

“Having Too Much’ and Libertarian Freedom”

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Abstract

In this paper I defend libertarianism as a conceptual variant of limitarianism. Limitarianism is a normative claim in distributive justice about the moral impermissibility of being wealthy. Many libertarians believe that entitlement to ownership of worldly resources is contingent on not having violated a proviso – a necessary condition for property rights to arise, e.g. by leaving ‘enough and as good’ for others – and they thus share the generic limitarian commitment. I argue that libertarians believe that being better off than a certain threshold allows is morally impermissible and libertarians accordingly have to accept that a limitarian threshold does not simpliciter constitute a violation of libertarian freedom. I thus argue that Nozick indeed provides a limitarian threshold, albeit a far too weak one.

The libertarian core commitment to a strong set of rights for individuals over their bodies and labour has traditionally been employed by the political right to object to redistributive government interventions. Famously, Robert Nozick claimed that distributive principles as favoured by, broadly, egalitarians like John Rawls, constitute a rights violation as they distort and interfere with individuals’ just holdings. It should not come as a surprise if a view on distributive justice calling for ‘moral limits to wealth’ yields similar objections from the libertarian right.¹ However, this essay aims to reconcile, on a level of principle, the right libertarian property regime and a claim for moral limits to wealth. It aims to show that the libertarian objection against redistributive state interventions need not amount to a refutation of such a ‘limitarian’ principle of distributive justice.

I argue that libertarianism may plausibly be defended as a variant of limitarianism, where limitarianism is a normative claim on distributive justice about the moral badness or injustice of ‘being rich’ or ‘being wealthy.’ Insofar as libertarians believe that entitlement to ownership of worldly resources is contingent on not having violated a proviso – a necessary condition for property rights to arise,

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¹ See e.g. Robeyns (2017) and Nozick (1974).

e.g. by leaving ‘enough and as good’ for others –, they share the generic limitarian claim; they believe that being better off than a certain threshold allows is morally impermissible. A limitarian threshold thus does not *simpliciter* constitute an infringement on libertarian freedom; libertarianism is rather a variant of a view that it is morally impermissible to be better off than a certain threshold.

The structure of this essay is as follows: In the first section (I) I defend a generic limitarian account and conceptually locate Ingrid Robeyns’ particular limitarian account within generic limitarianism. I then (II) argue that libertarianism shares the generic limitarian belief, therefore is conceptually part of limitarianism.

I

In the following I defend and apply generic limitarianism. I argue that a plausible *generic* limitarian account expressed as conceptual formula should say the following:

Generic Limitarianism: It is morally impermissible to be well off if
and because one is better off than a certain threshold.

My formulation of generic limitarianism is compatible with ‘*distributive* limitarianism’ as proposed by Dick Timmer.² In full, Timmer states that “according to distributive limitarianism, a fair distribution of the metric of justice, e.g. primary goods or capabilities, *requires* that no-one has more than a certain amount of that metric.”³ Whereas distributive limitarianism is a positive requirement of distributive justice, generic limitarianism aims to capture the limitarian belief about the moral impermissibility or wrongness of ‘having too much’.⁴ I thus explore *how* it is that one may think that limitarian distribution is fair, that is, the justification offered for such a *requirement* of distributive justice to arise. I furthermore offer generic placeholders for a *metric* and *distribuenda* of justice.⁵ The metric of justice is the good of which it is required that individuals should have a certain amount of,

² Timmer (2018), 3.

³ Ibid. My emphasis.

⁴ Note that one may also be pluralist limitarian and hold other distributive principles besides the limitarian one.

⁵ See Gheaus (2016), 55.

e.g. equal access to advantage.⁶ The distribuenda of justice is the good, which is distributed accordingly so as to realise a certain distribution of the metric of justice, e.g. certain amount of resources so that everyone has, say, equal welfare. The conceptual formula above includes a placeholder for the metric ('one is better off than a certain threshold') and the distribuenda ('to be well off').

