

PATTERNS FOR LIBERTY?
AN ANALYSIS OF ROBERT NOZICK'S
LIBERTARIANISM AND SUFFICIENTARIANISM

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Abstract

In this thesis, I discuss the relationship between distributive patterns and its opponents by examining two theories of justice: Robert Nozick's libertarianism and sufficientarianism. Based on the foundations Nozick offers for his libertarian theory, I point out the problems of Nozick's theory by challenging its morality in terms of rights, coercion, and freedom. I discuss Nozick's entitlement theory and trace the possibility of a pattern compatible with libertarianism while rejecting comparative patterns. On the other hand, I discuss sufficientarianism and its main arguments from a libertarian point of view. I argue that sufficientarianism alone is an inadequate theory of justice and the level of sufficiency should be the minimal level of subsistence. I conclude with the combination of these two theories which can complement the deficiencies of both.

Under capitalism, man exploits man. Under communism, it's just the opposite.

— *John Kenneth Galbraith*

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Introduction

Since John Rawls (1971) revived the issue and the discussion of distributive justice in contemporary political philosophy, many philosophers have developed miscellaneous theories concerning distribution. The strongest tendency has been mostly in favor of distributive patterns of a certain—mostly egalitarian—character. However, there are other principles of distribution, such as sufficiency; and other theories of justice, such as libertarianism, advocating no distribution at all. Robert Nozick, one of the champions of libertarianism, rejects the term “distributive justice” for not being neutral since there is no central distribution controlling all resources and deciding how to distribute them among peoples (Nozick 2001, 149). Although (non-)distributive patterns of justice vary, in this thesis I will analyze the relationship between libertarianism and sufficientarianism in particular. My inquiry into distributive justice derives from the famous statement by Nozick about whether “liberty upsets patterns” (Nozick 2001, 160). I will interchange these two terms and ask: do patterns upset liberty, and accordingly, what is the best distributive pattern for liberty to be exercised?

Since Nozick’s libertarianism is parsimonious, with elements intertwined and conjoined, and even the grounds of Nozick’s theory is in dispute, I will start by examining his theory starting from the fundamentals to his conclusion to reject patterns. First and foremost, Nozick requires a clarification for the foundations and the justification of Lockean rights he adopts as the starting point of his theory. Nozick’s argument for his theory derives from his basic premises on rights which I will elaborate, and I think without examining his theory of rights, it is difficult to move to the other concepts I will address in my thesis: freedom, justice, and coercion—in connection with exploitation and voluntariness. In a different chapter, I will discuss Nozick’s entitlement theory

which is a unique theory with non-distributional historical principles among distributive theories of justice. The fundamental issues of property and ownership are of key importance and even fundamental for Nozick since they determine his attitude toward distributive patterns.

In relation to Nozick's conclusion regarding patterns, I will address sufficientarianism which is a moral rejection of egalitarianism (Frankfurt 1987) by defending non-comparative pattern(s). As a theory of justice, sufficientarianism is both criticized¹ and debated by its defenders on its key premises. Still, sufficiency has not been scrutinized from a non-distributive (or libertarian) point of view. One of the main goals of this thesis is to bring this aspect to sufficiency which seems to be the weakest patterned theory.² The position I adopt to elaborate sufficiency therefore is not only limited to sufficientarianism, but it can also be extended to other patterns. Consequently, I plan to highlight the ongoing discussion on distributive patterns by examining these two dissenting—but perhaps accommodating—views.

The first chapter examines the foundation of Nozick's theory. While the principle Nozick adopts seems to be the most vulnerable part of his theory, it will be my guiding principle to seek justice in my thesis. Next, I will challenge Nozick's statements and offer an alternative with respect to Nozick's and his critics' arguments on rights, coercion, and freedom. The second chapter is an assessment of Nozick's entitlement theory and its opponents. After discussing property, I will highlight the historical account of justice Nozick contends. The third chapter is the description of and a critical engagement with sufficientarianism in which I will approach from a libertarian point of view. I will conclude with the prospect of a combination of two theories I stress, namely, the superiority of a sufficientarian libertarian approach.

¹ Most prominently by (luck) egalitarians (Temkin 2003; Casal 2007).

² The weakness of a pattern depends on the specific standard and the metric of the pattern, as I will discuss in Chapter 3.

Chapter 1 – The Limits of Nozick's Morality

1.1 *Libertarianism with Foundations*

For Nozick, justice is about setting and respecting people's rights. Nozick opens *Anarchy, State and Utopia* [ASU] (1974) with the famous sentence "Individuals have rights, and there are things no person or group may do to them (without violating their rights)" (Nozick 2001, ix). By taking Lockean natural rights doctrine (life, liberty, and property), Nozick aims to provide a basis for "different individuals with separate lives and so no one may be sacrificed for others, underlies the existence of moral side constraints" (Nozick 2001, 33) as opposed to utilitarianism which aggregates the general welfare of society by sacrificing individuals. Rights are fundamental to secure separateness of persons formulated in Kantian maxim Nozick appeals to: "individuals are ends and not merely means; they may not be sacrificed or used for the achieving of other ends without their consent" (Nozick 2001, 31) as the core of his theory.

Nozick has been criticized for not having a moral foundation for his libertarian theory (Nagel 1975; Scanlon 1976, 4). But David Schmidtz argues that if separateness of persons does not suffice as a foundation for Nozick, neither does it for John Rawls (Schmidtz 2006, 200) because Nozick's attitude against utilitarianism is shared by Rawls (1999, 3–4). Still, while Nozick rejects any form of taxation, Rawls offers a welfare state scheme. Therefore, Nozick has another principle to defend his theory of rights, namely, the principle of self-ownership. According to Cohen, "[the] principle of self-ownership says that each person enjoys, over herself and her powers, full and exclusive rights of control and use, and therefore owes no service or product to anyone else that she has not contracted to supply" (Cohen 1995, 12). Consequently, Nozick has two different conception rights: the first one is rights as side-constraints, and the second one is property rights which conflate (Flikschuh 2013, 65). The first one, emphasized in Part I of ASU, derives from the Kantian

principle, and the second one, used in Part II, derives from the self-ownership argument (Kymlicka 2002, 107–116), and both are secured by Lockean rights.

Locke's rights are traditional; he appeals to God, but rights can be overridden by the fundamental law of nature which requires the preservation of humankind.³ Nozick, therefore, needs to offer a secular justification for the Kantian principle and self-ownership to justify rights, and consequently as the foundation of his theory. Flikschuh claims that Nozick's theory is based on rights to secure freedom eventually seeing individuals as morally equal ends (Flikschuh 2013, 66–69) as the Kantian principle envisages. Hasnas holds a different position and stresses autonomy: “By basing his argument on a Kantian foundation, Nozick can be seen as arguing not merely that every human life has equal moral value, as Locke did, but, more specifically, that every human being is equally possessed of a dignity that requires respect for his or her autonomy” (Hasnas 2005, 122). However, this idea, although giving a more reasonable basis than appealing to God, does not explain why and with which steps should we adopt Lockean rights to secure this Kantian foundation. This shift from the Kantian principle to Lockean rights deriving from self-ownership makes Nozick's theory appear to lack foundations.

1.2 Rights

Even if we accept the Kantian principle and self-ownership, Nozick still does not answer why individual rights as side-constraints are based on Lockean rights which include full property rights with almost absolute character. As James Griffin argues, Nozick, by giving Lockean rights, fails to elaborate the significance of separateness of persons in terms of structure and its ethical

³ Locke's initial premise in Second Treatise of Government is “We consider natural reason, which tells us, that men, being once born, have a right to their preservation, and consequently to meat and drink, and such other things as nature affords for their subsistence” (Locke 1980, sec. 25). Here, it is the preservation of people as the fundamental law of nature shaping the rights on what “God wills for man” (Simmons 1994, 38), which is the ultimate end for mankind (Simmons 1994, 50).

substance (Griffin 2009, 22).⁴ Moreover, I agree with Waldron's statement that Nozick does not provide a substantive general account for rights⁵ or the importance of private property (Waldron 1990, 254). The absoluteness of rights can only be overridden "to avoid catastrophic moral horror" (Nozick 2001, 30). For instance, Nozick accepts a morality more than rights:

A person may not appropriate the only water hole in a desert and charge what he will. Nor may he charge what he will if he possesses one, and unfortunately it happens that all the water holes in the desert dry up, except for his. This unfortunate circumstance, admittedly no fault of his, brings into operation the Lockean proviso and limits his property rights. Similarly, an owner's property right in the only island in an area does not allow him to order a castaway from a shipwreck off his island as a trespasser, for this would violate the Lockean proviso. *Notice that the theory does not say that owners do have these rights, but that the rights are overridden to avoid some catastrophe* (Nozick 2001, 180).

