

Questions for Free-Market Moralists

—Amia Srinivasan

IN 1971 JOHN RAWLS PUBLISHED A *THEORY OF JUSTICE*, THE MOST significant articulation and defense of political liberalism of the twentieth century. Rawls proposed that the structure of a just society was the one that a group of rational actors would come up with if they were operating behind a “veil of ignorance”—that is, provided they had no prior knowledge what their gender, age, wealth, talents, ethnicity and education would be in the imagined society. Since no one would know in advance where in society they would end up, rational agents would select a society in which everyone was guaranteed basic rights, including equality of opportunity. Since genuine (rather than “on paper”) equality of opportunity requires substantial access to resources—shelter, medical care, education—Rawls’s rational actors would also make their society a redistributive one, ensuring a decent standard of life for everyone.

In 1974, Robert Nozick countered with *Anarchy, State, and Utopia*. He argued that a just society was simply one that resulted from an unfettered free market—and that the only legitimate function of the state was to ensure the workings of the free market by enforcing contracts and protecting citizens against violence, theft and fraud. (The seemingly redistributive policy of making people pay for such a “night watchman” state, Nozick argued, was in fact nonredistributive, since such a state would arise naturally through free bargaining.) If one person—Nozick uses the example of Wilt Chamberlain,

the great basketball player—is able to produce a good or service that is in high demand and others freely pay him for that good or service, then he is entitled to his riches. Any attempt to “redistribute” his wealth, so long as it is earned through free market exchange, is, Nozick says, “forced labor.”

Rawls and Nozick represent the two poles of mainstream Western political discourse: welfare liberalism and laissez-faire liberalism, respectively. (It’s hardly a wide ideological spectrum, but that’s the mainstream for you.) On the whole, Western societies are still more Rawlsian than Nozickian: they tend to have social welfare systems and redistribute wealth through taxation. But since the 1970s, they have become steadily more Nozickian. Such creeping changes as the erosion of the welfare state, the privatization of the public sphere and increased protections for corporations go along with a moral worldview according to which the free market is the embodiment of justice. This rise in Nozickian thinking coincides with a dramatic increase in economic inequality in the United States over the past five decades—the top 1 percent of Americans saw their income multiply by 275 percent in the period from 1979 to 2007, while the middle 60 percent of Americans saw only a 40 percent increase. If the operations of the free market are always moral—the concrete realization of the principle that you get no more and no less than what you deserve—then there’s nothing in principle wrong with tremendous inequality.

The current economic crisis is no exception to the trend toward Nozickian market moralizing. In the recent debates in the Senate and House of Representatives about food stamps—received by one out of six Americans, about two-thirds of them children, disabled or elderly—Republicans made their case for slashing food subsidies largely about fairness. As Senator Jeff Sessions, Republican, of Alabama, said in his speech, “This is more than just a financial issue. It is a moral issue as well.”

The Harvard economist N. Gregory Mankiw recently published a draft of a paper titled “Defending the One Percent.” In it he rehearses (but, oddly, does not cite) Nozick’s argument for the right

of the wealthy to keep their money, referring to the moral principle of “just deserts” as what makes distribution by the market essentially ethical. And in a recent issue of *Forbes*, the Ayn Rand apostle Harry Binswanger proposed that those earning over one million dollars should be exempt from paying taxes, and the highest earner each year should be awarded a medal of honor—as a reward (and incentive) for producing so much market value. Again, Binswanger explained that “the real issue is not financial, but moral.”

The Nozickian outlook is often represented as moral common sense. But is it? Here I pose four questions for anyone inclined to accept Nozick’s argument that a just society is simply one in which the free market operates unfettered. Each question targets one of the premises or implications of Nozick’s argument. If you’re going to buy Nozick’s argument, you must say yes to all four. But doing so isn’t as easy as it might first appear.

1. *Is any exchange between two people in the absence of direct physical compulsion by one party against the other (or the threat thereof) necessarily free?*

If you say yes, then you think that people can never be coerced into action by circumstances that do not involve the direct physical compulsion of another person. Suppose a woman and her children are starving, and the only way she can feed her family, apart from theft, is to prostitute herself or to sell her organs. Since she undertakes these acts of exchange not because of direct physical coercion by another, but only because she is compelled by hunger and a lack of alternatives, they are free.

2. *Is any free (not physically compelled) exchange morally permissible?*

If you say yes, then you think that any free exchange can’t be exploitative and thus immoral. Suppose that I inherited from my rich parents a large plot of vacant land, and that you are my poor, landless

neighbor. I offer you the following deal. You can work the land, doing all the hard labor of tilling, sowing, irrigating, and harvesting. I'll pay you \$1 a day for a year. After that, I'll sell the crop for \$50,000. You decide this is your best available option and so take the deal. Since you consent to this exchange, it is morally permissible.

