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Respect for Persons and the Authority of Morality

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Respect for Persons and the Authority of Morality

Disciplines

Ethics and Political Philosophy

Respect for Persons and the Authority of Morality

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1. Introduction

Libertarians are known for the intellectual challenges they pose to the authority of the state. They have contested both its specific authority to carry out certain tasks such as antitrust regulation and wealth redistribution, as well its more general authority to claim a monopoly on the legitimate use of force over a geographical area.¹ For all this, libertarians are to be much praised. Even when their positive arguments for a minimal state (or no state at all) have not been completely persuasive, those arguments have nevertheless helped to foster a much needed skepticism in the authority and competence of the state, and to build up our confidence in the responsibility and creativity of free individuals and the spontaneous orders they create.

What motivates libertarian skepticism about state authority, one presumes, is the state's inherently coercive nature. The commands of a state are backed by force. And where there is force, there is always the danger that force will be wrongfully applied. Governments can forcibly prevent individuals from engaging in behavior in which they have a moral right to engage (e.g., drug prohibition laws, anti-sodomy laws), it can force them to engage in behaviors in which they have a moral right not to engage (e.g., mandatory helmet laws, military conscription), and it can use its coercive power to wrongfully deprive individuals of their property and lives (e.g., eminent domain, the war in Iraq).

If, however, it is the coercive power of the state that troubles libertarians, then it seems as though we ought to be equally skeptical about the authority of *any* system purporting to govern the behavior of individuals by

¹ The classic example among academic philosophers of a libertarian who opposes the former sorts of authority, but not the latter, is Robert Nozick, *Anarchy, State, and Utopia* (New York: Basic Books, 1974). A more recent example of a libertarian who opposes both sorts of state claim to authority is Randy Barnett, *The Structure of Liberty* (Oxford: Oxford University Press, 1998). For a discussion of the variety of positions libertarians have advocated regarding state authority, and the different moral foundations they have appealed to in making their arguments, see Matt Zwolinski, "Beyond Nozick: Libertarianism Without Self-Ownership" (unpublished).

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coercive means. And this category includes not just states, but *morality*, especially that part of morality concerned with rights and correlative obligations. A moral theory which recognizes rights as moral claims which can be enforced by physical violence is a system for legitimizing and controlling the use of violence just as much as any state is. And just as individuals can, and should, question the authority of a state, so too they can and should question the authority of moral systems. Furthermore, just as a state might serve the interests of *some* individuals who live under it without serving the interests of all, so too might a moral system serve the interests of some individuals without serving all. In such cases, the question of whether a moral system is *legitimate* for those individuals whose interests it fails to serve is one which cannot simply be ignored. Why *should* the proletarian accept the moral claim that he has no right to the bread I hold in abundance, and that I am justified in using violence upon him if he tries to take it? The system of property rights by which I justify my claim to bread might be necessary to promote the general welfare, or to allow in general the pursuit of personal projects, or to promote individual responsibility, but is that enough to justify the moral system which licenses my use of violence against the proletarian? Is it enough to justify it *to* the proletarian?

If these questions about the authority of morality sound strange, I suspect it is because they are rarely addressed by libertarians, or by moral philosophers in general, at least in these terms. One of the most outstanding and admirable features of Jan Narveson's work is his recognition of the importance of these questions, and of the inadequacy of the standard answers.² That an action "violates natural rights," or "fails to maximize utility," does not settle—or even address—the question of morality's *authority*. Perhaps those of us who are already committed to utility maximization or respect for natural rights will be content with such answers. But they do nothing for the person who does not already regard morality—or these particular interpretations of morality—as authoritative for himself. What is needed in order to establish morality's authority for such persons is to show how morality gives them *reasons* to act in certain ways—ways which might be contrary to their desires and interests.

² See, e.g., Jan Narveson, *The Libertarian Idea* (Philadelphia, PA: Temple University Press, 1988), p. 8, where Narveson stresses the importance of justifying political authority to each person by reference to her own good, as she sees it. See also Jan Narveson, *Respecting Persons in Theory and Practice* (New York: Rowman & Littlefield, 2002), p. 69, on the difference between what reasons *we* might have for wanting *A* to behave in some way, and the reasons *A* has for so behaving. And finally, see Narveson, *The Libertarian Idea*, pp. 151-52, for a discussion of classical utilitarianism's failure to provide agents with a reason to abide by its dictates.