The example above is in line with Nozickean justice although he steps back from his theory for the survival of a group of people. However, when it comes to particular individuals' claims which are based on need, even in the case of survival, he defends almost absolute rights. I do not see any difference in principle in both cases if we take a human's life as a matter of a moral horror, as Nozick does. The only difference is the number of the people who are in need and the urgency of their situation. Nozick claims that the rights over things "fill the space of rights, leaving no room for general rights to be in a certain material condition" (Nozick 2001, 238). But as Kymlicka asks, why should these rights leave no room for a right to a fair go in life (Kymlicka 2002, 107), even for basic needs? Imagine you have a heart attack in your property. An ambulance technician might intrude into your house and save you, or trespass on another person's property to save your life. This situation does seem a case of violating rights for Nozick but a morality beyond Nozickean

⁴ Nozick skips this problem: "Let us ignore questions about how these notions are precisely to be understood, and whether the characteristics are possessed, and possessed uniquely, by man, and instead seek their connection with moral constraints on others" (Nozick 2001, 48).

⁵ Nozick acknowledges: "This book does not present a precise theory of the moral basis of individual rights" (Nozick 2001, xiv).

rights-based justice allows to save people. Though it appears a utilitarian view, the importance of human life trumps other considerations (in any other theory of justice).

Various thinkers issue need regarding justice. David Miller asks whether need is a ground for or principle of justice or is an indirect factor affecting grounds of justice and claims that need and justice might not go hand in hand (Miller 1999, 204). The Marxist tradition too prioritizes need: “to each according to his needs” (Marx 2008, 27) however ambiguous its content is. David Schmidtz offers a self-inspection test which requires a distribution according to need when the distribution stops being what people need; a need that passes the test has a claim (Schmidtz 2006, 166). However, the content and the limits of need might also pave the way for utilitarian aggregation between persons by sacrificing some for another’s arbitrary needs, and even disturbing our sense of justice. If you need a material or a position, does it mean you should get it? For example, should a university accept a student who does not deserve the position but really needs it? Similarly, as Kymlicka asks, should we provide resources for people with expensive needs—not even tastes—or, for instance, should we spend our resources to subsidize extra means for handicapped people we are not responsible for (Kymlicka 2002, 188)? Thus, a need more than survival needs seems arbitrary, as Schmidtz concedes with a need hierarchy with survival needs on top to avoid arbitrariness (Schmidtz 2006, 166–68). Miller argues that when we go beyond biological needs, an even minimally decent life which varies across cultures and societies is in dispute (Miller 1999, 210–14). I concur with Miller’s statement: a need-based account of human rights is implausible if it cannot provide a morally weighty grounds which are universally shared and recognized rather than miscellaneous personal desires and tastes (Miller 2014, 173–74).

1.2.1 A Universal Basis for Rights

An alternative formulation of rights would be the need-based rights first, and then installing property rights accordingly although Nozick rejects this idea (Nozick 2001, 238). Recall that Locke's theory takes the preservation of humankind as the ultimate end by disabling any right, and it can be considered as one which is need-based (Waldron 2005, 89). Likewise, we can found a secular need-based theory. I will examine James Griffin's account of (human) rights and adjust it to Nozickean libertarianism on two grounds: personhood and practicalities.

1.2.1.1 Personhood:

Griffin states that "We value our humanity, so we value what makes life human, over and above what makes it happy" (Griffin 1988, 225). This idea simply exists in individuals just for being a human and personhood serves as the basis of human rights. We have a right to life⁶ deriving from the fact that we, as human beings, all need a basic provision of material to survive, as well as security, without which personhood is possible. However, although Griffin claims that he is not a perfectionist who promotes good or flourishing life and rights are needed merely for human status, he goes further than biological needs for survival and offers political rights (free expression, free press, right to associate), and positive rights such as a right to basic education which he also acknowledges, disputable (Griffin 2009, 33–34).

Griffin is unclear about personhood and agency he gives as a prerequisite for human rights. He values personhood by giving agency which requires more than being human. It is an agent who is autonomous and can choose her own path without non-domination, minimum education and information with the minimum provision of resources and capabilities. Joseph Raz accurately

⁶ The right to life of P not only requires a negative right to life which requires the duty of others not preventing her right to life, such as killing, but also a positive one maintaining her sufficient means to live. This definition contrasts with the negative understanding of Nozick who states that P's right on R is just the duty not to kill P; it is not the duty to do whatever is necessary to secure that P to live (Waldron 2007, 747).

criticizes this view for narrowing the scope of humanity since a child dominated by her mother, an employee who is controlled by a contract to her boss, or mentally disabled people are not the subjects of Griffin's view. Raz continues by saying that Griffin's account with positive rights has a generous standard which goes more than a minimal provision without determining specific criteria to fill (Raz 2007, 7–10). Therefore, Griffin also faces the same problem of substance he observes for Nozickian rights when he sets the threshold more than a right to life.

Instead of personhood, David Miller offers a need-based approach in four categories: right to life whose purpose is to provide material means for a minimally decent life, political liberties (freedom of religion and occupation), rights to provide social relations for people such as right to associate, and rights to protect these three categories together with legal rights (Miller 2014, 161). Miller, however, is aware of the scope of rights and their claims by the right-holder against other people. For example, the right to free expression does not mean that others are obliged to listen to you. Similarly, a right to medical care might require a huge sacrifice of others for your claim. Consequently, Miller's list consists of rights which can be exercised "without entrenching upon the equal claims of others, the whole list being justified as the most effective means of ensuring that basic needs are met" (Miller 2014, 162).

1.2.1.2 Practicalities:

Griffin here holds a Kantian position against utilitarianism to defend self-ownership of one's body. He rejects the use of persons' bodies for the benefit of others, and forbids torture and physical harm. He gives an example: even if just a few drops my blood could magically save others' lives, no one can sacrifice or force me to do that, or no one can take one of my kidneys without my consent (Griffin 2009, 37). Nozick argues the same by giving eye as an example and rejecting eye transplant from two-eyed people to eyeless to defend self-ownership (Nozick 2001, 206). This very

idea of self-ownership gives each human being a moral superiority and control over her own body against any noble claims by others, even setting a limit to the fundamental needs of other people.

Consequently, a universal basis of rights can be defended on two grounds: a right to life with the provision of basic needs and self-ownership. The political rights and liberties I mentioned above, such as freedom of expression, are already covered in liberal/libertarian tradition. These rights above seem a sufficient account for treating people as ends in themselves, although they do not encompass other pitfalls of Nozick, which I discuss in the next part.

1.3 Two Faces of Coercion

Nozick's entitlement theory, even by just steps, might allow some people to own land while others lacking any land or property (as I will explain in the next chapter). In this cases, the propertyless people have the option of either starving or accepting the conditions of what property owners dictate to them by selling their labor power deriving from their self-ownership out of their consent, which eventually contradicts with the Kantian principle (Cohen 1995, 243). The only freedom they have is to be exploited by a property owner or another. Nozick similarly opposes taxation by stressing coercion and labor: "Taxation of earnings from labor is on a par with forced labor" (Nozick 2001, 169). Nozick here distinguishes forced labor from unforced one and puts the laborer who works to avoid starvation into the second category, although both are involuntary and result in some people substantively being used by others. I will address this problem under exploitation and voluntariness which Nozick also uses to justify his theory to reject taxation what he regards as coercion.

1.3.1 Exploitation

Every theory of justice has different definitions of exploitation depending on what is permissible or not (Kymlicka 2002, 177) but a general account can be summarized for exploitation:

A wrongfully exploits B when A takes unfair advantage of B. In order to define unfair advantage, Goodin lists four conditions: the relationship should be asymmetrical, the subordinate party must need the resource that the superordinate supplies, the subordinate party must depend on some particular superordinate for the supply of needed resources, and superordinate must enjoy arbitrary control over the resources that the subordinate needs from him (cited in Wertheimer and Zwolinski 2015).

We can follow the structure offered above and list the exploitation. First, in the case of Marxist exploitation and libertarian coercion, workers are disadvantaged over a capitalist or a state to work in conditions they do not determine. They have the option to work in various jobs but they have no option to choose the conditions of work imposed by the capitalist or taxation imposed by the state. In either instance, the land and goods are owned by an individual (capitalist) through Nozickean just steps of entitlement or by a state (even a voluntary one created unanimously by a social contract by previous people) as a social entity, which gives them power. Second, workers need resources which are held by the capitalist or the state in order to survive or make a living. Third, employees cannot have an option of not working since they would starve otherwise. Fourth, the capitalist and the state have arbitrary power to control resources, goods or working conditions.

