

Book Reviews

Mack, Eric. *Libertarianism*. Medford, MA: Polity Press, 2018.

There are many ways individuals can come to be acquainted with libertarianism. But the future of the position would be on much firmer footing if prospective introductions came by way of Eric Mack's masterful *Libertarianism*. For those interested in understanding libertarianism, I can think of no better place to start.

Mack's book is not an articulation and defense of his preferred conception of libertarianism. For that, one can look to the numerous articles he has produced over his career.¹ Rather, this book offers a systematic treatment of libertarianism that covers its historical antecedents and contemporary incarnations. This book is not for Mack, but for *us*—the readers. Even those intimately familiar with the thinkers discussed therein will benefit greatly by reading Mack's presentation. The argument reconstructions and critical commentary serve as a model for how to do philosophy well.

Libertarianism is divided into five chapters and one online bonus chapter. The first is an introduction. The second looks to significant non-contemporary philosophers—namely, John Locke, David Hume, John Stuart Mill, and Herbert Spencer—to raise and consider themes central to libertarian thought. Chapter three hops forward in time to the views of two of the most prominent recent libertarians: Robert Nozick and Friedrich A. Hayek. The fourth chapter covers the relationship between economic justice and property rights.

¹ Some of my personal favorites include: Eric Mack, "In Defense of the Jurisdiction Theory of Rights," *The Journal of Ethics* 4, nos. 1–2 (2000), pp. 71–98; Eric Mack, "Hayek on Justice and the Order of Actions," in *Cambridge Companion to Hayek*, ed. Edward Feser (Cambridge, MA: Cambridge University Press, 2006), pp. 259–86; Eric Mack, "Elbow Room for Rights," in *Oxford Studies in Political Philosophy*, ed. Peter Vallentyne, David Sobel, and Steven Wall, vol. 1 (New York: Oxford University Press, 2015), pp. 194–221.

The fifth chapter takes up objections to libertarianism coming from both inside and outside the libertarian tent. For those not faint of heart, the online bonus chapter (which is best read between chapters 4 and 5) sees Mack assess significant developments in post-1970s libertarian thinking.

Chapter 1 begins with conceptual analysis. While a less careful thinker might use ‘libertarian’ and ‘classical liberal’ interchangeably, Mack distinguishes the two. Libertarianism is the “advocacy of individual liberty as the *fundamental* political norm” and it “maintains that respect for one’s liberty is the basic moral demand that each individual can make against all other individuals and groups” (p. 1; emphasis added). Classical liberalism is slightly less ambitious in maintaining “that respect for individual liberty is at least the primary political norm” (p. 3). Both theories fall on the same end of the ideological spectrum, but the former places greater value on liberty than does the latter.

Mack’s focus is on libertarianism, but libertarianism is not a homogenous monolith; it can be defended from different methodological presuppositions. Mack identifies three ways of defending libertarianism. The first route to libertarianism commences from a commitment to *natural rights*, which are “basic moral rights that must be respected by all other persons, groups, and institutions” and are grounded in “certain deep truths about human beings and their prospective interactions” (p. 4). The second justificatory strategy, which Mack calls *cooperation to mutual advantage*, follows from a belief that “general compliance with certain principles of justice engenders a cooperative social and economic order that is advantageous to all” (pp. 4-5). The third possible defense is *utilitarian*, specifically, an indirect version which holds that the greatest happiness is best pursued “through steadfast compliance with certain constraining moral norms” that are “pretty much the same constraining norms that are celebrated by the natural rights and mutual advantage approaches” (p. 5). Mack treats the indirect utilitarian route as ancillary because concerns about “greatest happiness” must fade into the background and the constraining norms must be extensive and robust in order for the position to be “libertarian-friendly” (p. 6).

Chapter 2 transitions to historical analysis. Mack uses the familiar forefathers of libertarianism—Locke, Hume, and Mill—as well as a frequently underappreciated figure—Spencer—as figureheads of the three different approaches to justifying libertarianism.

