

1 Introduction

Jan Narveson and James P. Sterba

ARISTOTLE held that equals should be treated equally and unequals unequally. Yet Aristotle's ideal of equality was a relatively formal one that allowed for considerable inequality. Likewise, Thomas Hobbes, John Locke, and Jean-Jacques Rousseau all maintained that the equality in the state of nature could be reconciled with significant inequalities in social life. Immanuel Kant too held a view that justified considerable inequalities. In the nineteenth and twentieth centuries, however, more substantive ideals of equality, including ideals of economic and social equality, began to be defended by socialists, Marxists, welfare liberals, and feminists alike. As a result, the compatibility of the political ideals of liberty and equality has been seriously brought into question: how could such substantive ideals of equality be reconciled with an ideal of liberty?

Some contemporary political philosophers have sought to resolve the apparent conflict by simply endorsing an ideal of positive rather than negative liberty – one that can clearly be seen to impose the same requirements as a substantive ideal of equality. But this strategy simply begs the question unless we can demonstrate the moral or rational superiority of an ideal of positive liberty in the first place, which seems very difficult, if not impossible, to do.

In this book, Jan Narveson will argue for the incompatibility of the political ideals of liberty and equality, while James P. Sterba will argue for their compatibility. More specifically, Narveson will argue that a political ideal of negative liberty is incompatible

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with any substantive ideal of equality, while Sterba (in order not to beg the question against Narveson's view) will argue that Narveson's own ideal of negative liberty is compatible, and, in fact, leads to the requirements of a substantive ideal of equality. Throughout this essay, it bears noting that when Sterba speaks of an ideal of liberty or equality, he intends those ideals to include both supererogatory and obligatory requirements, the latter of which correlate with rights that are taken to be fundamental. So this debate is centrally about what fundamental rights people should have and what those rights require.

More on Narveson's argument

Narveson defines negative liberty to be the absence of factors that prevent a person from doing something. He takes the political ideal of negative liberty to be that each person's negative liberty should be constrained in the least possible way compatible with the same constraint on the negative liberty of everyone else. Narveson argues that commitment to this ideal of negative liberty will lead to free-market capitalist institutions without any right to welfare, let alone any requirement to secure economic or social equality. Nor do we violate the rights of distant peoples or future generations, he claims, by using up resources that they need, or will need, to survive, since distant peoples and future generations have no right to welfare. Narveson further argues that his political ideal of negative liberty can be supported by contractarianism. Thus, he maintains that his political ideal of negative liberty provides everyone with reason to abide by the ideal provided others do so as well, and, in this way, he claims, it can be given a contractual foundation.

More on Sterba's argument

Sterba accepts Narveson's definition of negative liberty. He also accepts Narveson's view that each person's negative liberty should be constrained in the least possible way compatible with the same constraint on the negative liberty of everyone else.

However, he maintains that this political ideal of negative liberty, under certain conditions, favors the liberty of the poor not to be interfered with in taking from the surplus of the rich what they require to meet their basic needs (a negative liberty) over the liberty of the rich not to be interfered with in using their surplus for luxury purposes (another negative liberty). Sterba further argues that the recognition of this negative liberty-right to welfare will give rise to a positive right to welfare. Agreeing with Narveson that basic rights are universal rights, Sterba extends this derived right to welfare to distant peoples and future generations. He further argues that respecting this right requires that we use no more resources than we need for a decent life so that distant peoples and future generations will also, as much as possible, have the resources they need for a decent life. And this, he claims, will lead to an equality in the use of resources over space and time. In short, Sterba argues that Narveson's own negative ideal of liberty leads to the requirements of a substantive ideal of equality.

Sterba disagrees with Narveson's claim that his political ideal of negative liberty is supported by contractarianism. Assuming the form of contractarianism in question is Hobbesian rather than Rawlsian, Sterba does not think that it will necessarily support either Narveson's interpretation of the political ideal of negative liberty or his own interpretation of that ideal.

More on our arguments together

Both of us recognize that we need to present a nonquestion-begging argument – one that should be acceptable to all parties – supporting one or the other of our different interpretations of the political ideal of negative liberty. Accordingly, Narveson seeks to provide a nonquestion-begging argument supporting his no-welfare, no-required-equality interpretation of the ideal, and Sterba seeks to provide a nonquestion-begging argument supporting his welfare-leading-to-substantive-equality interpretation of the ideal.