The rejection of coercion by Marxists and Nozick indeed are alike since both are based on seizing of labor deriving from self-ownership. I will give the Marxist formula of exploitation with libertarian version in parentheses (Kymlicka 2002, 178):

1. The value is created by labor (deriving from self-ownership).⁷
2. The capitalist (the state) receives some of the value of the product.

⁷ While Marxists defend labor theory of value, namely, (social) labor itself creates the value of a good, libertarians have subjective theory of value, and value of a good is determined by other people's demand.

3. The laborer receives less value than he creates (since the state seizes a portion of what the laborer created).
4. The capitalist (the state) receives some of the value the laborer creates.

Therefore:

5. The laborer is exploited by the capitalist (the state).

As Kymlicka points out, these two opposite theories defend similar arguments to reject coercion (Kymlicka 2002, 180). Moreover, the exploitation does not only occur in the case of unequal market relations but also out of the market, which both Marxists and libertarians neglect. The people who are deprived of using their own labor such as disabled or senior people—even if they have property or land—and who are able-bodied but are excluded from the labor market for not offering marketable goods face another version of exploitation (Kymlicka 2002, 182–87). As a result, coercion does not solely occur depending on patterns, but it exists when we reject them. Equivalently, patterns also pave a way to the other aspect of coercion through taxation (of labor).

1.3.2 Voluntariness

Robert Nozick defines voluntariness and freedom in terms of rights: “Other people’s actions place limits on one’s available opportunities. Whether this makes one’s resulting action non-voluntary depends on whether these others had the right to act as they did” (Nozick 2001, 262). Although Nozick defines voluntariness and freedom in relation to rights in a pure procedural sense, Olsaretti makes a distinction between freedom and voluntariness: while freedom is about the choices which we face, voluntariness about the choices which we make (Olsaretti 1998, 53). She argues that coercion is only one type of forcing someone. Whether you force someone by taxation

or by leaving no options are both involuntary, especially when the only other option is starvation or choosing any job not to starve in the latter situation.

Nozick defends his claim by giving the example of 26 men and women from A to Z. If people from A to Y acted justly to choose each other, then male Z voluntarily married Z'. He continues:

Similar considerations apply to market exchanges between workers and owners of capital. Z is faced with working or starving; the choices and actions of all other persons do not add up to providing Z with some other option. (He may have various options about what job to take.) Does Z choose to work voluntarily? (...) Z does choose voluntarily if the other individuals A through Y each acted voluntarily and within their rights (Nozick 2001, 263).

Nozick makes a wrong analogy with a mistaken example. Here we should separate two set of options. The first one is choosing whether to marry or not, and the second one is whom to marry. Nozick takes the first for granted and goes to the second, which is problematic. In market relations, we do not have an option for the first set since starvation is not a real option. Moreover, there are people, such as the disabled and old people, whose labor is not in demand. Although we have an option of not marrying anyone, we cannot exit this involuntary situation in life, and the only option is as Olsaretti states: "Hence, the fact that the worker chooses to work for one employer rather than another does not establish that he is not forced to sell his labour in the first place." (Olsaretti 1998, 75). On the other hand, taxation is a different form of involuntariness. In this case, you are free to work (in various jobs) or not. Still, that you choose to work in one profession or another does not change that the fact that state will tax you in any case.

The exploitation and voluntariness critique against Nozick's theory and his rejection of taxation share similar arguments in the case of starvation and coercion. Therefore, a minimal sufficientarian pattern with basic needs may provide an option to starvation while not burdening people with further taxation. This level of the pattern is at the minimal level; it is universal without being arbitrary and has a moral claim on any distributive or non-distributive theory of justice.

Sufficiency is an individual right for both set of options: first, as a ticket with an exit option in any property regime or market relations, and second, as a trump giving bargaining power against exploitation.

Nevertheless, providing a minimal sufficientarian pattern for the right to life in a biological sense is not enough; our merely biological needs do not consist human needs (Waldron 2000, 121) without promoting any other value. After all, societies with slavery and dictatorships with property rights and welfare—even more generous than sufficiency—can also secure this. We need an additional account to build upon sufficiency, and that consists of freedom since a pattern seriously has to deal with freedom as the fundamental value of libertarianism and liberal tradition. I will ask why we should value freedom, and which freedom we should adopt freedom in Kantian lines.

1.4 Freedom

Why freedom is so important for our lives? Ian Carter thinks that all types of freedom play a fundamental role in distributive justice (Carter 2004, 68). Freedom has both intrinsic and non-specific instrumental value. The intrinsic value of freedom depends on what we attach to specific things we want to achieve by freedom (non-interference, self-mastery, autonomy etc.). The other aspect, the non-specific value of freedom is important because it does not have to carry a specific value we attach for what it might bring about (Carter 2004, 33–36). We can consider freedom like money. We want to have money in two senses. First, we want to have money because we can attach a specific value to having money. The instrumental value, on the other hands, is non-specific. We might not know now or in future what to do with money, but it is a means for us to achieve other objectives we pursue without specifying them (Carter 2004, 51). Similarly, freedom has the undetermined instrumental value for us.

We should ask, this time, which freedom is more important than the others. After all, freedom is ambiguous and has various forms with its purposes aimed in each theory and they all have different weights and consequences for our lives. Some theorists, like Hobbes, give a purely neutral definition of freedom and try to equalize freedom with physical movements. If you can move your arm, then you are free to do it, period. On the contrary, for Locke, liberty is not license and we cannot simply envision freedom with purposeless movements since there are limits to our free actions.⁸ Other theorists provided different accounts of freedom: Rawls moralizes with prioritizing basic liberties over others (Rawls 1999, 53); Dworkin does in other respects based on equality (of resources) (Dworkin 1998, 53–56). We cannot escape moralizing freedom by prioritizing some aspects which mainly depend on the human factor. Suppose you are locked in a room and you are not free. Our opinion about your situation depends on how you end up there; as a fault of your own, or as a consequence of a natural incident, or by the actions of another person. In the last case, it also depends whether this person accidentally put you into this situation or deliberately aimed to do so. We can take think about freedom not in a procedural sense with this comparison: being an imprisoned millionaire is not same as being an average person who is outside a prison. Despite having a lot of money with an access to a variety of goods and services, none of the prisoner's freedoms can be as important as being even a poor person who can move freely.

The reason for defending freedom by using rights as side-constraints of individuals against other persons' actions is of key importance in Nozick's theory, as he rejected taxation to secure freedom in his famous words, "liberty upsets patterns" (Nozick 2001, 160–64). Nevertheless, Nozick's account of freedom is not clear and it is shaped by rights of self-ownership and property

⁸ Locke writes: "[A] state of liberty, yet it is not a state of licence: though man in that state have an uncontrollable liberty to dispose of his person or possessions, yet he has not liberty to destroy himself" (Locke 1980, 9).

rights, as many people assert (Olsaretti 1998, 55; Carter 2004, 69–74; Kymlicka 2002, 151; Cohen 1995, 59–61). According to Nozick, after establishing a situation in which every individual vested rights and entitled property, the domain between individuals is left with freedom to be shaped by their just actions in accordance with others' rights.

This type of freedom is in a negative sense and it forbids the interference of other people. However, the negative freedom understanding has been under attack by the opponents of Nozick. Cohen claims that “to have money is to have freedom” (Cohen 1995, 58) and he likens freedom to tickets as a set of options determining what a person may do with or without them, similar to Carter's analogy. For example, if I do not have money, I do not have freedom to visit my friend or buy some goods I want. Thus, negative freedom cannot provide us a substantive account of freedom. Traditionally, defenders of this account of freedom called as positive freedom claim that people should be supported to achieve their ends, and they claim that people should be given some goods (resources, money, opportunity) by others, and mainly through taxation.

Nevertheless, taxation renders a person unfree or decreases her freedom by taking the money to increase other people's freedom and options. This utilitarian interpersonal freedom act does not mean it is just. In order to make money, people sacrifice their freedom by choosing to work for what other people want and offer money for, which is usually a historical procedural process. Another person, by not sacrificing her freedom while she could, becomes worse off and less free, and consequently has a claim on other people. This is not a plausible claim for taxation on behalf of freedom, as Nozick notes: “Seizing the results of someone's labor is equivalent to seizing hours from him and directing him to carry on various activities” (Nozick 2001, 172).