Locke represents the *natural rights* approach. “The keynote claim,” Mack says, “of the *Second Treatise* is that each person possesses a natural moral right to freedom—a natural right to live one’s own life in accord with one’s own choices” (p. 10). Locke does not merely assert these natural rights or appeal to God to ground them, as a superficial reading might have it. He argues that they follow from a pair of facts about humans. The first is that everyone seeks personal happiness, and it is rational to do so. The second is that all humans have the same moral standing.

These two facts make it possible for Locke to offer three arguments for the natural right to freedom. The first is the *generalization argument*. If A, which has moral status h, makes a claim, c, against B, then A must recognize the authority of c when made by all others with h. To generate a conclusion supporting a natural right to freedom, one such c must be freedom from interference. On the assumption that every person will be rationally motivated to make this claim, the result will be a universal recognition and affirmation of freedom from interference, which is to say a *right* to freedom from interference. The second is the *non-subordination argument*. The only justification, besides agreement or provocation, for A harming B is if B is naturally subordinate to A. However, since all human beings are “equal and independent,” neither B nor C . . . Z is subordinate to A. Hence, agreement and provocation are the only possible justifications for A harming B. Finally, Locke offers the *preservation of mankind argument*. It is a fact that A is bound to preserve A’s self and each other human being is “by like reason” bound to preserve their self. The proper response to this fact by A is to self-preserve and for A not to impede others’ attempts to self-preserve. The human aim of self-preservation gives each reason to constrain behavior in certain ways, namely, by not hindering the ability of others to self-preserve in the way they see fit.

Mack goes on to discuss Locke’s account of private property, the state of nature and its relevance to political authority, and his defense

of toleration. As will surprise no one, Mack's coverage of Locke is absolutely first-rate.

Hume represents the *cooperation to mutual advantage* defense. His theoretical starting point is that individuals lack a *natural* desire to comply with the principles of justice. The principles of justice must generate their own support. The lone natural motivations are selfishness and limited generosity, which look more like obstacles than aides to cooperation. For Hume, the principles of justice are regulatory principles. They allow us to live and play well together. The first principle prohibits one from confiscating someone else's possessions. The second permits transferring possessions, but only when it is mutually agreed upon. The third principle demands that individuals not shirk on voluntarily made agreements. General compliance with these principles makes possible a mutually advantageous existence for individuals who deeply disagree with one another.

Mill and Spencer are the exemplars of the *indirect utilitarian* approach. The general strategy is to show how a commitment to utilitarianism can allow for and ultimately support a robust form of individual liberty. This is no easy task, though, given the priority of ends within utilitarianism. The utilitarian needs either all of the disparate ends to coincide with what maximizes aggregate utility such that individuals genuinely want to do what produces the greatest happiness (even when it comes at a personal cost) or for it to be the case that the utility of indefinitely protecting certain liberties outweighs the utility present in a world in which those liberties are not steadfastly protected. Given that the former requires extensive paternalism, Mill favors the latter. The way to maximize utility is never to fail to protect the relevant liberties, thereby providing security.

Mack's inclusion of Spencer is noteworthy. Spencer is skeptical that one can know what action will yield the greatest happiness. Instead, the focus should be on general principles. If the right principles are identified and complied with, happiness will be maximized because the right principles allow individuals to best realize their own conception of happiness. For Spencer, the right principle is *the law of equal freedom* that establishes that one is free to do as one wishes up to the point that it infringes on the equal freedom of another. From the law of equal

freedom, Spencer derives more specific rights, such as life and personal liberty, use of the Earth, and to ignore the state.

