

Right-libertarianism and universal basic income: reasons for skepticism

Abstract: *The purpose of this article is twofold – on the one hand, it offers an overview of the main theoretical orientations of libertarianism, with a focus on right-libertarianism, and its potential support for a universal basic income guarantee; on the other hand, it looks at what seems the most developed case in the right-libertarian camp for such a scheme. Although sympathetic to Zwolinski’s arguments, I contend that a neo-Lockean framework cannot conduce to a basic income institutional arrangement without an interpretation of the Lockean proviso in a left-libertarian manner and the most promising strategy for a right-libertarian argument would be one carried in other frameworks.*

Keywords: *libertarianism, basic income, welfare state, Lockeanism*

Introduction

A specter is hunting the world – the specter of a universal basic income. Agents from all the levels of the massive enterprise that is the study and practice of politics seem to have entered in a holy alliance to

exorcise the old, rather crumbling, welfare state.¹ Not only political theorists – Philippe Van Parijs being only the most salient of them – rally behind this idea, but also politicians, with Benoît Hamon making the introduction of such a system one of the main points of his campaign and Hillary Clinton considering it briefly as a potential proposal to be put forward in the campaign for the U.S. presidential elections in 2016

What is the content of such an institutional regime? In their recent and quite excellent book on the subject, Van Parijs and Vanderborght define basic income as “a regular income paid in cash to every individual member of a society, irrespective of income from other sources and with no strings attached” (2017, p.4). A closer, analytical scrutiny of this definition gives us a list of three fundamental traits that a proposal must possess in order to be called a basic income²:

1. It is paid to individual members. This stands in stark contrast to some forms of benefit provision, such as the minimum income guarantee, that are targeted at household and that are already existent in some contemporary welfare states.

2. Its payment is unconditional in the sense that it is not dependent on the level of income acquired by other sources. In other words, there

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is no means-testing implied in the whole procedure. Moreover, this specific feature puts in a different light the *basic* part from the term *basic income* than the one that is immediately intuitive – it's not basic as in *covering basic needs*, but basic as in *a fundamental level of income that can be topped with earnings from other activities*.

3. Its payment is unconditional in the sense that it is not tied to any kind of work requirement, whether in the past or if in the future the individual is offered a job

There are many purported benefits of such a scheme, from the effects on poverty reduction to the long-term eradication of unemployment, the de-commodification of labor and, for those concerned with such a thing, the diminution of that pervasive feature of a capitalist society from a Marxist perspective, human alienation. Beside these numerous envisioned benefits, basic income is also a rather rare bird in the field of political theory when it comes to justificatory strategies, with normative inputs rooted in different values and conceptions of justice often overlapping in defense of it.

For instance, in the introductory chapter of one early overview of the debate, Van Parijs (1992) offers a short blueprint of the arguments that can be put forward in support for such a scheme. One may argue towards a basic income from a commitment to the value of liberty, resting his case on three distinctive implications: the requirement of compensation for the infringement of the property rights of others, which will be the main subject of the second part of this article, the equal right to the value of natural resources or the equal rights of individuals to the contribution of the so-called social assets (pp. 9-16). In similar fashion, there are multiple argumentative strategies when one argues from a commitment to the value of equality, highly dependent on the answer given to the content of this idea³ - as such, one may argue for an equal share in the social surplus, but engagements with Marxist thought by arguing that a basic income is "the capitalist road to communism" or developments in greater detail of the exploitation-reducing character of such a scheme are also possible. Moreover, Van Parijs includes in this family of theories his preferred conception, real-libertarianism (pp. 16-23). Also, there are things that can be said in favor of a basic income from a communitarian perspective, seeing it as a means for realizing the ideal of equal citizenship for all (pp. 23-4) and, as already suggested above, from a rather thin, normatively speaking, concern with efficiency, that offers pragmatic, comparative assessments of a basic income institutional regime by contrasting it with current welfare states (pp. 24-6).

I am not concerned here with the assessment of this variety of arguments, rather, my interest is limited to only one tradition of thought, devoted to the value of liberty – that of right-libertarianism. Truth be told, right-libertarianism or even a more flexible type of classical liberalism are rather unlikely candidates for delivering a thorough argument in favor of basic income. After all, such a scheme would imply taxation for purposes that do not fall under the jurisdiction of any kind of minimal state that still maintains its plausibility. Moreover, when looking at contemporary welfare states, those that can be characterized, following Esping-Anderson (1990), as liberal are generally based in their distribution of provisions on means-testing and a general conception of entitlements that tie their reception to the performance of work. In other words, it seems that there is a serious *prima facie* case for considering right-libertarianism deeply opposed to two fundamental traits of a basic income institutional regime. Nevertheless, there are some such arguments that can be easily included in the libertarian/classical liberal camp.