On the other hand, a person who either has to starve or choose any work to avoid starvation is free to a degree that what options are available to her. But where is the limit for options and are

these two the same? Does anyone have to offer options or means to someone to increase her freedom and if so, to what extent should it be? After all, our options are not only constrained by physical obstacles, but by intentional or unintentional actions of other people. The defenders of positive freedom take freedom for granted without specifying it. For example, if you live in a town and want to be a pilot, the options available to you are limited and in order to make a living, you should do other jobs. You can claim that the employers in the village take advantage of you but this argument is not a strong account for exploitation unless you face starvation. You can soften your claim and ask for university education, some goods or money for your personal hobbies, which in all cases we can regress until we arrive at a non-arbitrary tangible claim. I do not think any morally weighty reason beyond the survival of people. Therefore, voluntariness, exploitation, and freedom have a significant attachment to a minimal level of subsistence. The defenders of positive freedom blame property regimes, mainly capitalism. In any case, when we come to the world, we do not choose which economic or property system to live in. With sufficiency, we will have the option to exit or at least reject the fundamental damages of the system.

1.4.1 Freedom as Non-Dependence

Keeping the Kantian principle in mind, we should also ask who should provide the freedom for the claims of people in need. To fund people's basic subsistence, and particularly disabled people's need, Otsuka offers taxation of criminals since they forfeited their right by "voluntarily choosing to do that which they had no right to do" (Otsuka 2003, 47). He highlights Nozick's point about monetary penalties governments might make, and after the victims are fully compensated, the remaining funds can be a source for other purposes (Nozick 2001, 62). This position is also compatible with Nozick's libertarianism since it is not a redistributive taxation.

To conceptualize this idea of non-coercion, the third type of freedom is defended by Philip Pettit. Pettit's freedom as non-domination which is different from negative or positive freedom and focuses on the independence of people without the domination of others (Pettit 1997, 51–79). Although his non-domination is in a political sense to reject arbitrary interference or domination either by the state or other people, it also endorses a condition of well-being which can be arranged under non-political conditions.

While Pettit implies a version of freedom with a welfare state, he does not give further information how to arrange redistribution and takes the distribution of property in the first place. He accepts both the property with the free market and inegalitarian—and in my case sufficientarian—regulation to achieve freedom as non-domination to be “[the] central ideal in political life” (Pettit 2006, 147). Furthermore, Pettit stresses freedom to prevent arbitrary interference of political power. For a libertarian, the state or any other person cannot interfere in the first place, which is strictly forbidden by Nozickean rights as side-constraints. More importantly, my stress is not actually about domination but one's dependence on others in instances such as ending up having no land as a result of Nozickean entitlement theory, being disabled, or not being able to offer a labor which market does not want. As a result, a person depends on others, not necessarily by arbitrary interference. This account of freedom as non-dependence accounts for the problems of Nozick's theory by modifying Nozickean account of freedom and voluntariness. We can defend the minimal level of sufficiency with freedom in Kantian lines.

Nonetheless, all these explanations I proposed lack the fundamental aspect of our discussion: property and the limits of self-ownership beyond our body, namely the external resources. Property rights are as important as self-ownership in Nozick's theory. The next chapter will discuss Nozick's entitlement theory in relation to these concepts and how we should approach them.

Chapter 2 – The Entitlement Theory

In this chapter, I focus on Nozick's entitlement theory as a critical approach for distributive justice. Instead of discussing the consequentialist justifications of property, I discuss the rights-based argument for individual's acquisition of property and the different claims to own external resources. I follow Nozick's entitlement theory and review the principles of acquisition and transfer respectively.

2.1 *On Property*

All theories of justice accept the concept of personal property in principle, and even the strongest dissidents of private property make a distinction between personal property for subsistence (possessions) and property as a means of production. The reasons for acquiring property is first to survive even before political arrangements, and then to pursue a life based on some specific values (autonomy, freedom, efficiency etc.). Right to private property, as opposed to common or collective ownership, gives an individual a right to exclude others. In Marx's words: "Thus the right of man to property is the right to enjoy his possessions and dispose of the same arbitrarily, without regard for other men, independently from society, the right of selfishness" (Marx 2000, 60).

Locke and Nozick have proprietary theories for justice deriving from self-ownership and extending to the ownership of natural resources. Locke's right to property, although conditioned by to the preservation of humankind, is in absolute character (Locke 1980, 19). Nozick's justification of property is parallel to his general stance by stressing non-utilitarianism and autonomy (Nozick 2001, 171). For him, the right to property has almost absolute character and only can be overridden (but still remains) when and only if there is a matter of life and death, like

well in the desert situation. I have argued that the right to life, all else being equal, trumps property rights. But no one can use your property without your permission for other purposes, even if she yields a great surplus and afterward gives you extra pay which you could not do otherwise. Still, what makes us the owner of property to give us a right to exclude others—almost as strong as self-ownership—and reject greater benefits?

Nozick's views on property and natural resources are derived from self-ownership and determined by the historical (procedural) account of justice he formulates in his entitlement theory:

1. A person who acquires a holding in accordance with the principle of justice in acquisition is entitled to that holding.
2. A person who acquires a holding in accordance with the principle of justice in transfer, from someone else entitled to the holding, is entitled to the holding.
3. No one is entitled to a holding except by applications of 1 and 2 (Nozick 2001, 151).⁹

To respond this question properly, we need to elaborate Lockean and Nozickean provisos and the situation of natural resources.

2.2 Principle of Acquisition

Locke says that God gave the earth to mankind in common (Locke 1980, 18). To acquire a property from common ownership as a private property, he puts some conditions known as Lockean or *sufficiency proviso*. The first condition is to appropriate a land “at least where there is enough, and as good, left in common for others” (1980, sec. 27). Locke states that an appropriation should leave the opportunity to others as if it was common (Simmons 1994, 294). The second

⁹ Since the actual holdings are not just, Nozick offers a principle of rectification, with implication to be left to each society. However, without knowing clearly who did commit injustice, Nozick recognizes the complexity of the issue unless there is a full treatment for everyone (Nozick 2001, 230–31).

condition to own a property is not to spoil or waste the resources. The third is that someone must mix her labor to appropriate an unowned resource. The last condition is described by Locke as: “[God] gave [the world] to the use of the industrious and rational; not to the fancy or covetousness of the quarrelsome and contentious” (1980, sec. 34).

Nozick challenges the Lockean proviso on several points. First, he questions mixing labor, namely, why we mix labor instead of losing it and why mixing labor is a prerequisite to earn land (Nozick 2001, 175): “If I own a can of tomato juice and spill it in the sea (...) do I thereby come to own the sea, or have I foolishly dissipated my tomato juice?” Moreover, there is a problem of determining what is enough and as good for others since any appropriation will make others’ conditions worse-off and not leave enough land. When the last person cannot have enough, the previous person happens to violate the proviso. Similar arguments can be traced until the first appropriation (Nozick 2001, 176). Instead, Nozick offers a weaker proviso with a baseline argument and claims that no one is worse off if they are non-comparatively the same and thereby not worsened-off as if the land was not acquired.

The main claim against the principle of acquisition is that it offers a first-come first served appropriation and ownership of resources which eventually puts the late-comers in bad conditions and allowing them not to be able to own a land and consequently to be exploited (Cohen 1995, 67–91; Kymlicka 2002, 111–21; Wolff 2013, 102–15). Nozick acknowledges the problems of unilateral provisos but later justifies it in a utilitarian way, saying that it increases the social product efficiently (Nozick 2001, 177), similar to Locke (1980, 23). Further, we always think that original appropriators are better off than late-comers, which is not the case in history for most appropriations. Appropriation is not a zero-sum game, and we, as the late-comers, are actually benefitting from it. For example, we can compare current American people’s conditions and

freedom to the first settlers in the 17th century. The loss of freedom or opportunity by appropriation is outweighed by a non-comparable gain of freedom and wealth which give us more options. However, it does not rectify the people who suffer when the appropriation happens. As a result, libertarian justifications of the acquisition are noticeably consequentialist rather than rights-based—although any other theory of justice will require consequentialist arguments, too.

Libertarians claim that none of the distributive theories tells us the prior story of resources which they take it given in the first place (Schmidtz 2011, 217). To refute the entitlement theories, the champions of resource distribution should offer a natural right or claim to own and correspondingly distribute land. As a result, no one can avoid setting pre-political natural rights regarding external resources. To claim an unjust acquisition, we should commit an injustice to others who have a right or claim to resources. Since it does not exist and no one has a claim on the land, we cannot even speak of an unjust acquisition (Feser 2005, 58). In like manner, Nozick assumes that the world is initially unowned, no one has a claim on land (Nozick 2001, 174–78; Kymlicka 2002, 115–16) and builds his entitlement theory on these grounds.