Of course, we both cannot be right. The details of our arguments about the political ideal of negative liberty and its requirements

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will determine which of us is right. Nevertheless, we will try to show that other arguments for the conclusions we support either are not as good as our own or are really equivalent with our own. We will also address the main objections to our views, including those objections that we have made to each other. In this way, we hope to leave the reader with no doubt about who wins this debate.

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Excerpt
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Part I

2 Equality is compatible with and required by liberty¹

James P. Sterba

Is liberty compatible with equality? Following out the strategy proposed in the general introduction, I will seek to answer this question by starting with the libertarian's own ideal of negative liberty and then try to show that that ideal, when correctly interpreted, leads to substantial equality. I will then turn to an examination of other arguments that have sought to support similar conclusions and explain why those arguments are not as effective as my own. Finally, I will consider the main objections to my argument that have been raised by libertarians and my replies to those objections, where I will take up, in particular and at length, Jan Narveson's own objections to my argument from liberty to equality.

1 The practical requirements of liberty

From liberty to welfare

Libertarians like to think of themselves as defenders of liberty. F. A. Hayek, for example, sees his work as restating an ideal of

¹ This essay draws and considerably improves upon earlier attempts of mine to construct an argument from liberty to equality and to deal with critiques that have been raised against these attempts found in *How To Make People Just* (Lanham, MD: Rowman and Littlefield, 1988), chs. 2, 7, and 11; *Justice for Here and Now* (New York: Cambridge University Press, 1998), chs. 2 and 3; *The Triumph of Practice Over Theory in Ethics* (New York: Oxford University Press, 2005), chs. 2 and 3; and "Completing the Kantian Project: From Rationality to Equality," *APA Presidential Addresses: Proceedings of the American Philosophical Association* 82, 2 (November 2008), pp. 47–83. Material from these earlier works is used with permission.

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liberty for our times. “We are concerned,” says Hayek, “with that condition of men in which coercion of some by others is reduced as much as possible in society.”² Similarly, John Hospers believes that libertarianism is “a philosophy of personal liberty – the liberty of each person to live according to his own choices, provided that he does not attempt to coerce others and thus prevent them from living according to their choices.”³ And Robert Nozick claims that, if a conception of justice goes beyond libertarian “side-constraints,” it cannot avoid the prospect of continually interfering with people’s lives.⁴

Yet while libertarians endorse an ideal of liberty, they interpret it in different ways. For some, liberty is defined as follows:

The want conception of liberty: Liberty is being unconstrained by other persons from doing what one wants.⁵

This conception limits the scope of liberty in two ways. First, not all constraints, whatever their source, count as a restriction of liberty; the constraints must come from other persons. For example, people who are constrained by natural forces from getting to the top of Mount Everest do not lack liberty in this regard. Second, constraints that have their source in other persons, but that do not run counter to an individual’s wants, constrain without restricting that individual’s liberty. Thus, for people who do not want to hear Beethoven’s Fifth Symphony, the fact that others have effectively proscribed its performance does not restrict their liberty, even though it does constrain what they are able to do.

Of course, some may wish to argue that even such constraints can be seen to restrict a person’s liberty once we take into account the fact that people normally want, or have a general desire, to be unconstrained by others. But others have thought

2 F. A. Hayek, *The Constitution of Liberty* (Chicago: University of Chicago Press, 1960), p. 11.

3 John Hospers, *Libertarianism* (Los Angeles: Nash Publishing, 1971), p. 5.

4 Robert Nozick, *Anarchy, State, and Utopia* (New York: Basic Books, 1974), p. ix.

5 Hospers, *Libertarianism*, p. 5.

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that the possibility of such constraints points to a serious defect in this conception of liberty,⁶ which can only be remedied by adopting the following broader conception of liberty:

The ability conception of liberty: Liberty is being unconstrained by other persons from doing what one is able to do.

Applying this conception to the above example, we find that people's liberty to hear Beethoven's Fifth Symphony would be restricted even if they did not want to hear it (and even if, perchance, they did not want to be unconstrained by others) since other people would still be constraining them from doing what they are able to do.

Moreover, it is important to note that being unconstrained from doing what one is unable to do does not constitute a liberty. Of course, some philosophers would object to this account, claiming, for example, that people might be free or have the liberty to run a four-minute mile even when they are unable to do so. However, if we allow that people can have the liberty to do what they are unable to do, then, presumably, they can also lack the liberty to do or be constrained from doing what they are unable to do, which seems absurd.

