

*The Libertarian Idea.* Jan Narveson. Temple University Press, 1988.

**R**obert Nozick's widely admired work *Anarchy, State, and Utopia* brought libertarianism to the attention of the philosophical community. Most courses in political philosophy these days include a discussion of "Rawls and Nozick" and scores of authors of journal articles have found in the labyrinthine complexity of the book ample material for discussion.

Although Nozick's powers of imagination and argument have won him much praise, few philosophers have become libertarians. Jan Narveson, influenced by Nozick and David Gauthier, is perhaps the most distinguished exception to this generalization. His outstanding new book is a thoroughgoing defense of libertarianism.

Before turning to a discussion of the book, it is worth noting that there is a group of philosophers sympathetic to libertarianism whose work has been to a large extent independent of Nozick. The thinkers in question will no doubt be familiar to readers of *Reason Papers*. Under the influence of Ayn Rand, they have defended a neo-Aristotelian basis for libertarian natural rights. Unfortunately, Narveson does not discuss their arguments at length, except for a few pages devoted to Ellen Paul's argument for property rights. As we shall see, Narveson has little use for natural rights, but a fuller examination of the Randian argument by an author of such manifest critical powers would have been valuable.

The first of the three parts into which Narveson's study is divided deals with the question: "Is Libertarianism Possible?" Narveson offers very valuable classifications of a large number of terms vital to any discussion of political philosophy, e.g., freedom, rights, intervention, acquisition, etc. After a definition of libertarianism as the view that "the only relevant consideration in political matters

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is individual liberty" (p.1), he develops in some detail a libertarian position on the manner in which liberty should be pursued. He strongly defends the right of individual ownership of property against charges that this right unduly restricts liberty.

One can only admire Narveson's comprehensive and detailed grasp of the literature on the concepts of ethics. At times his speed in darting from one issue to another leads him into some hasty formulations. In his discussion of freedom, e.g., he advances this definition: "Person  $A$  is [completely] free with respect to  $S^1 = S^1$  obtains if and only if  $A$  chooses that  $S^1$ " (p.18). Suppose that God determines everything down to the minutest detail before he creates the world. Among the states of affairs he brings about are both  $A$ 's choice that  $S^1$  and  $S^1$ . Surely we would not normally say that  $A$  is free with respect to  $S^1$  in these circumstances. But  $A$  is free by Narveson's criterion.

Again, suppose that  $A$  chooses  $S^1$ , for some unproblematic case. As an example, let  $A$  be Mike Tyson and  $S^1$  be the state of affairs in which Tyson remarries Robin Givens. Tyson is then free to remarry Robin Givens just in case that his remarriage to her obtains if and only if he chooses to remarry her. So far, so good.

Now let us examine this question: was Tyson free to choose whether to remarry Robin Givens? On Narveson's analysis, Tyson will choose to choose to remarry her if he is free with respect to his choice to do so. This hardly strikes one as a plausible account of what is meant by  $A$ 's being free whether to choose to perform  $S^1$ .

Narveson probably would be able to 'fix this up' without too much trouble, and for the purpose of his book the points just given are not terribly important. But one still needs to avoid undue haste in an effort to be comprehensive. On the whole, however, Narveson's conceptual classifications are succinct and valuable.

He continues to raise a number of significant points after he turns from definitions to an examination of libertarianism. As he rightly notes, libertarians do *not* support maximizing liberty. This goal might require that one interfere with someone's rights in order to advance liberty overall. Instead, libertarians hold that one should interfere with each person's liberty as little as possible. (p.32; at line five from the bottom, '(2)' should be '(1)') An example will clarify the difference. It might be that giving a poor person a few thousand dollars taken from a billionaire will increase the poor person's liberty more than it will decrease the rich person's. The former will be able to do a great many more things than before his involuntary subvention, while the latter will hardly miss the money. (I do not mean to suggest here that quantitative com-

parisons of liberty are possible: this is just a 'rough-and-ready' assessment for the sake of the example.) If, however, the rich person has just title to his money, in the libertarian view one cannot take it from him since doing so violates his rights.

Narveson's distinction is of crucial importance, but I do not think he has matters precisely on target. On his formulation, one would be allowed to violate someone's rights if doing so minimizes the total amount of interference. Suppose that one imprisons without trial someone who is very likely in the future to commit a large number of serious violations of rights. One may well have lessened the total extent to which people interfere with one another's rights by doing so, but this violates libertarian principles, as they are normally understood.