This being clarified, I can now say how this article will continue. In the first part, I will discuss the variety of libertarian theories, the relation between left and right libertarianism and some of the main tenets of the latter. Then, in the second part, my discussion will take a closer look at some right-libertarian/classical liberal treatments of basic income. In the last part, I will focus on Zwolinski's recent arguments, one pragmatic and the other principled, and assess their strength, arguing that the first one, very prudentially constructed, is a plausible starting point for a classical liberal case for basic income, while the second, more ambitious, still suffers from an arbitrary construing of the Lockean proviso.

Varieties of libertarianism

An intuitive beginning of a discussion about libertarianism would be one which develops the observation that those who argue for this position are generally concerned, above all else, with the value of individual liberty. There are certainly those in the libertarian camp that uphold individual liberty – or, more technically, an individual right to maximal negative liberty – as the foundational value of any plausible conception of libertarianism, but this is far from being the whole story. When one says *political philosophy* and *libertarianism*, the first thinker that springs to mind is, undoubtedly, Robert Nozick, his well-known *Anarchy, State and Utopia* (1974) being the main stream of contemporary academic libertarianism. The argument put forward there is more than familiar – starting from the assertion that "individuals have rights, and there are things no person or group may do to them" (1974, p. ix), Nozick goes on to justify a minimal state as the only legitimate political order.⁴ The crucial part in his whole view doesn't rest with the latter argument, but with his whole theory of justice as entitlement that constraints the permissible things individuals may do to each other and, by implication, limits the extent of coercion that can be administered through the state apparatus. But, as Cohen so cogently observes, "the primary commitment of his philosophy is not to liberty but to the thesis of self-ownership" (Cohen G., 1995, p.67). This turns the whole discussion to the main strand of classical liberalism/libertarianism of which Nozick is only one, albeit significant, part – the Lockean tradition.

The most plausible thing to do here in order to get a clearer image of the variety of libertarian theories is to equate them with different variations in the traditional framework constructed by Locke in his *Second Treatise on Government* (2003) and then come up with a sort of taxonomy. Accepting this means that we should look at different libertarian theories as being characterized by a two-stage construction with the additional feature that, as Vallentyne (2000, p.2) observes, they consider "basic individual rights as property rights". At the first stage, we have the argument for full self-ownership, the idea "that agents own themselves in just the same way that they fully own inanimate objects" (idem.), this being an essential feature of any libertarian theory, both left and right. At the second stage, we should find an argument that specifies the manner in which an agent can legitimately come to hold property rights in external things and all the particular discussions implied by this, such as what counts as an external resource⁵ and an interpretation of the Lockean proviso - the requirement that an act of original appropriation must leave "enough, and as good (...) for others" (Locke 2003, p.112). This is the point where left and right libertarians split their ways.

On the right, we have the radical anarchist position of Rothbard (1998), whose principle of acquisition of resources existent in a state of nature accepts only the requirement of labor mix-

ing with that particular resource, his view boiling down to a "first come, first served" theory of property. Nozick proposes a slightly different theory given his acceptance of the Lockean proviso as a relevant constraint. He interprets it in such a way that the main issue of contention for him is "whether appropriation of an unowned object worsens the situation of others" (Nozick, 1974, p.175) and this can only be settled by comparing the situation faced by the affected individuals after the appropriation with a baseline situation, namely their situation if that resource would have remained in a state of nature (Nozick, 1974, p.176-7). This criterion is hardly a constraint on the extent of legitimate appropriation, especially when considering Nozick's skepticism of the acquisition-by-labor part discussed above, but rather a thorough defense of the free market as the instrument by which an original appropriation improves the situation of all individuals.

