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BOOK REVIEWS

Facing Up to Scarcity: The Logic and Limits of Nonconsequentialist Thought, by Barbara H. Fried. Oxford University Press, 2020. Pp. xi + 269. \$70.00 (hardcover).

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Barbara H. Fried's *Facing Up to Scarcity: The Logic and Limits of Nonconsequentialist Thought* is a thought-provoking criticism of nonconsequentialist moral and political theories. She focuses on the problem of scarcity, a problem that she effectively argues has not been given nearly enough attention in contemporary philosophical scholarship. This thirteen-chapter book is divided into two major parts. The first six chapters argue in defense of Fried's conclusion that nonconsequentialism is not equipped to handle issues of scarcity because theories based in nonaggregation do not bring the correct tools to the table: the problem of scarcity requires an appeal to aggregation. In the second part, Fried turns to consideration of major nonconsequential political theories, including Rawlsian liberalism, libertarianism, and left-libertarianism and argues that each faces significant problems with which their proponents must engage if they are to stand successfully and escape what Fried calls a "logical dead end" (7). I will begin with a summary of the first part of the book as well as consideration of individual chapters and then turn to more critical thoughts on the book, including some praise of important contributions that it makes to this discussion as well as some concerns I have about Fried's argument. It is important to note that though Fried criticizes nonconsequentialism, she does not take herself to be defending consequentialism: she points out that consequentialism faces its share of concerns, and those ought to be carefully considered as well. She does think, however, that her argument shows that the difficult social choices we face cannot be resolved without aggregation. If she is right, moral and political philosophers will need to turn at least some of their attention to the worries and problems facing aggregation.

For Fried, scarcity is a technical term, one that comes to us from economics. It refers to "any situation in which the demand for goods exceeds



its supply, with the consequence that we cannot satisfy all competing demands for it" (7). In this sense of scarcity, practically all goods are scarce either because the material resources needed to produce them are finite or because the social opportunities to enjoy them are finite. Many of the tradeoffs we must make due to scarcity are suboptimal, measured by any normative criteria. But lines must be drawn somewhere, and the major conclusion of Fried's book is that libertarians and Kantians alike cannot tell us how to draw those lines because the very tools they bring to the discussion are inadequate for the task. These theories deny that such tradeoffs are permissible and insist they are generally avoidable, but this latter claim is empirically false. They are not generally avoidable: we face them every day. When we drive our cars, reroof our houses, practice the piano in an apartment without soundproofing, we engage in activities that are intuitively permissible but impose (a risk of) harm on others (3). How can we possibly determine what level of risk imposition is permissible without aggregation? Chapters 2–6 investigate and criticize different nonconsequentialist theories on the basis of their inability to handle the problem raised by scarcity.

In Chapter 2, Fried follows Philip Tetlock in distinguishing routine, taboo, and tragic tradeoffs. Routine tradeoffs are between two non-sacred values, taboo tradeoffs between sacred and non-sacred values, and tragic tradeoffs between two sacred values. Fried argues that nonconsequentialists focus only on tragic tradeoffs and often assume that if they can solve those hard cases the other two categories will take care of themselves. She thinks that this assumption is mistaken because nonaggregative principles cannot possibly resolve "the tragic choices we actually face in life, in which the outcomes of available choices are all indeterminate" (24). In other words, Fried argues persuasively that nonconsequentialists face a difficulty if their normative theories are to perform a seemingly essential task: provide action-guiding norms in the actual world. This is because the actual world is one of massive epistemic uncertainty, so almost all of our (actual) choices are not helpfully informed by principles that depend on certainty. She also makes a related point that most of our activity in the actual world poses risk to others, and nonconsequentialists do not have the tools (so Fried thinks) to determine which risks are reasonable and which are not: aggregation is required.

Chapter 3 focuses on the duty not to harm others and in particular how that duty has come to be (mis)understood by use of trolleyology in moral philosophy. Fried identifies several problems with trolleyology, including problems of set-up, but her real complaint about trolleyology is that the moral significance of the distinction between certain and uncertain harm

is taken as obvious when it is not obvious at all. It is clear that the distinction matters to intuitions, but Fried argues that this could be because it matters to psychology and emotion rather than actually making a moral difference. Nonconsequentialists owe an explanation and justification of this distinction if they want to continue to rely on it as the dividing line for when appeals to aggregation are and are not appropriate.