One reason why some philosophers have held that people can have the liberty to do what they are unable to do is that they believed that something of value is lost even when such a "liberty" is taken away.⁷ Hayek, for example, suggests that penniless vagabonds who live precariously dependent on their own wits have more liberty than conscripted soldiers with all their security and relative comfort, despite the fact that the vagabonds lack the ability to derive much benefit from their liberty.⁸ Yet although it is true that the vagabonds would lack the ability to derive much benefit from their liberty, it is also true that they would have the

6 Isaiah Berlin, *Four Essays on Liberty* (New York: Oxford University Press, 1969), pp. xxxviii–xl.

7 John Gray, "On Negative and Positive Liberty," *Political Studies* 29 (1980), pp. 507–26.

8 Hayek, *Constitution of Liberty*, p. 18.

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ability to exercise that liberty, however unsuccessfully, and it is this ability which is presupposed by the possession of any liberty whatsoever. Thus, in general, while it is possible to confuse having a liberty with having certain sorts of abilities (for example, having the liberty to run a four-minute mile with the ability to succeed in doing so), at the same time, it should be recognized that having a liberty does presuppose the ability to exercise that liberty in some fashion or other, however unsuccessfully. As a consequence, all liberties determined by the Want Conception of Liberty will turn out to be liberties according to the Ability Conception as well.

Of course, there will also be numerous liberties determined by the Ability Conception that are not liberties according to the Want Conception. For example, there will be highly talented students who surprisingly do not want to pursue careers in philosophy, even though no one constrains them from doing so. Accordingly, the Ability Conception but not the Want Conception would view them as possessing a liberty. And even though such liberties are generally not as valuable as those liberties that are common to both conceptions, they still are of some value, even when the manipulation of people's wants is not at issue. This seems, therefore, to be a good reason for favoring the Ability over the Want Conception of Liberty.

Yet even if we endorse the Ability Conception of Liberty, problems of interpretation still remain. The major problem concerns what is to count as a constraint. On the one hand, libertarians would like to limit constraints to positive acts (that is, acts of commission) that prevent people from doing what they are otherwise able to do. On the other hand, welfare liberals interpret constraints to include, in addition, negative acts (that is, acts of omission) that prevent people from doing what they are otherwise able to do. In fact, this is one way to understand the debate between defenders of "negative liberty" and defenders of "positive liberty." For defenders of negative liberty would seem to interpret constraints to include only positive acts of others that prevent people from doing what they otherwise are able to do, while defenders of positive liberty would seem to interpret

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constraints to include both positive and negative acts of others that prevent people from doing what they are otherwise able to do.⁹

So in order not to beg the question against libertarians, suppose we interpret constraints in the manner favored by them to include only positive acts by others that prevent people from doing what they otherwise either want and are able to do, or are just able to do.¹⁰

Libertarians go on to characterize their political ideal as requiring that each person should have the greatest amount of liberty morally commensurate with the greatest amount of liberty for everyone else.¹¹ Interpreting their ideal in this way, libertarians claim to derive a number of more specific requirements, in particular, a right to life, a right to freedom of speech, press, and assembly, and a right to property.

Here it is important to observe that the libertarian's right to life is not a right to receive from others the goods and resources necessary for preserving one's life; it is simply a right not to have one's life interfered with or ended unjustly. Correspondingly, the libertarian's right to property is not a right to receive from others the goods and resources necessary for one's welfare, but rather typically a right not to be interfered with in regard to any goods and resources that one has legitimately acquired either by initial acquisition or by voluntary agreement.¹²

9 On this point, see Maurice Cranston, *Freedom* (New York: Basic Books, 1953), pp. 52–3; C. B. Macpherson, *Democratic Theory* (Oxford: Oxford University Press, 1973), p. 95; and Joel Feinberg, *Rights, Justice and the Bounds of Liberty* (Princeton: Princeton University Press, 1980), ch. 1.

10 I have earlier referred in a shorthand and somewhat imprecise way to “people doing what they want or are able to do” where I understood the first disjunct to include “and are able,” as was clearly implied by the surrounding discussion.

11 Hospers, *Libertarianism*, ch. 7, and Tibor Machan, *Human Rights and Human Liberties* (Chicago: Nelson-Hall, 1975), pp. 231ff. We should think about the libertarian ideal of liberty as securing for each person the largest morally defensible bundle of liberties possible.

12 Property can also be legitimately acquired on the libertarian view by producing it out of what one already owns or legitimately possesses.