

CRITIQUE OF NOZICK'S "ANARCHY, STATE AND UTOPIA"

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Abstract

"Anarchy State and Utopia" deals with the idea of minimal state put forward by its author Robert Nozick. He attempts to work in the Lockean framework of natural rights and tries to devise the most legitimate form of state being one that merely protects the individuals against force, fraud, theft, etc. For Nozick, anything that exceeds these limits set by him will give rise to an unjust state. Nozick derives the principle of self-ownership from Kant based on which he proposes that each individual has the right to own his/her own labour. Therefore, imposition of any taxation beyond that required for the maintenance of the minimal state would be illegitimate. The researcher aims to analyse the concept of minimal state given by Robert Nozick. Further, the researcher deals with the views of Nozick on taxation as given in "Anarchy, State and Utopia" and analyses the response of several other writers on his conception of taxation.

Nozick's Idea of a 'Minimal State'

Nozick tries to create a justified and legitimate form of state in what he calls a 'minimal state'. His idea of a minimal state stands at the mid-point between what the anarchist or the defender of an extensive state would consider legitimate.¹

The proposition put forward by Nozick is that this minimal state having the objective of safeguarding private property is the only form of legitimate state. He lists out the functions of state to be restricted to "protection against force, fraud, enforcement of contracts, and so on." Any further extension of the functions of the state would result in a violation of the rights of the people.² This can be interpreted to mean that the forces that would operate would be the police to ensure that individuals do not infringe on each-others liberty, a court system to enforce rights of people and military force to protect the state from external forces outside the territory.³ According to Nozick, a minimal state is one where the enforcement of individual's rights as it operates as a monopoly of force within its territory. Apart from this, the protection

¹Jonathan Wolff, "Robert Nozick: Property, Justice, and the Minimal State", 1st ed. 1991, p.7.

²Robert Nozick, "Anarchy, State and Utopia", 1st ed. 1975, p.27.

³Ralf M. Bader and John Meadowcroft (eds.), "The Cambridge Companion to Nozick's Anarchy, State, and Utopia", 1st ed. 2012, p. 79.

is extended not only to those who pay to receive it but also to those who are there in the territory. This aspect distinguishes a minimal state from an ultra-minimal state where there is no duty to protect those who do not pay to receive protection.⁴ The formation of a minimal state is explained by Nozick through a series of steps. Firstly, individuals in a state of nature would come together for mutual protection by way of a contractual agreement. These individuals would then assign employees and determine the rights that they possess individually. This would lead to the rise of a dominant protective association in the territory depending on the market forces, etc. which give rise to one agency that has monopoly over the physical force operating in that area. This association will have the responsibility of compensating the non-clients to the contractual agreement in case their rights have been violated.⁵

Nozick's theory is based on certain assumptions which are easily rebuttable. Firstly, the minimal state has the right to compensate a non-client if his right is violated. However, it does not have the right to prevent the non-clients from entering into a dispute or taking law into their own hands. This loophole does not take into consideration as to how the state can exercise control over the non-clients. This becomes even more problematic when there is a considerable population in the territory which comprises of the non-clients in that particular territory. Another possibility can be that those who paid to be protected by the dominant protective agency are scattered all around. In such a case, assuming to be the sole authoriser of violence can render the minimal state illegitimate.⁶

Another assumption that the minimal state makes is that every person's rights are independent to the other. Rights are arranged in a way that my right does not infringe the right of another individual. However, rights are not arranged in such a manner keeping the social reality in mind. The presumption that human beings have a tendency to respect each other's liberty is highly utopian. An individual's exercise of rights may lead to crossing the boundaries and infringing the rights of another person. This boundary crossing is not permitted in Nozick's framework, however, it is something that is inevitable. The structure of this moral space of individual rights has not been accounted for. He ignores the social, psychological and institutional problems involved in creating and maintaining a responsible

⁴David Wood, "Nozick's Justification of the Minimal State", *Ethics*, Vol. 88, No. 3, 1978, pp. 260-262, 261.

