

A CRITICAL ANALYSIS OF ROBERT NOZICK'S ENTITLEMENT THEORY OF JUSTICE, HUMAN RIGHTS, LAW AND SOCIETAL DEVELOPMENT

Awoke Onuora Stephen
Barr. Agudosy Fabian Ikechukwu (Supervisor)

Abstract

The focal point of this paper is to analyze Robert Nozick's entitlement theory of justice which was drafted as an argument against traditional distribution theories. Nozick's theory of justice claims that whether a distribution is just or not depend entirely on how it comes about. By contrast, justice according to equality, need, desert or Rawl's different principles of Justice depend entirely on the "pattern" of distribution. He objected to these patterned distributions due to their deficiencies. To this he propounded the entitlement theory which is primarily concerned with respecting people's rights, especially, their rights to property and their rights to self-ownership. Entitlement theory of justice involves three ideas; justice in acquisition, justice in transfer, and rectification of injustice. Most political philosophers rejected Nozick's entitlement perspective, for its shaky foundation and lack of practical relevance. This paper therefore will establish critical analysis of Nozick's entitlement theory of Justice, law and Societal development. In an attempt to inquire into Nozick's theory to highlight some of the perceived strengths, defects, inconsistencies and hidden fallacies and to offer some remedial solutions where necessary. We then conclude that through affirmative action and his rectification criteria that his philosophy is still relevant in our contemporary world especially in Nigeria.

Keywords: Entitlement Theory of Justice, Libertarian rights and Human rights, Minimal State

Introduction

Justice is a matter of entitlement, according to Robert Nozick individuals have rights to their holdings and they are entitled to them as long as they have acquired them justly. He posited three principles of justice; justice in acquisition, justice in transfer and rectification of injustice.¹ To Nozick, no distribution is just and there should not be redistribution at all. Redistribution infringes individual's rights which, according to Nozick's view, individual rights are all that matters and that there is nothing such as a society or community or collective well-being can do in order to deprive it. In line with this course it pinpoints Nozick's libertarian rights, human rights and Minimal state as a societal development that does not deprive or violate individual's rights. To this effect, this paper will not negate to explain some vital statements such as: an attempt to describe 'justice in holdings' or what can be said about the property people own when viewed from a principle of justice. The purpose of the study aims at investigating the link between the state, in the societal development and property rights. The scope of this work is limited to Robert Nozick's political philosophy, and more precisely his entitlement theory of justice. The significant of anything lies in its value or relevance that is to say Nozick's influence on legal theory and implications on legal frameworks. The methodology is analytics and expository that include secondary sources, internet sources, archival materials, source documents. Regarding Nozick's entitlement theory that allows for the existence of the minimal state as the only legitimate form of state which does not violate individual's rights. This paper will shed light particularly on critical analysis of Robert Nozick's entitlement theory of justice, human rights, law and society development.²

Application of Nozick's Entitlement Theory of Justice

Etymologically, the meaning of the term "entitlement theory" can be broken down as follows: "Entitlement" comes from the Old French word "entituler," meaning "to give a title to, right or designate". It is ultimately derived from the Latin word "entilitas," meaning "a claim or title to something". Whereas "Theory" comes from the Greek word "theoria," meaning "contemplation or speculation".³ Therefore, the etymological meaning of "entitlement theory" is a theory or principle that relates to the claim or title that an individual has to something. In this context, entitlement theory often refers to ideas about the rights or privileges that individuals possess, particularly in relation to government benefits or social services.⁴

In this regard Robert Nozick posited that entitlement theory of Justice is embedded on a due rightful acquisition. Having disregarded the theory of distributive justice, Nozick, influenced by Locke, puts forward his "entitlement theory" of justice. According to Nozick: "If the world were wholly just, the following inductive definition would exhaustively cover the subject of justice in holdings. (1) A person who acquires a holding in accordance with the principle of justice in acquisition is entitled to that holding. (2) A person who acquires a holding in accordance with the principle of justice in transfer, from someone else entitled to the holding. (3) No one is entitled to a holding except by (repeated) applications of 1 and 2."⁵

Nozick's entitlement theory of justice examines how individuals can acquire property by acquisition, transfer, and rectify property rights.

(i) Principle of Acquisition: Nozick argues that individuals acquire property rights justly through a principle of justice in acquisition. This principle states that individuals have the right to acquire property through their own efforts and labor. Nozick rejects the idea of egalitarian redistribution or equal distribution of wealth, emphasizing instead the right of individuals to freely acquire property through voluntary exchanges and transactions. In this view, individuals are entitled to the fruits of their labor and the property they have legitimately acquired. Justice in acquisition” maintains that a person who acquires a holding justly is entitled to that holding, i.e. how things that were previously not owned by anyone can be acquired by an individual.

