

DISCUSSION ARTICLE

Nozick, Need and Charity

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Expose thyself to feel what wretches feel,
That thou mayst shake the superflux to them,
And show the heavens more just.

Shakespeare, *King Lear* (3, 4, 34–6)

ABSTRACT *My discussion in this paper proceeds in four stages. First, I provide a brief description of Nozick's entitlement theory and I raise some general questions about it. Secondly, I argue, contrary to Nozick, that we are justified in distributing some goods on the basis of need. More specifically, I argue that we must distinguish between the claim that goods ought to be distributed on the basis of need and the claim that goods which are essential needs ought to be distributed on the basis of need. In the third section I consider the objection that such distributions will inevitably lead to the violation of individuals' property rights. I argue that individuals are obliged to be charitable and that this obligation places limits on what they are entitled to. What charity requires of us, I maintain, we have no rights over and we must relinquish. In the fourth and final section I point out the general significance of these arguments.*

In *Anarchy, State and Utopia* [1] Robert Nozick has put forward a bold and highly controversial theory of distributive justice. On the basis of his entitlement theory of justice Nozick argues that "the state may not use its coercive apparatus for the purpose of getting some citizens to aid others". This 'more extensive' function of the state, he claims, "will violate persons' rights not to be forced to do certain things, and is unjustified" (ASU, ix). It is worth noting that in his Preface to *Anarchy, State and Utopia* Nozick acknowledges that his own initial reaction to the principles which he proceeds to defend was that he did not want to believe "anything so apparently callous towards the needs and suffering of others". In this paper I want to explore the source of Nozick's initial discomfort with the entitlement theory of justice. I will argue that any theory of justice which ignores considerations of need and charity must be rejected and that we must, therefore, reject the entitlement theory.

My discussion in this paper is presented in the form of a critique of Nozick's position. It would be a mistake, however, to interpret my intentions as essentially 'destructive' or 'negative' in nature. On the contrary, throughout this paper I will be concerned to *defend* certain fundamental claims about distributive justice which Nozick's arguments have brought into question. Thus although my discussion may be

negative in tone it is nevertheless my primary concern to contribute to our positive understanding of the nature of distributive justice [2].

I

The entitlement theory of justice in distribution is historical; whether a distribution is just depends upon how it came about. The holdings of a person are just if his holdings have arisen by legitimate means. On this account there are three 'historical principles' which govern justice in distribution:

- (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) a person who acquires a holding in accordance with the principle of rectification (as specified by the first two principles) is entitled to that holding.

If each person's holdings are just in terms of these three historical principles, then the total set (distribution) is just.

Nozick proceeds to contrast his entitlement principles, first, with 'end-result' principles and, second, with another subclass of historical principles, which I shall refer to as 'natural-claim principles'. End-result principles are not concerned with individuals' claims to certain goods or how particular holdings have in fact come about. Rather, they are concerned with "how things are distributed (who has what) as judged by some structural principle(s) of just distribution" (ASU, 153). End-result theorists simply look at 'the matrix presenting the distributions' (i.e. they look at the 'current time-slice'). Utilitarians, for example, are solely concerned with the distribution of satisfactions, but not with whether or not the individuals concerned are entitled to those goods that produce their satisfactions. In short, while historical principles of justice suggest that past circumstances or actions of people can create differential entitlements or differential deserts to things end-result principles do not.

Unlike end-result theories natural-claim theories suggest that an individual's entitlement should be determined by historical considerations such as effort, productivity, need, and so on. However, natural-claim theories are like end-result theories in some important respects. Both end-result and natural-claim theories suggest that distributions should vary on the basis of some natural qualities of individuals. Nozick refers to theories that have this feature as *patterned* theories. According to Nozick "almost every suggested principle of distributive justice is patterned" (i.e. to each according to his moral merit, or needs, or humanity, etc.) [3]. The entitlement theory is not patterned; it does not specify that a distribution is to vary along some natural dimension.

Nozick argues that all theories which search for a pattern presuppose that objects come into the world unattached, with people having no entitlements to them. This approach treats objects as if they appeared from nowhere, out of nothing. It treats holdings as if they were manna from heaven waiting to be redistributed (cf. ASU, 160 and 198). Clearly, from the point of view of the historical entitlement conception of justice, such assumptions are entirely mistaken. On this basis Nozick proceeds to argue that the various distributions which are dictated by patterning principles involve appropriating other people's property and, therefore, involve violating their rights. In

this way, he concludes, in a memorable if somewhat overstated manner, that “taxation of earnings is on a par with forced labor” (ASU, 169).