⁵Robert Paul Wolff, "Robert Nozick's Derivation of the Minimal State", *Arizona Law Review*, Vol. 17, 1977, pp. 8-9.

⁶Samuel Freeman, "Illiberal Libertarians: Why Libertarianism Is Not a Liberal View", *Philosophy & Public Affairs*, Vol. 30, No. 2, 2001, pp. 105-151, 106.

police force as the assumption he goes by is that people generally tend to respect the liberty of the other.⁷ Nozick, in his Part on Utopia, himself agrees to the fact that not all individuals will want to be a part of this minimal state.⁸

Understanding Taxation in Nozick's Framework

Nozick, like most libertarians is opposed to taxation. However, he is not completely opposed to the idea of taxation. Tax should be imposed by the state on its clients in order to compensate the non-clients and provide protection to individuals. According to Nozick, taxation for the purposes of funding the activities of minimal state is permissible. Any other form of tax would be morally illegitimate. Hence, tax enforced on clients for their protection from force, fraud, theft and compensating the non-client is the only justified form of tax. He believed that other than the physical security, other forms of resources can be provided by private players. Taxation for other purposes like social insurance, research, welfare programs, etc. is illegitimate for Nozick. For Nozick⁹

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

Nozick's argument on taxation is two-fold: firstly, one cannot be forced to give up a part of his/her earning for tax, secondly, individuals own themselves and their labour. When individuals are forced to pay tax out of their earnings, they have effectively put in those hours of labour for someone else. Individuals should be able to enjoy the fruits of their labour and have ownership over it. The critique presented by most writers has been that of this analogy of 'forced labour' that Nozick puts forward. Though both taxation and forced labour have similarities between them, the infringement of liberty through taxation has no comparison to the infringement of liberty through forced labour. Taxation does not merely take away from the individual his/her labour but also gives back services in return. Also, individuals performing forced labour do not have much control over what functions they can perform and the labour that they can do. Taxation does not deprive people off their self-determination. This position takes us to the second part of Nozick's position on tax.¹⁰

Every individual has a right to own himself/ herself and his/ her body parts as well as labour. What an individual does with himself/ herself is based on his/her discretion. Possession over

⁷Murray N. Rothbard, “Robert Nozick and the Immaculate Conception of the State”, *Journal of Libertarian Studies*, Vol 1, No 1, 1977, pp.45-57, 45.

⁸Robert Nozick, “Anarchy, Stae and Utopia”, 1st ed. 1975, p. 297.

⁹Robert Nozick, “Anarchy, Stae and Utopia”, 1st ed. 1975, p.27.

¹⁰Sandel, M. J., “Justice: What's the Right Thing To Do?”, 1st ed. 2010, p. 65.

oneself is a matter of moral right. However, if tax is imposed on a person's earnings, it would mean that the state would have a part in the individual's labour (i.e. individual is partly owned by the state). The state, in order to provide services to others, will redistribute an individual's labour. This means that every individual will have partial rights over another individual's labour which according to Nozick is incorrect. The purpose of the individual becomes to labour for the state which is contrary to Nozick's minimal state.¹¹

This argument of self-ownership stems from the example of the eyeball lottery example. According to this example, even if it were possible to remove one eyeball of every individual painlessly it could be done for the sake of redistributing it to those who were born without any eyeballs at all. Despite the fact that it may be a voluntary act, we may disregard the practice if someone was forced into doing so. Though the consequences of this would be positive that more blind people would be able to see, we would like to believe that an individual owns himself and his body parts. They cannot be taken away from him. An individual has the freedom to do whatever s/he wants with it.¹²

Susan Moller Okin produces a critique of Nozick's conception of taxation by stating that human beings themselves are a product of human labour. By that logic, wouldn't Nozick be supporting a system perpetuating slavery? This would lead to the establishment of a system of exploitation. According to Okin:

“Anyone who subscribes to Nozick's principle of acquisition must explain how and why it is that persons come to own themselves, rather than being owned, as other things are, by whoever made them.”