As Fried says, it is not clear that nonconsequentialism can meet this challenge. But I was not fully convinced by her argument because it was also not clear to me that nonconsequentialism *cannot* meet this challenge. For example, a Kantian might try to argue that the divide is grounded on the Formula of Humanity—that treating each person as an end in herself precisely entails treating these two kinds of epistemic situations differently. After all, when the ambulance driver is faced with the chance actually to put on the brakes to save a life, failing to do so seems quite like treating the pedestrian as a means. But *ex ante* settling on a principle that poses some risk to all with a chance of saving some lives doesn't obviously require treating them all as a means. A Scanlonian contractualist might try to argue that the divide is justified based on principles that no reasonable person would reject: as the pedestrian in front of the ambulance driver *ex post* it is reasonable to insist that the driver stop (and reject a principle allowing him not to brake), but *ex ante* the principle that poses some risk to all seems reasonable. So while it is clear that Fried has raised a substantial and significant challenge to the nonconsequentialist, it does not seem like she has succeeded in her professed goal of demonstrating that nonconsequentialism fails at the outset due to its very logic or due to failing to bring the right tools to the problems.

In Chapter 4, Fried takes up Scanlonian contractualism and how it handles the question of uncertain harm. She argues that each of the suggestions that have been proposed are unsatisfactory. Her main concern from Chapters 2 and 3 is echoed here: in order for nonaggregation to have a role here (since Scanlonian contractualists admit of space for aggregation in cases of uncertain risk), there must be a principled *normative* (not just psychological or emotional) distinction between cases of certainty and uncertainty. And Fried does not think such a distinction can be drawn. Either contractualists yield to aggregation in most cases, or they face moral gridlock (meaning competing claims that cannot be resolved).

Chapter 5 investigates legal scholarship focused on tortious harm. Fried argues that nonconsequentialists thinking about torts fail to distinguish two separable questions: (1) to what dangers is it permissible to expose others and (2) when are we required to compensate the victims of our risky conduct for their losses? She thinks there are cases where (1) and (2) come apart: that is, there are cases in which it is permissible to expose someone to risk and yet because of exposing them one ought to compensate them. Because scholars often run these questions together, they take themselves to have answered (1) by responding to (2), but since

they are importantly distinct, more work is required to provide a satisfactory answer to (1).

In Chapter 6, Fried considers developments to contractualism designed to avoid some of the problems she raises in Chapter 4. In particular, she discusses “ex ante contractualism,” which measures individual harms by the *expected* harms to potential victims, calculated at the epistemic moment of hypothetical agreement, rather than by the *actual* harms to representative ex post losers. Fried argues that the shift to ex ante contractualism is unable to solve the problems raised by decision-making under uncertainty because the Greater Burden Principle (the principle dictating that greater harm trumps lesser harms) is limited in three important ways that are not mimicked in the actual world: (a) the potential claimant class must be closed, (b) interests of each member must be quantifiable, and (c) the epistemic perspective of each member must be accurately captured in the epistemic perspective of the “neutral” agents deciding on their behalf.

In the second half of the book, Fried turns from moral to political philosophy and investigates three main versions of nonconsequentialist political theories: Rawlsian liberalism, libertarianism, and left-libertarianism. In Chapter 8, Fried argues that Rawlsian liberalism rests on a mistake. Namely, Rawls’s reliance on radical risk aversion in order to develop the maximin principle is unjustified because it is not supported by empirical evidence that people actually are as risk averse as Rawls assumes. Further, even if we were to agree with Rawls that the assumption of risk aversion is justified when we are comparing average utilitarianism and Justice as Fairness, it is not at all obvious that it is justified if we compare Justice as Fairness to the better-positioned competitor of sufficientarianism, since under sufficientarianism no one will be *really* poorly off (the way they might be under average utilitarianism, since under average utilitarianism the well-being of the poor figures into the calculus along with the very well-off). Fried’s discussion of Rawlsian liberalism continues in Chapter 9, in which she argues that it is not as distant from libertarianism as it might seem. Fried contends that Rawlsian liberalism and libertarianism are really mostly separated by different empirical premises: if libertarians were proved right about the universal advantages of market economy, Fried thinks that the Difference Principle would require Rawls to “join in their endorsement of laissez-faire capitalism” (171). Chapter 10 points out two central problems with left libertarianism: (1) self-ownership cannot do the work that left-libertarians assign to it and (2) the robust interpretation of the Lockean proviso that left-libertarians embrace threatens to eliminate the distinction between left-libertarianism and more conventional strings of egalitarianism.

