst reception of a new breakthrough, in any subject, libertarianism or not, is to totally ignore it. Apart from them and just a few others, this was the fate of this new idea. Thanks to them, this is no longer the case. They reject this concept, however, on the grounds that it is new. GN would hold that the Magnus Carlson innovation in chess (Mukherjee, 2024) is not chess at all. If so, they would be wrong. Compatible with their rejection of negative homesteading, they would logically have to take the position that with the introduction of the three-point rule, what is not being played is no

longer basketball. Ditto baseball with its designated hitter rule.

With equal justification, I could falsely accuse GN of taking candy from babies, and then remonstrate with them about the injustice of so doing. If their paper were published on April Fool's Day, I could understand it. I might not fully appreciate it, but I could understand it. But it was not. So I am completely in the dark as to why they would so seriously misconstrue my arguments and then criticize me for maintaining them. This is so very much unlike what we are accustomed to reading from these two brilliant authors. I conclude that intellectual fraud has taken place. It is more than likely that some other writer has actually written this essay, and fraudulently placed the names of GN as writers.

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<sup>22</sup> Saith Shakespeare's Hamlet to Horatio, "There are more things in heaven and earth, Horatio, than are dreamt of in your philosophy."

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Received for publication: 30.12.2024

Revision received: 07.01.2025

Accepted for publication: 08.07.2025.

### **How to cite this article?**

#### **Style – APA Sixth Edition:**

Block, W. E. (2025, 07 15). Rejoinder to Orwellian Libertarianism: Gordon and Njoya's Topsy-Turvy World of Twilight Zone Libertarianism. (Z. Cekerevac, Ed.) *MEST Journal*, 13(2), 50-60. doi:10.12709/mest.13.13.02.02

#### **Style – Chicago Sixteenth Edition:**

Block, Walter E. "Rejoinder to Orwellian Libertarianism: Gordon and Njoya's Topsy-Turvy World of Twilight Zone Libertarianism." Edited by Zoran Cekerevac. *MEST Journal* (MESTE) 13, no. 2 (07 2025): 50-60.

#### **Style – GOST Name Sort:**

**Block Walter E.** Rejoinder to Orwellian Libertarianism: Gordon and Njoya's Topsy-Turvy World of Twilight Zone Libertarianism [Journal] // *MEST Journal* / ed. Cekerevac Zoran. - Belgrade – Toronto : MESTE, 07 15, 2025. - 2 : Vol. 13. - pp. 50-60.

#### **Style – Harvard Anglia:**

Block, W. E., 2025. Rejoinder to Orwellian Libertarianism: Gordon and Njoya's Topsy-Turvy World of Twilight Zone Libertarianism. *MEST Journal*, 15 07, 13(2), pp. 50-60.

#### **Style – ISO 690 Numerical Reference:**

*Rejoinder to Orwellian Libertarianism: Gordon and Njoya's Topsy-Turvy World of Twilight Zone Libertarianism.* **Block, Walter E.** [ed.] Zoran Cekerevac. 2, Belgrade – Toronto : MESTE, 07 15, 2025, *MEST Journal*, Vol. 13, pp. 50-60.