Introduction to Philosophy, Politics, and Economics

PHIL/PSCI/ECON 2894: PPE GATEWAY COURSE

Lecture 14. Nozick’s defense of the minimal state
Outline

1) Libertarianism
2) Nozick’s project(s)
3) Locke on property rights
4) Nozick on property rights
5) The state of nature
6) Nozick’s invisible hand explanation
7) The minimal state
Libertarianism

Libertarianism

- Libertarianism is the position of right-wing political theorists (we will not deal with left-libertarianism)
- Compared to liberals (like Locke and Rawls, for instance), libertarians stress the rights of individuals and the value of markets as a mechanism for allocation and distribution
- Libertarians defend a negative conception of liberty: liberty is the absence of interference by others
- As such, libertarians defend anti-paternalism: the state exists purely to guard individual rights and to protect people and their property from theft
- Note, however, that most libertarians value beneficence and charity. But they insist that individuals must not be forced to be beneficent or charitable
- Support for the poor is good as long as it is done by the market, insurance, and as a last resort by charity
Possible defenses of libertarianism

I) Libertarianism minimizes the danger of tyranny (Hayek, *The Road to Serfdom*)

II) Libertarianism defends unrestricted capitalism and
   a) Unrestricted capitalism is maximally **efficient** at increasing social wealth
   b) Any redistributive taxation is inherently wrong as it violates the **rights** of individuals

- Nozick’s argument in *Anarchy, State, and Utopia* stems from consideration (II b)
- Nozick (1974: ix) argues that individuals have certain inviolable **rights** that no person or group is allowed to override

- As such, Nozick defends a libertarian position that is more radical than what we find amongst standard libertarians such as **Milton Friedman** or **Friedrich Hayek**, for example
Nozick’s project(s)

Anarchy, State, and Utopia

- I) Defense of the minimal state: Nozick defends the minimal night-watchman state
- II) Theory of distributive justice: Nozick defends what he calls an entitlement theory of justice
- III) Utopian vision of society: Libertarianism seen as a framework for utopia

We will concentrate on the first two projects of Nozick’s book and will begin with Nozick’s defense of the minimal state this week.

Before we can do so, however, we need to discuss the starting point of Nozick’s theory, which is a peaceful Lockean state of nature with transparent and absolute property rights.
Locke distinguishes between

1) Natural property rights: Holdings in the state of nature that we legitimately acquire without consent

2) Property rights that arise later by a social contract: tacit and voluntary consent

The argument from self-ownership

- The earth was given to us by God in common and each individual has a natural right to self-preservation, which requires access to consumption goods
- The commons can provide me with these goods, but only if I have a right to appropriate them
- Locke argues that we need no consent for acquiring private property rights in the state of nature: “[I]f such a consent as that was necessary, man has starved, notwithstanding the plenty God had given him.” (II, 28)
How do we acquire private property rights in the state of nature?

1) The labor-mixing argument, 2) The value-added argument

The labor-mixing argument

- Locke conceives of a person’s natural rights as something that a person owns
- Locke thinks of persons as owning themselves (property in their own person)
- From this follows ownership of the labor of one’s body and hands
- And subsequently it follows that ‘Whatsoever then he removes out of the State that Nature hath provided and left it in, he hath mixed his Labour with, and joyned to it something that is his own, and thereby makes it his Property.’

- In short, Locke argues that if I mix my labor with a good in common, then the good thereby becomes mine
- The object you mixed your labor is seen as an extension of your body
- Problem: You can mix your labor with a lot of things. See Nozick (1974, p. 175)
The value-added argument

- A system of rights over material things must be such as to encourage useful labor, so that the necessities of life can be created from the natural resources God has provided for us.
- But there is little that God has provided which will give us sustenance without our laboring on it: goods ready for use are scarce in nature.
- A reward is necessary because labor is viewed to be intrinsically unpleasant.
- The reward is the right to own the product then: For those who are engaged in improving things from the point of view of sustaining human life are then protected in their activities by natural right.
- Labor puts the value on everything. It creates the greatest part of its value, and thus determines ownership.
Can we accumulate as much property as we want?

- Locke imposes two restrictions on appropriating the commons:
  - 1) No-spoilage proviso: We can only take as much as we can consume
  - 2) Enough-and-as-good proviso (Lockean proviso): We are required to leave ‘as much and as good’ for others

Two situations

- Pre-society: money does not exist, and thus there is no scarcity
- In this case 2) follows from 1)
- Society: A new condition for acquiring property rights must be introduced, namely:
  - 3) Property rights must be agreed upon by tacit and voluntary consent
Can we accumulate as much property as we want?

- **Nozick’s Lockean proviso**: I have the right to appropriate goods from the commons provided that I do **not worsen** the condition of others thereby, relative to their situation **before** the commons were enclosed.

- The proper test of legitimate appropriation is that I do **not worsen** anyone’s overall material well-being compared to the pre-appropriation of the commons.

- If this condition is fulfilled, **no consent** with other individuals is required.

- Once individuals have acquired private property rights, a free market in capital and labor regulates all transactions.

- But are not all individuals, aside from the appropriating party, worse off by not longer having access to the commons?

- No: Nozick thinks that the advantages provided by **wage labor** compensate for the missed opportunity to gain property rights.
Two problems

- Considering how unproductive the commons were before their enclosure, it is easy to imagine a case in which I appropriate a disproportionate amount of property, set up a farm, take my goods to the market and offer you the opportunity to work in wage labor.

- It is not clear that the baseline of comparison should be the way things were before the enclosure of the commons, because there were presumably rules in place that governed the fair usage of the commons. The commons did not lie bare before their enclosure.

