

# Controversial Ethics as a Foundation for Controversial Political Theory

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Gary Chartier's *Anarchy and Legal Order* is a defense of a left-libertarian anarchist market society and a critique of statism. Few people in the world are more sympathetic to Chartier's conclusions than I. Indeed, for me, the choice between statism and anarchism ultimately comes down to consequences. I think there is a strong moral presumption in favor of anarchist market societies over the alternatives, and the only way to defeat this presumption is to show that the former won't "work". That is, statists need to show that anarchism won't deliver sufficiently good consequences or would be a disaster in practice, while some alternative in the latter set will "work" much better. So, I am very much Chartier's ideological ally. I think his basic conclusions are probably correct. However, in general, I think his main arguments for these conclusions are not successful, and that will be the focus of my critique here.

Chartier's book, in my view, suffers from a major methodological flaw. To explain why, note that here are some possible (though not exhaustive) ways of doing political philosophy:

1. Begin with widely accepted premises, and show that these lead to widely accepted conclusions.
2. Begin with widely accepted premises, and show that these lead to controversial conclusions.
3. Begin with controversial premises, and show that these lead to widely accepted conclusions.
4. Begin with controversial premises, and show that these lead to controversial conclusions.

There can be cases where each of these four methods can be acceptable or worthwhile. For example, 1 might be useful for showing the coherence of commonsense thought. 2 might be useful for using the good parts of commonsense thought to undermine the bad parts of commonsense thought. 3 might be useful if we need to explain why something everyone takes for

granted really is true, even if the explanation is less obvious than the thing being explained. And 4 might be good for conceptual exploration, for showing how certain ideas link up, especially if those ideas, while controversial, are prominent in some way. (Many papers on the history of philosophy look like 4.)

Still, that said, there's a pretty good case to be made that philosophy should mostly be about method 2 and mostly avoid the other methods, especially method 4.

Bryan Caplan refers to philosophers who partake in method 3 as "crazy rationalizers", i.e., as philosophers who tend to take conventional morality for granted, but who want to try to defend it using premises less obviously true than the conclusion being defended. He considers Rawls a prime example. Caplan refers to philosophers who take method 4 as "crazy rationalists," who begin by taking as self-evident some bizarre moral premise, and then use to deduce bizarre conclusions. He (2013, 11-12) thinks Kant and Rothbard are good examples of this.

In contrast, take Peter Singer. Peter Singer advocates a form of utilitarianism that hardly anyone accepts; indeed, a form that seems to fall prey to all of basic objections to utilitarianism we raise in introductory ethics classes. Singer also advocates a wide range of controversial moral claims, such as the view that it is wrong to eat meat, that it is okay to euthanize many newborns, and that it is obligatory to give most of one's income away to charity.

But Singer is no crazy rationalist, on Caplan's account. Instead, what makes Singer such an excellent philosopher is that he argues for his controversial conclusions *not* on the basis of his controversial utilitarianism, but on the basis of commonsense moral thinking. Singer doesn't say, "Utilitarianism is true, utilitarianism implies veganism, therefore veganism." Rather, he asks, "Hey, do you think it's morally permissible to torture a cat for fun?" Once you say no, he then shows how *your* pre-existing moral commitment against cat torture implies that you should also not be eating meat (except in special circumstances, such as humanely raised and slaughtered meat, or found roadkill, etc.) He doesn't say, "Utilitarianism implies you should be giving money to charity." Instead, he asks, "Would you agree you have a moral obligation to save a kid next to you from drowning, even if doing so ruined your fancy shoes?" When you say yes, he then tries to show this implies you should be feeding starving children rather than buying shoes in the first place. Now, I don't think all of Singer's arguments succeed, but most people, I've found, can't poke a hole in them. At any rate, Singer is in many respects the model, in my view, of how one ought to do philosophy. He tries to derive interesting, novel ideas from widely shared premises.

