

Libertarianism

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Libertarianism is the view that agents initially morally fully own themselves and have certain moral powers to acquire property rights in external things. It can be understood as a basic moral principle or as a derivative one. For example, it can be advocated as a natural rights doctrine (e.g., Nozick 1974) or defended on the basis of rule consequentialism (e.g., Epstein 1998, Shapiro 2007) or rule contractarianism (e.g., Narveson 1988, Lomasky 1987). For concreteness, I shall here interpret libertarianism as a natural rights doctrine. For a full discussion of libertarianism, see Vallentyne (2010). For critical discussion of Nozick's version of libertarianism, see Vallentyne (2011).

Although it has a long history (e.g., at least back to Locke 1690), libertarianism was not widely discussed by political philosophers prior to Nozick (1974). Rawls, for example, does not explicitly discuss it at all in TJ and only briefly discusses it in PL (pp. 262-65). Nonetheless, Rawls' discussion of the entitlement to one's natural endowment is highly relevant to the libertarianism's assertion of self-ownership, and we shall focus on that issue.

Philosophers, unfortunately, use "justice" to mean several different things. Rawls used this term to mean, roughly, the moral permissibility (rightness) of basic structures, or social institutions creating profound and unavoidable effects on individuals' lives (TJ pp. 3-6, 93-98). By contrast, Nozick (1974, e.g., p.52), and libertarians generally, tend to use "justice" to mean, roughly, infringes no one's rights. Thus, it's not clear that they are addressing the same topic.

Related to this, Rawls (TJ, e.g. pp. 4, 6, 10, 47) takes justice to apply only in contexts of social cooperation (e.g., coordination for reciprocal benefit guided by publicly recognized rules). (This, however, is in tension with his claim (TJ pp. 251-58) that justice requires saving for the benefit of future generations.) By contrast, libertarians (e.g., Nozick 1974, pp. 185-86) insist that (1) issues of justice arise in the absence of cooperation (e.g., theft, murder), and (2) antecedent rights still have moral force in the context of cooperation. Many theories agree with (1), and most natural rights theories agree with (2).

The topic discussed by Rawls that is most central to libertarianism is his claim that the distribution of natural assets and starting social positions is a common (or collective) asset. In defending his interpretation of his two principles, he writes:

[T]he initial distribution of assets for any period of time is strongly influenced by natural and social contingencies. ... Intuitively, the most obvious injustice of the system of natural liberty is that it permits distributive shares to be improperly influenced by these factors so arbitrary from a moral point of view. (TJ p. 62-63)

[T]he difference principle represents, in effect, an agreement to regard the distribution of natural talents [and of starting places in society] as in some respects a common asset and to share in the greater social and economic benefits made possible by the complementarities of this distribution. ... No one deserves his greater natural capacity nor merits a more favorable starting place in society.” (TJ 101-102)

Here, Rawls is rightly claiming that the *starting* positions of agents in society are not

something that those agents can influence through their choices, and hence are not something for which they are agent-responsible or that they deserve in virtue of their past choices. Their starting positions are the result of their genetic endowment (natural talents), their fetal and childhood environment (for the development of those talents), and their initial socio-economic position (wealth, social connections, etc.). Clearly, no one can rightly claim credit for her starting position. (In JF, pp. 55-57, Rawls also mentions luck during the lives of autonomous agents as a further social contingency.)

Let us agree that no one deserves, or is agent-responsible for, her starting position in society and examine whether this supports the claim that the income and wealth in society are common assets to be shared by all in some sense.

First, as Nozick (1974, p. 214) rightly claims, the fact that no one deserves her initial position does not entail that no one deserves the benefits of her choices to take advantage of her position (e.g., to develop or exercise her natural talents). No one deserves the cards she is dealt, but one may deserve credit for how well one plays those cards. Rawls holds, however, that:

The precept which seems intuitively to come the closest to reward moral desert is that of distribution according to effort, or perhaps better, conscientious effort. Once again, however, it seems clear that the effort a person is willing to make is influenced by his natural abilities and skills and the alternatives open to him. ... The better endowed are more likely, other things equal, to strive conscientiously, and there seems to be no way to discount for their greater good fortune. TJ 274 (see also p. 89)

Rawls is certainly right that people's initial positions include choice-making and choice-

implementing capacities and that individuals are not more deserving simply because they possess better such capacities. This clearly complicates the task of disentangling agent-responsibility from initial brute luck. Still, it is arguable that there is a basis for agent-responsibility and desert in how individuals exercise and develop the capacities with which they start. Luck egalitarians, for example, agree with Nozick that this cannot be ruled out so quickly. Obviously, however, the issue is complex and depends on crucial issues about free will and agent-responsibility.