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The remainder of this essay will seek to explore the question of morality's authority, and to critically examine Narveson's answer to that question. I hope to shed light on the question by looking at the way in which Narveson's normative ethical theory—his theory about what kinds of obligations or rights we have—is connected to and shaped by his metaethical theory—his theory about the kind of phenomenon that morality is, metaphysically, and the way in which it relates to human desires and interests. Specifically, I am going to look at the relationship between the kind of reason-giving force Narveson takes morality to have, and the normative content of the morality he takes to be reason-giving. I will argue that while Narveson is more aware of the problem of morality's authority than most, and takes pains to address it through his contractarianism, his response is nevertheless not entirely successful. In short, I think his attempt to claim that the reason-giving force of morality depends upon its ability to serve the interests of the moral agent cannot be combined with a belief in the sort of universal and near-absolute rights that most libertarians claim to believe in. One thing or the other has to give—either morality's reason-giving force is not as dependent on its ability to serve our interests as Narveson (and many of us) would like to think, or morality is more relativistic than Narveson (and many of us) would like to think.

I will begin my paper by summarizing what I take to be some of the most important elements of Narveson's theory of morality. I will then argue that this theory makes certain metaethical presuppositions, and will say what I think those are. Finally, I will argue that these assumptions, taken together and combined with certain reasonable assumptions about human nature, are not mutually consistent. My concluding section will say where I think this leaves us.

2. Narveson's Theory of Morality

Let me begin by describing what morality is like, on Narveson's account. My summary in this section will be selective, focusing on only those elements of the theory that are relevant for the metaethical position I wish to unearth.

a. Reasons

First, morality according to Narveson is *normative*. It tells us what we ought to *do*. Now, this in itself isn't all that interesting. There are lots of systems out there that tell us what to do. Etiquette, to borrow Philippa Foot's example,³ or Nazism for that matter, give us rules that are supposed to guide our behavior too. What makes morality special, on Narveson's view, is that

³ Philippa Foot, "Morality as a System of Hypothetical Imperatives," *Philosophical Review* 81 (1972), p. 8.

morality's rules give us *reasons* to act. Indeed, morality gives us reasons *necessarily*. We can shrug off the demands of etiquette (and certainly Nazism) secure in the knowledge that our status as rational agents is not the least bit threatened by our doing so. After all, just because these systems *say* we ought to do something doesn't mean we *really* have a reason to do so. But morality is different. Once we conclude that some behavior is required by morality, we *have already concluded* that it is something we have reason to do, in the same way that once we have concluded that something is a bachelor, we have already concluded that it is male. Reason-givingness, if you'll pardon the horrendous phrase, is part of our concept of morality.⁴

b. Generality

The second point to note about Narveson's account of morality has to do with the nature of the reason-giving norms given to us by morality. It is that these norms are *general*, in the sense of applying "to *everyone* in the society, and not to select individuals."⁵ Thus, if morality contains a rule prohibiting the killing of innocents, this norm forbids *everyone*, not just a certain sub-set of society, from killing innocents. Of course, to say that morality is general is not to say that it takes no account of the particular details of the circumstances. Morality might prohibit the killing of innocents in most circumstances, but allow it when it is necessary to save the lives of a greater number of innocents, for example. But if this is the case it is not a counterexample to the generality thesis. Rather, it is simply a reminder that the *real* moral rule is more complicated than simply "do not kill innocents." And this real moral rule, whatever it is, will meet the condition of generality, for whatever exceptions it carves out from the general prohibition will be exceptions that *anyone* is eligible for, should they find themselves in the right circumstances. *Everyone* is required not to kill innocents, unless they can save a greater number by doing so. Unless this generality condition is met, according to Narveson, we have simply failed to meet a basic criterion for a moral principle. As Narveson puts it in his essay "Moral Realism, Emotivism and Natural Law," "[n]o generalization, no morals."⁶

c. Concerned with each individual's interests

The last aspect of Narveson's theory on which I wish to focus is also the most difficult to explain clearly. It reflects a sort of thoroughgoing individualism that can be found in Narveson's work, both in his political and his ethical philosophy. In the political realm this individualism is most

⁴ See Narveson, *The Libertarian Idea*, pp. 114, 126.