It is precisely examples of this sort that Nozick had in mind in his contention that rights are side-constraints. Narveson wrongly interprets Nozick's phrase as an endorsement of absolutism—the view that it is always wrong to perform an act of a specified sort, regardless of consequences (p.54). Instead, side-constraints address the same point as Narveson has in mind in his criticism of maximizing liberty. The 'side-constraints' approach avoids the problem just raised for Narveson, since it does not allow rights violations whose result is to minimize total rights violations.

Narveson presents very effectively the libertarian view that each person has certain basic rights over his or her own body. Whether one calls this view 'self-ownership,' or something else, the position has compelling force. It hardly seems plausible to claim that people are obligated to surrender a kidney or an eye because someone else has a vital need for one of these. (After all, you have *two* eyes. Isn't it unfair that a blind person has *no* eyes that see?) As the author points out, the outstanding Marxist philosopher G.A. Cohen has acknowledged the strength of the self-ownership principle (pp.66-67).

The road from rights over one's body to libertarianism still remains to be negotiated. Some philosophers, such as Cohen and Allan Gibbard, claim that libertarian property rights unduly restrict liberty. The argument for this surprising thesis relies on the fact that if one owns property, one has the right to exclude others from its use. Does not such exclusion constitute a restriction on other people's liberty?

Narveson skillfully indicates the defects of this argument. Before people acquire property, no one has claim rights over it. People are at liberty to use available property, but this liberty guarantees them no access to anything in particular. I am at liberty

to pick up a dollar on the sidewalk; but if you 'beat me to it' you have not violated any of my rights. Incidentally, Narveson himself prefers to avoid the Hohfeldian terminology of 'liberties' and 'claim rights.'

Defenders of the anti-libertarian position on this issue may reply that individuals *do* have the right to use property, although not to exclude others. But why should one start with a system in which 'everyone owns everything'? Unless Cohen and others who employ the idea of initial collective ownership of property to criticize individual rights to ownership advance arguments in favor of this view, there is no need to regard it as an option available for choice (p.73).

Narveson's point seems to me an excellent one. Individual ownership of property restricts the freedom of action of the March of Dimes, if one compares a libertarian system with one in which all resources are assigned from the outset to that organization. But unless there is something to be said for a particular non-libertarian view, it does not require consideration.

Although the sum and substance of Narveson's argument is correct, one of his arguments against Gibbard does not succeed. Against Gibbard's claim that property rights are restrictions of liberty, Narveson points out that restriction of other people is not the essence of a right to property. A right to property confers powers of various sorts on the owner to use the property. Property rights cannot be equated with restrictions: a legislature, e.g., can restrict people from using property in various ways without itself owning property.

All of Narveson's points are right; but unless Gibbard meant to be offering a definition of property, they leave his claim untouched. All Gibbard needs is a premise to the effect that property rights *entail* restrictions on other people. He need not claim that a full analysis of property rights results in nothing but statements about restrictions.

The reader of Part I will get an excellent grasp of the libertarian position. In Part II, "Is Libertarianism Rational?", Narveson discusses the moral justification of the view he has so ably presented in Part I.

Moral arguments come in many shapes and sizes; and before giving his defense of libertarianism, Narveson has a great deal of interest to say about the nature of morality. For him, intuitionism is the enemy. This position comes in two varieties, metaphysical and methodological.

The first of these views is that 'good' (or 'right' in another version) is a property that is directly apprehended. Perhaps the best

known example of this view is G.E. Moore's contention in *Principia Ethica* that good is a simple non-natural property.

Narveson gives this view short shrift. The entities that theories of this sort conjure up are mysterious and he knows nothing of them. People disagree about what is good: if goodness were a property known by intuition, many people must be morally blind since they fail to 'see' the things that these theories assure us are there. Narveson believes that the claim that something is wrong "isn't *at all* like the claim that grass is green" (p.119). Unlike factual matters, moral statements are not matters of observation.

Although this is not the place to start an extended argument on the subject, I think there is more to be said for this position than Narveson allows. The position that moral statements are true or false judgments about the world entails nothing about invisible properties. Whether a statement has a truth-value and how the statement is to be analyzed are two very different matters. Moral disagreements are of course a fact that proponents of 'metaphysical intuitionism' need to explain. But the fact that disagreement exists is not usually by itself enough to require abandonment of a contention. Practically every important philosophical thesis is controversial. Narveson's claim about observational testability rules out many mathematical propositions that are usually taken to be true. Are statements about imaginary numbers observationally testable?

