

INTRODUCTION TO ROBERT NOZICK, *ANARCHY, STATE, and UTOPIA*  
FOR THEORIES OF JUSTICE FALL, 2008

Nozick affirms a version of natural rights theory. Natural moral rights are rights we have independently of social arrangements, cultural practices, shared values, or anyone's subjective opinions or attitudes. (If you deny there are any such rights, you don't accept natural rights theory.)

"We" equals all persons.

A moral right involves a liberty and an associated constraint on other people. If I have the moral liberty to walk on the street, that means (a) I am morally at liberty to walk on the street (it's not morally forbidden that I do this) and (b) others are bound not to interfere in certain ways with my walking on the street. (The specific content of the right is fixed by filling in the "certain ways.")

The above is sometimes called a negative moral right. A positive moral right would be a morally valid claim that some other person or persons provide one a benefit of a certain kind, beyond forbearance or noninterference. If I have a right to subsistence, then (a) some person or persons are morally obligated to bring it about that I get subsistence. (The specific content of the right would be fixed by specifying who the person or persons are, who are so obligated.) According to Nozick, positive moral rights rise only by voluntary undertaking of obligation on the part of the one who is obligated. If I contract with you and agree to deliver a ton of widgets to you by next Friday, then I am obligated to deliver a ton of widgets to you by next Friday. If I engage in a voluntary act of sex, and know or ought to know that a pregnancy and childbirth may result, I may by virtue of this voluntary choice be obligated to parental duties of care toward any child whose existence is thereby brought about.

Moral rights according to Nozick are one and all waivable, forfeitable, and alienable or transferable.

Nozick holds that we have the following natural rights:

1. Each person has the right to live as she chooses (do whatever she chooses) with whatever she legitimately owns provided she does not thereby cause harm to nonconsenting others (in certain specified ways that violate their rights).
2. Each person has the moral right not to be harmed by others without her consent (in any of these specified ways).
3. Each person legitimately owns herself, has full ownership rights over herself.

The combination of 1-3 as interpreted by Nozick rules out ---enforced charity or beneficence (forcing one person to help another, if the first person has done nothing to obligate herself to supply aid).

---moralism (restricting someone's liberty on the ground that what he proposes to do is intrinsically wrong independently of any showing that it causes harm to others).

---paternalism (restricting someone's liberty against his will for his own good).

Nozick says that each of us has the right to do whatever she chooses so long as she does not harm others in certain ways. What are the "certain ways"? Nozick gives a list: physically attacking someone, or causing physical damage to their person or property, or stealing another's property, or dealing fraudulently with another, or threatening to do any of the above, for example, in order to induce desired behavior. (Nozick nowhere explicitly provides the list; one has to infer it from various remarks he makes, and the list I state in this paragraph is in the nature of a guess about his exact intentions in this regard. In future classes we'll ponder this list and what rationale it might have.)

In chapter 7, part 1 of *Anarchy, State, and Utopia*, Nozick states and defends what he calls an "entitlement theory" of distributive justice, justice in holdings. This says people can acquire permanent bequeathable full ownership rights over parts of the earth. The idea is that from legitimate private ownership of self plus other plausible premises we are supposed to be able to derive legitimate private ownership of the world. He says he offers only a sketch of such a theory. The centerpiece is his discussion of the conditions under which a person may legitimately acquire full ownership rights over previously unowned parts of the earth. This is the "Lockean Proviso" discussion. Once the conditions of just acquisition are set, the remaining parts of the account consist in a principle of just transfer and a principle of rectification. The principle of transfer says that if someone legitimately owns something, and voluntarily gives or sells it to another person, the second person then acquires the legitimate ownership of the thing. The rectification principle deals with what we should do if property is grabbed unjustly, in ways not allowed by the principles of just initial acquisition and just transfer.

The remainder of chapter 7, part 1 consists of an argument supporting the entitlement theory. Nozick offers characterizations that are supposed to encompass all possible theories of justice in holdings. He then suggests that we can rule out some broad classes of theories, on the ground that they are vulnerable to one or another decisive objection. When we finish doing this, we find the only possible acceptable theories of justice are in the category he calls "historical entitlement." The only developed view in this category is what he calls the entitlement view. So the entitlement view or something close to it must be acceptable if any theory of justice in holdings is acceptable. So says Nozick.