In developing this contrast between entitlement principles and patterning principles Nozick appears to assume that we are faced with a fundamental choice between these two alternative approaches to distributive justice. Nozick holds that it is not only essential that just acquisition and just transfer play a role in determining entitlement but further, and more strongly, he claims that patterning considerations have *no role* to play in distributive justice and that historical entitlement considerations *alone* must determine who is entitled to what. It should be noted that on the face of it this (libertarian) position is just as extreme and one-sided as the alternative conceptions of justice which Nozick endeavours to demolish. Could it not be that an adequate and complete theory of justice must provide space for both entitlement and patterning principles of justice?

The above account of the entitlement theory raises three important questions.

- (i) Is it the case that a person is entitled to everything which he justly acquires (i.e. as judged by entitlement principles)?
- (ii) Is it reasonable to ignore all natural-claims as entirely irrelevant to the issue of distributive justice?
- (iii) In particular, is it reasonable to suggest that consideration of needs should play no role in accounting for principles of distributive justice? [4]

Nozick answers all these questions in the affirmative. I will argue that he is mistaken on all three counts.

II

The viability of the entitlement theory depends on an effective refutation of what I shall refer to as the argument for distribution according to need. If it can be shown that at least some things should be distributed to some people simply on the basis of need then it follows that the distribution of at least some goods should not be determined by entitlement principles and that the entitlement theory cannot, therefore, be accepted as it stands. Nozick considers the argument for distribution according to need under the general heading ‘equality’. This is liable to generate some confusion. Someone may quite consistently believe that there is a case to be made for distributing certain goods according to need without in any way endorsing the view that there is some intrinsic merit to be found in achieving “greater equality of material condition” (ASU, 232). That is to say, it is one thing to argue that some goods ought to be distributed on the basis of need and quite another to argue that we ought to pursue the goal of greater equality of material condition [5]. Nozick, like some of his critics, tends to confuse these two distinct issues and fails to see that they are significantly different.

In the opening passage of the section entitled ‘Equality’ Nozick argues as follows.

The legitimacy of altering social institutions to achieve greater equality of material condition is, though often assumed, rarely *argued* for [Nozick’s emphasis]. Writers note that in a given country the wealthiest *n* percent of the population holds more than that percentage of the wealth, and the poorest *n* percent holds less; that to get to the wealth of the top *n* percent from the poorest, one must look at the bottom *p* percent (where *p* is vastly greater than *n*), and so forth. *They then proceed immediately to discuss how this might be altered* [my emphasis].

Is this an accurate portrayal of how arguments of this nature generally run? I think that it is not. Indeed, Nozick's inadequate description of the problem reveals that his failure to distinguish arguments for equality of material condition from arguments for distribution according to need runs very deep. Generally a crucial step in the sorts of arguments which Nozick is alluding to—a step which he does not describe—is to note that these large discrepancies in material condition exist *in the face of poverty, suffering and need*. That is to say, it is not discrepancies in material condition as such which are regarded as intuitively unacceptable, but a gross failure by those who are able to do so to provide for the needs of their fellow human beings. A paradigm example of the sort of redistributive arguments which troubles Nozick can be found in Michael Harrington's influential book *The Other America: poverty in the United States* [6] Harrington does in fact point out that the statistics reveal enormous inequality in the material condition of Americans at that time. But this statistical point is made near the end of his book (p. 179). The thrust of his argument is that need, suffering and deprivation exist in the face of enormous wealth and resources and that this is unacceptable. Harrington concludes his book as follows.

At this point I would beg the reader to forget the numbers game. Whatever the precise calibrations, it is obvious that these statistics represent an enormous, an unconscionable amount of human suffering in this land. They should be read with a sense of outrage.

For until these facts shame us, until they stir us to action, the other America will continue to exist, a monstrous example of needless suffering in the most advanced society in the world. (p. 186)

I think that it is clear that Harrington's 'outrage' is motivated by something rather more urgent than mere 'equality of material condition'. Accordingly, the fact that Nozick misdescribes, or misunderstands, what is at issue in these circumstances suggests that he has a tendency to conflate two quite distinct problems.

