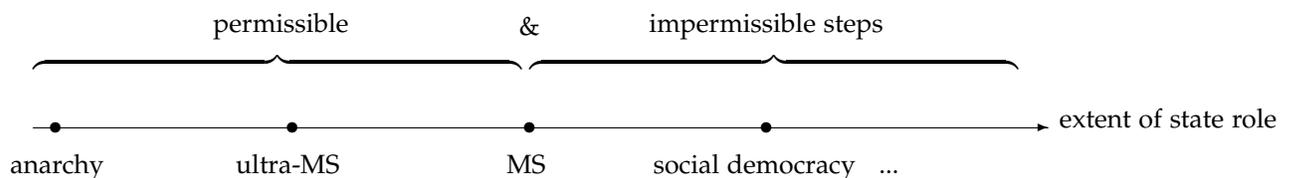


Lecture Notes 6 : The Minimal State

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Nozick's *Anarchy, State and Utopia* is a peripatetic dialogue in two parts: one with the 'individualist' anarchist, and another with the left-liberal or socialist:



The Minimal State (MS)

Two conditions:

- (1) It must claim an effective monopoly over the use of legitimate violence within its jurisdiction, and
- (2) It must offer protection to all who come under that jurisdiction.

Any social entity that meets (1) and (2) and which, therefore, includes an army, a police force, and a set of law courts, is a MS.

The State of Nature (SN)

Nozick asks us to envisage the 'best realistic' state of nature. In this state, individuals will have, in addition to their rights to life, liberty and property, a right to self-defence and a right to punish those who transgress their rights.

Nozick wants to argue that:

- (3) If X is the best achievable form of the state of nature and Y is the best achievable form of minimal state, X is inferior to Y in terms of its protection and/or enforcement of rights, and we can get from X to Y without violating any rights, then we should move from X to Y.

So Nozick must now show that

- (4) X is inferior to Y, and the transition from X to Y is morally innocuous (in the sense of (3)).

From SN to MS

STEP 1: Mutual protection agencies get established

STEP 2: A market for protection agencies gets established

STEP 3: A dominant protection agency gets established

STEP 4: The independents are compelled (ultra-minimal state)

Nozick appeals here to the idea of a procedural right: every individual is entitled, as a matter of right, to a fair trial. Such rights constrain, rather than violate individual rights to punish.

STEP 5: The independents get protection (minimal state)

Nozick claims that the state-like entity we have arrived at now has an obligation to provide protection to John Wayne. For it has deprived him of his rights to punish, and therefore Wayne is owed compensation as a matter of right.

Some problems...

...with step 4

What does it mean for procedural rights to 'restrict' rights to punish? And why is there no *conflict* of rights?

...with step 5

How is the 'compensation principle' *specified*?

Justifying the MS

Consider this triad:

- (5) An agent's claims of compensation are valid only if her rights are violated.
- (6) The (transition to the) MS involves no violation of rights.
- (7) The (transition to the) MS involves valid claims of compensation on the part of independent agents.

(5) seems to follow from Nozick's insistence on the moral priority of rights in the context of his libertarianism. (6) is necessary if Nozick is to vindicate his espousal of (3). And (7) seems to be a necessary part of STEP 5.

The problem with this triad is that it is inconsistent. Which claim, if any, can Nozick plausibly shed?

Study questions

Does Nozick need a compensation claim to establish his conclusion for the minimal state?
Is Nozick a closet anarchist?

Further Reading

Nozick (1974), part I.
Wolff (1991), ch. 3.