In any case, Rawls and libertarians agree that justice is not based on any notion of institution-independent desert. Indeed, they agree that justice requires that individuals get that to which they are entitled (have a right) (TJ, pp. 88-89, 273-77). The disagreement is over what people's entitlements are. The most basic disagreement is that (natural right) libertarians hold that people's entitlements are not, except contingently, institution-dependent, whereas Rawls holds that they are largely institution-dependent. Roughly speaking, libertarians hold that one has well-defined entitlements in the absence of institutions (e.g., self-ownership and rights to resources one acquired in accordance with libertarian principles governing appropriation, transfer and rectification), whereas Rawls holds that people are only entitled to whatever they may legitimately expect from just institutions. For libertarians, natural entitlements determine the justice of institutions, whereas, for Rawls, the justice of institutions determines entitlements.

It's worth noting, however, that even Rawls holds that there are certain entitlements that institutions must respect in order to be just:

To be sure, the more advantaged have a right to their natural assets, as does everyone else; this right is covered by the first principle under the basic liberty protecting the integrity of the person. And so the more advantaged are entitled to whatever they can

acquire in accordance with the rules of a fair system of social cooperation. (TJ p. 89; not in the first edition; see also JF p. 75-77)

Rawls agrees, that is, that individuals have a right, secured by the equal liberty principle, to control the exercise and development of their natural endowments. Institutions must respect this right in order to be just. This entitlement, known as *control self-ownership*, is part of what libertarians assert when they claim that agents initially fully own themselves. Full self-ownership, however, involves much more than control self-ownership. It also involves a full power to transfer (by sale, gift, rental, or loan) those rights to others (thereby giving others rights to control the use of one's person). Rawls, however, would presumably reject unrestricted powers of transfer of these rights, since it would give one person a kind of dominion over another (and can even involve voluntary enslavement). (See Freeman 2001 for discussion of this issue.)

Control self-ownership also does not include the right to any benefits from exercising one's rights of control. It will be instructive here to consider an argument scheme presented by Nozick (1974, pp. 225–26) as an argument for his favored entitlement theory (libertarianism) and against Rawls:

1. People are entitled to their natural assets.
2. If people are entitled to something, they are entitled to whatever flows from it (via specified types of processes).
3. People's holdings flow from their natural assets [via the specified types of process].

Therefore,

4. People are entitled to their holdings.

5. If people are entitled to something, then they ought to have it (and this overrides any presumption of equality there may be about holdings).

The crucial conclusion is 4. Conclusion 5 merely makes clear that the entitlement is conclusive and not merely *pro tanto*.

Conclusion 4 and the supporting Premise 3, however, are clearly too strong. The history of the world is the history of theft and violence. It is thus implausible that the holdings that people happen to have flow from their natural assets via the specified entitlement-generating types of process (Premise 3). It is therefore implausible that people are entitled to the holdings that they happen to have (Conclusion 4). Nozick, of course, was aware of this, and he must here have intended merely to give an argument for the claim that it is possible for people to be entitled to their holdings. For our purposes, then, we should drop Premise 3 and weaken Conclusion 4 to:

(4*) If peoples' holdings flow from their natural assets (via the specified types of process), then they are entitled to their holdings.

This is the core conclusion of the argument that is relevant to our purposes. Let us, then, examine the two supporting premises.

The first premiss asserts an entitlement to one's natural assets. Nozick presumably understands natural assets as one's internal endowment when one first becomes an autonomous agent (and not merely one's genetic endowment at conception). Entitlement to this endowment is thus a form of self-ownership (control ownership of one's person). As indicated above, Rawls

would accept this premiss if it merely asserts *control* self-ownership, but he would reject it if it asserts *full* self-ownership.

The second premise asserts that someone who is entitled to something is entitled to the results of applying specified processes to it. Nozick, of course, assumes that the specified processes are something like libertarian processes of appropriation, transfer, and rectification. Rawls would, of course, reject the second premiss so specified. If, however, the specified processes consist of *complying with the just institutions of society*, then Rawls could agree that one is entitled to their results that flow from these processes.

In conclusion, Rawls agrees with libertarianism that autonomous agents are self-owners in the weak sense of control ownership (although he wouldn't use those words). The main disagreement concerns entitlements to the benefits that flow from the exercise of that ownership. Rawls denies that there are institution-independent entitlements that govern appropriation, transfer, and rectification. One's entitlements are merely whatever just institutions say they are.

References

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Cross-references in order of importance:

liberty and liberties

basic liberties

freedom

Locke, John

right, concept of

right, priority of over the good

deontological and teleological theories

rights, moral

human rights

individualism

markets

property

taxation

property-owning democracy

capitalism

circumstances of justice

duties, natural

redress, principle of

fairness, principle of

basic needs

equal opportunity

equality

justice, distributive

justice, liberal conception of

political philosophy