

Liberal Read

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In search of an ideal state

BOOK REVIEW

Robert Nozick

Anarchy, State, and Utopia

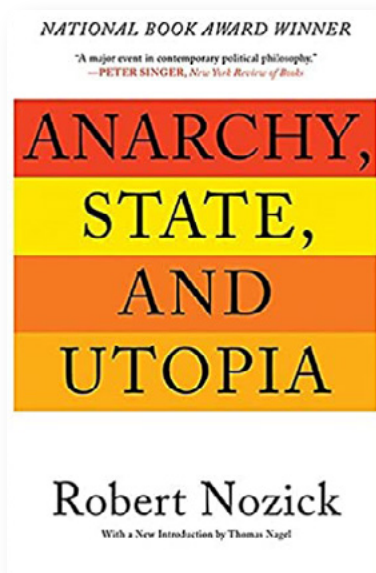
Blackwell Publishing, 1974

By Adam Mazik

A series of crises has put many liberal ideas under question. Inspired by a popular commercial concept, Liberal Reads are packaged in an easily accessible format that provides key insights in 30 minutes or less. The aim of Liberal Reads is to revisit and rethink classical works that have defined liberalism in the past, but also to introduce more recent books that drive the debate around Europe's oldest political ideology. Liberal Reads may also engage critically with other important political, philosophical and economic books through a liberal lens. Ideological discussions have their objective limits, but they can still improve our understanding of current social and economic conditions and give a much needed sense of direction when looking for policy solutions in real life problems.

Liberal Read

Anarchy, State, and Utopia



Introduction

What is the ideal state? Is it the “soziale Marktwirtschaft” of Ludwig Erhard? Is it perhaps the Scandinavian model? Maybe it is the “nightwatchman” state... Or is the ideal system having no state at all?

Anarchy, State, and Utopia (1974) by Robert Nozick is an intellectually engaging work by a bright libertarian radical. To this day, Nozick’s magnum opus is one of the most important—and the most respected—works in the intellectual history of libertarianism and classical liberalism.

Nozick’s book consists of three parts, hence the title *Anarchy, State, and Utopia*. The uniqueness of his argumentation lies in his method of reasoning. Following Adam Smith, he calls it “invisible-hand explanations”. His theory does not contain an imagined or hypothetical social contract and doesn’t assume the existence of a creator or any deliberate design.

Instead, the author argues that a minimal state would emerge spontaneously through individual decisions taken by the people and organisations in the state of nature. This state would emerge from self-interested actions, those which do not aim specifically at the creation thereof and without violating anyone’s rights.

No state is more extensive than can be justified.

State-of-nature theory, or how to back into a state without really trying

Should there be any state at all? “Why not anarchy?”, thus asks the philosopher. The first part of the book is a theoretical analysis of the ‘state of nature’, a state which many philosophers use as the basis for their argumentation. According to Nozick, it has explanatory value. The state of nature is a theoretical creation which can be imagined as a situation wherein humans coexist without having a government as we know it.

In order to find out whether a state can be justified, we first need to have a basis for comparison. For this, Nozick creates his state-of-nature theory. He decides to choose a realistic state of nature, “in which people generally satisfy moral constraints and generally act as they ought”. According to Nozick, this view is not too optimistic, since some people would still choose not to abide by the rules. He thus believes that it is still the best an anarchist could hope for.

Nozick borrows the concept from John Locke’s understanding of individual rights and the idea of a ‘state of nature’, where individuals live in a “state of perfect freedom to order their actions and dispose of their possessions and persons as they think fit, within the bounds of the law of nature”. However, while problems of security and rights enforcement in the

Lockean state of nature are delegated to a certain “civil government”, Nozick claims that first we need to analyse all the private solutions in which people may solve issues through voluntary cooperation.

Protective associations and markets

In order to protect and enforce their rights in the absence of the government and police, people in Nozick’s state of nature would cooperate in private and voluntary organisations, which he calls protective associations. Through the division of labour, a group of people specialising in protection services, or specialised private associations, would emerge to sell different classes of protective services to a variety of clients.

Protective services, however, are not the same as other goods or services sold in markets. Due to their specific nature, a virtual monopoly on protective services would likely emerge on the market. In a situation of conflict between protective associations, the dominant one would most likely win. A protection agency without the best product would fall into a negative spiral, making competition impossible.

Side constraints vs. utilitarianism of rights

Nozick continues his argument with the concept of a hybrid between anarchy and the state, which he calls the “ultraminimal state”. It is an organisation that maintains the monopoly of force in a given geographic area without providing universal protection. If you want these services, you need to pay. Nozick finds an apparent paradox in the views of proponents of this model. If the role of the state is to protect and enforce its citizens’ rights, why then doesn’t the ultraminimal state protect everyone’s rights or bring the number of rights violations to a minimum?