The foregoing remarks are not an argument in favor of the view Narveson so speedily rejects: they merely question his attack on it. Narveson, not content with the dismissal of a thesis that has few contemporary advocates, proceeds next to much more controversial ground. He also will not countenance what he terms 'methodological intuitionism.'

According to this view, people have pretheoretical moral knowledge. We know, e.g., that cruelty is wrong. Theories of morality can be tested by how well they accord with our pre-theoretical intuitions. These intuitions, however, are not graven in stone; our beliefs can be modified by our moral theories, as well as vice-versa. By oscillation between theory and intuition, we will, if 'things go rights,' eventually reach a position that is both theoretically satisfactory and accords with our now-modified intuitions. John Rawls' 'wide reflective equilibrium' is the best known case of a view of this type.

Narveson's arguments against this kind of intuitionism again emphasize the existence of moral disagreement. To grasp his position fully, it should be noted that he uses 'intuitionism' to cover a wider range of options than one might expect. As an example, most

of the neo-Aristotelian writers mentioned earlier reject what *they* call 'intuitionism.' Instead of relying on beliefs that particular acts are right or wrong, morality should as they see it be structured around the question: What does an individual require for his flourishing as a rational human being? But Narveson, if I have understood him correctly, would include this position in his condemnation of intuitionism. It falls victim to attack because this view rests on a notion, 'human flourishing,' which does not command universal agreement. For the same reason, Narveson spurns any appeal to natural rights.

Once again, a full examination of Narveson's argument cannot be undertaken here. A reply to it would have to descend to the details of particular theories. To answer him at his own level of generality would merely substitute counter assertions for his assertions. It does seem to me worth saying, however, that he makes very heavy weather over moral disagreements.

What does Narveson wish to put in place of intuitions? He thinks that contractarianism, along the lines developed by David Gauthier, offers an escape from arbitrary moral claims. In this view, one starts with people who are basically self-interested but who have some desire to 'get along with others.' So that constant conflict can be avoided, nearly everyone will wish to reach agreement on a system of rights. The key question then becomes, on what terms will these people agree? As Narveson puts the point, according to contractarianism, the "principles of morality are (or should be) those principles for deciding one's conduct which it is reasonable for everyone to accept" (p.131).

In reply to criticism from Arthur Ripstein, Narveson denies that he has introduced controversial substantive views of morality into his construction. Most people *do* have the desire he imputes to them of willingness to cooperate with others as a means to best advance one's own interests. Those who do not can be overpowered. There are very few of them; and, as they will not agree with the rest of society, on what moral basis can they complain over the way others treat them?

Narveson has not fully dealt with the objection that his own position includes controversial assumptions. The issue he considers is whether what he 'puts into' the initial situation of the contractors is reasonable. But even if he is right that his assumptions about people are acceptable, he has left the most vital issue unmentioned.

This issue is *not*, to repeat, that Narveson's assumptions about people's rationality and self-interest are questionable. Rather, the point at which Narveson is hoist with his own petard is his implicit

assumption that nothing else except the features he ascribes to his contractors is relevant to morality. If Narveson wishes to 'throw out' intuitionism as a method of argument, very well then. But he certainly cannot assume without support that the contents of intuitionist theories are all false. All that the refusal of intuition entitles him to do is to decline to assume the truth of theories of a certain type. To say that the sum and substance of morality consists *only* of what can be agreed to by rational contractors is a very large extra step. Does it not rest on just the sort of controversial intuition Narveson elsewhere so eagerly rejects?

Contractarianism of the kind Narveson favors also has internal problems. Many of these have emerged from the widespread discussion that Gauthier's *Morals by Agreement* has provoked. As an example, Narveson, here following Gauthier, likens morality to a cooperative solution to a Prisoner's Dilemma (p.145). But not all Prisoner's Dilemmas *ought* to be solved to the mutual advantage of the parties to them. Morality does not require, e.g., that criminals cooperate so as to maximize their 'take.' If one must already know when cooperation is morally desirable in order to decide which PD's should be solved, the attempt to characterize morality as a means of advancing people's interests through cooperation does not look promising. (This point has been raised by Peter Danielson.)