⁵ *Ibid.*, p. 124.

⁶ Narveson, *Respecting Persons in Theory and Practice*, p. 69.

obviously reflected in Narveson's libertarianism. Each person *qua* individual holds certain rights, it is only *qua* individuals that we hold rights, and it is the purpose of the state to protect these individual rights—that's all. But there is another, even deeper, way in which Narveson's political thought is individualistic, reflected in his understanding of what it is for a political theory to be "liberal" in the broad sense. What this means, according to Narveson, is that the theory "must justify principles, policies, and institutions, to any person affected by them, by showing that person they are for his or her good *as seen by that person*."⁷ In other words, it is a condition on the legitimacy of political principles, policies, and institutions that they serve the good of *each and every person that they affect*. This is the source of their authority over us. It is not that they are stamped by the *imprimatur* of Divine Authority, or that they maximize aggregate welfare, or manifest The Absolute. These are all fine things, to be sure, but in order for a political institution to be justified *to me*, it must serve *my good*—and if I don't care about Divine Authority, or aggregate welfare, or whatever, then the fact that political institutions are related to these things does nothing to legitimize their authority.

The third important aspect of Narveson's *moral* theory that I want to discuss, then, is that morality works in basically the same way. Just as it is a condition on the legitimacy of some purported political principle that it serve the interests of all of those that it affects, so is it a condition on the legitimacy of *moral* principles that they advance the interests of those to whom they are meant to apply. Moral facts, in other words, are not like rocks. Their existence is not something which is completely independent of their relationship to us—our thoughts and interests. Indeed, any moral theory which held that moral facts *were* independent in this way would be, in Narveson's words, "utterly pointless."⁸

This aspect of Narveson's theory is reflected most clearly in his contractarianism. The basic idea of contractarian theory, of course, is that whatever is the subject of the contract (be it political authority or moral principles), it must be justified to each person based on his own interests, since the contract is only binding on those who "sign" it, and persons are assumed not to sign something that is not in their interests.⁹ This individualism, indeed, is often taken to be part of the *appeal* of contractarianism. After all, it's hard to see how one could do a better job at

⁷ Narveson, *The Libertarian Idea*, p. 8.

⁸ Narveson, *Respecting Persons in Theory and Practice*, p. 65.

⁹ See, e.g., David Gauthier, *Morals by Agreement* (New York: Clarendon Press, 1986).

justifying something than by showing that it is in the interests of each and every person who is subject to it.

Most contractarian theories however, fudge a bit on this part of the theory. For while they may claim that their contract mechanism justifies its conditions to all persons, upon closer examination it is revealed that the signatories of the contracts are not actual persons at all, but persons whose individual characteristics have been stripped away in the name of idealization to the point where they are scarcely recognizable as persons at all.¹⁰ On Narveson's account, however, the persons to whom morality must be justified are actual persons, with all of their idiosyncratic preferences, histories, powers and vulnerabilities, material and social endowments, and so forth. This fact is of crucial importance for Narveson's theory, and connects (as we shall see in the next section) with the first feature of Narveson's theory of morality that I noted—the fact that it necessarily gives us reasons for action. For if morality were *not* so justified to each of us, then what reason would we have to *care* what morality asked us to do? This, in fact, is what Narveson sees as the fundamental problem with utilitarianism as a moral theory. The fundamental problem is not that utilitarianism yields counter-intuitive results—Narveson is appropriately critical of appeals to intuition in moral argument.¹¹ The fundamental problem is that utilitarianism has no answer to the question of why individuals should *care* about maximizing aggregate utility. An adequate moral theory must provide individuals—real individuals, not made-up idealized ones—with reasons to care about its precepts, and this requires connecting the demands of morality in some way to the agent's interests.