Nozick explains the difference between two perspectives on the violation of rights. One is the “utilitarianism of rights”, according to which certain violations of rights are permissible, as long as they lead to minimising the overall scope of rights violations.

In contrast to such a goal-oriented understanding, Nozick pleads to see individual rights as “side-constraints”. Side constraints are not goals but abstract rules which regulate people’s behaviour. Nozick’s views here are strongly influenced by Immanuel Kant and his formulation of a categorical imperative. According to it, a human being is not a means or a tool that can be used to achieve certain goals. With that explanation, Nozick solves the apparent inconsistency of the ultraminimal state: it is only inconsistent if we assume that its proponents have a utilitarian view on individual rights.

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The experience machine

In an effort to argue against utilitarianism, Nozick constructs one of the most brilliant thought experiments of all time. He asks the reader to imagine an “experience machine” which allows the user to experience the greatest version of their life, where all their dreams come true. There is just one downside—those experiences aren’t real. What the user sees and feels is nothing more than an illusion.

Would you use the experience machine, would you experience happiness, if you knew that it was nothing more than a fantasy? Robert Nozick gives us three arguments against using the machine. First, we as humans want to do certain things, not only experience them. Second, we want to exist in a particular way. We want to be a person, not just an indeterminate blob, as Nozick calls someone in the experience machine. Third, since the experience machine only lets us live through a man-made reality, we as users would not be able to experience anything deeper than what people can imagine. He concludes that we as humans want more from life than fantasies and passive experiences.

The “experience machine” is an important argument in Nozick’s critique of utilitarianism. In *Anarchy, State, and Utopia*, he uses it to explain his views on human conduct and rights. The experience machine argument in that sense is a celebration of the diversity of life and the underlying values guiding us through the uncertainty and uniqueness of true human experiences.

From protective agencies to the minimal state

But let us get back to the main line of argumentation. Nozick’s dominant agency is neither a minimal nor even an ultraminimal state. While a minimal state in the classical liberal tradition has the monopoly of force in a given area and protects all the people living on its territory, Nozick intends to show that the dominant protective agency turns into the ultraminimal state through an invisible-hand process, without the violation of anyone’s rights. As based on natural law, he argues, the “redistribution” of protective services is not a violation of rights but actually a moral obligation of the members of the ultraminimal state to transform it into a minimal state in which everyone’s rights are enforced and protected.

But isn’t the prohibition of the enforcement of rights for an independent individual (or the monopoly of force) a violation of their rights? To continue his argument, Nozick uses the problem of independents, or people who decide not to buy any kind of protective services. They want to enforce their rights outside of the procedure of protective association. To provide such people with the means to protect themselves, Nozick maintains that every individual “has the right to be shown that he is being handled by some reliable and fair system”. If an individual is in danger of being submitted to an unclear and possibly unfair procedure, they have the right to resist and use self defence against the application of that procedure.

This, of course, is a service which the protective association most likely will fulfil for them.

Nozick concludes that the dominant protective association will effectively prohibit any kind of procedure which it deems unreliable or unfair. The association will publish a list of procedures that can be used and will proceed to punish any person who tries to use a different one. It will not allow anyone to defend themselves against its own procedures, and—due to its dominant market position—it will have a “de facto monopoly”. This is not a “de

Nozick intends to show that the dominant protective agency turns into the ultraminimal state through an invisible-hand process, without the violation of anyone's rights.

jure" monopoly, as Nozick says, for other agencies will still be allowed to compete, but its dominant market position effectively gives the dominant association the possibility to dictate the rules of the game.

But what about the rights of independents who turn out to have no opportunity to pursue justice in their own procedures or, rather, to enforce their rights at all? Nozick

solves this problem with his principle of compensation. According to that, certain things can be prohibited if the lack of prohibition would cause a lot of fear and apprehension, as long as those disadvantaged by the prohibition get reimbursed. Nozick uses the example of a narcoleptic driving a car. It is permissible for others to prohibit them from using the car, due to the higher risk of damage and accidents. However, through this prohibition, that person suffers a disadvantage, e.g., discomfort and additional costs. Those profiting from this prohibition will need to compensate them for the inconvenience and bear any related costs.

Similarly, in cases of conflict among members of the association, independents are not allowed to pursue justice outside of the procedures of the agency. Without any affiliation with a protective agency, they effectively are not allowed to enforce their rights. This causes them a great disadvantage. Because the members of the association are the profiteers of their disadvantage, they are morally obligated to compensate for it. This effectively gives independents the protective services that the other members pay for.