- As such, a more reasonable requirement would be to show the superiority of private ownership of property over other schemes of ownership.

- Let us now turn to Nozick’s state of nature and his defense of absolute property rights.
The state of nature

Absolute property rights

- Nozick defends absolute property rights: rights are seen as side-constraints for the utility-maximizing behavior of other individuals.
- As such, the expansion of rights beyond the conveniences of life makes the protection of rights not weaker (Locke differs here): property rights are absolute.

Why is it so important for Nozick to defend absolute property rights?

- Absolute property rights express and guarantee the inviolability of persons.
- They affirm the separate existence of persons, ‘the existence of distinct individuals who are not resources for others’.
- Absolute rights are the only way to secure that individuals are treated as ends in themselves (Kant).
- For Nozick, individuals are more important than the social good, if there is any, and no individual may be sacrificed for others.
How does Nozick justify the current status quo?

- Nozick offers an argument for the importance of absolute property rights, but he does not justify the current holdings of individuals.
- He does not give a historical description that shows that the current status quo is justified.
- Nozick points out that such a justification would probably take a lifetime, and thus he does not even attempt to provide it.
- This means that the starting point of Nozick’s theory is not very robust.
- Keep this in mind because the conclusions that Nozick reaches depend on this assumption.
- Let us assume that the current status quo is justified. How do we leave the state of nature according to Nozick?
- This question leads us to Nozick’s invisible hand explanation.
Nozick’s invisible hand explanation

The basic idea

- Based on his state of nature description, Nozick develops an argument to justify what he calls the **minimal state**
- Nozick argues that the minimal state is superior to the most favored pre-state situation, which is a peaceful Lockean state of nature
- Nozick argues that the emergence of the minimal state can be explained by an invisible hand process, where each individual intends only her own good
- In short, each individual tries to improve her own situation in the state of nature, and this leads, naturally and unintended, to the minimal state
- The metaphor of the invisible goes back to Adam Smith (The Wealth of Nations, Volume I, Book IV, Chapter 2, Section 9). We will discuss this idea more explicitly when we deal with markets in the next week
Nozick’s invisible hand explanation

The advantage of the invisible hand explanation

- The advantage of the invisible hand explanation for justifying the minimal state is that it does not smuggle in any controversial moral assumptions.

- The individuals in the state of nature are assumed to pursue only their own interests, but they will nevertheless end up with a state of affairs that is good for everyone: the institution of the minimal state.

- The minimal state allows each individual to best fulfill her interests.

- The invisible hand process allows Nozick to provide a ‘morally neutral’ justification for the minimal state.
The minimal state

Basic problem

- The key challenge for Nozick is to explain the transition from the state of nature to the minimal state without that anyone’s rights are violated
- The invisible hand in motion...

The ultraminimal state

- Nozick argues that disputes will arise among individuals in the state of nature because of conflicting interests and scarcity of resources
- As a result, individuals with similar interests will group together and help each other to defend their rights and possessions. They will form mutual protective associations
- This situation is unsatisfying, however, because everyone must be on call to protect her friends and disputes may arise within protective associations
The ultraminimal state (continued)

- To improve their situation, individuals will establish private protective agencies by paying other individuals to defend them.
- But still, the protection purchased is only be relative because there can be different private protective agencies within the same geographical area.
- As such, it depends on the relative strength of one’s private protective agency whether one’s rights are secured.
- For an individual’s rights to be absolutely secured, a dominant protective agency must arise as a single entity with the power to enforce the rights of each member within its territory.
- Nozick calls this entity the ultraminimal state.
The minimal state

The principle of compensation

- The ultraminimal state is not a proper state, however, because it allows some individuals who live in its territory to enforce their rights independently.
- Further, it does not protect all individuals within its domain but only its members, which are the individuals who pay for their protection.
- In Nozick’s words, the ultraminimal state has only a *de facto* monopoly, and not *de jure*.
- To be a proper state, the ultraminimal state must have the right to punish everyone whom it discovers to have used force without its permission within its territory.
- This step is problematic though, because it may violate the rights of the ‘independents’.
The principle of compensation (continued)

- To explain how the ultraminimal state can be transformed into the minimal state without violating anyone’s rights, Nozick introduces the idea of compensation.
- He (1974, p. 81) argues that “[t]hose who forbid in order to gain increased security for themselves must compensate the person forbidden for the disadvantage they place him under.”
- This means that the individuals who want their rights to be absolutely protected by the minimal state must compensate the independents for any disadvantages imposed on them.
- This, however, leads to a serious problem of free riding.
The problem of free riding

- Because individuals who want their rights to be absolutely protected must pay for the protective services of the independents, everyone wants to be (or pretends that he or she wants to be) an independent.

- As a result, no one will pay for the protective services that are necessary to protect the rights of individuals.

- Nozick argues, however, that no compensation must be paid to individuals who are not disadvantaged by buying the protection offered.

- As such, if the state provides protection only against theft, fraud, assault and the like, which each individual needs, no compensation must be paid.

- This reduces the number of free riders to almost zero.
The minimal state

In sum

- If we take individual property rights seriously, then a more extensive state than the minimal state cannot be justified, because such a state would violate the rights of some of its citizens, namely the rights of those who have no interest in more than the protection of their basic rights.

- As such, according to Nozick, the role of the state is to provide only the very basic goods for its citizens that all members of society need, such as protection, defense, courts, etc.

- As a consequence, the state is allowed to impose only a minimal tax on its citizens that amounts to the sum that is necessary to finance basic protections.

- Nozick rejects the welfare state and any redistributive actions by the state beyond this level.