To further introduce generic limitarianism I shall now demonstrate how limitarianism, as defended and coined by Robeyns, applies to generic limitarianism. I shall argue that it is a variant of *non-intrinsic* limitarianism. Robeyns claims that it is morally impermissible to be wealthy in circumstances of (i) political inequality and (ii) unmet urgent needs.⁷ The objectionable circumstances (i) and (ii), on Robeyns' view, justify being limitarian, because limitarianism is instrumentally important for resolving these objectionable circumstances.⁸ Claims (i) and (ii) are individually necessary, but neither individually nor jointly sufficient. These claims are not sufficient because they do not offer reasons for all resources *above the threshold* to be morally impermissible.⁹ As it were, they offer reasons for resources *that* have certain effects, e.g. on political equality, or have high moral opportunity costs, e.g. they could be used to alleviate unmet urgent needs, to be morally impermissible. A further necessary condition is, therefore, the limitarian threshold, which is set by a capabilitarian account of what is not needed for a 'flourishing life'; being better off than this threshold, by definition, implies being 'wealthy'. Robeyns claims that being better off than this threshold serves no morally weighty purpose. Thus, wealth is morally impermissible because of the conjunction of the capabilitarian threshold and (i) or (ii). In other words, where wealth serves no morally weighty purpose, and where it has detrimental effects on political equality

⁶ Cohen (1989).

⁷ See Robeyns (2017), 6-10 for the justification based on political inequality (the 'democratic argument') and *ibid.* 10-14 for the 'unmet urgent needs argument.' See also Volacu and Dumitru (2018) and Timmer (2018). For a further, yet intrinsic reason see Zwarthoed (2018).

⁸ Robeyns points out that limitarianism is a non-ideal view on distributive justice, because its justifications operate in a distribution "as it is." See Robeyns (2017), 2.

⁹ Note Robeyns' idiosyncratic use of 'wealth', which denotes only resources above her proposed threshold. It is thus a normative term of art. However, (i) and (ii) can be instrumentally important *not only* for resources above her threshold ('wealth') and, arguably, may not be instrumentally important for *all* resources above the threshold. That is, resources below the threshold may have detrimental effects on political equality or some resources above the threshold may *not* have detrimental effects. It follows that (i) or (ii) is necessary but not sufficient. For criticism along those lines see Volacu and Dumitru (2018). For a reply see Timmer (2018).

or could be used to alleviate unmet urgent needs (or both), it is, so Robeyns claims, morally impermissible to be wealthy.

In Robeyns' limitarian account it is impermissible to have resources (in lieu of 'being well off'), if one has more resources than what is needed for a flourishing life (in lieu of an unspecified threshold). Robeyns' particular limitarian account thus is a variant of generic limitarianism. Moreover, Robeyns justifies a limitarian threshold *instrumentally* on grounds of its importance for (i) and (ii). Insofar as one thinks that setting a limit to 'being well off' is instrumentally important for realising (i) or (ii) – or indeed is important for just any other value one thinks is independently justified – one's view is expressed by *non-intrinsic* limitarianism (Robeyns' formulation):¹⁰

It is morally impermissible to be better off than a certain threshold if and because for a reason that refers to some other value.¹¹

In contrast, *intrinsic* limitarianism says

Being better off than a certain threshold is bad in itself.¹²

The distinction between intrinsic and non-intrinsic limitarianism is exhaustive of limitarianism, and I assume this to be intuitively plausible. However, non-intrinsic limitarianism may be divided further into deontic, telic and capability limitarianism.¹³ While Robeyns' limitarianism, so I argue, applies to capability and telic egalitarianism, libertarianism applies to deontic limitarianism only. To see this consider how it is that Robeyns claims resources above the threshold to be morally impermissible. On the one hand, Robeyns develops an account that demarcates a threshold up to which resources contribute to a flourishing life, and above which resources are not needed for a flourishing life. It follows that resources above the

¹⁰ See Robeyns (2017), 5. Robeyns herself suggested her proposal should be labelled as such.

¹¹ Robeyns states that being better off than the limitarian threshold is "morally non-permissible for a reason that refers to some other value." See Robeyns (2017), 5. However, Robeyns speaks of 'riches' that are morally non-permissible, where I use the generic placeholder 'being well off' or 'being better off'.

¹² For discussion of intrinsic limitarianism see Robeyns (2017), 4-6.

¹³ My conceptualisation of limitarianism greatly benefitted from the debate on egalitarianism, primarily between Martin O'Neill and Derek Parfit. See O'Neill (2008) and Parfit (1997). Note also that intrinsic limitarianism may also be further divided.

threshold serve no morally weighty purpose or are morally irrelevant, as I shall say. Robeyns' claim is thus captured by *capability* limitarianism:¹⁴

It is morally irrelevant to be better off than a certain threshold if and because being better off contributes to no capabilities.