Not only does the dominant protective agency have the effective monopoly of force in a given area, but its clients bear the costs of the protective services which the association provides for independents that cannot pay for them. Its influence is therefore comparable to that of a minimal state. The redistribution of protective services is thus rather compensation for imposing the effective monopoly of force on non-paying clients. The dominant protective association has reached a de facto monopoly of force, without breaking anyone's rights. In this way, it becomes an ultraminimal state whose protection is made universal, due to the prohibition of alternative procedures and compensation paid to disadvantaged independents.

So, nobody aimed for the state... but it emerged by itself.

Beyond the minimal state? Entitlement theory of justice

In the second part of the book, Nozick seeks to prove that his minimal state is the biggest state that can be justified from the position of natural rights. He criticises what he calls patterned theories of (distributive) justice and offers his own "entitlement theory of justice".

Anarchy, State, and Utopia was published in opposition to John Rawls' *A Theory of Justice*. Rawls understands distributive justice as a certain pattern which should be achieved through the state. According to him, the best and most just distribution follows the "difference principle", in which the worst of the group of people is the most well off.



ROBERT NOZICK

“Taxation of earnings from labor is on a par with forced labor.”

Robert Nozick (1939-2002) was an American philosopher of Jewish descent and a professor at Harvard University from the age of thirty. He published numerous texts on political philosophy, epistemology, literature and metaphysics. In his interpretation of the work of classical liberal thinkers, there was only room for a minimal night-watchman state. He maintained that the government does not have the right to interfere in the private lives of citizens. Nozick focused a great deal on the right to property and considered taxes to be a form of theft. He is considered by many to be the father of libertarianism. His principal work *Anarchy, State and Utopia* (1974) serves as a response of sorts to *A Theory of Justice* by John Rawls. He also wrote various articles on the ‘objectivism’ of the philosopher Ayn Rand, author of the bestseller *Atlas Shrugged* (1957).

In contrast, Robert Nozick's theory of justice does not aim at a certain pattern. According to him, distribution is just if the wealth accumulated comes into someone's possession without any violations of others' rights.

As long something has been acquired without violating the rights of others, the resulting distribution, as unequal as it might be, is just. If the end result is the outcome of the voluntary actions of free and self-interested people—without coercion, fraud, or theft—then the end result is just. Nozick thus shifts the focus of attention away from the end result of wealth distribution towards the way in which wealth is appropriated. Theoretically, if there was a distribution in which every single person in a given society would be richer, Nozick could still reject such a theory, provided that the result were achieved through the violation of a certain agent's rights.

Here, once again, we see a strong Kantian influence and rejection of utilitarianism. What Nozick looks at are the individual rights and the resulting rules of conduct that dictate human actions. Nobody can be used as a means or as a tool to better the situation of someone else, for any person is an end in itself.

Wilt Chamberlain example

Arguing against any "patterned theories of justice", Nozick claims that in order to achieve a certain pattern of distribution, the state would have to endlessly intervene and redistribute the property of its citizens through coercive means, thus violating their rights.

As an example, Nozick refers to Wilt Chamberlain, one of the most talented basketball players of all time. Nozick asks us to imagine a society in which a certain distribution has been reached, for example, completely equal distribution. Wilt Chamberlain has the same amount of wealth as everyone else.

He signs a contract with a team, which gives him 25 cents for each ticket sold during the season. With people from the entire United States coming to watch Chamberlain play, by the end of the season he has accumulated \$250,000, a sum much bigger than what anyone else in society possesses. Nozick asks: "Is he entitled to that money?" After all, each fan bought a ticket using their property voluntarily. Nobody was coerced so that Wilt Chamberlain got more money. Why would it be unjust to give Wilt Chamberlain the money that people voluntarily transferred to him?

If a state wanted to prevent such distributions from happening, the government either would have to severely limit the freedom of contract to prevent people from transferring money to others in the first place, or it would have to continuously infringe on the rights of the "Wilt Chamberlains" of our world, through coercively taking away their belongings and wealth. Therefore, no pattern can be upheld if we want people to have the right to use their property as they wish. Human liberty and the spontaneous order of a market, as Hayek would describe it, will inevitably upset any pattern. This cannot be changed without limiting human liberty.

Demoktesis and the tale of the slave

So far, Nozick has been able to show that the minimal state can emerge from a spontaneous invisible-hand process without the violation of anyone's rights. He has also shown that patterned distributive theories of justice can only come true through the violation of the

individual rights of citizens in the minimal state.

Nevertheless, acknowledging that there are a number of proponents for a bigger state, Nozick tries to imagine a more extensive state emerging through such an invisible-hand process, which relies on the voluntary actions of self-interested people.

A person in Nozick's minimal state could divide different rights owned outright into smaller ones, which people could buy from them on the free market. A person therefore could sell their right to select their clothing, occupation, medication, or diet. Nozick names many rights and regulations which we know from everyday life, for example, "the right to decide from which persons one can buy certain services (occupational licensure), or the right to decide what countries they would buy from (import control)".

