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Nozick, Robert

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Robert Nozick defends a right-wing libertarian conception of justice aimed at capturing core tenets of Locke's and Kant's conceptions of justice and freedom.

From Locke, Nozick borrows two ideas: the "enough-and-as-good" proviso as determining the rightful limits on private property appropriation and the idea that individuals' natural executive right entails strong voluntarism as the liberal ideal of political obligations. Nozick carefully revises both of Locke's principles in *Anarchy, State, and Utopia*. First, Nozick revises the "enough-and-as-good proviso" by arguing that scarcity undermines the rightfulness of already appropriated private property since under conditions of scarcity, newcomers cannot appropriate a fair share of the natural resources. This is Nozick's infamous "zipping-back" argument. As private property appropriation is consistent with the "enough-and-as-good proviso" under these conditions, Nozick argues that original property owners must at least provide newcomers with access to their already appropriated private property. This access can be given by means of employment or through some other type of usage of the property.

Second, according to Locke, a natural executive right entails strong voluntarism as the ideal of political obligations. Strong voluntarism is the idea that actual consent is necessary for the establishment of a legitimate political authority. Locke famously argues that because justice is in principle possible in the state of nature, individuals have a natural executive right or a natural right to enforce the laws of nature. In contrast, states have an acquired right to enforce the laws of nature – and the only rightful means of acquiring this right is through its subjects' actual consent to the establishment of the political authority. Nozick aims to sever the link Locke sees between a natural executive right and strong voluntarism by showing that a minimal state with a monopoly on coercion can be rightfully established in a territory even though not everyone actually consents to it and even though everyone has a natural executive right. He seeks to demonstrate this by means of a hypothetical story of the choices individuals will make in response to the "inconveniences of the state of nature," namely the challenges making just interaction in a stateless condition difficult. Nozick proposes that given these challenges, it is likely that in a territory, there will be a development from a so-called private protection agency to the establishment of a minimal state. Moreover and importantly, Nozick claims to show that this can happen without anyone being deprived of their individual, natural rights in the process, including their natural executive right. Thus, he claims to have shown that the natural executive right is consistent with having only hypothetical consent ("weak voluntarism") determine the legitimacy of the state's use of coercion for at least some of the people subject to it.

From both Locke and Kant, Nozick borrows a particular conception of freedom. Individual freedom requires that no one has a right to use another as a mere means to her own ends by eliciting their persons or property in projects they do not consent to. For Nozick, this means that no matter how irrational or immoral it may be to withhold consent to participate in another's projects, no one has a right to force anyone to partake in another person's projects. Individuals' natural rights, Nozick maintains, function as "side constraints" on others' actions in relation to them. That is, they function as the boundaries delimiting the sphere within which each individual has sole authority to set and pursue ends without any coercive interference. Nozick is therefore typically seen as one of the main champions of a "negative duty" conception of justice, namely the idea that as long as people do not wrong or harm others by depriving them of their rights, they do nothing wrong from the point of view of justice.

Nozick does not himself apply this basic framework to issues of global justice. Nevertheless, his position provides a powerful basis upon which to develop cosmopolitan critiques of global justice, for cosmopolitanism, like Nozick's right-wing libertarianism, views individuals and their rights as the primary standard against which the justice of interactions and institutions are judged. If successful, Nozick's argument concluding in the coercive monopoly of the minimal state can justify both the rights of private individuals and of private and public institutions to enforce basic human rights. On this position, as far as justice is concerned, what ultimately matters is simply that no persons are deprived of their basic human rights. States are viewed as at best prudential responses to the inconveniences of the state of nature. Like any other coercive agency, states are justified and ought to be respected only insofar as they actually secure human rights for everyone living in their territory or with whom they interact.

The most influential application of Nozick's arguments to issues of global justice is found in Thomas Pogge's theory of "institutional cosmopolitanism." Pogge uses Nozick's argument regarding the "enough-and-as-good" proviso to defend his proposal for a "Global Resource Dividend" (GRD), which is envisioned as a future usage-taxation on the consumption of scarce, natural resources such as oil. The money generated by the GRD is to be distributed to poor persons throughout world either directly, through something like the United Nations, or through an appropriate nongovernmental or domestic state agency. Pogge argues that because there is global interaction, because the rich have and are causing

global poverty, and because the poorest in the world clearly do not obtain their fair share of the world's natural resources, a GRD is necessary to make global relations between individuals rightful. The redistribution of resources as the result of the GRD reconciles the natural resource wealth of some states with the global poor persons' rights to a fair share of the globe's limited natural resources. Therefore, the imposition of such a usage-tax on the consumption of scarce natural resources protects the property rights of the global poor. The aspect of Pogge's position receiving the most persistent criticism concerns its reliance on actual interaction and causality as premises in the argument for global redistributive measures. For a useful starting point to current discussions engaging these issues, see the related work of Joshua Cohen, Mathias Risse, and Debra Satz.