On the other hand, Robeyns claims that resources may have bad effects on (i) political equality and (ii) should be used to alleviate unmet urgent needs.¹⁵ If, accordingly, wealth is morally impermissible, it is only because of its bad *effects* or counterfactually comparative good effects in terms of the consequences of 'having too much'. *Telic* limitarianism thus claims:

It is bad to be better off than a certain threshold if and because being better off has bad consequences or would have comparatively better consequences for someone else.¹⁶

One may, of course, object that capability and telic limitarianism are jointly incoherent claims. However, I omit such discussion, as my aim here is merely conceptual.

II

In this section I shall argue that libertarianism is a form of *deontic* limitarianism. Libertarians are limitarians, I argue, because they believe that 'being better off than the limitarian threshold' is morally impermissible if and because of a rights violation. Accordingly, on the deontic limitarian view, preventing well-being above the limitarian threshold is a matter of respecting rights or duties. *Deontic* limitarians thus claim:

¹⁴ See Robeyns (2017), 14-32. Although Robeyns' account is, at its core, capability, it is in fact more sophisticated; for example, her threshold is open to democratic deliberation *and* informed by capabilities.

¹⁵ Robeyns' democratic argument may also entail a deontic claim. However, Robeyns frames her argument in terms of the effects of 'wealth' on equal political power, which, in turn, purportedly, undermines the value political equality. Even if true, it is not clear that this is a deontological claim.

¹⁶ There is a general ambiguity in telic limitarianism, which leads its conceptualisation to appear tautological. As I noted earlier (see footnote 9), Robeyns needs telic limitarianism (claims (i) or (ii)) *and* capability limitarianism in order to render 'wealth' *morally impermissible*. It is ambiguous, then, in what sense telic limitarianism alone condemns 'being better off', and why it is that capability and telic limitarianism only in conjunction amount to the claim that wealth is 'morally impermissible'. I here said that 'being better off' is bad if it has bad effects.

It is morally impermissible to be better off than the limitarian threshold if and because it *violates* a right or duty.

I shall exemplarily argue that Robert Nozick's libertarianism, in particular consideration of his claims about ownership of worldly resources, is committed to the deontic limitarian claim.¹⁷ I cannot show and defend here that this, *ipso facto*, applies to other libertarian accounts as well. Indeed, libertarianism as a family of views is too varied still, to allow for such kind of claim.¹⁸ However, if convincing, my claim shows that, purportedly, a strong set of individual rights, which extend to rights to hold property, is not altogether foreign to a claim for limits to wealth.

Libertarianism, at its core, is the view that individuals are owners of themselves (the self-ownership thesis), which gives them a certain very stringent set of rights over themselves. Libertarians *typically* endorse two claims:

„(1) A very stringent right of control over and use of one's mind and body that bars others from intentionally using one as a means by forcing one to sacrifice life, limb, or labour, where such force operates by means of incursions or threats of incursions upon one's mind and body (including assault and battery and forcible arrest, detention, and imprisonment). (2) A very stringent right to all of the income that one can gain from one's mind and body (including one's labour) either on one's own or through unregulated and untaxed voluntary exchanges with other individuals.“¹⁹

While (1) is generally regarded as uncontroversial, (2) entails claims about distributive justice that vary according to an exact specification of how, that is, by which requirement one can come to acquire property. Now, similar to his claims about equality, Nozick would maintain that to realise limitarianism is to violate individuals' rights and thus to infringe on their freedom.²⁰ Indeed, Nozick claims, individuals are entitled to their holdings and thus free to transfer them, because they arose from natural rights, that is, moral obligations of others to not interfere with anyone's set of rights. Nozick would claim that any patterned or end-state distribution interferes with individuals' voluntary exchanges and actions and thus

¹⁷ See Nozick (1974), particularly 149-182.

¹⁸ For an overview see van der Vossen (2019).

¹⁹ Otsuka (2003), 15. Note that I use Otsuka's specification only as a general introduction to libertarianism. It does not follow that Nozick's claims can consistently be inferred from Otsuka's statement, nor that Nozick would agree on its exact formulation.