Chapter 3 concerns Nozick's and Hayek's respective cases for libertarianism. Nozick believes that the path to libertarianism is paved by a defense of a robust set of rights. Mack offers a rational reconstruction of Nozick's case for select individual rights, maintaining that Nozick's argument is stronger than John Rawls's contractarian project. In *A Theory of Justice*, Rawls criticizes utilitarianism and then offers his contractarian alternative.² The problem with utilitarianism, says Rawls, is that the principle of social choice is viewed as an extension of the principle of individual choice. This is a problem because it "fails to recognize the fundamental difference between individuals and society" (p. 42). It is important that the entity deciding incur the cost or receive the benefit that follows from deciding. Utilitarianism requires treating society as a fusion of individuals. But society is not a fusion of individuals, as there is no entity that incurs the costs or receives the benefits. For Rawls, the "separateness of persons" (SOP) is not just the basis of a criticism of utilitarianism. It is an adequacy condition on moral principles. What indicates that a set of principles, *p*, satisfies it is that *p* would be agreed to by all relevant parties in an ideal choice situation.

Mack argues that Nozick's natural rights account is better than Rawls's contractarian account at respecting the SOP. Nozick holds that embracing the SOP entails rejecting moral balancing, which is wrong because it fails to take seriously individuals as rational project pursuers. Moral side constraints—which one possesses on the basis of moral status, not on value-based reasons—prevent individuals from being part of a moral balancing act. As Mack nicely summarizes the point, the "deep feature of libertarian thinking is that the value of each person's happiness or well-being does not mean that everyone has enforceable obligations to promote everyone's happiness or well-being" (p. 51).

Mack identifies two reasons why Nozick's natural rights position has greater plausibility than Rawls's contractarian project. The first is that Rawls's project makes the rights individuals have dependent

² John Rawls, *A Theory of Justice: Revised Edition* (Cambridge, Mass: Belknap Press, 1999).

on (all) others finding reason to agree to ascribe that set of rights. The second is that it depersonalizes, in the form of veiling particular details, individuals in the “original position.” That depersonalization results in principles being identified without respect to the diversity of ends had by actual individuals, which undermines the SOP.

Mack’s treatment of both Nozick and Rawls is excellent, but I must admit that I am not clear about what Mack’s contention is. In a general sense, it is that Nozick’s argument is better with respect to the SOP than is Rawls’s. However, in what respect is it better? In one place, Mack says that the issue is about “justification,” but in another, it is about “plausibility” (pp. 42 and 54). These do not necessarily come to the same thing. Ultimately, I think that comparing Nozick and Rawls with respect to the SOP is not a relevant comparison. We should not be surprised that Nozick does better—whatever that means—with respect to the SOP. Rawls is not aiming to have the “most” SOP possible; on my reading, the grounding value of his theory of justice is non-arbitrariness. The SOP is a sort of methodological bulldozer. It clears the theoretical space by ruling out utilitarianism, so that he can then construct a theory which is founded on a commitment to non-arbitrariness. This can be done in a way that is consistent with the SOP. For Rawls, the SOP is just one desideratum. The relevant question is whether Rawls’s account can satisfy it. I read Mack’s two closing points as suggesting that it does not decisively do so. Rawls’s positive position does not *follow* from the SOP argument in the way that Nozick’s positive position does, so the fact that Nozick’s account does better—seemingly in the sense that it allows for more or greater separateness—with respect to the SOP should not really be a strike against Rawls.

Next, Mack turns to Hayek’s contributions to liberal theory. Among the most significant is his distinction between top-down order and law and ground- (or bottom-) up order and law. The former is a product of some organizer’s dictates, while the latter are *emergent*. The distinction between top-down, designed orders and bottom-up, spontaneous orders is of fundamental importance because “the core social scientific error that has undermined the cause of liberty is the belief that desirable social and economic order must ultimately be designed and imposed by legal commands” (p. 65). Abstract rules emerging from the bottom-up play an important role in Hayek’s account

because the evolution of these rules is a core driver of social progress. Compliance with the rules allows for individuals with diverse ends to live peaceably together. Mack thus reads Hayek as giving “a *mutual advantage* justification for compliance with the rules” (p. 72).

