

Nozick: *Anarchy & The State*

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Utilitarianism & Justice

For Utilitarians, justice is a subcategory of morality: justice involves protecting individual rights, but "rights" are merely rough rules that we adopt in order to maximize overall social good.

HEDONISTIC UTILITARIANISM

Consequentialism: You ought to ϕ if and only if the complete world-history that would result were you to ϕ has greater value than the complete world-histories that would result were you to perform one of the other available actions.

Ethical Hedonism: Happiness (pleasure) is the only thing of intrinsic value; suffering (pain) is the only thing of intrinsic disvalue.

Totalism: The value of a complete world-history is determined by the total amount of happiness and suffering it contains. (Happiness adds to its value, suffering subtracts from its value). All pleasures and pains count equally toward the total.

Something is *intrinsically* good if it is good-in-and-of-itself. Contrast an intrinsically good thing with something that is merely *instrumentally* good. Something is merely instrumentally good if it is good but only because it brings about something else that is good.

Objection to Utilitarianism (The Organ Lotto): Some people need organs. It would maximize total happiness if we entered every healthy person into an Organ Lottery: if your number is called, we painlessly kill you, harvest your organs, and redistribute them to those in need.

The Organ Lotto doesn't seem just at all! What's gone wrong here?

Nozick's Diagnosis: People have inviolable rights, and the Organ Lottery involves violating people's rights.

Rights As Side Constraints

Perhaps we can salvage Utilitarianism by rejecting **Ethical Hedonism**: happiness isn't the only thing that's important, protecting people's rights are important too!

UTILITARIANISM OF RIGHTS: Act so as to minimize rights violations.

Nozick doesn't think this is the correct way to account for rights because it doesn't respect *the Separateness of Persons*.

Instead, we should think of the rights of others as determining *side constraints* on your actions.

The side-constraint view forbids you to violate these moral constraints in the pursuit of your goals; whereas the view whose objective is to minimize the violation of these rights allows you to violate the rights (the constraints) in order to lessen their total violation in the society. (pg. 29)

Why think of rights as side-constraints? **The Kantian Principle:** "... individuals are ends and not merely means; they may not be sacrificed or used for the achieving of other ends without their consent. Individuals are inviolable." (pg. 31)

LIBERTARIAN SIDE CONSTRAINT: Do not aggress against another.

We have *negative* (but not *positive*?) rights: we have the right not to be interfered with.

The Minimal State

States, by definition, have *legitimate authority* to interfere in our lives. Can there be such things given that we have the right not to be interfered with?

Nozick's project is to show (using an "invisible-hand explanation") how the Minimal State could arise from the State of Nature. The story goes like this:

- **Step 0: We form protective agencies.** We will want to pool our resources in order to protect ourselves by forming groups that collectively enforce our rights and adjudicate disputes.
- **Step 1: One Protective Agency will become dominant.** In each geographical region, one and only one Protective Agency will come to dominate. This is because, either, (i) the others will lose too frequently and die out; (ii) people will migrate closer to the agencies center of influence creating new political boundaries; (iii) agencies will eventually combine together into one.
- **Step 2: The Dominant Protective Agency will evolve into an Ultraminimal State.** Individuals who don't "opt in" to the Dominant Protective Agency will, presumably, adopt their own procedures for enforcing rules.
 1. If an individual's procedure for enforcing justice is *risky*, it is within your Right of Self-Defense to stop this individual from employing the procedure.
 2. Only the Dominant Protective Agency is in a position to enforce prohibition against these risky enforcement procedures.

So, it is within the Dominant Protective Agencies legitimate authority to have a monopoly of power in the region.

- **Step 3: The Ultraminimal State becomes a Minimal State.** Because the Ultraminimal State forms a monopoly of power, they have a duty to compensate those who didn't "opt in."

Philosophical Anarchists think not. Nobody or thing has legitimate authority to do this.

1. **Dominant Protection Agency:** They offer protection and enforcement, are dominant, but do not have a monopoly on legitimate power, and they only protect those who "opt in."
2. **Ultraminimal State:** They offer protection and enforcement, are dominant, have a monopoly on legitimate power, but only protect those who "opt in."
3. **Minimal State:** They offer protection and enforcement, are dominant, have a monopoly on legitimate power, and protect all of their citizens.

Sophisticated Protective Agencies will have three features:

1. a reliable procedure for settling disputes
2. a division of labor
3. individual members will willingly forgo their right to personal enforcement