²⁰ Although G.A. Cohen, contra Nozick, claims that his libertarianism is not centrally about liberty, but rather about self-ownership. See Cohen (1995), 67-8.

violates their aforementioned rights.²¹ He maintains further that this is true for any kind of redistributive intervention into just holdings, because this would upset liberty. Limitarianism, however, may indeed maintain that the moral impermissibility of being too well off requires to radically tax any holdings (to use Nozick's terminology) above the limitarian threshold. Hence limitarianism seems detrimental to libertarian freedom. I shall not challenge Nozick's assertions as such.²² Instead, I claim that Nozick *nevertheless* – that is, even if we accept his claims on self-ownership that extend to ownership of worldly resources – is limitarian in a relevant sense and, therefore, limitarianism does not *simpliciter* upset libertarian freedom.

To see how Nozick's libertarianism might be limitarian I first consider the initial acquisition of property in Nozick's entitlement theory. To begin with, for any just holding, whether it is through (i) just acquisition or (ii) just transfer, Nozick specifies conditions of justice.²³ They follow from (1) and entail protection against acquisition of property by coercion, e.g. by theft, murder, etc. Although these conditions are necessary for an entitlement to property, they only specify the *means* for just acquisition and just transfer, not any limit to the amount of holdings. They are thus not limitarian. However, Nozick further maintains the need for some theory of acquisition for property and particularly the need for an account fixing a baseline of *how much* appropriation is possibly justified.²⁴ The *Lockean Proviso*, allegedly, provides such an account.²⁵ In Nozick's reading of the Proviso the 'enough and as good left in common for others' clause merely amounts to the following: people have a complaint of justice against the appropriation of goods by others if and only if they are worsened by their appropriation "by losing the opportunity to improve [their] situation by a particular appropriation."²⁶ Being *worsened* by someone's appropriation is measured in ones loss of 'opportunities to improve'. Whether one has been worsened in the relevant sense by the

²¹ See Nozick (1974), 163.

²² But see Cohen (1995) for a particularly forceful account.

²³ See Nozick (1974), 150-1. The third principle is the rectification of past injustice, in case (i) or (ii) is violated. See *ibid.* 152.

²⁴ See Nozick (1974), 174-7.

²⁵ See *ibid.* See also Locke (1988), §27.

²⁶ Nozick (1974), 176.

appropriation of resources by someone else is measured in something along the lines of welfare or utility; one has to suffer a net loss in order to bring forward a complaint of justice.²⁷ In general terms, Nozick believes that human progress, i.e. economic growth, leaves very few actually worse off than had no resources been appropriated. Even the worst off in society, therefore, allegedly benefit in terms of welfare compared to the level of welfare in a scenario where no one had appropriated anything. In this essay I read Nozick as adopting a baseline on the level of mere subsistence, where natural resources remain unappropriated in the hands of the common. Nozick's Proviso is thus consistent with someone acquiring all available resources as long as she compensates others by providing them with the means equivalent to roaming in a state of nature collecting the fruits and assets found there. Indeed, one may criticize this reading of the Proviso as too weak, but I shall not do so here.²⁸

Nozick's entitlement theory is seemingly captured by the generic limitarian claim, because anyone who in fact appropriates more than Nozick's reading of the Proviso allows, impermissibly has done so.²⁹ In terms of his entitlement theory, Nozick would have to insist that by not leaving 'enough and as good', one has been made impermissibly well off, because one has violated a moral right. One could object, however, that, although Nozick provides a maximum threshold for the acquisition of resources, it does not follow that this threshold is a *limitarian* threshold in the relevant sense. Nozick's Proviso does not support the claim that a certain level of well being *as such* is impermissible; your 'being better off than' is not part of the reasons for your level of well being to be impermissible. Instead, the reason for your being impermissibly well off is solely a function of others not having enough, i.e. a sufficiency threshold. This Nozickean rejoinder may prove awkward for limitarians, because it shows that limits to the acquisition of property need not imply that it is morally impermissible to be well off. In fact, one's industrious talents may allow one to be well off without initially having violated the Proviso and, inversely, one may initially have violated the Proviso but not be well off. The

²⁷ See Mack (2018), sec. 4.3.

²⁸ For a more stringent reading see Otsuka (2003). For discussion of Nozick's reading see *ibid.* 23.

²⁹ See Nozick (1974), 178.

rejoinder presses important questions about the conceptual boundaries of limitarianism, or: when are limits 'limitarian'?