Chapter 4 addresses issues of economic justice and property rights through Nozickian and Hayekian lenses. Both put forward a version of the libertarian objection to economic justice that holds there is no “best” income or wealth distribution that the state is justified in coercively intervening to bring about. Nozick identifies a fundamental tension between such “patterned distributions” and liberty. Mack argues that it would be a mistake to read Nozick as concluding straightforwardly from this tension that liberty is to be preferred, because the patterned distributionist could assert a similar preference for patterns. Rather, Mack constructs a case that forces the distributionist into an internal inconsistency if and when individuals put their distributed resources to work. Ultimately, the distributionist is forced to endorse “continuous interference with *people peacefully doing as they choose with what has been declared to be their just holdings*,” which is a big bullet to bite (p. 87).

Hayek offers an assortment of anti-distributionist arguments, which Mack expertly distills. The *Meaningless Argument* suggests that it is a category mistake to describe an order as just or unjust. The *Desert Is Unknown Argument* makes the case that coercive institutions lack the epistemic ability to distribute according to desert. The *Desert as Contribution Proposal* holds that the free market allocates in a just way because it recognizes that one deserves the fruits borne by one’s contributions. The *Signal Argument* holds that a patterned distribution would fail to signal to individuals which economic activities are worth further attending to or not. The *No Authority Argument* contends that distributionism requires that there be a social authority to articulate the relevant distribution standard, but there is no entity with that type of authority. Finally, the *Political Dynamic Argument* maintains that advocates of social justice will disagree about the proper distribution, but political realities necessitate that advocates join forces. The resulting tribalism creates a problematic political dynamic. Ultimately, though far from a distributionist himself, Mack expresses skepticism about the viability of many of Hayek’s anti-distributionist arguments.

The online bonus chapter considers some of the most important recent developments in libertarian thought. I will not be able to give these important thinkers the attention they deserve, but I strongly encourage readers not to overlook this chapter. Mack covers Hillel Steiner's work on left-libertarianism; Loren Lomasky's Humean theory emphasizing the importance of people being project pursuers; Douglas Rasmussen and Douglas Den Uyl's Aristotelian account that brings meta-norms to the forefront; and David Schmidtz's pluralist, indirect consequentialism that combines desert, reciprocity, equality, and need into a moral framework. Mack's own voice comes out especially clear in his discussion of the potential problems with Steiner's left-libertarianism and Schmidtz's pluralist, indirect consequentialism. Mack powerfully expresses worries about the "left" in "left-libertarianism" as well as with the way by which broadly consequentialist approaches garner general compliance.

In Chapter 5, Mack assesses both internal and external challenges to libertarianism. The main challenge coming from within the libertarian tent concerns how much "state" is justifiable. Three major options for libertarians (as opposed to, say, classical liberals) are Market Anarchism, the No Taxation Minimal State, and the Taxation Minimal State.³ Mack rightly notes that those like Hayek and Lomasky endorse a Taxation *Semi-Minimal* State, and I would add Gerald Gaus and many in his philosophical lineage to this category.

The external objections Mack considers come from Rawls, Liam Murphy and Thomas Nagel, and Gerald Cohen. Rawls worries that libertarianism fails to acknowledge properly the basic structure of society. Mack responds that Rawls's own account of the basic structure supports not indefinitely intervening to achieve some desired distribution. Next, Murphy and Nagel object to libertarianism on the ground that its view that individuals deserve all of their pre-tax income fails to acknowledge the role a stable state plays in allowing individuals to earn said income. Mack demonstrates how a natural rights theorist, attentive to concerns of convention, can circumvent this objection. Finally, Cohen objects that libertarianism creates a society of individuals that fails to embody a robust community such as that found on a camping

³ For a complete discussion of the options along this continuum, see Mack *Libertarianism*, pp. 110–24.

trip. Mack decisively demonstrates that Cohen's conception of community is flawed as it unjustifiably requires rough equality and its scope has to be all-inclusive, which is an unduly expansive requirement.

In his own review of Lomasky's *Persons, Rights, and the Moral Community*, Mack describes the book as "[r]eadable, entertaining, and far too full of moral truths to be confined to the artificial world of the academic." I can think of no better description of Mack's own book. *Libertarianism* is a book that should not be confined to "the artificial world of the academic." As it breaks free from these confines and becomes the way future generations are introduced, the outlook of libertarianism improves.

Jeffrey Carroll
University of Virginia