Why does Nozick assume the world is unowned? After all, despite Nozick’s contention that natural resources are not things which “fell from heaven like manna” (Nozick 2001, 198), resources appear to be like manna (Waldron 1990, 279) and we do not have special individual entitlements over them. Moreover, if people have no claims on unowned objects, why does Nozick include a welfare factor by adding the condition of making nobody worse off which can even be considered as a pattern?¹⁰

¹⁰ Despite the worsening-off condition, the Nozickean proviso might end up with extraordinary consequences. For instance, through entitlement theory, a person can discover a sea which others are not aware of yet and may own it just by her words since it meets Nozickean worsening-off condition.

On the other hand, when we abandon the rejection of the claim on resources, then what is the reasoning to reject the injustice arguments against acquisition and champion equal share?

2.2.1 Equal share of resources

Many people assume that resources should be arranged equally between individuals from a moral point of view. Accordingly, there has been a left-libertarian branch which accepts self-ownership but an egalitarian distribution of world resources (Steiner 1974; Vallentyne 2000; Otsuka 2003). By the same argument deriving from the equal moral status of people Nozick advocates (Nozick 2001, 35–42), egalitarian view asserts equal share of resources. Their argument can be summarized as follows:

1. People have equally important moral status.¹¹
2. Everyone has equally important personal goals.
3. The world is unowned.

Therefore,

4. Everyone has equal claim on resources.

However, this argument proceeds from 2 to 4 too quickly. The view relying on an equal moral understanding of the people does not necessarily require equal claim on resources. The argument for equality rests on the idea that the resources are not human product. This can only justify compensation for the loss of opportunity to use the resource, and controversially, the value of the raw resource by extracting the surplus (added by labor). The practical application of resource allocation is also another problem since they are not homogenously distributed. Furthermore,

¹¹ They base their arguments on equality of different values: for Dworkin, it is equal concern and respect (Dworkin 2013, 272–3); and for Steiner, it is natural right to equal freedom (Steiner 1974).

different societies and people value these resources differently, and even the universally accepted resources' status might change in time. Even when we provide equal distribution of resources, it might not suffice for equality since people's different talents and choices will have different outcomes (Cohen 1995, 94–95). Similarly, if we aim for ex-ante equality of resources (as resource/luck egalitarians argue), we later cannot achieve the equal moral status of the people treating and punishing them as the victims of their luck or choices. As Elizabeth Anderson demonstrates, we should seek moral equality not in resources, but in social relations (Anderson 1999, 295–312).

If we accept that property is the result of two components, namely natural resource and labor, the Lockean proviso with Nozick's worsening-off condition might give us a powerful sentiment to own a property from natural resources (Griffin 1988, 290).¹² As Edward Feser puts it:

Whatever objections one might raise against Locke's "labor-mixing" theory of property, it at least provides the beginnings of a story that makes it clear how anyone can come to own something. Locke's initial acquirer does, after all, *do* something to a *specific* resource, and does it with something he already owns (his labor), so that it is at least not mysterious why one might suppose he comes to own the resource (Feser 2005, 61).

As a result, people's moral status can be maintained by different provisos or distributions, including a sufficientarian proviso similar to Locke's, and later accepting inequalities which can achieve more efficient results for people, as happened hitherto.

2.3 Principle of Transfer

Even if we assume that we solved the problem of acquisition, there is another problem for patterned theories regarding the transfer of goods. Nozick contends that the entitlement theory is historical and not patterned (Nozick 2001, 157), unlike other theories which claim a distributive pattern and ignore how a distribution or holding came about. For instance, an egalitarian current

¹² Nozick also defends property and rejects taxation with emphasis on labor in other parts of ASU (pp. 169, 172).

time-slice or end-state principle distributes goods equally in a certain time. Other principles such as merit, need, or marginal utility also have patterns to shape a distribution as end-state, whether in a particular time slice or not. Nozick claims that even if we accomplish our ideal patterned principle, people's voluntary transactions will upset the pattern we aspire. Nozick illustrates his argument with Wilt Chamberlain example:

Let us suppose it is your favorite one and let us call this distribution D1; perhaps everyone has an equal share, perhaps shares vary in accordance with some dimension you treasure. Now suppose that Wilt Chamberlain is greatly in demand by basketball teams, being a great gate attraction. He signs the following sort of contract with a team: In each home game, twenty-five cents from the price of each ticket of admission goes to him. The season starts, and people cheerfully attend his team's games; they buy their tickets, each time dropping a separate twenty-five cents of their admission price (...) Let us suppose that in one season one million persons attend his home games, and Wilt Chamberlain winds up with \$250.000, a much larger sum than the average income and larger even than anyone else has. Is he entitled to this income? Is this new distribution D2, unjust?

Each of these persons chose to give twenty-five cents of their money to Chamberlain. They could have spent it on going to the movies, or on candy bars, or on copies of Dissent magazine, or of Montly Review. But they all, at least one million of them, converged on giving it to Wilt Chamberlain in exchange for watching him play basketball. *If D1 was a just distribution, and people voluntarily moved from it to D2, transferring parts of their shares they were given under D1, isn't D2 also just?* (Nozick 2001, 160–61)

Nozick thereby concludes “no end-state principle or distributional patterned principle of justice can be continuously realized without continuous interference with people's lives” (Nozick 2001, 163).

Nozick's Chamberlain example is criticized from various points. The first one is that Chamberlain earned his money with arbitrary talents he did not deserve. The difference in talents between people can be extended it to further generations and some people's children are born into wealth whereas other people's children end up starving (Kymlicka 2002, 106). An opposite view would say the fact that Wilt did not deserve does not mean we deserve the fruits of his earnings (unless a further argument is put forward). Furthermore, there are cases in which people earn money not for being genetically superior to others, but just because other people want it. There are

a lot of people who do not dramatically lose or change their talent but sometimes valued whereas just a couple of years later they are not simply because of people's voluntary choices.

However, not all instances of dramatic change in valuation occur spontaneously, and this is a very recent phenomenon (due to globalization and technology). The demand and the possibility to profit from others' demand also depend on the previous cooperation created by society. For instance, when we change one of the parameters, Chamberlain might not end up having money, much less become rich. Chamberlain, all else being equal, would not be appreciated and watched in England the same as in the United States although England is culturally a similar country simply because people do not demand his talent for basketball. Neither would he make money if he were born a hundred years earlier in the same society. In addition, Chamberlain is not the only player in the game, but he is playing with a team (Pressman 2013, 7–9).

Another problem, called the sorites paradox, might occur for this transaction. Take this situation: everyone is donating money to a beggar. Eventually, the beggar becomes richer than many people. The limit for the just transaction is not clear; where is the point that the beggar stopped being poor and started being rich, even though people did not intend this unequal outcome (Quest 1977, 205)? A trivial just procedure cannot affect people's lives so huge if it is really trivial. But it does actually, as in the Chamberlain example. What we have is a result that people did not want, but occurred by voluntary transactions. Therefore, Chamberlain might have a domination over others as a result of his immense economic power (Cohen 1995, 28; Scanlon 1976, 8).

It is true that Nozick's definition of justice is so individualistic that it misses the previous contributions by the collective agency. However, the share of each party is predetermined before the game by their contracts, bonuses and expected revenue. The people in this situation know that how much money they will contribute to Chamberlain. So do the other parties who participate in

the game. Furthermore, Chamberlain was born into a society with taxation. When he started his basketball career, he and other parties knew and were able to foresee what would happen. Chamberlain earns money under laws which regulated many aspects of property and income, so the money he earned is not totally free of taxation or justification (Henley 2012, 155–56).

If Chamberlain gave one million private basketball shows for the same price, people would probably object to it less. Because many transactions in our lives are between single persons and one-dimensional, such as employee-employer relations or shopping. Actually, many things which are multi-dimensional (sports events, concerts etc.) are more voluntary and non-institutional than many one-dimensional transactions.

People work extra by sacrificing their labor and freedom for the things they want and consent to spend money on. Libertarians claim that nobody with a paternalistic attitude has a right to interfere or regulate adult people's voluntary transactions, especially when they spend their own money. By doing so, those who interfere—and mostly the state—simply ignore people's consent to pay to watch Chamberlain and victimize them. Cohen even admits it, saying that people do not care about their acts and then suffer (Cohen 1995, 26). Jonathan Wolff goes further and claims that transactions are not voluntary when he mistakenly makes an analogy of a person holding a gun and asking your life or your money (Wolff 2013, 83). First of all, Nozickian side constraints prohibit any kind of threat or fraud. Second, this example is not an example against Nozick but conversely it supports his claim to reject taxation. If there is an entity asking a share of your money anything you earn, even if people voluntarily contributed your income, it actually resembles a totally opposite situation, a case of state taxation, which is both involuntary and by threat of force.