Let us consider Nozick's more specific attempt to refute the argument for distribution according to need. Nozick claims that there is "a surprising dearth of arguments for equality" and seems to assume that if a particular argument which Bernard Williams has put forward can be refuted then the argument for distribution according to need will collapse [7]. Put briefly, Williams argues that it is important to distinguish between 'goods demanded by need' and 'goods that can be earned by merit'. In the case of those goods demanded by need (e.g. medical care) it is 'a necessary truth' that the proper ground of the distribution of such goods is the need for them (e.g. ill health). Against this position Nozick argues as follows. Williams, Nozick says, "seems to be arguing that if among the different descriptions applying to an activity, there is one that contains an 'internal goal' of the activity, then (it is a necessary truth that) the only proper grounds for the performance of the activity, or its allocation if it is scarce, are connected with the effective achievement of the internal goal... Thus it is that Williams says (it is a necessary truth that) the only proper criterion for the distribution of medical care is medical need" (ASU, 233-4). Nozick proceeds to argue that absurd consequences seem to follow from this position. "Presumably, then, the only proper criterion for the distribution of barbering services is barbering need... Need a gardener allocate his services to those lawns which need him most?" In short, Nozick argues that while Williams wants to defend the claim that society "should make provision for the important needs of all its members" the argument which Williams puts forward in support of this claim is not acceptable. Nozick's criticism is certainly

effective against Williams' version of the argument for distribution according to need. However, there is, I suggest, much more to be said for the claim that society "should make provision for *the important needs* of all its members" [my emphasis] than Nozick seems to realize.

'Need' may be used as a noun or a verb. For example, in 'I need X' it is used as a verb, whereas in 'X is a need' it is used as a noun. Any X which can reasonably serve as an object of need can also be described as 'a need' (e.g. medical care, a haircut, a new shirt, etc.). It is, however, also important to note that 'need' has a stronger and a weaker sense. In the weaker sense of the term anything which will supply "a lack which frustrates some end" envisaged on somebody's account may be deemed a need (or an object of need) [8]. In the stronger sense of the term only a good or object which is regarded as a necessity *for our human well-being* would be regarded as a need (or an object of need). This distinction between the weak and strong senses of 'need' is firmly rooted in the everyday distinction which we make between those needs which we regard as essential to everyone's well-being and those which we regard as non-essential to human well-being. Talk of 'the needy' in the context of social justice reflects this everyday distinction; we understand this term to refer specifically to those who require what I shall call *essential needs*. In other words, in ordinary life we regard the existence of some such distinction between essential and non-essential needs to be a matter of common sense. Benn & Peters provide a reasonable framework within which this distinction may be understood. They argue that "talk of a 'need' implies the lack of something which prevents a person reaching or maintaining some state defined by the norm". In the case of *essential needs* the relevant norms will be defined by some standard of "what seems to be the bare minimum for a 'decent' sort of life" [9]. Clearly, then, not every acceptable specification of the variable in 'I need X' or 'X is a need' refers to an essential need. Thus the fact that someone needs an X (e.g. a haircut) does not imply that X is an essential need.

What is the relevance of this distinction between essential and non-essential needs to Nozick's criticisms of the argument for distribution according to need? Compare the following two claims.

- (1) The appropriate ground for determining the distribution of X's is the need for such X's.
- (2) The appropriate ground for determining the distribution of those X's *which are essential needs* is the need for such X's.

The difficulty with Williams' version of the argument for distribution according to need is that it would support not only the second claim, as Williams intends, but that it would also support the first claim which, as Nozick points out, is unacceptable. That is, it seems to follow from Williams' version of the argument for distribution according to need that there is no more reason to distribute medical care on the basis of need than there is to distribute haircuts on the basis of need. Clearly, then, the argument for distribution according to need should not be interpreted as seeking to defend the first claim. From the fact that 'needs are the ground of the treatment' nothing straightforwardly follows as to how that treatment should be distributed. However, it may be argued, in light of the above distinction, that the reason why haircuts, unlike medical care, should not be distributed on the basis of need (i.e. to those who need them) is that they, unlike medical care, cannot reasonably be regarded as an essential need. The second claim does suggest that all goods which are essential to our human

well-being should be distributed on the basis of need. But there is nothing self-evidently absurd about this suggestion.

It is important to note that if the argument for distribution according to need is interpreted as defending the more extensive first claim, and not the more limited second claim, then a serious misunderstanding may be generated concerning what *the grounds* are for distribution according to need. That is, if the argument is interpreted as defending the first claim then it may be interpreted as claiming that the reason why society should provide some good is simply that *it is needed*. In contrast to this, if the argument is interpreted as defending only the second claim then it must be interpreted as claiming that the reason why society should provide some good is that *it is needed and it is a necessity for the recipients' well-being* (i.e. it is an essential need). In this way, it seems clear that we must distinguish these two quite different claims and take note of the fact that Nozick's criticism tells against only those arguments which lead to the first and less plausible claim.