On the left, natural resources are construed as owned by all individuals in an egalitarian way. This doesn't imply that no appropriation of these resources can be performed by an agent, but rather that he must pay some compensation for infringing on the legitimate property rights of others. The most common way for establishing the extent of this compensation is, as Valentyne observes, by looking at the "competitive value (based on supply and demand) of the rights that they claim over natural resources" with the implication that "rights over resources that no one wants require little or no payment, but rights over resources that many people want may be very expensive" (2007, p. 559). From here, for a left-libertarian the road to the justification of a basic income is not so far away – it depends on the positions taken in two crucial debates for contemporary political theory: the already mentioned "Equality of what?" or, in other terms, the debate on the currency of justice and the long-standing discussion of the pattern of distribution. For instance, Steiner's position in favor of an egalitarian distribution of the fund constituted following the payment of compensations (or, to put it in a more familiar fashion, taxes) and his view that justice is universal in scope (1994) imply a clear support of a global basic income⁶.

Although the natural rights approach inspired by Locke can be considered an important, even dominant, theoretical orientation inside the right-libertarian family of views, it is far from being the only one. Another, equally important, is the utilitarian perspective, which justifies a capitalist society by the superior performance of the market in maximizing social happiness on the long term⁷, a vision historically shared by thinkers such as Mill ([1859] 2001) or Mises (1985). As my discussion of Zwolinski's pragmatic argument for a basic income will soon show, consequentialist reasoning is characteristic of classical liberalism and can offer contingent support for such a scheme. There are, of course, other normative frameworks in which an argument for libertarianism can be made – a recent volume, *Arguments for Liberty* (Powell and Babcock, 2016) containing even a Rawlsian case for such an institutional arrangement, similar to the more detailed one formulated by Tomasi (2012). Another road towards right-libertarianism, highly plausible given the minimal commitments it makes on otherwise controversial positions, is the one departing from a moral intuitionist position that endorses as a central claim the moral equivalency between individual and state actions (Huemer, 2013).

Despite all this variety and without neglecting the pervasive debate between anarchism and minarchism in right-libertarian thought, one can still formulate some central tenets at the level of normative outputs, including a robust support of private property rights, a general distrust of intense state activity and, by this, of bureaucracy and politics, a commitment to the minimization of coercive social relations and a belief in the efficiency of market processes in the distribution of resources.

Classical liberalism/right-libertarianism and basic income

I have pointed in the previous section some implications of left-libertarianism for the support of a basic income regime, but as already discussed in the introductory part, the relation between right-libertarianism and this type of institutional arrangement is far from being straightforward. In spite of that, there are some thinkers pertaining to this tradition that endorse it. For example, Hayek writes in *The Political Order of a Free People*⁸: “The assurance of a certain minimum income for everyone, or a sort of floor below which nobody need fall even when he is unable to provide for himself, appears not only to be a wholly legitimate protection against a risk common to all, but a necessary part of the Great Society in which the individual no longer has specific claims on the members of the particular small group into which he was born” (Hayek, 1982, p.55).⁹ Also, Charles Murray supports a transformation of the current welfare state in America in a regime that, given the inefficiency of state activities to tackle the problem of poverty, especially that caused by bad luck and unequal abilities and talents, returns the money amassed by taxation to the citizens in the form of cash grants (Murray, 2006). Although slightly different in form and undoubtedly departing from the three traits of a basic income discussed at the beginning of this article, Milton Friedman’s case for a negative income tax (2002, pp. 190-5) is usually cited as an acceptable form of basic income provision from a right-libertarian position.

Leaving aside these *loci classici* of the right-libertarian position in the debate on basic income, there is a growing interest for this discussion in recent years. In a special edition of *Basic Income Studies* dedicated to libertarianism and the basic income guarantee, a whole range of positions are present – from Boettke and Martin’s (2012) skepticism of the superiority of a basic income regime when it comes to efficiency and its supposed invulnerability from rent-seeking to Munger’s (2012) defense of it as a favorable step in the direction of ideal libertarian order and Zwolinski’s similar, non-ideal case. In the following section, I will engage with this initial argument made by Zwolinski and with the development of his thought on the matter towards a principled case.