3. *Are people entitled to all they are able, and only what they are able, to get through free exchange?*

If you say yes, you think that what people are entitled to is largely a matter of luck. Why? First, because only a tiny minority of the population is lucky enough to inherit wealth from their parents. (A fact lost on Mitt Romney, who famously advised America's youth to "take a shot, go for it, take a risk . . . borrow money if you have to from your parents, start a business.") Since giving money to your kids is just another example of free exchange, the accumulation of wealth and privilege in the hands of the few is morally permissible. Second, people's capacities to produce goods and services in demand on the market is largely a function of the lottery of their birth: their genetic predispositions, their parents' education, the amount of race- and sex-based discrimination to which they're subjected, their access to health care and good education.

It's also a function of what the market happens to value at a particular time. Van Gogh, William Blake, Edgar Allan Poe, Vermeer, Melville, and Schubert all died broke. If you're a good Nozickian, you think they weren't entitled to anything more.

4. *Are people under no obligation to do anything they don't freely want to do or freely commit themselves to doing?*

If you say yes, then you think the only moral requirements are the ones we freely bring on ourselves—say, by making promises or contracts. Suppose I'm walking to the library and see a man drowning in the river. I decide that the pleasure I would get from saving his life wouldn't exceed the cost of getting wet and the delay. So I walk on

by. Since I made no contract with the man, I am under no obligation to save him.

MOST OF US, I suspect, will find it difficult to say yes to all four of these questions. (Even Nozick, in *Anarchy, State, and Utopia*, found it hard to say yes to question 3.) In philosophical terms, we have a *reductio ad absurdum*. The Nozickian view implies what, from the perspective of common sense morality, is absurd: that a desperate person who sells her organs or body does so freely, that it's permissible to pay someone a paltry sum while profiting hugely off their labor, that people are entitled to get rich because of accidents of birth, that you're within your rights to walk by a drowning man. Thus Nozick's view must be wrong: justice is not simply the unfettered exercise of the free market. Free market "morality" isn't anything of the sort.

Some might object that these are extreme cases, and that all they show is that the market, to be fully moral, needs some tweaking. But to concede that there is more to freedom than consent, that there is such a thing as nonviolent exploitation, that people shouldn't be rewarded and punished for accidents of birth, that we have moral obligations that extend beyond those we contractually incur—this is to concede that the entire Nozickian edifice is structurally unsound. The proponent of free market morality has lost his foundations.

Why worry about the morally pernicious implications of Nozickianism? After all, I said that most Western societies remain Rawlsian in their organization, even if they are growing more Nozickian in their ideology. In the United States for example, there are legal prohibitions on what people can sell, a safety net to help those who suffer from really bad luck, and a civic ethos that prevents us from letting people drown. The first answer is, of course, that the material reality is being rapidly shaped by the ideology, as recent debates about welfare in the United States demonstrate.

The second is that most Western societies hardly constitute a Rawlsian utopia. People might be legally prohibited from selling their organs, but that doesn't remedy the desperate circumstances

that might compel them to do so. The law does not stop people from falling into poverty traps of borrowing and debt, from being exploited by debt settlement companies promising to help them escape those traps, or losing their homes after buying mortgages they can't afford to pay back. And there is certainly no prohibition against the mind-numbing and often humiliating menial work that poor people do in exchange for paltry wages from hugely rich companies. A swiftly eroding welfare state might offer the thinnest of safety nets to those who fall on hard times, but it does nothing to address the lack of social mobility caused by the dramatic rise in inequality. And while it might be thought poor form to walk by a drowning man, letting children go hungry is considered not only permissible, but as Senator Sessions said, "a moral issue." These facts might be not quite as ethically outraging as walking past a drowning man, but they, too, grate against our commonsense notions of fairness.

Rejecting the Nozickian worldview requires us to reflect on what justice really demands, rather than accepting the conventional wisdom that the market can take care of morality for us. If you remain a steadfast Nozickian, you have the option of biting the bullet (as philosophers like to say) and embracing the counterintuitive implications of your view. This would be at least more consistent than what we have today: an ideology that parades as moral common sense.

OCTOBER 20, 2013

MODERN ETHICS IN 77 ARGUMENTS

A STONE READER

Edited by

PETER CATAPANO
AND **SIMON CRITCHLEY**



LIVERIGHT PUBLISHING CORPORATION

A Division of W. W. NORTON & COMPANY

Independent Publishers Since 1923

NEW YORK LONDON

2017