Given that we must interpret the argument for distribution according to need as defending the second and more limited claim, what independent arguments may be put forward in its support? On Nozick's historical entitlement theory of justice it is argued that the only proper ground for the distribution of *all X's* is that X is justly acquired by, or transferred to, the individual concerned. That is to say, the distribution of all X's, whether X be an essential need or not, must be determined by historical entitlement principles. When, however, we take into consideration the fundamental distinction between essential and non-essential needs it seems clear that we have good reason to call into question Nozick's claim that the only relevant or appropriate grounds for justifying the distribution of (all) goods are just acquisition and just transfer. That is, it may be argued that any adequate theory of distributive justice must be *sensitive* to the status of the goods whose distribution is in question. The principles of distribution must vary according to whether or not the good in question is an *essential* need. Accordingly, no adequate theory of distributive justice can be blind to the essential/non-essential need distinction. On this basis it may be argued that in the case of those goods which are essential needs *need alone* should be the grounds for their distribution. Why should need alone determine the distribution of essential needs? A perfectly reasonable reply to this query is: because individuals will suffer serious harm or deprivation without these goods. Clearly the notion of 'serious harm or deprivation' will be defined by reference to the standard or norm below which individuals are deemed not to be living a 'decent sort of life' [10]. It is important to note that this reply does not extend to the case of non-essential needs. That is to say, circumstances in which individuals' essential needs are not being met are circumstances in which they will be suffering serious harm or deprivation as defined by the norm. These considerations do not apply to individuals whose non-essential needs have not been met (contrast, for example, the cases of medical care and of haircuts). It is also important to note in this context that the argument for distribution according to need, so interpreted, does not, as such, depend on any particular interpretation of what does or does not constitute an essential need or what standard or norm for a 'decent sort of life' we ought to appeal to. We may disagree about these matters and yet still recognize the force of the argument for distribution according to need.

In the case of those goods which are essential needs, it is argued, we must bypass entitlement principles in favour of considerations of need. What is unacceptable about the entitlement theory, therefore, is that it is *insensitive* to the status of the goods whose distribution is in question (i.e. the grounds of distribution do not vary whether

the good is an essential need or not). Accordingly, the overall significance of the distinction between relevant types of goods in this context is that it brings into question Nozick's fundamental assumption that historical entitlement principles apply to the distribution of all goods, including essential needs. Clearly, then, the argument for distribution according to need should be interpreted as maintaining that there are certain appropriate or relevant grounds (*viz.* need) which we must appeal to *when justifying the distribution of essential needs*. This position is perfectly compatible with a recognition that we need not appeal to these grounds when justifying the distribution of non-essential needs [11].

III

The argument for distribution according to need, however, faces a rather fundamental difficulty: Where is the supply of these essential needs to come from? Who is to finance and back these charitable projects? From the perspective of the entitlement theory we are once again treating some goods (*viz.* essential needs) as if they were 'manna from heaven' which come into that world unattached, waiting for us to redistribute them on some basis other than historical entitlement. In supplying essential needs to the needy, it will be argued, we will inevitably violate other people's property rights and this is not acceptable. Can the argument for distribution according to need escape the clutches of this libertarian counter-argument?

What is essential, if we are to defeat this strategy, is to challenge the assumption that individuals are entitled, under all circumstances, to everything that they acquire by legitimate means. Nozick, as I have noted, claims (ASU, 169) that taxation for the benefit of the needy "is on a par with forced labor". The reasoning behind this is as follows: (1) the individual is entitled to everything which he acquires by legitimate means (*i.e.* on historical entitlement principles); (2) taxation for the benefit of the needy involves forcibly taking the earnings from an individual which he is entitled to; and (3) taking the earnings of *n* hours' labour is like taking *n* hours from the person; it is like forcing the person to work *n* hours for another's purpose. I am unpersuaded by step (3). Nozick would have been wiser, I think, to moderate his claim and adapt Proudhon's dictum: *Taxation is theft*. If I steal your watch, which took *n* hours to pay for, do I *force you to do n hours' work* for my purposes? Have I made you my slave? Obviously not. Clearly one does not condone theft by noting that slave-driving is one thing, and theft another. However, step (1) is the crucial step upon which Nozick's argument turns and it is this step which I will concern myself with. I will argue that we are not always entitled to everything that we legitimately acquire because we may, depending upon our circumstances, be obliged to be charitable. What charity requires of us we have no rights over and we must relinquish. Accordingly, if we fail to be charitable our property rights are not violated when that which we are not entitled to is forcibly taken away from us.