3. Metaethical Presuppositions

The last ten years or so have witnessed an explosion of scholarship in analytic metaethics. This sub-discipline of philosophy attempts to provide answers to questions about the fundamental nature of morality, its objectivity or mind-dependence, the relationship between morality and practical reason,

¹⁰ See, e.g., John Rawls, *A Theory of Justice* (Cambridge, MA: Harvard University Press, 1971). For Rawls, of course, the contract device is not really a contract at all, but a heuristic for explaining and making clear the alleged appeal of moral principles which he supports on altogether different grounds. On this point, see Will Kymlicka, *Contemporary Political Philosophy: An Introduction*, 2d ed. (Oxford: Oxford University Press, 2001), chap. 3. For a criticism of the use of such arguments in justifying state authority, see David Schmidtz, "Justifying the State," *Ethics* 101, no. 1 (1990), pp. 89-102.

¹¹ See Narveson, *The Libertarian Idea*, chap. 10.

and so on.¹² What I hope to do in this next section of the essay is to take the informal presentation of Narveson's theory which I gave in the previous section, and examine it to see how it can be classified given the categories common to contemporary metaethical discourse.

a. Internalism

First and perhaps most importantly, Narveson's theory is a kind of *internalist* theory. Now, internalism is one of those many problematic terms in philosophy that means a number of different things depending on the context in which the term is used. To clarify, then, the kind of internalism to be found in Narveson's theory is what has been called *morality-reasons internalism*.¹³ And what this form of internalism says is that there is a conceptual, internal connection between judging something to be a valid moral requirement, and its giving agents a reason to act. In other words, morality is necessarily reason-giving. This sort of internalism has probably been most famously defended by Michael Smith in his 1994 book *The Moral Problem*, and has a large fan club among contemporary philosophers.¹⁴ And it's easy to see why. After all, morality is supposed to be *practical* and indeed *overriding* with regard to all other practical concerns we might have. Morality-reasons internalism reflects this belief and its alleged centrality to our moral practice by building it into our very concept of morality.

b. Non-relativism

Second, we can read Narveson's insistence on the general nature of moral demands as asserting a rejection of normative moral relativism, understood by Gilbert Harman as the claim that "different people can be subject to different *ultimate* moral demands."¹⁵ The term "ultimate" is

¹² For overviews of the field, see Michael Smith, *The Moral Problem* (Oxford: Blackwell, 1994), or Alexander Miller, *An Introduction to Contemporary Metaethics* (Cambridge: Polity Press, 2003). More ambitious readers can find a collection of many of the seminal original papers in the field in Andrew Fisher and Simon Kirchin, *Arguing about Metaethics* (New York: Routledge, 2006).

¹³ It has also been referred to as "motivational judgment internalism." See Connie Rosati, "Moral Motivation," *The Stanford Encyclopedia of Philosophy*, available online at <http://plato.stanford.edu/entries/moral-motivation/>.

¹⁴ See, e.g., Christine Korsgaard, "Skepticism about Practical Reason," *Journal of Philosophy* 83 (1986), pp. 1-25; Smith, *The Moral Problem*; and Mark van Roojen, "Motivational Internalism: A Somewhat Less Idealized Version," *Philosophical Quarterly* 50 (2000), pp. 233-41.

¹⁵ Gilbert Harman, "What Is Moral Relativism?" in Alan Goldman and Jagweon Kim, eds., *Values and Morals* (Dordrecht: Reidel, 1978), pp. 143-61.

important here, for even a non-relativist will want to admit that different people can be subject to different moral demands in *some* sense. For example, if I borrow ten dollars from Jack and you don't, then I am subject to a moral demand to pay Jack ten dollars, and you are not. But the moral demand to pay Jack ten dollars is not an *ultimate* moral demand, in Harman's sense, since it derives from a general moral obligation to repay one's debts, and *that* is a moral demand to which we are *both* subject. To say that people differ in their ultimate moral demands would be to say that people's moral demands differ not just because some underlying moral demand that applies to both yields different subsidiary demands in different factual contexts, but for some other reason which does not depend on more basic moral demands.