(a) The pragmatic case

Zwolinski’s first engagement with the idea of a basic income from a classical liberal perspective amounts to what can be called a pragmatic case for such a scheme. His argument proceeds from an overview of the main theoretical orientations found under the general term *right-libertarianism*, distinguishing between a natural rights tradition and a consequentialist one (2011, pp. 4-5), in order to identify the position that promises the most in respect to supporting a basic income guarantee. As anarcho-capitalism in the Rothbardian vein and a minarchist conception as that proposed by Nozick seem no-starters in this respect, he explores the potential of classical liberalism for the construction of such an argument, observing that those thinkers that can be included in this camp “are sometimes willing to support tax-financed redistribution to provide a form of social safety net and may also support the state provision of public goods in the strict economic sense” (idem., p. 6). This is definitely not decisive – he goes on to note that “because classical liberals differ from traditional supporters of BI in the moral justification they provide for that policy, they will for that very reason differ from traditional supporters in the substantive details of the precise form of BI they endorse” (idem., p. 7). Moreover, as classical liberalism tend to thoroughly reject any variant of resource egalitarian-

ianism, a view usually defended as a pre-requisite for supporting a basic income, the funds available for distribution are potentially reduced. Nevertheless, he still believes that one may argue from classical liberal position for something that can be considered a basic income.

For this, he engages in a two-step argument, the first one having the purpose of establishing the legitimacy of redistribution in some situations and the second one that of construing this redistribution as “universal rather than selective” (idem., p.8). In respect to the first step, he goes on citing support for this position from canonic thinkers such as Adam Smith, John Stuart Mill and Hayek¹⁰ and from contemporary followers of classical liberalism, such as Gaus (2011), who endorse a public reason conception amounting to the general principle that “a society’s legal rules and moral principles must be justified to each and every individual who is subject to them, and that such justification requires demonstrating that those rules or principles are ones that each individual has reason to support” (idem, pp. 7-8). The requirements for a robust second-step argument are more serious, given a long-standing distinction between “the deserving and the undeserving poor” (idem., p. 8) and the support given by classical liberals only to those in the first class. This is where we find Zwolinski’s main two arguments in support of a pragmatic case for basic income. The first argument points to the commitment largely shared by thinkers in this tradition for reducing the intrusion of state institutions into the private sphere of individual lives, the distinction between the two categories of poor individuals necessitating a great deal of information amassed by the state – to illuminate the general principle at work here, Zwolinski’s observation is crucial: “Discretionary redistribution thus threatens classical liberal values of freedom, privacy, and efficiency in ways that BI need not” (idem., p. 9). The second argument revolves around so-called public choice considerations, with a basic income system diminishing the large bureaucracy that characterizes contemporary welfare states, eliminating distributive discretion and, thus, offering a certain protection against the pervasive phenomenon of rent-seeking (idem., p. 9).

This is what can be called the positive case from a pragmatic point of view for the possibility of a basic income informed by classical liberalism, but such an argument would be incomplete without a defense in the face of some critical stances inside this paradigm. Zwolinski engages in a more serious manner with two such counter-arguments – the first is the well-known objection that such a system would be exploitative, the second deals with the probable consequences that the introduction of such a system will generate in particular states, especially a growing pressure for anti-immigration laws. His response to the first objections is a mixture of principled points and pragmatic considerations, amounting to the position that “some people have a legitimate moral claim to redistribution, and the moral costs of discretionary redistribution are just too high (idem., p.10) without denying that such a system would, indeed, be exploitative to a certain respect. Given the pragmatic orientation in his whole argument, the second objection is taken to be more serious, the introduction of a basic income affecting in a negative the prospects for another classical liberal position, that of open borders. Nevertheless, he never offers a clear response to this objection, hinting to the need of balancing different moral commitments of classical liberals when faced with certain costs, such as growing disadvantages for the worst-off individuals at the global level (idem., p. 10), concluding that “for a variety of pragmatic reasons (...) those costs are likely to be too high to make BI attractive from a classical liberal perspective”, but the main place of debate inside the classical liberal camp should be what he calls “empirical beliefs”, not discussion at the level of principles (idem., p. 12).

(b) The principled case

Zwolinski's second engagement with the idea of a basic income differs from the first in two respects – the most important one is the transformation of the argument from a pragmatic to a principled one, a basic income being considered now a requirement of libertarian justice; the second difference is the theoretical framework in which the argument is put forward, moving from a flexible, broadly construed classical liberalism to the Lockean libertarianism discussed in the first section of this article.