It is not uncommon for philosophers, including those of a non-libertarian disposition, to assume that there is a fundamental distinction to be drawn between duty and charity and to assume, on this basis, that there is no obligation to be charitable at all [12]. On this account charity is presented as supererogatory in nature. That is to say, it is suggested that while a man may be praised for being charitable he cannot be blamed if he is not charitable—much less justifiably coerced into providing charity. In contrast to this account of charity I take the view that there is an *imperfect* obligation to charity. To say that charity is an imperfect obligation is to say that no specific individual has a

right to your charity (i.e. that you *owe* no charity to any *particular* individual). However, to say that no particular individual has a right to your charity is not to say that you are free of all obligation to be charitable to *anyone*. On the contrary, on this account you may have an obligation to provide charity to the needy and suffering even though you have no obligation to any particular individual.

In order to establish the existence of an imperfect obligation to charity we must, first, identify the general source of this obligation and, secondly, explain why it is imperfect rather than perfect in nature. One way of establishing the grounds of the obligation to charity is to show that if we deny that there is any such obligation then we must abandon some deeply ingrained moral intuitions—intuitions which we would, rightly, be very reluctant to overthrow. In everyday moral life we readily recognize that we are required, in the relevant circumstances, to make some reasonable effort to aid or help one another when someone is in need or suffering [13]. This is, of course, as it stands, a loose formulation of these general requirements but consideration of some concrete cases will suffice to establish the existence of these obligations. For example, if a man collapses on the street suffering from severe pains in his chest and difficulty in breathing we would, I assume, all recognize that there was some obligation on those nearby to give this individual some aid (e.g. make him comfortable, call an ambulance etc.). In much the same way, sailors at sea recognize an obligation to individuals whose lives are in danger because their vessels have sunk or are sinking. Sailors who leave their fellows stranded in these circumstances are invariably viewed as having done serious wrong. Furthermore, it is not always actions which may be required of us in order to provide help or aid for others. If a sailor has been stranded out on the sea for several weeks, for example, we may need to provide him with water, food or medical care in order to save his life. In this way, in such circumstances we recognize some general obligation not only to undertake certain activities but also to provide, whenever feasible, *material* aid to those in need.

Consideration of such specific cases reveals that however difficult it may be to clearly articulate our intuitions in this sphere, and to apply them to other more complex cases, we do nevertheless recognize that *some such* demands may be made upon us in the relevant circumstances. The obligation to charity, I suggest, has its source in these general moral intuitions. If an individual entirely fails to be charitable in the appropriate circumstances (i.e. fails to be charitable to *anyone*) then it follows that that individual is callous and lacks compassion. This feature of charity accounts for its obligatory nature. That is to say, the obligation to charity is grounded in the more general obligation to be compassionate—to be affected, in the appropriate circumstances, by the needs and sufferings of others and to act accordingly. Those who wish to maintain that there is no obligation to charity must either deny that those who entirely fail to be charitable in the face of need and suffering are callous, or else maintain that it is morally permissible to be callous in the face of suffering and need. Neither of these positions seems tenable, hence we must recognize the existence of the obligation to charity [14].

Why, then, is the obligation to charity not perfect in nature? The considerations which are relevant here are not unique to the case of charity. Consider, for example, the case of a doctor who arrives at the scene of an accident (e.g. a plane crash or a fire) where there are several victims suffering from similar injuries. Although they are all in urgent need of his care he cannot attend to them all. In these circumstances the doctor may have no obligation to care for any *particular* individual, but it seems clear that he does have an obligation to help *someone*. Again, consider the case of the captain of a

ship that picks up survivors off another, sinking, ship. In some circumstances it may be impossible for him to provide room for all the survivors and still get his own ship and crew safely back to port. In these circumstances, while we may grant that the captain has no obligation to pick up any particular survivor, we would nevertheless take the view that he does have an obligation to rescue someone. Similar considerations apply to the case of charity. If we have a perfect obligation to be charitable to a particular needy individual then that individual has a right to our charity. However, if we assume that that individual has a right to our charity then it would seem to follow that every similarly placed individual would also have a right to our charity. But clearly it would be quite impossible for us to meet the claims of all those needy individuals and therefore we must reject the suggestion that they all have a right to our charity. In order to reconcile this observation with our equally well-founded observation that we are nevertheless obliged to be charitable to someone we must conclude that we have an imperfect obligation to be charitable. This conclusion, I suggest, accords with our ordinary, everyday moral intuitions on this subject [15].