c. Internalism again

I mentioned that the term internalism has a number of different meanings in philosophy. And, as it turns out, Narveson subscribes to not just one but two of them. The second sort of internalism that his theory exhibits can be seen in what I called the "individualism" of his moral theory above. Narveson seems to accept the idea that for a certain consideration to count as a *reason* for an agent to act in a certain way, that consideration must be capable of *motivating* the agent, at least as long as the agent is being rational. This sort of internalism we can call *reasons-motive internalism*, since it posits a necessary conceptual connection between something's being a reason, and its having a certain sort of motivational effect on a rational agent.¹⁶ The most well-known presentation of this sort of theory is to be found in Bernard Williams's famous essay on internal and external reasons.¹⁷ And this position, too, has both a large number of proponents among contemporary metaethicists and a good deal to be said in favor of it. After all, if a certain consideration could not motivate me to act in a certain way, no matter how much I thought about it, no matter how much information I had, and no matter how rational my deliberative processes were—if, after all this, the consideration leaves me cold, then in what sense can it really be said to be a reason for me to act? *You* (or society in general) might have reasons to get me to act in the relevant way, but if the action in question doesn't link up in the right way with anything that I care about, then how can it be a reason for *me*? And if reasons *aren't* determined by what I care about, then what on earth *are* they determined by? It seems that any rejection of reasons-motive internalism would make the nature of reasons utterly mysterious.

¹⁶ It has also been called simply "reasons internalism"; see Rosati, "Moral Motivation."

¹⁷ Bernard Williams, "Internal and External Reasons," in Ross Harrison, ed., *Rational Action* (Cambridge: Cambridge University Press, 1979), pp. 17-28.

4. Narveson's Dilemma

Now that I have classified Narveson's theory in contemporary metaethical terms, I am ready to show the problem faced by the type of theory with which this leaves him. In short, the problem is that morality-reasons internalism, reasons-motive internalism, and non-relativism are mutually inconsistent when combined with some extremely reasonable suppositions about human nature. One of them has to be abandoned.

To see why, consider what is implied by the combination of the three metaethical positions just identified. Reasons-motive internalism says that no consideration counts as a reason for an agent unless that consideration would be motivating to the agent were she to deliberate rationally upon it. Morality-reasons internalism says that morality *necessarily* gives agents reasons to act. Already, we see a problem. How could morality necessarily give us a reason to act if what we have reason to do depends on what would motivate us? Presumably, not all persons are motivated by the same thing. To speak in terms of a crude but basically sound moral psychology, what we are motivated to do depends on our desires.¹⁸ And people's desires plainly differ. The only way to combine these two views, then, is to say that *morality* differs from person to person. Sure, morality gives us all reason to act, but since what we have reason to do depends on our desires, *morality* must in some sense depend on our desires too. And since desires differ from person to person, so too will morality.

Unfortunately, this move is ruled out by non-relativism. If we were to hold that the demands of morality vary from person to person depending on what that person desires, then we would clearly be violating the non-relativism condition. One could seek to avoid this conclusion, I suppose, by holding that on this theory people's *ultimate* moral demands aren't different—everyone is under the moral requirement to do what they desire, and what this

¹⁸ Actually, this is not an entirely uncontroversial point, philosophically. It reflects what has come to be known, perhaps anachronistically, as the Humean Theory of Motivation. For representative defenses of this view, see Smith, *The Moral Problem*, and Peter Railton, "Moral Realism," *Philosophical Review* 95 (1986), pp. 163-207. For criticisms, see John McDowell, "Virtue and Reason," *Monist* 62 (1979), pp. 331-50, and Thomas Scanlon, *What We Owe to Each Other* (Cambridge: Harvard University Press, 1998). While Humeanism about motivation is probably the dominant view in contemporary metaethics (see Rosati, "Moral Motivation"), the argument I advance here does not depend on the claim that *all* motivation is based *exclusively* on desires. It is enough if *some* of our motivations are so based, even partly so. If we are sometimes motivated by desires, and if our desires differ, and if our reasons depend on our desires, then we will sometimes have different reasons to act.

entails just happens to differ from person to person. But this strikes me as a pretty implausible move, and it leaves untouched the usual concerns surrounding relativism, such as whether we all have the same basic rights, or are under the same basic obligation to respect others rights, and so on.