The key for understanding his view is to be found in the tension between two main tenets of libertarianism: a robust conception of property rights and the principle of non-aggression, which takes as illegitimate any kind of initiation of force. This tension doesn't appear at the level of self-ownership – as Zwolinski notes, here “respect for property and a commitment to individual liberty seem to go hand in hand” (2015, p. 517), but at the second stage of the neo-Lockean theory, that of ownership of external resources. Whatever the criterion of appropriation of a thing from the state of nature – say, mixing your labor with it – that action is bound to restrict the freedom of others given the fact that “to claim a property right is to claim the right to use physical force to prevent other people from using a resource without your consent” (idem., p. 518). The way out of this normative conflict – between property rights and the value of liberty – is, of course, the Lockean proviso. Zwolinski's contention is that original appropriation actually expands the range of things that can be owned given the superior productive capacity of a regime based on private property and trade, a fact that morally justifies in principle a form of private property, but what matters in the general argument is “the precise kind of property arrangement that is justified” (idem., p. 521). The problem that appears here is that, although the regime of private property obtained in the process of original appropriation leads to social prosperity and, by this, to the betterment of condition for many members of that society, the Lockean proviso is deeply individualistic and there may be cases – or even a generalized phenomenon – in which some individuals are actually worse-off as a result of the original appropriation (idem., p. 521 and p. 523). This problem justifies, in Zwolinski's opinion, a safety net which assures “that something is done to help those whom the general tide of prosperity has left behind” (idem., p. 523) and which is oriented towards sufficiency and opportunity, not equality and outcome (idem., p. 524).

Discussion and conclusions

Although I am largely sympathetic to the right-libertarian efforts of supporting a basic income as a moral requirement, from this point on, Zwolinski's argument in favor of such a system collapses into the previous pragmatic case – a basic income guarantee universal as scope is not a demand of libertarian justice, but a prudential mode of arranging institutions in order to avoid the type of problems previously discussed as pertaining to what can be called public choice considerations. As such, at the crucial juncture of the argument, the universal part of a U.B.I. is justified on entirely empirical considerations, the principled case being able to justify only a kind of means-testing provision for those disadvantaged members of a society. Moreover, as Rallo recently argued (2017, p. 9), “the amount of income that could legitimately be redistributed by appealing to the Lockean proviso has nothing in common with the mainstream Basic-Income Guarantee proposals”. This is symptomatic for the indeterminacy of the Lockean proviso in libertarian thought – since this seems to be the crux of the matter in the divisions

found in this whole tradition, the specific content given to the requirement of “enough and as good for others” in a formal theoretical construction that refuses any concern for potential consequences¹¹ is largely contingent on normative commitments that are only stylized in a Lockean framework. As Van Parijs (1993, p. 14) notes: “If one wishes to stick to an entitlement approach in the strong sense, one must find another, consequence-independent reason for selecting one criterion of original appropriation rather than another” and this cannot be realized in a non-arbitrary manner.

With this being the case, the possibility for a right-libertarian Lockean argument for universal basic income seems improbable, the only chance of a theory that has as outputs what can be considered tenets of right-libertarianism for such a reasoning being in other theoretical frameworks, the amended Rawlsian view of free market fairness formulated by Tomasi (2012) being one potential option.

This article follows two main lines: firstly, a sketch of right-libertarianism and its contingent support for a basic income scheme and secondly, an engagement with Zwolinski’s recently proposed argument that a basic income is a demand of libertarian justice given the existence of disadvantaged individuals in our societies as a consequence of a growth process started by acts of original appropriation and the largely shared commitment of libertarians to respecting the Lockean proviso. My observations add up to what can be called the indeterminacy of the Lockean proviso, usually substantiated in different theories in an arbitrary manner.

Notes

¹ Not really, but this is the only way my pastiche works.

² Obviously, this is not an original breakdown of the general definition, see for instance (Van Parijs 1992, p. 3).

³ This is, of course, the famous and pervasive „Equality of what?” debate, initiated by Sen (1979).

⁴ For the classical intra-libertarian critique of Nozick, see Rothbard (1998, pp. 231-56).

⁵ For an interesting view in this sense, see Steiner’s argument that germ-line genetic information should be counted as an external resource in (Steiner, 1994, pp. 237-48).

⁶ For a clear discussion, see: Steiner (2017).

⁷ For a more in-depth argument for libertarianism from an utilitarian perspective, see Christopher Freiman’s chapter in (Powell and Babcock, 2016).

⁸ The third volume of his *Law, Legislation and Liberty: A New Statement of the Liberal Principles of Justice and Political Economy*.

⁹ For a thorough exploration of Hayek’s position, see Zwolinski (2013).

¹⁰ For a more systematic treatment of this subject, see Tomasi (2012, pp. 123-42).

¹¹ This is the first part of Zwolinski’s principled argument.

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