In contrast, Chartier's book is an instance of method 4—of arguing for controversial conclusions on the basis of controversial premises. In Caplan's terminology, he's a "crazy rationalist". Chartier bases his argument against the state on a controversial moral theory that hardly anyone accepts. This moral theory isn't just controversial; it's *rightfully* controversial, as it has bizarre and implausible implications. What I'll do here is explain what some of the problems are with Chartier's moral foundations.

Chartier wants to block the following argument for statism, known as the *public goods argument*.

1. There are certain public goods (roads, national defense) that are vital and which cannot be provided without the state.
2. If 1, then, at least presumptively, we should have a state.
3. Therefore, at least presumptively, we should have a state.

Premise 1 contains both normative and empirical claims. It asserts that certain goods are vital—that is, that going without them would be quite bad—and that the state is needed to provide those goods. Many libertarians reject the public goods argument. They tend to focus on undermining the empirical assumptions built into premise 1.<sup>2</sup> Chartier instead wants to attack the moral assumptions contained within the premise. To attack this argument, Chartier argues that it is impossible to objectively rank one state of affairs as better than another state of affairs; therefore, there is simply no such thing as the optimal or even the right level of public goods provision. If there is no such thing as the optimal or right level of public goods provision, then we cannot say, he claims, that a state is needed to secure the right level of public goods.

How does he get to this conclusion, that it is impossible to objectively rank one set of affairs as better than another? Now, one argument for this—that seems at least plausible at first glance—is that different states of affairs harm some and help others relative to some privileged baseline, and we cannot usually make trade-offs between different people's welfare. So, for instance, a law that redistributes wealth from the top 5% of income earners to the bottom 5% clearly harms the former for the sake of the latter.

However, defenders of the public goods argument aren't much impressed by these kinds of concerns. They claim that providing certain public goods is either Pareto superior or Kaldor-Hicks superior, such that it's always possible to provide public goods in a way that makes everyone better off by his or her own lights. So, for instance, putting a highway through a town might harm some people there. But, if the highway is really worth building, it is Kaldor-Hicks superior, which means we can just compensate the people who were harmed in the first instance by the highway, such that they are now better off with it than without. I don't want the state to put a public park on my land,

but if the state paid me \$2 million for my land in order to put a park there, I'd be delighted.

Chartier doesn't try to defeat the public goods argument primarily by claiming we cannot trade one person's welfare for another. Instead, his attack on the public goods argument is much more radical: He claims that there's no objective ranking of states of affairs even for *single individuals*, because different aspects of well-being—the different things that go into our flourishing or failing to flourish—are incommensurable. He claims that there is simply no truth of the matter about whether one friendship is more intrinsically valuable than another, or whether a day spent learning guitar better contributes to our well-being than a day spent learning to weave. Chartier does not mean that making such judgments is difficult; rather, he means the more radical claim that there is no literally no truth of the matter about which goods contribute more to our well-being.

However, this seems to me rather deeply implausible. It seems rather obvious to me that a day spent marrying the love of my life better contributes to my overall flourishing or well-being than, say, a day spent watching a movie I slightly enjoy. It seems obvious that a prolonged and deep friendship with someone whom I love and with whom I share a mutual understanding better contributes to my well-being than a casual relationship with an office mate. It seems obvious that my guitar playing—a skill I have developed great capacity in over 23 years—better contributes to my well-being than my ability to play Super Mario Brothers 3 on occasion. It seems obvious that getting a tenure-track academic job at a prestigious university—something I worked hard to get for many years—is better than a day spent picking one's nose. On a collective level, it seems obvious that a world in which everyone is both virtuous and happy is better than a world in which everyone is in a pain amplifier. And so on.

There are some *hard* cases, where I'm not quite sure which things matter more for my well-being. There are also cases where I make in hindsight stupid mistakes about what contributes to my well-being, such as dating a particular woman whom I won't name here in my freshman year of college, or buying certain goods I ended up not enjoying much. But, that said, it seems there is no difficulty in recognizing at least some things contribute more to our well-being than others.