A similar line of criticism concerns third parties who do not engage in the transaction and claims that they will be affected negatively. Although Nozick asserts that the third parties' shares

are not changed (Nozick 2001, 161), Cohen replies by saying that their effective share is worsened and if everyone was equal, everyone would be better placed (Cohen 1995, 26–27).

The first problem with Cohen's idea is that it only focuses on the money or tangible resources of the people, not on the pleasure they gain and they offer money for. Therefore, people who give their money voluntarily are considered worse off since they lose money. Second, it causes a cyclical problem of being worse off by punishing the third parties harshly. Cohen is right in his claim about their position but with a different mechanism because the third parties are affected first, positively, and then, negatively. If we consider an initial equal distribution, those who will pay for Chamberlain will be worse off after the transaction. As a result, the third parties will monetarily be situated between Chamberlain and those who voluntarily paid as being the worst off. Unless we tax only Chamberlain,¹³ the third parties will always be better than those who paid. The situation does not change even if we apply a proportional tax before transaction since only the degree of inequality will differ while all else will remain.¹⁴ Hence, in order to achieve equality or any other relative pattern, we should also tax the third parties who did not engage in any activity for those who paid, enjoyed and who will be rewarded again to achieve equality or to benefit the spectators in order to better them. Thus, the idea of equality of outcomes as an end seems neither just nor logical.

Of course, this only occurs if we aim for a pure equality or a pattern as an end-state principle, which is not the case for all egalitarians. An egalitarian might hold a position of accepting unequal

¹³ With 100% taxation by returning the money to the purchasers to achieve equality, which means he played for nothing.

¹⁴ The third parties can only be disadvantaged if they lose more money and be situated below those who paid as a result, which also disables them as third parties since they also engage in transaction.

outcomes—as resource and luck egalitarians do—or defend weak egalitarian patterns.¹⁵ Still, since a perfect pure procedural condition to start equality cannot be achieved between generations and people in different time, patterned theories have to offer a pattern eventually, at least as a time-slice pattern and they too face problems.¹⁶

As Nozick acknowledges, not every pattern is thwarted by liberty (Nozick 2001, 164). The problems of patterns therefore becomes a problem when they are end-state or time-slice, relative, and strong; and to what extent they limit people's voluntary transactions. This might not be the case for sufficientarianism since it is regarded as a non-relative pattern and as the weakest one. But sufficientarianism is not clear cut, and in the next chapter I will discuss how compatible it is with Nozick's historical account of justice and libertarianism.

¹⁵ Since ex-ante egalitarians do not object to later outcomes, they might not be defending the patterns in Nozickian sense.

¹⁶ Kymlicka notes the problems of Dworkin's ex-ante equality in terms of determining the resources, people's talents, and their measurement problems. Dworkin's abstract theory cannot cover a full account of justice for real-world distributions (Kymlicka 2002, 80–83).

Chapter 3 – Sufficiencyarianism

The defenders of sufficiencyarianism, introduced by Harry Frankfurt (1987), claim that people should have enough of some goods. Paula Casal explains sufficiencyarianism by its positive and negative theses. The positive thesis emphasizes the importance of a threshold above which people should be living, and gives priority to the people below the threshold. The negative thesis rejects further distributive patterns or shifts the prioritarian¹⁷ aspect of the thesis above the threshold (Casal 2007, 298–9).

In this chapter, my discussion will follow Casal's distinction. I will start with the positive thesis of sufficiencyarianism and later move to the negative thesis. First, I will introduce the distribution unit of sufficiencyarianism, namely what is the criteria sufficiencyarians want to distribute goods. Second, I will discuss sufficiencyarians' approach on people's position in relation to thresholds. Third, I will discuss the thresholds and their levels with justifications by sufficiencyarians. Fourth, I will address the main problems of sufficiency and defend the minimal threshold. Fifth, I will look at patterned theories from a historical account of justice. I will argue that a principle of distribution which goes further than basic needs cannot be accepted, and sufficiency cannot offer a robust negative thesis. Therefore, sufficiencyarian arguments appear to be incoherent and inadequate.

¹⁷ Prioritarianism or The Priority View is introduced by Derek Parfit and can be defined as: "Benefiting people matters more the worse off these people are" (Parfit 1997, 213).

3.1 *Sufficiency of what?*

3.1.1 Welfare

Most sufficientarians argue that sufficiency should aim the welfare of people since justice is not about achieving equality but instead aiming the well-being of people (Frankfurt 1987; Frankfurt 1997; Crisp 2003; Benbaji 2005; Benbaji 2006; Huseby 2010). Frankfurt argues that when people's needs are satisfied, they are content.¹⁸ Having enough depends on a thing's satiability since all claims are satiable: "When [satiabile principles] are completely met then whatever may happen and whatever might have happened the principles cannot be, nor could they have been, satisfied to a higher degree" (Raz 1988, 235–36). For example, if you are hungry, feeding more makes you less hungry and eventually this need diminishes. But many things (unless we focus on basic needs) in life depend on other people, especially in the case of money and other goods which fundamentally determine people's contentment, and accordingly welfare. Casal gives the example of a hospital which receives donations and luxury equipment. Since everyone is treated in the hospital and they are content with their treatment, a sufficientarian cannot reject the arbitrary distribution of these goods to certain people (Casal 2007, 307).

Roger Crisp claims that eighty years of high-quality life is more than enough for any person to be sufficiently well (Crisp 2003, 762) though he does not elaborate his argument further. Even when we decide what a high-quality life is, to him, we can sacrifice the people about eighty-years-old for the benefit of others since they have already achieved their sufficient welfare. Benbaji, another sufficientarian, introduces need and prioritizes it over desire. If a person needs something which another person wants but not needs, then the first person's need is *prima facie* preferable to

¹⁸ "The notion of enough pertain to meeting a standard rather than reaching a limit. To say that a person has enough money means that he is content, or that it is reasonable for him to be content, with having no more money than he has" (Frankfurt 1987, 37).

be satisfied then the second (Benbaji 2005, 324). Benbaji does not clearly state what actually a need is, how different it is from desire, or which needs are prior to others. He gives an example to compare need and desire by saying that a disabled person's mobility assistance is more important than providing a jet to Bill Gates but this seems like an extreme comparison. In real life, we face more controversial situations, like whether to provide a disabled person a chair or save money for education—whether these situations include us as the beneficiaries of these policies or not. The examples can vary to a degree that we cannot be impartial without considering other factors. If a person, despite warnings, keeps doing an extreme sport and ultimately has an accident which requires an urgent surgery to make him fully function, should we subsidize her by sacrificing our savings, for example, spending money for her surgery instead of buying ten extra wheelchairs for disabled people? We probably do not have equally or sufficiently enough consideration for that person, unlike a person who has same conditions but not due to her fault (Temkin 2003, 772). Does this person need only survival or further assistance, such as prosthetic limbs; and if she does, to what extent should it be? Hence, first, we cannot easily separate need from desire in many concrete cases, and second, even a claim by need requires a historical view to justify it. Huseby also bases his view on welfare and argues that people can still be content although their preferences are not met and without achieving the welfare they want (Huseby 2010, 182). This cannot offer a plausible account for determining the content or the level of welfare, either.

To conclude, welfare sufficientarians cannot provide a solid and concrete ground for their arguments. Their concepts are vague to be defended as a basis for their welfare claims. In order to clarify what sufficiency means, I will examine another version of sufficientarianism developed by determining specific metrics.

3.1.2 The Capability Approach

The capability approach, which is introduced by Amartya Sen, focuses on the abilities of a person and sets the threshold of sufficiency based on a person's capabilities. Sen defines capabilities as "being able to do certain basic things" (Sen 1980, 218). Accordingly, a person's capability to live a good life is defined by functionings which are beings: (un)educated, (under)nourished; and doings: travelling, voting or acting etc. Functionings form the capabilities a person has. More precisely "A functioning is an achievement, whereas a capability is the ability to achieve." (Sen 1988, 36). Suppose you want to ride a bicycle. If you do not have a bicycle, you cannot ride it. Yet, even if I give you a bicycle but if you do not have the capability to ride it due to your disability, having a bicycle does not mean much, either. Therefore, we should focus on giving capability or means to ride a bicycle instead of merely giving the bicycle. Consequently, Sen rejects resource or income-based distributive principles since giving these goods does not suffice to achieve the ends people pursue.

