

BOOK REVIEW: *THE ECONOMICS OF LAW, ORDER, AND ACTION: THE LOGIC OF PUBLIC GOODS*

GERARD CASEY*

Jakub Bożydar Wiśniewski: *The Economics of Law, Order, and Action: The Logic of Public Goods*. London: Routledge, 2018, pp. 157; vi. ISBN-13: 978-0815367871.

JAKUB WIŚNIEWSKI'S *The Economics of Law, Order, and Action: The Logic of Public Goods* is surely handicapped by having the dullest of titles for what is a most exciting book. A work of economics exciting? Surely not! Surely yes!—if it is the kind of heterodox economics that Wiśniewski espouses, one that has radical implications for ethics and politics, and not economics as an esoteric branch of applied mathematics. When you have finished reading this book, you might be inclined to think that it is really a not-too-thinly disguised argument for libertarian anarchism, and in thinking this you would not be far wrong. However, although the book is strongly, very strongly, sympathetic to libertarian anarchist concerns, its point of departure is neither ethics nor politics but economics, specifically economics in the Austrian praxeological tradition. Only in its final chapter does the author turn his attention thematically to ethical concerns. In the interests of full disclosure, it should be revealed that this reviewer is a card-carrying libertarian anarchist so that any book that made a half-decent approach to bolstering the case for

*Gerard Casey is professor emeritus of philosophy at University College Dublin.

CITATION INFORMATION FOR THIS ARTICLE:

Gerard Casey. 2018. "Book Review: *The Economics of Law, Order, and Action: The Logic of Public Goods*. *Libertarian Papers*. 10 (1): 127-132. ONLINE AT: libertarianpapers.org. THIS ARTICLE IS subject to a Creative Commons Attribution 3.0 License (creativecommons.org/licenses).

libertarian anarchy would meet with his approval. Yet this is not a half-decent rehearsal of the much-travelled roads of libertarian anarchy but a full-blooded, sophisticated, dense, dialectical and deadly subversion of some of the sacred cows of standard economics and, through that, a not-so-indirect vindication of anarchy.

So, what is the point of the book? It is to exhibit the deficiencies in the classical and neoclassical arguments that underpin the claim that a territorial monopoly of force is both desirable and inevitable to ground the supposedly public goods of law and defence. In five dense chapters, Wiśniewski argues that the standard account of public goods is both artificial and arbitrary (chapter 2) and makes a strong case for the provision of defence and law—archetypal public goods if ever there were any—as private goods (chapters 3 and 4). But what if it were to be argued that territorial monopolies of force—in a word, governments—are not created primarily to provide the public goods of law and defence but instead emerge naturally and seemingly inevitably from the operation of a human nature that is inexorably predatory? Chapter 5 engages and rejects this *realpolitik* argument. In the final chapter, chapter 6, Wiśniewski broadens the scope of the enquiry to provide a critical discussion of some central aspects of praxeology, including the notions of the supposedly necessary rational character of our desires, moral objectivity, and a Rawlsian version of a public good.

There is little point to trying to provide a summary of all the arguments and claims that Wiśniewski makes—there is simply too much to cover adequately all of this even if it were otherwise desirable. The book's second chapter, which, from the perspective of Austrian economics, critiques the standard account of public goods, is perhaps its foundational chapter; the subsequent accounts of defence and law as private goods become operational only if the road block constituted by the standard account of public goods has previously been cleared out of the way. If we were to frame the argument that Wiśniewski intends to demolish, it might run as follows. There are goods, in particular, those of defence and law, that cannot be supplied (adequately) by the operation of the free market. These goods, public goods if there are any such things as public goods, are necessary for the functioning of any society and can only be supplied by an agency exercising a monopoly of force (in a given area), therefore, such an agency is both necessary and morally and politically justifiable.

The provision of law by private means has been proposed and defended by many writers and, although still controversial, it is not an intuitively unreasonable position to take. The provision of adequate public defence by private means, however, is quite another matter, so, for the purposes of this brief review, I am going to take the conclusion of the second

chapter—the rejection of the standard economic idea of public goods—as given and focus my attention on the third chapter which deals with the idea of defence as a private good. Here, I can provide only the barest of sketches—the actual discussion is much more detailed and refined.

Wiśniewski deals with the question of public defence by private means on three levels: short-, mid- and long-range. The major economic problem facing the market for private provision of defence is the problem of free riders, free riders being those who benefit from the provision of a service but will not pay for it, leaving the cost to be borne by others. It is often argued that the problem of free-riders will lead either to the under-provision of a service or its complete non-provision whereas, the claim continues, where there is an agency with a monopoly of force, all are forced to pay and so there is no free-riding problem.

The short-range provision of private defence is relatively unproblematic. There are no obvious economic problems in any given individual's contracting with a private firm for their provision of services designed to protect the individual's life or property. These services can be provided in such a way as to be narrowly targeted at the client and his property so that there are minimal positive spillover effects to those not paying for this service. Whatever positive spillover effects there might be are not so great as to obviate the need for those other individuals to make their own arrangements for the protection of their lives and properties.