Chapter 11 is delightful to read, engaging in an exploration of Nozick’s famous Wilt Chamberlain case. Fried effectively argues that Nozick’s argument is unconvincing, in the main because he fails to consider the case where it belongs in the first place—under the principle of justice of

acquisition. The willingness of fans to pay Chamberlain isn't at all relevant to whether Chamberlain is entitled to the wealth he has in the first place. We may have special reasons not to tax the possible value of someone's labor (such as taxing Chamberlain based on what he *could have* earned playing basketball had he chosen not to play), but this does not show that the labor is not taxable once Chamberlain does choose to play or that society is not entitled to taxing its value.

Chapter 12 and 13 focus on interesting questions about the set-up of arguments in political philosophy. Fried argues that the task of specifying and justifying the exit options when it comes to a defense of libertarian political principles deserves more attention than it has gotten to date and that it is not at all clear where a serious inquiry into the problem of exit options would end up (233). For this reason, many of these arguments fail to establish what they aim to show. Similarly, benefits tax proponents suffer from implicitly assuming that a competitive market is the appropriate model for explicit public goods. But this assumption does not follow from libertarian principles, which in fact also support a *progressive* benefits tax.

I enjoyed the book and found it well worth reading. In particular, I found myself convinced by Fried's arguments that the particular non-consequentialist theories she considers are unable to handle the problem of scarcity without appeal to aggregation. In addition, I agree with Fried that the problem of scarcity is a pressing one, and it is a significant contribution of the book that it encourages us to take the problem of scarcity seriously and to recognize that many of our moral theories are not equipped to handle it. This is significant, as Fried points out, since many of our everyday activities impose the risk of harm on others, and determining which of these harms are reasonable and permissible is a pressing societal problem, one that our moral theory ought to provide tools with which to engage.

But I was not convinced that Fried effectively argued for what I took to be an important thesis of her book—that nonconsequentialism is *doomed* to fail when it comes to articulating a viable alternative to aggregation in the domain of risk to harm. Fried and I are in agreement that more work in trolleyology will not help us here and that the theories that we do have seem to fall prey to important and significant objections. But to my mind this shows that we need to think hard about how to handle cases of tradeoffs due to scarcity directly, and I remain unconvinced that non-consequentialism might not have resources to offer. We might approach the problem of scarcity by thinking about problems facing aggregation, or we might consider and take seriously some sort of hybrid approach. Finally, we might try to bring to bear the resources nonconsequentialism does have to offer in this realm while being honest about the difficulties scarcity raises and whether or not our solutions are truly distinct from aggregation or ultimately rely on it. I remain unconvinced that nonaggregation cannot help here and hope that more work will be done to take this

problem seriously and see what nonconsequentialist theories might offer by way of solution.

It seems to me that Christian philosophers or philosophers of religion who are interested in religious moral theory will have much to gain from consideration of Fried's book: the problems she raises are problems facing all of us in a modern society in which the problems of scarcity and risk imposition are central. It will not be open to most of us to accept aggregation full-stop as the solution to these problems, so we will need to think hard about how nonconsequentialism, including in Christian moral theory, can address them.

The God Who Trusts: A Relational Theology of Divine Faith, Hope, and Love, by Wm. Curtis Holtzen. InterVarsity Press, 2019. Pp. xv + 264. \$28.00 (paperback).

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In *The God Who Trusts*, Curtis Holtzen discusses God's essential attributes from the perspective of an open and relational theology and argues for including *trust* or *faith* as a divine attribute. He presents his thesis right at the beginning: "I would like to suggest that just as holiness, love, and relationality are great-making qualities, so too is faith . . . God trusts, hopes, believes" (1). Holtzen defends human libertarian free will with the essential power to choose between alternatives. He sees such freedom as a requirement for a genuine loving relationship between creator and creature and for the acceptance of God's grace (9–12). In accordance with *open theism*, he argues that human free will implies that God Himself faces an open future and thus is mutable and in some way in time (13–17). If God faces an open future, He cannot guarantee certain things to happen; therefore, creation involves risks.

The unquestionable strength of Holtzen's book is a clear definition of terms, which is not stipulative, but rooted in ordinary-language usage. After giving an overview of what faith means and entails (chapter 2), the book is structured around particular terms that are to be attributed to God: love (chapter 3), belief (chapter 4), trust (chapter 5), hope (chapter 6). In a final chapter entitled "Divine Faith and the Advent of Christ," Holtzen makes a quite novel excursus on Christology, on which I will specifically focus in this review.