Nonetheless, Sen has two contradictory assumptions. First, he assumes that there are some specific aims which can be achieved by specific capabilities. Are there such universal ends we pursue? Even to achieve each person's own good, some certain capabilities should be determined and given to the people who lack them, which eventually has to moralize and favor some capabilities over others. Second, and conversely, he does not set a threshold or a list for capacities, leaving each society to arrange them (Sen 1993). He defends a distribution according to society and processes but does not specify what and how a distribution will be applied. It seems that he emphasizes disabled people and considers an average person's capabilities. If so, how are we to deal with capability problems of average people, for example, a short person who cannot play basketball in a team or someone who wants to be a painter but lacks talent according to other

people's valuation? He does not provide a clear line which determines the basic capabilities among people of all kinds.

Martha Nussbaum, taking inspiration from Sen, develops a capability approach of justice (Nussbaum 2001; 2007). Unlike Sen, she relies on the idea of human dignity and appeals to Aristotelian human flourishing concept. She offers a list of capabilities: 1. Life; 2. Bodily health; 3. Bodily integrity; 4. Senses, imagination and thought; 5. Emotions; 6. Practical reason; 7. Affiliation; 8. Other species; 9. Play; and 10. Control over one's environment (Nussbaum 2001, 78–80; 2007, 76–78). She claims that “those human capabilities that can be convincingly argued [are] of central importance in any human life, whatever else the person pursues or chooses” (Nussbaum 2001, 74). However, she thinks that the capabilities not only are instrumental to further pursuits but also have values in themselves to make a person fully human (Nussbaum 2001, 74).

Although Nussbaum clarifies capabilities with a list, it makes her theory perfectionist and paternalistic, as she acknowledges (Nussbaum 2001, 51–56). Dworkin asks:

The idea that people should be equal in their capacities to achieve these desirable states of affairs, however, is barely coherent and certainly bizarre—why would that be good?—and the idea that government should take steps to bring about that equality—can you imagine what steps those would be?—is frightening (Dworkin 2002, 302).

Likewise, Arneson accuses Nussbaum of being perfectionist. He questions why we should give the capabilities and as a complete list with a threshold. For instance, someone might want to have a monkish life but still value her life as a good one. He adds that the items in Nussbaum's list are abstract ideas which weight differently in everyone's life instead of being necessary for a good life overall (Arneson 2000, 47–49). Moreover, the duty burdened other people to cater the capabilities for everyone might be costly and also compels others to sacrifice their benefits to provide the capabilities to everyone. Consider a disabled person as an example. Sen's framework will label this person who lacks various beings (travelling, driving a car, or being a race driver), and functionings

(moving) which might vary. For travelling, it can be either providing a private car or arranging public transport. If we expand the scope globally, what are the means and limits of travelling? And why do we prefer travelling instead of driving a car or being a race driver? If we regress it to basic functions (moving) it remains vague, but if we specify functionings, we should move towards a perfectionist idea. Nussbaum's list does not provide a scheme for this case, either. Furthermore, the potential costs for each, depending our choice (private car or arranging public transport), will affect others.

As a result, the capability theory faces the problem of arbitrary thresholds. In addition, it is paternalistic and perfectionist by dictating the good life to people although the content is still vague and still needs to be elaborated, which later again turns into an even more perfectionist view. More importantly, although it offers a Kantian perspective to make everyone ends in themselves, it does not respect separateness of persons and treats some as means for others by forcing them to subsidize others' ends.

In the following section, I will turn to the strategies of sufficientarians regarding thresholds. First, I will show two perspectives about how sufficientarians position people depending on their proximity to thresholds. Second, I will issue the threshold and their levels offered by sufficientarian scholars.

3.2 Perspectives on Sufficiency

There are two main perspectives by sufficientarians regarding threshold, which correspondingly affects both negative and positive theses: headcount and upper-limit sufficientarianisms. The reasons and the intuitions by sufficientarians not only determine the thresholds, but also affect the positive and negative theses' characteristics, namely, what the

importance of a specific threshold is—for the positive thesis; and what we should do above the threshold—for the negative thesis.

3.2.1 Headcount sufficientarianism

The first perspective is called headcount sufficientarianism (Shields 2012, 103) and its champions try to maximize the number of people who are above a certain threshold (Casal 2007, 315–16). An example by Frankfurt might illustrate the idea: imagine we have forty units of a good which helps people to survive. If the population is ten and if a person needs five units to survive, a strict egalitarian distributes four units to each person and let them die. But headcount sufficientarianism, which aims the maximum number of people to survive, gives five units to eight people by only sacrificing two instead of ten. Similarly, if we had one extra unit left after distribution, an egalitarian distributes half to each of the two worse off people, unlike a sufficientarian who gives the unit to one person to save one more life (Frankfurt 1987, 30–31). It is important to note that Frankfurt uses the survival threshold to attract our morality, which makes this specific example a sufficiency based on need with minimal threshold instead of contentment-based sufficiency Frankfurt advocates.

Apparently this version of sufficiency takes its strength in cases of scarcity and survival. When we set a higher threshold, the benefit we give to the person closer to the threshold to achieve a level is at the expense of the worse-off person. Therefore, sacrificing the worse-off person might not seem moral. Suppose we have two people brought to the hospital. One is very badly off and cannot function as a normal person whereas the other has the better condition and can be treated to a degree that he can function well. Our painkillers are only enough either to save worse-off person's life, or to make the better-off person function as a normal person. If we set our threshold to the

level of a functioning person, this idea leaves the worse-off to die in order to improve the better off person.

3.2.2 Upper-limit sufficientarianism

Upper-limit sufficientarianism, on the other hand, gives priority to worse-off people below a threshold but above the threshold, this prioritarian claim shifts to another principle—which is generally a weaker prioritarianism—or diminishes. Crisp defends this idea with his Beverly Hills example: when we think about billionaires and millionaires living in Beverly Hills, we do not object the inequality between them. We do not try to level-down billionaires to the level of millionaires. Neither do we try to increase millionaires to billionaires' level. Thus, Crisp concludes, both egalitarianism and prioritarianism fail to explain our indifference above the threshold (Crisp 2003, 755).

Nonetheless, this view might also sacrifice the benefits to the well-off to make the people who are below the threshold better-off. If we aim to make every person as wealthy, healthy or capable as a normal person by treating people with lung cancer in special clinics, providing disabled people equipment, or trying to provide everyone a certain level of public education, it might cause a huge burden on society, especially on people who are not responsible for the health deficiencies of others, or people who do not have children but paying taxes for the education of other people's children. In other words, this social minimum idea might end up with an “onerous social maximum” (Widerquist 2010, 475).

3.3 The Threshold Problem

As I noted, Frankfurt does not have a specific threshold since it is determined by people's satiable ambitions. There is another question whether that threshold should be the starting point, or the outcome or a continual threshold. Many sufficientarians, although they do not explicitly state

it, embrace a continual threshold. This, as I will discuss, might not suffice our justice claims without looking historical account of people's position, which is clearer when we set a threshold further than minimal level.

Crisp appeals to Adam Smith's impartial spectator who can put herself in the shoes of all those affected and who can be entirely impartial between individuals to determine the threshold of sufficiency. An impartial spectator, unlike an ordinary compassionate person, can observe neutrally and distinguish a person who deserves compassion impartially. This is what he calls the compassion principle:

Absolute priority is to be given to benefits to those below the threshold at which compassion enters. Below the threshold, benefiting people matters more the worse off those people are, the more of those people there are, and the greater the size of the benefit in question. Above the threshold, or in cases concerning only trivial benefits below the threshold, no priority is to be given (Crisp 2003, 758).

There are two problems with this view. First, compassion for a person only appears when there is a relative comparison unless a person is non-comparatively badly off, such as starving or physically suffering. We can feel compassion for a person who is disabled regardless of her wealth since we already compare her to an able person we naturally take as a comparison unit. But the same person in a society with people having worse disabilities might not deserve our compassion. Compassion is also indifferent to different types of welfare (different types of disabilities, poverty, physical defects). This eventually undermines the universality of the compassion and Crisp's sufficiency which he claims is non-comparative.¹⁹ Second, without knowing the history of a person, her current status might not explain whether she deserves compassion or not. A person who is rightfully excluded from society or falls into poverty because of her serious wrongdoings does not attract our compassion if we know her history. But Crisp's spectator would feel the same for any

¹⁹ He writes "Egalitarianism failed because relative fairness is not a value" (Crisp 2003, 755).

person who deserves compassion on that specific time we look (Casal 2007, 314–15). Hence, Crisp’s account is indifferent to historical elements which might influence our sense of justice.

