

Robert Nozick Anarchy State and Utopia 1971

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What sort of state, if any is Nozick arguing for?

A Minimal State

Indeed, he argues that it is the only state that can be morally justified
How is that?

Why can't a more extensive state be justified?

According to Nozick, anything more extensive would violate individual rights

by coercing individuals to do things that do not choose to do

So is he against all coercion by government?

After all that is what governments do.

He seems to be saying that the coercive power of the state must be minimal

Just what can this minimal state do without violating individual rights?

Protect people from force, theft, fraud and enforce contracts

This means having laws to ban certain criminal activities that involve force, theft and fraud. Examples would be murder, assault, robbery, etc.

Presumably, "victimless crimes" like drug possession and prostitution would not be illegal

A police force to enforce those laws. Although the powers of the police would be limited so that they do not violate individual rights

A criminal court system to try those accused of violating those laws

Prisons?

A civil court system to settle legal disputes between individuals

What can the state not do?

States cannot force people to help others or to help themselves

So what would this state look like?

What is the difference between minimal govt and limited govt?

Many of us support the concept of limited government. Meaning that there must be legal limits on the powers of government.

Libertarians like Nozick believe that minimal government is the only way to achieve limited government. From their perspective, government is the primary threat to liberty, and anything that increases the role of government, increases the power of government and threatens liberty

Modern liberals would argue that sometimes big government is needed to protect the rights of all the people.

Modern conservatives would argue that big government is necessary to combat crime and foreign enemies

Libertarians disagree with both of those arguments

That is why libertarians and conservatives agree on economic issues

While libertarians often agree with liberals on social issues

For example a libertarian and a conservative might agree that the economy works best with minimum government intervention. They would support lower taxes, less spending, less regulation and would oppose raising the minimum wage, or increased spending on welfare programs

But the libertarian and the liberal would agree on same sex marriage, abortion rights, and legalization of recreational marijuana

Nozick's Theory of Justice

It is a theory of distributive justice

What does that mean?

He is asking what makes a distribution of benefits just?

He calls it an entitlement theory of justice

The distribution is just if everyone is holding what they are entitled to

Justice in Holdings By this he means property

What justifies one's right to the property that they hold?

What constitutes a just distribution of property?

Three key components need to be examined

original acquisition was the holding justly acquired

transfer was the property transferred in a manner we would consider just

rectification if property is acquired or transferred unjustly how can this be rectified

Nozick calls his approach historical What does that mean?

The justice of a distribution is determined by historical analysis

We must ask how the present distribution came about

If it came about justly

If the original acquisitions and subsequent transfers were just
then the current distribution is just

But what if the outcome results in severe inequalities?

Well, that is the price of justice

Basically what he and others are arguing, is that if the the process is fair,
then the results are fair

Like someone saying there is no such thing as an unjust market outcome.
Nozick would no doubt agree

Ok let's dig a little deeper here

Just acquisition

What makes an acquisition just?

How can one be entitled to something previously unowned?

Nozick is influenced by John Locke who argued that once a person mixes his labor with nature, the product becomes their property. Thus, if I cultivate some land and grow some crops, they are mine. If I kill an animal, it becomes my food.

Just Transfer examples?

sales, gifts, collection of legitimate debts, wages, charity, gambling

These must be voluntary exchanges

The terms must be non coercive and freely chosen by both parties

The holding being transferred must have been justly acquired

Justice in Rectification

If an earlier injustice has been done it should be rectified

I am not entitled to a holding that I acquired unjustly

I therefore have no right to continue holding that property

Nor do I have a right to transfer that property

Obvious examples would be theft, fraud, cheating

Rectification might mean having to return the holding to its rightful owner

criminal or civil penalties might occur hence necessity of law and courts

Ultimately what this rectification means is that someone other than me will now be entitled to the holding that I acquired unjustly

Example Jill justly acquires a car by paying for it. Jean steals the car and sells it to Sally. This injustice must be rectified. Jill must be compensated for the theft of her car. Sally must be compensated for the money she paid

for the stolen car. Both were victims of injustice. Jill was a victim of theft, Sally was a victim of fraud. Meanwhile Jean should be prosecuted for committing these crimes of theft and fraud.

Strengths and weaknesses of Nozick's approach

Is he saying that if the process is fair the results will be fair?

If so can we really argue with that? How could a fair process result in an unfair result?

For example. If I grade your work fairly, and some of you receive low grades, how can that be unfair?

If two teams play a game, and both of them follow the rules, how can the result be unfair? Didn't the better team win? Isn't that the point of the game

Ah, but can we really determine if the historical process was fair?

How do we figure out the history of the original acquisitions ?

Was there a 'state of nature' where natural resources were available for human use? If that were the case, then the first human to acquire the resource would be its original owner. But can we ever really trace it back that far. The settler might say that the land was wilderness and he established a farm to produce food. Thus, the farm, and the food it produces, are his personal property

The natives might say that the land was their tribal hunting ground. Or the natives might say that in their culture there is no concept of private property.

Are the transfers really as voluntary as they seem?

If you accept a low wage job as an alternative to poverty, are you making a free choice?

Are the parties in these "voluntary" transfers equal?

If not how can the transfers be truly voluntary?
Are the employer and the employee equally situated?

If there is racial or sexual inequality, are the choices made by the subordinate group really free choices?

For example, in a traditional society, where most women do not have the means to earn a living, marriage is essential to their economic survival. In that case, is her decision to marry, really a free choice?

Getting philosophic again, much of this debate turns on how we define coercion. Classic liberals and libertarians define coercion in somewhat narrow terms. The two sources of coercion are criminals and government. Criminals coerce you when they rob, assault, or cheat you. Governments coerce you when they enforce laws and collect taxes. Governments are also coercive when they engage in war.

Modern liberals and socialists see coercion stemming from additional sources: concentrated economic power, socio-economic conditions, culture, etc. Hence, the need for more government intervention to protect individuals from these private sources of power.

Is Nozick a liberal? If so what kind of liberal ?

Could Nozick's theory be used to justify reparations to African-American descendants of slaves?

How would his theory deal with pollution?

