

Why Wilt Chamberlain Needs to Be Afraid of Water Holes

Bastian Steuwer*

Abstract

In this essay I argue that two parts of Robert Nozick's theory, the Wilt Chamberlain example and the water hole example, are inconsistent. I argue that the water hole example requires an understanding of just actions which undermines the Wilt Chamberlain example. Furthermore, I argue that this is troubling because of the centrality of the Wilt Chamberlain example in Nozick's theory. I also argue against the option to reject the water hole example as this creates tensions with Nozick's reliance on Locke and moral intuitions.

I

One key part of Robert Nozick's entitlement theory of justice is the principle that "whatever arises from a just situation by just steps is itself just"¹ (hereinafter "the principle of just steps"). Nozick uses this principle in his famous Wilt Chamberlain example against conceptions of distributive justice that seek to ensure a pattern of distribution.² In this essay I am going to argue

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¹ Nozick, *Anarchy, State, and Utopia* 151

² Nozick, *Anarchy, State, and Utopia* 160-164

that (i) the principle of just steps, (ii) the Wilt Chamberlain example, and (iii) Nozick's water hole example³ constitute an inconsistent triad. In section II, I explain the water hole example and discuss how Nozick tries to resolve the inconsistency with the principle of just steps. I conclude that it is possible to reconcile both, but only by dropping the Wilt Chamberlain example. In section III, I consider the response of giving up the water hole example instead. Here I will argue that it comes both at a moral cost and a cost to Nozick's Lockean commitments.

II

Imagine the following story. We all have appropriated some water holes in accordance with the Lockean proviso. Now I develop the desire to monopolise water. I convince with my charm all wealthy people to gift or bequest their fortune to me. After a while I become incredibly rich and can afford to buy all remaining water holes. I do not trick anyone into selling their water holes, but achieve this by voluntary transactions. The water hole example is internal to Nozick's entitlement theory of justice, therefore *ex hypothesi* the initial situation is just. Now are the steps just? I think there is a good case to be made that they are under Nozick's view. The transactions that I just described are capitalist acts between consenting adults.⁴ Therefore, according to the principle of just steps the outcome should be just. However, Nozick begs to differ and argues that such a distribution is unjust.⁵ On a straightforward interpretation the water hole example constitutes a counterexample to the principle of just steps. If Nozick would want to maintain his principle of just steps, he would either need to refute my interpretation of just steps, or give up the water hole example. I will consider both options in turn.

Nozick's reason for denying that the outcome in the water hole example is just is that the Lockean proviso carries with it a historical shadow that constrains our future actions. If my appropriation of all the water holes violates

³ Nozick, *Anarchy, State, and Utopia* 179-181

⁴ The formulation is Nozick's. Nozick, *Anarchy, State, and Utopia* 169

⁵ Nozick, *Anarchy, State, and Utopia* 179-180

the Lockean proviso, then also appropriating some and buying the others violates the Lockean proviso. What violates in this case the Lockean proviso is *not* the original acquisition, but the combination of original acquisition *and* subsequent transfers.⁶ In the following interpretation we can reconcile Nozick's argument with his principles of just steps. We may take Nozick's argument to be a specification of what "just steps" are. In his Wilt Chamberlain example Nozick argues that voluntary and non-fraudulent transactions are just steps.⁷ People are entitled to transfer their share of resources as they please. However, we might add a constraint on what individuals are entitled to do with their holdings. If a transaction of one's holdings leads to a violation of the Lockean proviso, then the agent is not entitled to transfer her holdings. This is because she acquired the holdings in accordance with the Lockean proviso (or a subsequent transfer) that included this condition. Her property rights on her holdings are not absolute, but constrained by the historical shadow of the Lockean proviso. In the water hole example the principle of just steps then still holds, but my action of buying all the water holes is *not* a just step, because the owners of the water holes are not entitled to transfer it *to me*.

Suppose we grant Nozick this qualification of "just steps". The qualification states that the principle which determines the initial distribution D_1 can constrain what individuals are entitled to do with their holdings under D_1 . Given that the Wilt Chamberlain example is meant as an internal critique of competing theories of justice, other theories of justice must equally be able to qualify what individuals are entitled to do with their entitlements under D_1 . Now reconsider the Wilt Chamberlain example. Our initial allocation conforms with our favoured ideal of equality. Now Wilt Chamberlain negotiates his contract, he plays, people pay him, and he gains an amount of money greater than everyone else's. An egalitarian could argue parallel to Nozick. Under the qualification of just steps not all steps have been just. The initial egalitarian allocation casts a "historical shadow" that limits what individuals

⁶ Ibid.