As a response to Casal who claims that sufficiency cannot offer a strong argument for negative thesis (Casal 2007, 299–304), some sufficientarians complement the negative thesis of sufficiency by adopting prioritarian views. Liam Shields defends a sufficiency which is similar to non-comparative prioritarianism. Until the threshold, our prioritarian reasons matter. After the threshold, we have a weaker prioritarian reasons to make people better-off without comparison, which he calls “shift thesis” (Shields 2012, 108). Some sufficientarians defend multiple thresholds. Benbaji challenges the idea of a single threshold: if we set a single threshold, although the difference between two people remains same, our attitudes change depending on how they are located. Therefore, he offers a multilevel doctrine of sufficiency by giving importance to people, the size of benefits depending on their position in relation to thresholds (Benbaji 2006, 343). Huseby appeals to humanitarianism as a universal moral demand and sets the first threshold at minimal level. The second and the maximal threshold requires a level on which a person is content (Huseby 2010, 180–81).

Still, none of these accounts offer the reasons for threshold’s level, except for Huseby’s minimal threshold. Neither do they offer why nor to what extent should we make people better-off even after the first and latter thresholds. What they do is suggest strategies to reply to Casal’s critique without offering a substantive account for the content and the level of thresholds.

3.4 *Setting the Minimal Threshold*

Casal identifies five main problems of sufficientarians (Casal 2007, 312–18). First, they have ambiguous and arbitrary thresholds. They are in fact relative since they compare compassion, welfare, ambitions, or money of people to society they belong to. Second, they do not provide a

clear answer whether to choose single or multiple thresholds, and if multiple, how they relate to each other. Third, sufficiency itself is an inadequate version of prioritarianism. While those who reject distributive patterns above the threshold cannot explain why we should reject further distributions, others who offer alternative explanations appeal to prioritarianism. Fourth, sufficientarians cannot offer a plausible unit of concern. For example, they cannot distinguish a person who had a good life and momentarily falls below threshold from a person who always lived below threshold. Finally, the choice between high and low thresholds causes problem. High thresholds might sacrifice worse-off people for better-off people to achieve sufficiency, whereas low thresholds lose egalitarians' attractiveness since it will be indifferent to the difference those who have plenty and those who have barely enough. To sum up, sufficientarianism as such, at best, is an incomplete theory which more pluralist alternatives should be preferred over (Casal 2007, 323).

Regarding the first three problems, minimal threshold—as opposed the other forms of sufficiency—is not ambiguous and has the moral attraction since it is linked to people's survival and basic needs. It is based on tangible and universal needs instead of ambiguous objectives or arbitrary welfare levels. Many people, and even libertarians, support this basic needs approach.²⁰ In addition, since the level is the lowest, there will be no problems regarding the thresholds' level, number or our attitude (headcount or upper-limit) to them. I will now address the last two problems.

Frankfurt's examples against equality were attractive because what they were directed was the importance of survival and basic needs which constitute the minimal threshold. When we set a

²⁰ Some versions of libertarianism advocate basic income (Parijs 1992; Parijs 2004; Ackerman, Alstott, and Parijs 2006; Vallentyne 2012) which is supported by people defending other theories. Classical liberals wrote about similar ideas for people's basic needs: guaranteed minimum income (Zwolinski 2012) or negative income tax (Friedman 2009, 191–94).

higher threshold, sufficientarianism starts to face problems since we cannot determine a threshold above minimal level without a perfectionist or relational view. Further, higher thresholds do not respect the Kantian principle and treat some people for others' vague welfare aspirations. To see if low threshold and its indifference to inequalities, we should take history into consideration.

My minimal account is indifferent between a person who always has been poor for twenty years or fell into poverty in one day without knowing how the person ended up being poor. Actually, it has to be so because she might have gambled and lost her money overnight, or her money was illegitimately taken, or she committed a crime and had to lose her income and property gradually to compensate for the crime, and so on. These are incidents giving us different senses of justice although their level are the same.

I recall Casal's hospital example to stress the historical justice account. An important distinction to note is that, unlike Casal's implication, the reason to reject sufficientarianism in this example is not because we favor equality but because of the fact that a hospital, just like other public institutions, by definition and intuitively is expected to treat equally its patients in terms of well-being. If the hospital unequally distributes some trivial goods which do not directly affect the welfare of the patients, we would not object that much. If the point is equality, the principle should urge us to favor equality. If the point is welfare sufficiency, we also should embrace the inegalitarian attitude of the hospital towards patients. Now consider a bank. If a bank distributes to its customers one dollar who happen to be there at a particular moment, we would not care whether the money was distributed equally. Even if the bank distributed a larger amount of money equally to each of us, if this money turns out to be the money of one of the customers, we would have to return the money. To deepen the issue, if the owner of the account is a businesswoman who stole the money and put in her account, our justice sentiments would change. We should go back and

check whose money she had stolen, whether it comes from the taxes of people, or from somewhere else. In the first case, we would feel less guilty since we are the contributors to the tax scheme, but in the second case, the very same sense decreases. The historical account thus might give us reasons to judge a distribution's fairness.

Conclusion

The initial premise of Nozick's libertarianism, as expressed in the Kantian principle, holds the position of separateness of persons by treating people as morally equal beings and by forbidding sacrificing one for another. Nozick takes this idea as the foundation of his theory, shields Lockean rights, develops a historical account of justice deriving from self-ownership, and consequently rejects distributive patterns, although leaving a door open for weaker patterns. I argued that the Lockean rights Nozick appeals to are actually in sufficientarian character, and to secure the Kantian principle, Nozick's account can and should be formulated in sufficientarian terms. Nozick's theory of rights can be grounded upon rights based on 1) the right to life with biological need-based sufficiency which requires minimal provision and 2) self-ownership. Although Nozick's (property) rights as side-constraints are robustly compelling, morality can concord a sufficientarian understanding of rights.

When I adopt the Kantian principle, my discussion about the concepts of distributive patterns points to a different understanding from what both Nozick and his critiques claim as I arrived to a conclusion of defending the minimal pattern. In addition, I argued for a different understanding of freedom: freedom as non-dependence as opposed to traditional accounts of freedom, either in negative or positive sense. I also argued that these opposite ideas by Nozick and his opponents approximate to each other by putting forward similar arguments either to reject or defend patterns when they define coercion, which I showed in relation to exploitation and voluntariness. I defended a Lockean sufficiency proviso for the acquisition resources and a Nozickean view for the transfer of property by rejecting comparative patterns.

Since Nozick's theory can compromise with weaker patterns, I therefore discussed sufficientarianism which defends non-relational patterns unlike other patterned theories. Sufficientarianism too has the very same problems of other patterns when it claims a threshold different from a minimal level sufficiency, making it an inadequate theory of justice. These problems are: universality, arbitrariness, currency, thresholds and their level, all of which correspondingly cast doubt on sufficientarianism. However, the problems of sufficientarianism are not unique and are shared by other distributive patterns. First, the waste problem which enables sacrificing larger benefits of people above the threshold for minimal benefits of those who are below the threshold can be generalized in any distribution, which is at the lowest level for sufficiency. Egalitarianism is the most vulnerable to this objection than any other distributive pattern since the waste problem approaches its highest level to achieve equality. In addition, equality itself might also sacrifice those who are better-off by levelling down when making worse-off people better is not possible. Second, the metric of sufficiency—sufficiency of what—has been addressed for other patterns, especially for egalitarianism (Sen 1980; Cohen 1990; Anderson 1999). Third and most importantly, any patterned theory must deal with the objection of separateness of persons since patterned theories aim to achieve a distribution by taking the earnings of another person to subsidize others. When compared to the other patterns, sufficiency seems very modest. As Nozick's Chamberlain example brilliantly shows, the stronger the pattern is, the more we upset liberty.

Sufficientarianism convincingly stressed its moral attraction and importance over other patterned theories with its positive thesis. I followed the structure Paula Casal proposed to elucidate the claims of sufficientarian literature by distinguishing the negative and positive theses of sufficientarianism. I argued that unless sufficientarians complement the deficiencies of their theory,

and especially regarding the negative thesis, sufficientarianism remains to stay incomplete. This is where I introduce libertarianism as an approach built on sufficiency. Nozick's libertarian view rejects distributive patterns because they will be upset by liberty, and similarly, the negative thesis of sufficiency does not state any additional scheme for distribution. From these two lateral statements, while using why sufficiency for liberty as a ground, we can also use libertarianism as the negative thesis of sufficiency. I argue that sufficiency can supplement, but not replace, the principles of Nozick. Hence, the threshold of sufficiency—on the minimal provision level—and the patterns of distribution are limited by libertarianism.

I have examined, criticized, and aimed to modify both Nozickean libertarianism and minimal level sufficientarianism while stressing their preeminence and defending a synthesis of them over other patterns. I have yet come to a point to offer an alternative theory of justice, that is mainly because of the nature of philosophy as a ceaseless arena of ideas. As Nozick says, "There is room for words on subjects other than last words" (Nozick 2001, xii).

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