This position renders Nozick's theory unable to prevent individuals from subordination.¹³

Critique of Nozick's View on Taxation

Nozick's position on taxation is critiqued by Paul Russell's piece 'Nozick, Need and Charity. Nozick's position is that it is legitimate for the government to compel property owners to give up their share for the maintenance of a minimal state and for the welfare of all living in a

¹¹Geoffrey Sampson, "Liberalism and Nozick's 'Minimal State'", *Mind* (New Series), Vol. 87, No. 345, 1978, pp. 93-97.

¹²Edward Feser, "Taxation, Forced Labor, and Theft", *The Independent Review*, Vol. 5, No. 2, 2000, pp. 219-235, 226.

¹³Anna-Karin M. Andersson, "An Alleged Contradiction in Nozick's Entitlement Theory", *Journal Of Libertarian Studies*, Vol. 21, No. 3, 2007, pp. 43-63, 43.

particular territory. However, any tax imposed on the individuals beyond this point is immoral and results in taking away from the labour of the individual. According to Russell:

“We are not always entitled to everything we legitimately acquire because we may, depending upon our circumstances, be obliged to be charitable. What charity requires of us we have no rights over and we must relinquish. Accordingly, if we fail to be charitable our property rights are not violated when that which we are not entitled to is forcibly taken away from us.”¹⁴

Russell perceives charity as something that isn't optional but obligatory. If the acquisition of individual is more than what he needs then he owes this to charity and thus can be compelled to give up a part of his property for the benefit of those in need. It may be true that all the wealth of the individual may be legitimately acquired (just acquisition in Nozick's framework) but the obligation remains irrespective of that. For him, it is more like a duty or obligation. Hence, what we give to the government is not something we had to give up forcefully, but something which was a part of the exercise of our duties. Doing good to the needy comes to an individual as an obligation and doesn't amount to taking away the fruits of his labour. However, what Russell lacks is a basis for his assumption that those who have more have a moral obligation to provide charity. However, it nonetheless deals with the fact that one can be morally compelled to discharge an obligation towards the society. Just like charity, one can be compelled to give tax for the state's welfare. Though it would be incorrect in the framework of Nozick, it would stand in the framework of Russell. Despite just acquisitions, what an individual owes the state is more than tax for the sole maintenance of the minimal state. Cohen in his critique also acknowledges the existence of a moral obligation without going into the question of the right to self-ownership. Though he appreciates the efforts made by Nozick, he believes that this moral obligation cannot exempt an individual from paying taxes despite the fact that it amounts to taking away from his labour.¹⁵

According to Murray Rothbard, when the state collects taxes from people, it is no better than robbing from them. He broadly agrees with Nozick's position and does not support the idea of imposing heavy taxes on individuals. Like other libertarians, he believes that it amounts to

¹⁴Paul Russell, “Nozick, Need and Charity”, *Journal of Applied Philosophy*, Vol. 4, No. 2, 1987, pp. 205-216, 213.

¹⁵Paul Russell, “Nozick, Need and Charity”, *Journal of Applied Philosophy*, Vol. 4, No. 2, 1987, pp. 205-216, 211.

forceful taking away of a person's property. If an individual refuses to surrender in front of the robber, he can use force and threaten the individual. In a similar manner, state uses its coercive mechanism in the form of fine and punishment so that people pay taxes. Despite the fact that individuals voluntarily pay taxes or that individuals elect the government that enforces the laws on taxation, it still is not sufficient to legitimise the fact that taxation remains immoral. However, this view of Rothbard is critiqued by Kearsley who states that it does not equate to theft and what one receives in return of tax is services from the state.¹⁶ However, the fact still remains that tax is something that is involuntarily taken away from the individual irrespective of whether the person wants those services or not.¹⁷