⁷ Nozick, *Anarchy, State, and Utopia* 161

are entitled to do with their holdings.⁸

There are a couple of responses that Nozick can raise against the egalitarian version of the historical shadow. One difference between the two Wilt Chamberlain stories is that in the egalitarian version *more* transactions are deemed to be unjust. It rests on a more (maybe overly) demanding understanding of the justice of agents. This argument may or may not be successful for a demanding egalitarianism, but it does not seem to achieve that the historical shadow argument cannot be expanded to *all* rival conceptions of justice. Assume a sufficientarian principle of justice according to which distributions are just only if they enable everyone to lead a live worth living. This principle does not seem overly demanding.⁹ Here, the extension of the historical shadow argument seems possible. Among the steps that lead to D_2 , in which at least one person is left without a sufficient share, there has been at least one step that is unjust, because the individuals have not been entitled to transfer their resources in this way. Nozick could try to twist his argument claiming that ensuring patterns requires constant interference with individual lives. Assume the sufficientarian principle actually requires constant interference, for example, to help those not able to care for themselves. This argument is still not sufficient. The argument claims that the *implementation* of the principle sacrifices important moral values, namely liberty, but it is not an argument that the principle *itself* is unjust. One can consistently claim that something would be necessary to fully ensure justice, but that different values block this

⁸ G.A. Cohen uses a somewhat related line of reasoning in an answer to Nozick, when he claims that in a society where agents are moved by an egalitarian sense of justice the disparities of the Wilt Chamberlain example would not arise. Cohen, *Robert Nozick and Wilt Chamberlain: How Patterns Preserve Liberty* 14-15

⁹ I should emphasize that this sufficientarian principle is *not* entailed by Nozick's entitlement theory. Nozick points out that some weak patterns may be fulfilled by his entitlement theory. (*Nozick, Anarchy, State, and Utopia* 164) However, severely disabled people who would not survive in the state of nature are not made worse-off by any appropriation. The entitlement theory does therefore not ensure a sufficiency level.

action.¹⁰

What this shows is that it is possible to reconcile the water hole example with the principle of just steps. However, this solution will be equally open to competing theories of justice. Now Nozick could try to argue that there is a principled distinction between his own entitlement theory and competing theories of justice. However, I do not think that this argument is successful. The Wilt Chamberlain example is supposed to show the superiority of Nozick's entitlement theory of justice over competing proposals. If the Wilt Chamberlain example must assume the truth of the entitlement theory, the argument cannot provide support for Nozick's theory of justice. Nozick would need to provide *independent* support for his entitlement theory. In short, if we save the water hole example by adopting a different understanding of just steps, the Wilt Chamberlain example loses all of its philosophical bite.

It is worth pointing out that Nozick does not give independent support for his entitlement theory in *Anarchy, State, and Utopia*. The Wilt Chamberlain example is indeed the only argument against the justice of patterned theories of *justice*. In his own explanation of the Wilt Chamberlain example Nozick invokes a second argument that societies which ensure a distributive pattern (Nozick calls them "socialist") "would have to forbid capitalist acts between consenting adults". Distributive patterns require constant interference with people's lives and liberty.¹¹ This argument however, does not claim that patterned distributions are unjust, but rather that they should not be implemented because they sacrifice other values.

His second argument that taxation is on a par with forced labour again requires the truth of his entitlement theory. Taxation is forced labour, because the government violates a side constraint that is constituted by one's property rights which follow from the entitlement theory.¹² The violation of a side constraint is necessary to distinguish taxation (as forced labour) from other

¹⁰ One example for this are luck egalitarian defences for reading bedtime stories to one's children. E.g. Segall, *Equality and Opportunity* 158-170

¹¹ Nozick, *Anarchy, State, and Utopia* 163

¹² Nozick, *Anarchy, State, and Utopia* 169

cases of limited choices. This follows from Nozick's account of coercion under which individuals are coerced by others only if the agent lacked the right to perform the action.¹³ His forced labour argument furthermore requires this account of coercion because otherwise the propertyless proletarians would equally be coerced to work. Taxation for a guaranteed basic income and non-taxation would then be equally instances of forced labour.

His third argument, that patterned principles of justice are incompatible with self-ownership, relies yet again on the entitlement theory.¹⁴ The results of one's labour are legitimately owned by X if, only if X owned the labour (self-ownership) and the other means of production. Patterned principles of justice can claim access only to these other means of production.¹⁵ This is unjust only if we assume the entitlement theory according to which individuals acquire natural resources not in accordance with a pattern but with the Lockean proviso.