Nobody, or at best a very small number of people, would sell all of their rights and essentially become a slave. However, some would sell shares of their rights to a small number of people. To prevent the emergence of strong shareholders with great power over other people, Nozick suggests that sellers should write into the terms of each stock a provision preventing the sale of shares to anyone who already possesses a certain amount of that stock.

The longer the game goes on, the more dispersed these shares become throughout society. Everyone sells and buys shares of rights. Eventually, everyone owns the shares of everyone else; everyone has to bear the decisions of other people while simultaneously making such decisions about the shares of others.

The system is very chaotic and inefficient, so people decide to organise a meeting so that everyone in the end will own exactly one share of each right belonging to any person. Now only one shareholder meeting is needed, as everyone can make decisions about everyone else. Later, it is decided that only people able to cast more than 100,000 votes have the right to attend such a meeting. In this way, through an invisible-hand process, Nozick drafts a version of a modern state. People have the right to decide on matters of the rights of others; they can choose political representatives with different programs.

What about independents in that system? Could they choose not to be a part of the group? Could they choose to buy land and secede? The members of the state-corporation would be against such actions, as they may undermine the stability of the state-like corporation.

Nozick continues to use the known arguments for a democratic state (here, Demoktesis is the state-like corporation) and then chooses to tell a very different kind of story. The philosopher tells his famous "tale of the slave", which we will quote directly:

1. There is a slave completely at the mercy of his brutal master's whims. He often is cruelly beaten, called out in the middle of the night, and so on.
2. The master is kindlier and beats the slave only for stated infractions of his rules (not fulfilling the work quota, and so on). He gives the slave some free time.
3. The master has a group of slaves and he decides how things are to be allocated among them on nice grounds, taking into account their needs, merit and so on.
4. The master allows his slaves four days on their own and requires them to work only three days a week on his land. The rest of the time is their own.

5. The master allows his slaves to go off and work in the city (or anywhere they wish) for wages. He requires only that they send back to him three-sevenths of their wages. He also retains to call them back to the plantation, if some emergency threatens his land; and to raise or lower the three-sevenths amount required to be turned over to him. He further retains the right to restrict the slaves from participating in certain dangerous activities that threaten his financial return, for example, mountain climbing, cigarette smoking.
6. The master allows all of his 10,000 slaves, except you, to vote and the joint decision is made by all of them. There is open discussion, and they have the power to determine what uses to put whatever percentage of your (and their) earnings they decide to take; what activities legitimately may be forbidden to you, and so on.

Nozick at this point mentions that provided the master cannot take away this right of the other slaves, you now effectively have 10,000 masters instead of one.

7. Though still not having the vote, you are at liberty (and are given the right) to enter into the discussions of the 10,000 to try to persuade them to adopt various policies and to treat you and themselves in a certain way. They then go off to vote to decide upon policies covering the vast range of their powers.
8. In appreciation of your useful contribution to discussion, the 10,000 allow you to vote if they are deadlocked; they commit themselves to this procedure. After the discussion you mark your vote on a slip of paper and they go off and vote. In the eventuality that they divide evenly on some issue 5000 for and 5000 against, they look at your ballot and count it in. This has never yet happened; they have never yet had occasion to open your ballot. (A single master also might commit himself to letting his slave decide any issue concerning him about which he, the master, was absolutely indifferent.)
9. They throw your vote in with theirs. If they are exactly tied, your vote carries the issue. Otherwise, it makes no difference to the electoral outcome.

In the end, Nozick asks: "Which transition from 1–9 made it no longer the tale of the slave?"



A Framework for Utopia: Conclusion

Nozick's book is timeless, his argumentation engaging and stimulating. His intellectual experiments have never lost the interest of academics all around the world; together with the philosopher's clear and analytic reasoning, they have earned his work international recognition and respect.

Nozick does not believe that what he has created or deduced is the perfect system, which is, in itself, a utopian idea. However, according to him, the strength of his concept lies in systems such as this is one being the place where everyone can aim for their very own, personal utopia.

ABOUT ELF

The European Liberal Forum (ELF) is the official political foundation of the European Liberal Party, the ALDE Party. Together with 47 member organisations, we work all over Europe to bring new ideas into the political debate, to provide a platform for discussion, and to empower citizens to make their voices heard. Our work is guided by liberal ideals and a belief in the principle of freedom. We stand for a future-oriented Europe that offers opportunities for every citizen. ELF is engaged on all political levels, from the local to the European. We bring together a diverse network of national foundations, think tanks and other experts. In this role, our forum serves as a space for an open and informed exchange of views between a wide range of different EU stakeholders.

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