Another, more plausible, possible move is to argue that people's desires *aren't* that different. Or, at least, they're not different enough in the ways that they would have to be in order to generate any worrisome results for morality. Based on my reading of Narveson, this seems to be the argumentative strategy most in line with his general approach. The basis of his contractarian argument for libertarianism, after all, is that a principle of respect for liberty would be "universally advantageous" to rational agents, "no matter what their personal values or philosophy of life may be."¹⁹ Non-relativism, on this view, is a contingent fact about morality, produced by sufficient overlap in what motivates different human beings.

Empirically, I think the claim on which this strategy relies is a pretty plausible one. Whatever other differences there might be among people, there *is* a pretty broad overlap in their desire not to be attacked, robbed, etc. And that is important—especially when combined with the fact that typically, the best way to ensure that one does not *get* attacked, robbed etc, is for me not to attack, rob, etc. others. But I'm not sure it takes us far enough. After all, there are certainly *some* people whose desires are such that no amount of rational reflection could sway them to care about the demands of morality.²⁰ Perhaps they enjoy immorality very much and would rather live a short exciting life than what they perceive as a long, boring one. Or perhaps they are simply very *good* at immorality and are willing to take the chance that they will not be recognized as the defector they are. If even one such person exists, then assuming we cling to the two sorts of internalism described above, non-relativism fails.

5. Conclusion

My goal in raising such questions is not to point out inconsistencies for the sake of pointing out inconsistencies. The dilemma I highlight here is not some trivial byproduct of an error in Narveson's theory. It is, I believe, a reflection of a deep and important fact about the human condition.

¹⁹ Narveson, *The Libertarian Idea*, p. 148.

²⁰ This claim is clearly true of so-called "psychopaths," who tend cognitively to understand the pain their behavior causes others, but who lack any affective response to that knowledge. See Hervey Cleckley, *The Mask of Sanity*, 4th ed. (St. Louis, MO: C. V. Mosby Company, 1964). I suspect it is true of a much wider class of individuals as well, at least at certain times and in certain contexts.

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The goal of justifying the demands of morality by linking them to the interests of each individual is a truly admirable one, and Narveson is to be commended for taking the project on. But considerations such as the ones I have presented above should give us reason to doubt whether the kind of moral individualism reflected by Narveson's metaethical commitment to internalism can really be combined with a belief in universal human rights of the sort that libertarians generally wish to defend.

In other words, if our concern is, as Narveson takes it to be, to come up with a set of standards for the regulation of behavior that "does best for each agent," then we have good reason to wonder whether there *is* one such set.²¹ The moral rules that serve the interests of able-bodied individuals with large amounts of property at their disposal might very well be different from those that serve the interests of the less-able (but still wily) propertyless masses. The interests of the religious zealot who believes that the next world is all that matters might very well be different from the interests of those who are simply trying to live peaceful lives in this world. Is it really plausible that there is one set of moral standards that does best for each and every one of the diverse individuals living on this planet?

I doubt it. My own inclinations lead me to resolve the dilemma above by abandoning non-relativism. The arguments that Narveson and others have given us do, I think, show us that something like a libertarian morality does a good job at advancing the interests of a whole diverse lot of us. But not all of us, and not all the time. Sometimes some individuals will have a legitimate reason to reject the morality that serves the interests of the masses. Given their interests and circumstances, the action they have the strongest reason to perform will be an immoral one. This, I think, is just a sad fact about the world we live in. But it doesn't undermine morality for the rest of us. *We* still have reason to enforce norms against murder, even if *you* don't have an interest in obeying those norms. It's nice to think that morality serves the interests of each individual all the time, so that if only people were smarter, or had a longer time horizon, or were better informed, or more reflective, they would *realize* that they should abandon their life of debauchery and accept morality's embrace. And in a lot of cases, this will be true. But not all of them. And when it's not, it's up to the rest of us to bully, cajole, guilt-trip, and beat the offender into behaving in ways that are *contrary* to his interests but in line with ours. The bad news is that the reason-giving

²¹ Narveson, *Respecting Persons in Theory and Practice*, p. 72.

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force of morality will only take us so far. The good news is that where reasons run out, we have other methods at our disposal.²²

²² An earlier draft of this essay was presented at the 2006 meeting of the American Association for the Philosophic Study of Society. Thanks to the participants in that seminar, especially Jan Narveson and Roderick Long, for their comments.