I shall argue that this objection ultimately fails. Before I respond to the objection, consider first the following qualifications to Nozick's entitlement theory. The putative Nozickean limitarian threshold applies not only to some initial acquisition of property, but also subsequently. In fact, Nozick upholds the Proviso for any subsequent voluntary transfer of property after the initial acquisition, that is, any subsequent distribution of property at any time. The Proviso is, therefore, no one shot requirement for the acquisition of resources to become property, which only once has to be satisfied, say at t_1 . The Proviso also needs to be satisfied for any distribution of property t_{1-n} , and its applicability to distributions of property ex post the acquisition cannot accordingly be rejected on Nozickean grounds. Now, this raises question of intergenerational justice, which I shall not address. However, Nozick circumvents these by maintaining that if the Proviso has been violated, then justice merely demands *compensation* for the worsening of ones situation by the appropriation of resources by someone else.³⁰ It suffices for a violator to compensate the wronged by, say, paying a rent measured against the welfare or utility baseline of subsistence noted above. These qualifications now can be reformulated as the following Nozickean limitarian conceptual formula:

It is morally impermissible to be better off than a limitarian threshold if and because ones being well off is a function of others having less welfare than ex ante acquisition of natural resources.

It is unlikely that this limitarian threshold comes into effect, but this is no objection to the validity of my conceptual claim. However, it sheds light on the above rejoinder. In fact, Nozick's entitlement theory does not place any limit on the appropriation of *resources*, but only the appropriators' *ability to compensate* others for her appropriation of resources places a limit on her activity to appropriate. This,

³⁰ Nozick allows for two more redistributive policies. However, none is motivated by a limitarian threshold: First, if individuals in a given society all voluntarily opt for limitarian policies, this suffices to implement a limitarian property regime that accords to libertarian rules of non-interference. (This echoes Cohen's critique of Nozick. See Cohen (1995), 25-6.) Second, Nozick concedes that the rectification of past injustice may allow for extensive redistributive policies. (See Nozick (1974), 230-1.) I see no reason why limitarianism could not be among a set of policies for the rectification of past injustice.

I argue, is Nozick's limitarian threshold. Note that the Nozickean limitarian threshold entails a correlative duty to the sufficiency of others: One ought not appropriate more resources than one is able to compensate (to the relevant level in terms of welfare) others for. If one would do so, one would be impermissibly well off.

Now, a further rejoinder might go as follows: Even if it is true that Nozick's Proviso is limitarian in the relevant sense, does this not show that my conceptual formula of limitarianism is too broad; or, what is the point of a limit, if it does not effectively limit that which it applies to? In one sense, this is a charge to be directed at Nozick's Proviso, which is implausibly weak. Such worries can be answered by reference to left-libertarian accounts, for example, which place much more stringent requirements on the acquisition of resources.³¹ By the logic of my argument, a, say, more egalitarian proviso would imply a more effective limit to worldly resources if and because individuals have violated said proviso. In another sense, however, this further rejoinder questions whether a limit to the acquisition of *resources* is a limit in the relevant sense if it is measured in welfare or utility. That is, when a (very low) welfare or utility sufficiency threshold is the only limit to the acquisition of resources, then there effectively is no limit to the acquisition of *resources*; because of the development of productive capacities, individuals may almost always be compensated for their counterfactual loss of resources. The objection is not that the Proviso is too weak, but that limitarianism in the relevant sense should apply to monetary assets measured in real terms; by that, productivity enhancement cannot outrun the limitarian threshold. Otherwise, one's limit is merely a *de dicto* possibility, but has no actual relevance for, say, a moral limit to wealth. I do not have a good reply to that charge. My conceptual claims about limitarianism may, then, in the end have pointed out that limitarianism is a common commitment and implicit in opposing accounts of distributive justice. On a level of principle, therefore, limitarianism is a neglected implication of principles of distributive justice, but does not, in fact, provide an effective limit in its own right.

³¹ See e.g. Otsuka (2003), Vallentyne (2009) and Steiner (1994).

III

I have argued that on a conceptual level libertarianism is a variant of limitarianism, because libertarians share the generic limitarian belief. In particular, Nozickean libertarians are, I have argued, deontic limitarians, because they believe that it is morally impermissible to be better off than a limitarian threshold allows. Beyond mere conceptualisation, I thus defeated the libertarian claim that any such limit to ownership of worldly resources as is vindicated by a limitarian threshold constitutes a rights violation. Libertarians must rather demonstrate their opposition to any particular limitarian threshold and, furthermore, demonstrate superiority of their particular limitarian threshold. Note, however, that limitarian policies as proposed by Robeyns may nevertheless constitute a libertarian rights violation, because extensional overlap is unlikely.

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