Now, just because something seems obvious, it doesn't mean it is true. Chartier wants to deny what I and most other people—and, probably you, the reader—find obvious. Philosophy often challenges commonsense ideas. I myself earn my bread and butter by challenging widely held beliefs.

So, we need to see if Chartier has a good argument undermining the apparently obvious claim that some things contribute better to our well-being than others. Unfortunately, as far as I can tell, he doesn't.

I (Brennan 2013) have levied this criticism against him previously, and here was his response:

The [new classical natural law] theorists, whose position on this issue I share, deny that there is some one thing that welfare or value or well-being *is*. Talk about value (or well-being, etc.) is a way of talking about the various particular reasons for action we actually have. To maintain that friendship, say, is an aspect of welfare is not to say that friendship realizes some independently specifiable quantity called "welfare" (or something else—happiness, pleasure, preference-satisfaction, *etc.*) but simply that one's participation in friendship is one of the ways in which one's life can go well, and that initiating or enriching a friendship or connecting with a friend is thus something it makes sense to do for its own sake.

...Suppose friendship, or aesthetic experience, or knowledge, or bodily well-being, mattered just, and to the extent that, it produced or embodied some common element—say, some sort of *happiness* or *pleasure*. In this case, the common element would provide a yardstick that would make comparative measurement possible. By contrast, absent a common element, there's no basis for comparative measurement. We can say that friendship is valuable, or that play is valuable. But in doing so we're just saying that play and friendship give us reasons for action, not that they do so because they produce or realize something else, something that's *really* valuable. Sensory pleasure seems valuable in its own right; but knowledge isn't valuable because of its contribution to producing or realizing sensory pleasure. (Chartier 2013)

So, Chartier's argument seems to be this:

1. There are many different kinds of intrinsic value that form part of well-being.
2. These values cannot be expressed on a common scale.
3. If 1 and 2, then these values are incommensurable.
4. If values are incommensurable, then there is no truth of the matter about what better contributes to our well-being.
5. Therefore, there is no truth of the matter about what better contributes to our well-being.

Chartier's argument, at bottom, is that in order to think that some things better contribute to our well-being than others, you must be committed to saying that all values can be expressed on a common scale.

Now, one person's *modus ponens* is often another person's *modus tollens*. Chartier's argument, at best, really just sets up a dilemma: We have to choose between two sets of claims:

- A. All values can be expressed on some common scale.
- B. A day spent marrying the love of one's life is *not* better for one's well-being than a day spent picking one's nose, a day spent winning a long-sought victory is *not* better than day spent shopping for new shoelaces, etc.

Chartier finds A unattractive. Let's suppose he is right. Suppose A is an unattractive claim, one that we should all wish not to be committed to. So, let's agree we should want to reject A if we can. The problem, though, is that if Chartier's arguments are valid, then he has shown us, at best, that the cost of rejecting A is accepting B. Since A, however unattractive, is far less intuitively implausible and unattractive than B, I just see Chartier's best argument as proving contrary to his intent that all values can indeed be commensurated or expressed on a common scale. In short, I might not want to be committed to the view that all values can be expressed on a common scale, but if Chartier is right that my belief that marrying the love of my life better contributes to well-being than eat a slice of cheese so commits me, then so be it.

But I think that's really granting Chartier too much credit. Consider the following two items:

- 1. A pebble from a beach that I kept as a souvenir after a vacation
- 2. \$1 million

Item 1, the pebble, might have *intrinsic* value for me—I value it for its own sake, as a memento. (Suppose for the sake of argument this pebble has no instrumental value at all.) Item 2, the million dollars, has no intrinsic value, suppose, but it has massive instrumental value. Here we have two items with very different kinds of value—one thing is valuable in itself, and the other is valuable only as an instrument for securing other values. They are in that sense not commensurable. Yet, I would have no difficulty whatsoever in choosing between the two items—it's pretty obvious, once again, that the pebble, though intrinsically valuable, is less valuable to me than a million dollars.