Perhaps the main reason why so many philosophers are inclined to the view that charity is supererogatory is that they mistakenly believe that charity can be assimilated to generosity. It is, therefore, important to note in this context that there are several significant conceptual differences between charity and generosity. First, you cannot direct charity to whomever you choose. The recipient of charity must be someone in need (i.e. someone who requires essential needs). In contrast to this, one may bestow gifts on whomever one chooses. Gifts, unlike charity, are not offered to relieve suffering and need; they may be given as signs of affection or esteem, recognition of merit, or even on mere whim. Second, it does not follow from the fact that someone is not generous that that individual lacks compassion or is callous in the face of suffering and need. However, as we have noted above, if an individual fails to be charitable in the appropriate circumstances then it does follow that he is callous and lacks compassion. This contrast between charity and generosity explains why we regard the former but not the latter as obligatory. Third, and most importantly, in the case of generosity the gifts are yours to give; there is no obligation to present such gifts. The giver is *entitled* to keep them if he so chooses. He is, therefore, entitled to determine who shall benefit from his generosity as he chooses. These features do not hold with the case of charity. The relevance of charity to entitlement may be interpreted as straightforward logical relevance. That is to say, the most plausible interpretation of the fact that an individual is obliged to be charitable is simply that he *owes* charity. If an individual owes charity then he is not entitled to keep all of his wealth, even though all of his wealth may have been legitimately acquired. (Note that when an individual pays a bill he pays for it, one assumes, with funds which he has legitimately acquired. Clearly, however, as he owes money to his creditors he is not entitled to keep all his money even though it was all legitimately acquired. Similarly, an individual is not entitled to keep all his wealth in circumstances where he *owes* charity even though he may have acquired all his wealth by wholly legitimate means.) In short, as charity is an (imperfect) obligation or duty it should be regarded as not so much given as owed. This terminological difference is of some importance because it emphasizes the fact that as there exists an obligation to be charitable one is *not entitled* to keep that which must be relinquished for the benefit of the needy [16].

We can outline our justification for the enforcement of charity by way of showing how it meets Nozick's own requirements. Nozick states: "An argument for an enforceable obligation has two stages: the first leads to the existence of the obligation,

and the second, to its enforceability.” (ASU, 93) The first stage of our argument proceeded primarily by way of noting the imperfect nature of the obligation to charity and by locating the source of this obligation in the more general obligation to act with compassion in face of suffering and need. The second stage of our argument—the one which I am concerned with at this point—itself has two stages. First, it is argued that the obligation of charity imposes limitations on historical entitlement considerations; that is, charity is relevant to entitlement. Second, and this is an argument which entitlement theorists can hardly reject, it is legitimate for the state to enforce a just distribution of holdings. Nozick states: “A right to enforce others’ obligation to limit their conduct in special ways *might stem from some special feature of the obligation* or might be thought to follow from some general principle that all obligations owed to others may be enforced” (ASU, 90–1—my emphasis). I have not claimed that “all obligations owed to others may be enforced”. Rather, the ‘special feature’ of the obligation of charity which I have focused on is its relevance to entitlement. It is the relevance of the issue of entitlement which allows us to move from the obligation to be charitable to the legitimacy of enforcing charity. Clearly this ‘special feature’ of the obligation to charity suffices to distinguish it from other sorts of obligation which may not be enforced by the state.

What is the upshot of this account of the nature of charity? Specifically, how is it relevant to the entitlement theory of justice? I have already noted that it is a key assumption of the entitlement theory that an individual is entitled to everything which he legitimately acquires by way of the historical entitlement principles. This assumption serves as the basis of the libertarian argument that all enforced redistribution of wealth on grounds of need inevitably involves the violation of some other individuals’ rights (i.e. their property rights). Our analysis of the requirements of charity shows that this fundamental assumption of the entitlement theory must be rejected. Considerations of charity challenge this assumption by way of showing that an individual’s circumstances and the circumstances of those in his community must be considered relevant when determining what that individual is entitled to [17]. These considerations do not, however, suggest that historical entitlement principles have no role to play in justifying the distribution of holdings but only that they do not, by themselves, provide a complete or fully adequate account of the principles of distributive justice. In this way it may be argued that distribution based solely on historical entitlement principles must, at the very least, be modified in the light of those considerations which the requirements of charity draw our attention to [18].