So much for narrowly-focussed entities in need of protection such as one's life and property. But what about mid-range services such as street patrols or surveillance cameras in areas used by the public? Would not the free-rider problem become a major issue at this level, with the prospect of multiple free-riders benefitting from the service but not prepared to pay for it threatening the profitability of supplying services of this kind? One solution might be the use of restrictive covenants. Restrictive covenants are legal obligations that 'run with the land', that is, which are attached to and are transferred with property ownership. Restrictive covenants are not in (legal) fashion at the moment but there is nothing in principle to prevent their reintroduction. However, there are problems with the establishment of restrictive covenants and even greater problems with the maintenance of such legal agreements. Perhaps the answer lies in the privatisation of areas used by the public in general and the levying of a charge on users for the use of such areas. Once again, such a solution while feasible in principle is likely to be effective only in the most favourable of circumstances. Perhaps the defence company could announce (and implement) a policy of not protecting those who had not paid for its services. Modern technology could be used to discriminate effectively between payers and non-payers so that the defence

agency could decline to come to the aid of non-payers or do so only out of charity and then only occasionally, otherwise the deterrent effect would be diffused. Moreover, those who pay for the service could, if they were so inclined, ostracise the non-payers socially and economically, thus adding to the pressure on the non-payers to pay.

The provision of long-range (national) protection on the free market appears to be much more of a challenge than either the short or mid-range issues; it may even seem insurmountable. What are we talking about here? Well, the kind of services normally provided by the state security forces—ABM and nuclear weapons.

In the first place, a variety of general arguments for the superiority of the free market (which the experienced free-marketeer will recognise) can be provided (as by Gustave de Molinari) to make the case for the free-market provision of long-range defence, just as for any other good—competition reduces prices and improves quality of goods and service; voluntary transactions do not injure productive forces as do coercive methods; the rational allocation of resources is possible in a free market but not in a state of coercion; only the decentralised free market with a plethora of independent decision-making units can acquire and make use of the appropriate knowledge; only the free market can provide the capital resources needed for efficient and high productivity.

Because the costs of large-scale aggression would be borne by the aggressors and not externalised, a free-market world would be more peaceable than a monocentric one. Any socio-political grouping animated by free market principles would pose little or no threat to its neighbours.

But, still the question remains, what of those states that are stupidly aggressive and blind to the merits of the free market? How will one defend oneself from those? “...could it not be convincingly suggested,” writes Wiśniewski, “that an ideologically fundamentalist dictatorship rich with natural resources might attempt to launch an all-out suicide attack against an enclave of libertarian legal polycentrism?” (52) Such an eventuality cannot be ruled out, of course. But why assume that the libertarian legal polycentrists would be any less effective in defence than the fundamentalist dictatorship in attack? There is no reason to think that whatever amenities are required for national defence could not be supplied in a libertarian legal polycentric polity as the result of negative and positive forces. Negatively, the libertarian legal polycentrists could rely on the tried and tested mechanism of ostracism. Those defence agencies and their subscribers that had a local-only remit could be excluded from the normal social and business relationships that all need in order to flourish. Positively, voluntary contributions to the cost of

national defence could be expected from producers to create and sustain their reputations and to enhance their market desirability.

Would we be likely to run into the problem suggested (notoriously) by Ayn Rand, that of the various defence agencies engaging in inter-agency squabbles or, even worse, one defence agency's attempting to create a monopoly of force? Once again, it must be noted that the cost of aggression is extremely high and no non-coercive defence agency has the capacity to externalise its costs. These would have to be borne by its subscribers who would be obliged to pay for this aggression and to suffer the results of negative and positive ostracism from the subscribers of other agencies. But even in our world which is dominated by territorial monopolies of force, a thriving market in private protection exists and a multiplicity of various agencies manage to coexist without being forced into mutual aggression by irrational forces.

All in all, then, Wiśniewski's presentation of his thesis is commendably and forcefully dialectical, with argument, counter-argument, example and counter-example, all densely but coherently and lucidly intertwined. My bare summary of just a small part of this exciting work cannot capture the rationally coercive character of the work as a whole.

The book comes in at just over 150 pages but, if I can be excused a seeming paradox, it is longer than it looks! Being set in a small font size of Times New Roman (still eminently readable though), I reckon you are getting about 80,000 words for your money. And speaking of money, the cost of this book is astronomical! At the time of this writing, the book is priced at €120 on Book Depository, £115 on Amazon.uk, and \$140 on Amazon.com. Pricing of this order seriously limits the book's potential readership, which is a shame, since it is a book that deserves to be widely read. Some may think a comment on pricing is out of order since it has nothing to do with the intrinsic merits or demerits of the book. But authors write to be read and not just to have a few hundred copies buried in crepuscular obscurity in a university library, to be read, if at all, by a handful of scholars and some fortunate students who stumble across it inadvertently.

Standard academic books generally generate little or no cash advances to the authors, who bear all the cost of writing the work and, increasingly, some share of the editorial costs. The costs of publishing have dropped significantly in the electronic era, with publishing on demand, outsourcing of copy-editing, and so on. It might be thought, well, this is a hard-cover version and hard-cover books cost more to produce. Yes, they do, but not that much more. Books priced in this way are clearly targeted at well-heeled university

libraries which spend other people's money on other people, a category of which the comic writer P.J. O'Rourke has spoken trenchantly if scatologically.

Should you read this book? Yes, if you want to experience a well-argued presentation of the economic case for the rejection of economic and political orthodoxies. Should you buy this book? Not unless you have more money than sense, although, that said, the intellectual value of this book is such as to probably justify the ridiculous outlay required to purchase it.