Three other aspects of Nozick's theory that have received some, even if more limited, discussion in the literature surrounding global justice are his accounts of intellectual property rights, the use of force against innocent threats and shields of threats, and the responsibility born by individual soldiers for acts committed in the prosecution of a war. Regarding intellectual property rights, Nozick argues that an inventor has a right to patent her innovations since innovations are not limited by the "enough-and-as-good" proviso. Rather, innovations are the result of people's labor on their fair share of natural resources. Since these products would not exist if it had not been for the labor of the inventor, others have no right to them under the proviso. Consequently, offering innovations to others only on the condition that reproduction is not permitted is seen as fully consistent with the proviso. Nozick does, however, propose two conditions on patents. First, if persons can prove that they have independently invented a product already under patent, but without prior knowledge of the patented invention, they should have full ownership rights, including the right to patent and sell the product. Second, because it is likely that the ideas would have been discovered at some point, Nozick proposes that patents should have a time limit determined by how long, approximately, it would have taken for the invention to have been discovered independently by another.

Pogge, again, has employed this argument of Nozick's in his work on global justice. But this time rather than taking on Nozick's view to support a case for cosmopolitan rights, Pogge uses what he sees as an inconsistency between such right-wing libertarian accounts of intellectual property rights and individual rights as a springboard to criticize the currently enforced international treaty known as the TRIPS Agreement (the Trade-Related

Aspects of Intellectual Property Rights). More specifically, Pogge charges Nozick with an internal inconsistency that also serves to undermine a commonplace justification underwriting TRIPS. Pogge argues that on a coherent libertarian account, no one can be seen as having a unilateral right to restrict how another uses her means. But this is precisely what Nozick's account allows when it permits someone to offer ideas on the condition that others do not replicate them. Therefore, Nozick's account of intellectual property rights is inconsistent with his own libertarianism. Pogge concludes that Nozick's theory can, indeed, justify a right to a "token" (the particular, material objects that a person has invented), but not to the "type" (the ideas enabling the invention of particular, material objects). And since TRIPS requires the justification of a right to a type, advocates of TRIPS cannot use Nozick or similar libertarian accounts to justify it.

The second aspect of Nozick's brand of libertarianism that has received a fair bit of attention in global justice literature concerns innocent threats and innocent shields of threat. These types of threats result from persons who, due to no fault of their own, pose a threat to you. Here are Nozick's examples. An innocent threat occurs if while standing at the bottom of a well, someone hurls another innocent person at you. An example of an innocent shield of threat is when an innocent person is strapped to the front of a tank in order to prevent firing on the tank. Although Nozick makes some suggestive remarks in the direction that people do have a right to kill such innocent threats and innocent shields of threat, he concludes this section of *Anarchy, State, and Utopia* by emphasizing that he is only highlighting these important, difficult issues and encouraging others to solve them. Four highly regarded and influential texts that have taken up this challenge are Onora O'Neill's "Lifeboat Earth," Michael Otsuka's "Killing the Innocent in Self-Defense," Judith Jarvis Thomson's "Self-Defense," and Michael Walzer's *Just and Unjust Wars*.

Finally, Nozick's own comments on the duties of soldiers during war have also received attention in global justice discussions. Nozick is well known for arguing that all soldiers are responsible for establishing whether or not they are fighting for a just cause. Although taken up by many, this argument by Nozick receives the most thorough treatment in Walzer's *Just and Unjust Wars*.

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Nuremberg Trials

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The Nuremberg Trials were a series of criminal trials after the Second World War conducted by the International Military Tribunal in Nuremberg, Germany, in order to prosecute major war criminals. The Nuremberg Trials also served an important role of establishing a public record of the atrocities committed by Nazi bureaucrats, doctors, ministers, military officials, and soldiers. Between November 20, 1945, and April 13, 1949, a series of five Military Tribunals met to prosecute and sentence Nazi war criminals – many to death, including high-ranking Nazis like Hermann Goering, Albert Speer, Rudolf Hoess, and Joachim von Ribbentrop. By January 1951, all sentences and appeals were completed, and the Nuremberg Trials ended.