IV

In this paper I have sought to establish two general points in opposition to the entitlement theory of justice. First, I have argued against Nozick that some goods should be distributed on the basis of need. Secondly, I have also argued against Nozick that we are not always entitled to everything that we legitimately acquire (because we are obliged to be charitable). In this way, I have attacked the entitlement theory on the basis of considerations of need and on the basis of considerations of charity. These two criticisms are not unrelated. It is plausible to claim that some goods should be distributed on the basis of need only if it is possible to show how such distributions can be achieved without violating individuals’ (property) rights. The limitations which the requirements of charity impose on historical entitlement principles provide us with at least one general framework within which such distributions to the needy may be

legitimately undertaken. It should be clear, therefore, that in establishing these general points against Nozick's position I have sought to *defend* certain fundamental claims about the nature of distributive justice which Nozick's arguments have brought into question.

One of my major concerns in this paper has been to explore the source of Nozick's own initial sense of unease about the general implications of his theory of justice. Perhaps the most obvious weakness in the entitlement theory is that it regards overall outcomes and discrepancies in material condition as entirely irrelevant to questions of justice. Given the implications of such a theory it is hardly surprising that Nozick, initially, was impressed by the fact that the libertarian philosophy is "callous towards the needs and sufferings of others". Many philosophers would argue that our sense of discomfort with these implications of the entitlement theory has its source in egalitarian considerations. That is to say, it may be argued that there *is* some intrinsic merit to be found in "achieving greater equality of material condition". In this paper, however, I have pursued a rather different strategy. Indeed, I have been concerned to show that such egalitarian considerations are not the only source—and perhaps not even the major source—of our discomfort. In particular, I have argued that individuals, faced with the needs and sufferings of others, are obliged to be charitable *as a matter of justice*. This sort of concern is entirely distinct from considerations of equality as such. Clearly considerations of need and charity do not constitute "the whole story" regarding distributive justice. Nevertheless, they do show that even if we make a number of significant concessions to Nozick—such as providing room for historical entitlement considerations and overlooking appeals to equality—we still have strong grounds for rejecting his entitlement theory as at best an inadequate and incomplete account of the principles of distributive justice [19].

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NOTES

- [1] R. NOZICK (1974) *Anarchy, State and Utopia* (Oxford, Blackwell). Hereafter abbreviated as ASU.
- [2] In general, we should be wary of drawing too sharp a contrast between putting forward a 'positive' account of justice and the merely 'negative' task of undermining established theories such as Nozick's. It is often the case that a critique of an established position provides us with a foundation upon which to erect our own 'positive' theory.
- [3] "To think that the task of a theory of distributive justice is to fill in the blank in 'to each according to his——' is to be predisposed to search for a pattern . . ." (ASU, 159–60).
- [4] "People want their society to be and look just" (ASU, 158). Would a society which enforces principles of distribution which are blind to the needs of the members of that society "look just" to poverty-stricken individuals living in the midst of plenty?
- [5] I note in passing that the notion of "equality of material condition" is one which could certainly bear further analysis. See for example Ronald Dworkin (1981) 'What is equality?', *Philosophy and Public Affairs*, 10, pp. 185–246 and pp. 283–345.
- [6] MICHAEL HARRINGTON (1963; first published 1962) *The Other America: poverty in the United States* (London, Penguin). This book was a major source of the intellectual stimulus underlying the national anti-poverty programmes of the Kennedy and Johnson Administrations.
- [7] BERNARD WILLIAMS (1962) The idea of equality, reprinted in BERNARD WILLIAMS (1973) *Problems of the Self* pp. 239–41 (Cambridge, Cambridge University Press).
- [8] This expression is taken from S. BENN & R. PETERS (1959) *Social Principles and the Democratic State*, p. 143 (London, Allen & Unwin).
- [9] BENN & PETERS op. cit., Ch. 6, sect 3. It is important to note that for the purpose of our critique of Nozick's position we do not require any precise interpretation or detailed articulation of this distinction.