According to Rothbard, if an individual does not want to receive the services that the state provides, s/he must be free to discontinue such services and not be coerced into paying taxes. Even in a government where the majority voted for a particular tax, the minority should have the option to opt out of the liability of paying taxes as they did not give consent to it. However, absolute rejection of taxation is something that is more inclined towards the anarchist framework.¹⁸

Samuel Scheffler in his alternative theory of rights rejects the proposition of Nozick that if an individual has acquired property through just means, the state is not entitled to take any holding away for the welfare of the state. Scheffler's alternative theory of rights is this:

“Every person has a natural right to a sufficient share of every distributable good, whose enjoyment is a necessary condition of the person's having a reasonable chance of living a decent and fulfilling life, subject only to the following qualification. No person has a natural right to any good which can only be obtained by preventing someone else from having a decent and fulfilling life.”¹⁹

According to Scheffler, individuals have rights by virtue of having a capacity to be able to lead a meaningful life. If certain individuals do not need a certain part of their holdings, others who are in need of it have a right to it. The function of rights is not restricted to the

¹⁶Edward Feser, “Taxation, Forced Labor, and Theft”, *The Independent Review*, Vol. 5, No. 2, 2000, pp. 219–235, 229.

¹⁷Murray N. Rothbard, “Robert Nozick and the Immaculate Conception of the State”, *Journal of Libertarian Studies*, Vol 1, No 1, 1977, pp.45-57, 49.

¹⁸Edward Feser, “Taxation, Forced Labor, and Theft”, *The Independent Review*, Vol. 5, No. 2, 2000, pp. 219–235, 234.

¹⁹Samuel Scheffler, “Natural Rights, Equality, and the Minimal State”, *Canadian Journal of Philosophy*, Vol. 6, No. 1, 1982, p. 153.

safeguard the ability of beings but extends to develop it. However, the response of Nozick would be that human beings are ends in themselves and cannot be used as means to achieve an end. The use of the wealthy for the poor would prevent them from being able to develop themselves and lead a meaningful life.²⁰

Conclusion

Nozick's idea of a minimal state, despite the criticism, stands as one of the most justified forms of state. However, it does suffer certain drawbacks. It views individual rights as devoid of social reality. The assumption that individuals can exercise their liberty without infringing another person's liberty is extremely flawed. The inability to enforce rights against the non-clients also acts as a major limitation. Nozick is silent on that aspect in his theory. However, his attempt to somehow settle at a point between what the anarchist wants and what the supporter of the modern state wants is extremely innovative and worth being appreciated. However, this still does not compensate for the fact that Nozick's perception of state is extremely problematic.

For Nozick, taxation for the maintenance of the minimal state is justified. Taxation beyond this point becomes equivalent of forced labour. His argument is backed by the theory of self-ownership. As individuals have the right to own their labour, if they are forced to give it to the state, it will be unjust. However, Paul Russell refutes this argument by stating that individuals have a duty to do charity if they are in a position of advantage than the other and therefore cannot claim a right over their holdings but are under a duty to give up their holding for the needy. Similarly, Samuel Scheffler states that even if an individual acquires a good through just acquisition, he does not possess any natural right to that good as an opportunity must be provided to all individuals to lead a meaningful life.

Murray Rothbard on the other hand takes an extreme position states that taxation is theft. Individuals are coerced into paying taxes. Even though services are provided in exchange of taxes, individual consent to be governed under a system of taxation must be taken into consideration and not imposed on everyone alike in a state.

Despite several critiques on Nozick's view on taxation, how he approaches the idea of taxation doesn't seem to have any flaw. Though it gives functions like social welfare into the

²⁰Samuel Scheffler, "Natural Rights, Equality, and the Minimal State", Canadian Journal of Philosophy, Vol. 6, No. 1, 1982, p. 159.

hands of the private players, the Libertarians anyways are inclined to a Capitalist society. Therefore, Nozick's idea of taxation is not in contradiction to his conception of a minimal state.

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