Also, on the contractarian view, one has no moral obligations at all to people who will not 'cooperate.' No doubt one is justified in using force to repel aggression; but it strikes me as implausible to say that one is free to kill anyone just because his words or behavior indicate he has not accepted an agreement. Perhaps Narveson would reply by saying this is a mere intuition. If he is willing to 'bite the bullet' by saying that non-contractors have no rights whatever, I for one have nothing further to say.

In the course of his defense of contractarianism, Narveson briefly considers some competing moral theories. He makes an excellent criticism of utilitarianism, a theory of which he was earlier in his career an outstanding advocate. He notes that utilitarians have failed to show why an individual should treat someone else's utility as equal to his own in significance (p.152). Henry Sidgwick, probably the most painstaking of all utilitarians, had to resort to intuition to justify the assumption that individuals wish to maximize total utility, not just their own. The reader will by this time not have to be told what Narveson thinks of this intuition.

Narveson also discusses an argument in favor of property rights advanced by Ellen Paul. Her argument seems to me stronger than

he allows, and one of his criticisms is particularly weak. She contends that without property rights, people's survival is precarious. To this Narveson rejoins: "But then one's survival is always contingent in any case" (p.173). True enough; but why has Narveson not dealt with the obvious next step in the argument: survival is much more 'contingent' without property rights than with them?

Narveson's defense of contractarianism has not been undertaken just for its own sake. He contends that from his starting point, libertarianism is rationally supportable. His argument to this effect, although influenced by Gauthier, differs substantially from Gauthier's own variety of contractarianism.

Gauthier's contractors follow a very carefully structured path. They adhere to a bargaining principle, the Maximin Concession Rule, that prescribes how the gains from cooperation should be distributed. For Narveson, the bargaining situation is fluid and open. He rejects Gauthier's bargaining principle and substitutes no other in its place.

Why then does he think his contractors will arrive at a libertarian exit from the state of nature? Narveson believes that one cannot answer this by an a priori argument. It is a mistake in moral theory to separate sharply issues of principle from factual questions (p.183). The strength of the libertarian case becomes apparent only after one considers how libertarian institutions will handle various social problems.

This brings us to final part of the book, "Libertarianism and Reality." Here Narveson gives us a wealth of original and insightful remarks about various features of a libertarian society.

He boldly faces issues that many libertarians have found problematic. Against those who support the free market but think that the government must provide people with information in order for the market to work, he notes that the provision of information is itself a market good. It is up to freely contracting individuals to decide how much information they wish to obtain. The provision of information is not a 'free good': like any other economic good, it has its price (p.201).

Narveson's discussion of public goods is brief but effective. He maintains that voluntary agreements of a kind he describes can overcome the 'public-goods trap' (p.235) Whether or not the provision of aid to the needy is a public good, some have found in this issue the Achilles heel of laissez-faire capitalism. Thomas Nagel, for instance, has argued that it is too much of a burden on people to confront them continually with the choice of helping the

poor or spending money on themselves. If the government compels donations to the welfare of the poor by means of taxation, people will rest much easier. As Narveson aptly notes, those who in a libertarian society wish to relieve themselves of the burden of free choice are entirely at liberty to agree to have money deducted on an automatic basis from their pay (p.248).

One suggestion Narveson advances will probably start some arguments among libertarians. He thinks that the system of government medical insurance in Ontario, Canada, where he lives, has worked very well. People in a libertarian society might continue arrangements like this, although of course dissenters would be free to leave the system. Why cannot a health insurance plan be attached to one's protection agency? (p.252)

I see nothing that rules this out; although if I may be allowed a guess, the free market is unlikely to arrive at this situation. At least, there seems no more likelihood of this than that steel companies will be branches of protection agencies. But who is to say?

If, after reading Part III, one returns to the issue of whether Narveson's contractors will agree to establish a libertarian set of rights, can one now agree with Narveson that they will? Narveson has certainly made a good case that a libertarian system can handle problems often thought beyond its capacities. But it does not follow from this fact that the contractors will agree to libertarianism. That an alternative will 'work well' certainly tells in its favor, but the lack of restrictions on the contractors leaves the outcome of their deliberations indeterminate. Narveson himself thinks that there is a substantial conventional element to the definition of property rights. He fails to show that his contractors must be limited in their decisions on this matter to results that are recognizably libertarian.

Narveson has written an original and important book that opponents of libertarianism will *have* to study and that libertarians will *enjoy* studying. No one who reads it can fail to be provoked and enlightened.

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