- It is quite sufficient simply to note that some such distinction can, and must, be drawn. On this subject see also David Braybrooke's illuminating distinction between 'course-of-life needs' and 'adventitious needs' in 'Let needs diminish that preferences may prosper', *Studies in Moral Philosophy, American Philosophical Quarterly Manuscript Series*, No. 1 (1968) pp 87–107 (Oxford, Blackwell).
- [10] See note 9 above. Also of relevance here is Joel Feinberg's discussion of harm in terms of the frustration of an individual's 'welfare interests': 'Harm and self-interest', in P.M.S. HACKER & J. RAZ (Eds) (1977) *Law, Morality and Society*, pp. 285–308 (Oxford, Oxford University Press).
- [11] It is important to note that in this section I have not sought to argue for the claim that 'the needy are entitled to essential needs'. It is, of course, possible that this line of argument may be successfully pursued. However, suffice it to say that this strategy is liable to run into difficulties. In particular, we may find ourselves in circumstances where it is not possible (e.g. due to limited resources) to provide the needy with all their essential needs. Thus, in these circumstances the needy cannot be entitled to that which it is impossible to provide them with. My argument moves, as it were, in the opposite direction. That is to say, what I have been concerned to establish, against Nozick, is that to the extent that we can supply essential needs to the needy we have reason to provide them on the basis of need alone.
- [12] Even a staunch critic of 'traditional' morality like Peter Singer suggests that 'charity' is not a duty and is supererogatory. Cf. *Practical Ethics* (1979) p. 169 (Cambridge, Cambridge University Press). Of course, Singer does argue that we do in fact have a very extensive obligation to relieve suffering. But he does not argue for this on the basis of an obligation to be charitable because for him there is no such obligation and, in any case, considerations of charity are not likely to provide the sort of strong conclusions which he hopes to establish. Singer claims that *whenever* we can "prevent something very bad happening" without thereby "sacrificing anything of comparable moral significance" we ought to do it. It seems clear that this very strong moral principle goes well beyond simple considerations of charity. But this is not a point which I will pursue further in this paper.
- [13] Cf. JOHN RAWLS' discussion of the "natural duty of mutual aid" in *A Theory of Justice* (1971) (Cambridge, Mass., Harvard University Press), sects. 19 & 51.
- [14] It should be clear that in claiming that the obligation to charity is to be accounted for in terms of our deeply ingrained intuition that there is a general obligation to act with compassion in the face of suffering and need I do not mean to suggest that we are obliged to be charitable simply because it is virtuous. On the contrary, as I note below, we are not obliged to be generous even though generosity is, clearly, a virtue.
- [15] Some critics, perhaps, may take the view that this account of the obligation to charity is—like my account of the essential/non-essential need distinction—too 'loose' or ill-defined. In reply to this I would, once again, point out that for our purposes it suffices simply to establish the existence of this obligation and that a more detailed articulation is not required. Furthermore, I would also call into question the assumption that these are matters which are amenable to the sort of 'tight' articulation which some philosophers seek to provide for them. The scope for *reasonable* divergence or disagreement on these matters seems quite large to me.
- [16] It should be noted that it is consistent with the above account of charity to acknowledge that *some* acts of charity may be supererogatory in so far as an individual may provide more charity than is required of him. Only in these circumstances, however, does it make sense to view the provision of charity as being 'generous' in nature.
- [17] What constitutes one's 'community' will vary according to the individual's social and historical circumstances. In the modern Western world it seemed reasonable until recently to regard one's community in terms of the nation-state. However, in light of rapid developments in communication and transportation it may be argued that we must now see ourselves in terms of the international community—hence our recognition of our responsibilities to people beyond the boundaries of our own state.
- [18] One way of expressing this point would be to say that in the relevant circumstances considerations of charity may 'override' or 'defeat' historical entitlement claims. Note that we may recognize, with Nozick, that it is a mistake to assume that all those who possess great wealth (e.g. Wilt Chamberlain—cf. ASU, 160–64) have *acquired* that wealth illegitimately or that those who find themselves in need or poverty are always the victims of exploitation or theft. As I have shown, however, while we may grant these points to Nozick we need not accept that the wealthy individual is always entitled to all that he has legitimately acquired.
- [19] I would like to thank David Braybrooke, Jeff McMahan, F.S. McNeilly, Jeremy Waldron, Bernard Williams and, especially G.A. Cohen for their helpful remarks on earlier drafts of this paper. I would also like to thank Anthony O'Hear and an anonymous referee for this Journal for further helpful comments.