Now consider two more items:

- 1. A very minor scribble on a napkin by Picasso.
- 2. The life of one million strangers.

Again, 1 and 2 have very different kinds of value. 1 has minor aesthetic value, while 2 has major intrinsic value. Here, I have no difficulty seeing 2 as more valuable than 1, even if I cannot express the values on some common scale.

This doesn't commit me to saying that all value can be expressed in terms of satisfaction, or pleasure, or utility, or whatnot. Rather, it just seems clear that even though there are many different kinds of value, some things of one kind of value are clearly more valuable than some things of another kind of value.

Really, to say that something is valuable is just a roundabout way of saying that we have reason to respond to it in certain ways and to act in certain ways toward it. When I say day spent marrying the love of my life is more valuable than a day spent going to the Museum of Natural History—which I somewhat enjoy—for the twentieth time, I'm just saying (in this case) that I have greater reason to do the former than the latter.

Let's explore what I think—perhaps mistakenly—is one further implication of Chartier's claim that there is literally no truth of the matter about which intrinsic goods contribute more to our well-being. Suppose Chartier is right. Now suppose you are a human being looking to flourish. How would you make rational decisions about what things to pursue? It seems all you can do is put things into three categories—disvaluable, indifferent, and valuable. If you more than one thing in the latter category and have to choose among them, you will pretty much have to flip a coin or roll the dice. That is, if your goal is to flourish, and you have the choice between spending the day marrying the love of your life or picking your nose for fun, you are in the position of Buridan's ass. There is—by Chartier's hypothesis—no rational basis for choosing one over another, given your goals. So you might as well flip a coin.

Economics tells us that people have no choice but to choose. We are constantly in situations where we must pick one thing over another. When we do, something will be lost—there is an opportunity cost. Yet, economics seems to have significant success in explaining how people behave. If Chartier is right, then economics as an explanatory theory seems to work only because people are in the grip of false theories of value. Somehow, they rank things and make choices based on that ranking. But, according to Chartier, no such rankings exist, except beyond the broad rankings of good, indifferent, and bad. Good things are better than indifferent things, which are better than bad things, but no good thing is better (from the standpoint of well-being) than another good thing. That seems wrong.

All this could be accepted, I suppose, if Chartier had a really good argument for his background moral theory. But he doesn't. An unfortunate feature of Chartier's book is that it is rather confident and assertive about its controversial premises. As I've complained before, Chartier has a tendency to use the words "obviously" or "clearly" to demarcate claims that are not obvious or clear. He often dismisses commonly held positions that most smart

people find quite sensible. This will not do. Chartier does not give the reader good grounds to accept his background theory in the first place.

I note here in closing that I have explored only one troubling aspect of Chartier's foundational moral theory. I think the theory leads to other problems as well. It would be better for Chartier if he could make his argument against the state without using his moral theory, but, as far as I can see, his arguments depend upon it. Unfortunately, this means statist have little to fear from Chartier's anarchist critique.

## Notes

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<sup>2</sup> For an excellent treatment of this, see Schmidtz 1991.

## References

- Brennan, Jason. 2013. "Gary Chartier, *Anarchy and Legal Order*," *Notre Dame Philosophical Reviews*. <http://ndpr.nd.edu/news/38159-anarchy-and-legal-order-law-and-politics-for-a-stateless-society/>.
- Caplan, Bryan. 2013. "Thoughts on Jason Brennan's *The Ethics of Voting*," *Reason Papers* 35: 11-16.
- Chartier, Gary. 2013. "Jason Brennan Did Not Like Gary Chartiers Book." <http://bleedingheartlibertarians.com/2013/03/jason-brennan-did-not-like-gary-chartiers-book/>.
- Schmidtz, David. 1991. *The Limits of Government: An Essay on the Public Goods Argument*. Boulder: Westview Press.