III

These considerations make clear how central the Wilt Chamberlain example is for Nozick's theory of justice and how problematic it would be to drop Wilt Chamberlain. Therefore, a Nozickian libertarian might be moved to give up the water hole example instead. She might argue that appropriating some water holes and buying the others is morally permissible and not a violation of the Lockean proviso. This comes both at a cost to Nozick's Lockean commitments and at a moral cost.

(A) Nozick justifies appropriations if and only if they make no one worse off. Individuals therefore do not have a valid complaint against any just appropriation, because they are not put at a disadvantage. That is the motivation

¹³ Scanlon, *Nozick on Rights, Liberty, and Property* 13

¹⁴ Nozick, *Anarchy, State, and Utopia* 172

¹⁵ There might be some patterns which are sufficiently demanding so that they require access to both, but Nozick's arguments are supposed to reject all patterns and not only this subset of patterns.

behind the Lockean proviso of enough, and as good.¹⁶ It seems irrelevant whether or not I appropriate all the water holes at t_1 or whether I appropriate some and then buy the others, so that at t_2 I have full control over the water holes. What is relevant is whether or not agents are made worse off by the appropriation. Agents cannot complain against the appropriation at t_1 because they were not left worse off, but if they are suddenly left worse off at t_2 it seems that they have a complaint against the appropriation. The water hole example seems like a reasonable interpretation of Locke's enough, and as good proviso. The example is sensitive to the fact that we can have different forms of entitlements. The entitlement to use X does not entail without further premises that we can transfer X to whomever we want to. If our appropriation is meant to leave enough, and as good, this can be ensured by giving us a property right that is not complete. A more stringent property right would indeed violate the enough, and as good condition.¹⁷

(B) Abstract for a moment from Nozick's Lockean background and assume you were to evaluate the principle of just steps by itself. My argument has shown that from any initial distribution we can shift towards a distribution where some individuals hold a monopoly of drinkable water by means of voluntary, non-fraudulent steps. Would we accept the outcome as just or would we rather reject the principle? I think we have strong reason to reject the principle in these circumstances. To describe a situation where individuals do not have access to basic necessities of life as just seems highly counterintuitive.¹⁸ We might accept the monopoly only under conditions of not charging unfair prices which would in turn deny the kind of strong property rights Nozick's theory assumes. If Nozick were to reject the water hole example, then

¹⁶ Locke, Second Treatise of Government §27

¹⁷ It is noteworthy that Nozick is insensitive to different strengths of property rights in the Wilt Chamberlain example. He merely postulates that "there is no question about whether each of the people was entitled to the control over the resources they held in D_1 ." (original emphasis) Nozick, *Anarchy, State, and Utopia* 161

¹⁸ Maybe the best formulation of this stems from a friend with whom I discussed Nozick. He summed up Nozick's theory dismissively: "Well, then everybody just dies". I am unwilling to accept this as a theory of justice.

his theory may be internally consistent (though not Lockean), but has highly counterintuitive implications.

I should note that Nozick himself does not seem troubled by this implication. He discusses the case where individuals have a monopoly to basic necessity goods that are not natural resources (newly developed medicine in his case). In this case Nozick does not object (on grounds of distributive justice) that the owner of this resource may withhold it from individuals in dire need thereby letting them die.¹⁹ Nozick may still object the behaviour of the monopolist on grounds of individual morality. He may say that there is no injustice if the water monopolist lets everyone die of thirst, but that the water monopolist should not have done so. However, an individual who would steal some water to prevent her own death *would* have committed an injustice. Does this make his theory more compelling? I do not think so. It rather adds the further reason to reject an account of justice which prohibits individuals from attaining means that they need for their own survival.

IV

In this essay I have used Nozick's water hole example as a counterexample against his own principle that whatever arises from a just initial situation by just steps is itself just. The steps involved in the water hole example are voluntary and non-fraudulent. Nozick's own response to resolve this inconsistency is pointing to a "historical shadow" of the Lockean proviso. This line of reasoning must then also be available to competing theories of justice which could invoke this argument against the Wilt Chamberlain example. Nozick therefore cannot simultaneously maintain his water hole example and his Wilt Chamberlain example. Giving up the water hole example comes at a cost of being in tension with the Lockean proviso and deeply rooted moral intuitions. For this reason I conclude that we ought to reject the Wilt Chamberlain example.

¹⁹ Nozick, *Anarchy, State, and Utopia* 181

References

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Bastian Steuwer is an MSc student in Philosophy of the Social Sciences at the London School of Economics (2014-15). He holds a bachelor degree in Philosophy and Politics. His interests are in moral, political, and legal philosophy. In particular, he is interested in egalitarianism and anti-positivist philosophy of law. He hopes to continue research on these issues in the future. You can contact him at [bastian.steuwer@onlinehome.de].