(ii) Principle of Transfer: Nozick also considers the principle of justice in transfer, which governs how property rights can be justly transferred from one individual to another. According to Nozick, individuals have the right to voluntarily transfer their property rights to others through free and consensual exchanges. He emphasizes the importance of respecting individuals' autonomy and freedom to make choices about their property. Nozick argues that as long as transfers are voluntary and not coerced, they are just and legitimate. According to “justice in transfer,” a person who acquires a holding justly in transfer from another who is entitled to that holding is entitled to that holding, i.e. how ownership and possession of property can subsequently be transferred from one person to another, provided that the transfer is just and the individual is entitled to the holding (purchase, gift and so on).

(iii) Principle of Rectification: In cases where property rights have been unjustly acquired or transferred, Nozick introduces the principle of justice in rectification. This principle aims to rectify past injustices and restore individuals to their rightful positions. Nozick argues that individuals who have been wronged or deprived of their property rights have a claim to rectification or restitution. This may involve compensating individuals for past harm, restoring property that has been wrongfully acquired or transferred, or correcting injustices that have occurred. Nozick believes that rectification is essential for maintaining justice and correcting violations of property rights.⁶

Libertarian rights and human rights

Human rights are fundamental rights and freedoms that are inherent to all human beings, regardless of race, nationality, gender, religion, or any other status. These rights are considered universal, inalienable, and indivisible, meaning that they apply equally to all individuals and cannot be taken away or divided. Human rights are protected by international law, including treaties such as the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, and the International Covenant on Economic, Social, and Cultural Rights. These treaties establish legal obligations for governments to respect, protect, and fulfill the human rights of all individuals within their jurisdiction. Promoting and protecting human rights is a core aspect of achieving social justice, peace, and dignity for all people around the world.⁷

Robert Nozick emphasized on both human rights and libertarian rights in his political philosophy, they are not necessarily the same thing. Human rights are typically understood as fundamental rights that are inherent to all individuals by virtue of their humanity. These rights are often seen as universal and inalienable, and they include rights such as the right to life, liberty, and equality before the law. On the other hand, libertarian rights, as articulated by Nozick, are more specific to his particular brand of libertarianism. Nozick's libertarian rights focus on individual autonomy, self-ownership, property rights, freedom of contract, and the non-aggression principle. While there is overlap between human rights and libertarian rights, particularly in terms of the emphasis on individual freedom and autonomy, libertarian rights tend to focus more on property rights and freedom from interference by others, including the state. In essence, Nozick's libertarian rights can be seen as a specific subset of human rights that emphasize individual liberty and limited government intervention. While both human rights and libertarian rights stem from a concern for individual autonomy and freedom, they may differ in their scope and specific emphasis.⁸

Robert Nozick's libertarian rights, as outlined in his book "Anarchy, State, and Utopia," focus on the fundamental freedoms and liberties that individuals possess in a just society.⁹ Here are some key aspects of Nozick's libertarian rights:

(i) The right to self-ownership: Nozick argues that individuals have a right to control their own bodies and make decisions about their own lives. This includes the right to choose one's occupation, lifestyle, and personal relationships. Individuals are seen as self-owners, with the freedom to determine their own path in life.

(ii) The right to property: Nozick emphasizes the importance of property rights as a key component of individual liberty. He believes that individuals have a right to acquire and possess property without interference from others. This includes the right to keep the fruits of one's labor and exchange property voluntarily with others.

(iii) The right to freedom of contract: Nozick argues that individuals have the right to enter into agreements with others and fulfill their contractual obligations without interference. This includes the right to engage in mutually beneficial exchanges and relationships, as long as they are voluntary and free from coercion.

(iv) The non-aggression principle: Nozick's libertarian rights are based on the principle of non-aggression, which holds that individuals should not initiate force or harm against others. This principle underpins his argument for a minimal state that focuses on protecting individual rights and preventing coercion.¹⁰

Above all, Nozick's libertarian rights are centered on the idea of individual autonomy and freedom. He believes that individuals have inherent rights that cannot be violated by the government or other individuals, and that a just society should protect and respect these rights. By emphasizing these core principles of self-ownership, property rights, freedom of contract, and the non-aggression principle, Nozick lays out a framework for a minimal state that upholds individual liberty and limits government intervention in the lives of its citizens.¹¹

Nozick's Law and Societal Development in Nigeria

The main purpose of Nozick's book *Anarchy, State, and Utopia* is to show that only the minimal state is morally justified. By a minimal state, Nozick means a state that essentially function as a "night watchman," with powers limited to those failed to protect citizens against violence, theft, and fraud. By arguing that the minimal state is justified, Nozick seeks to refute anarchism, which opposes any state on whatsoever by claiming that no more than the minimal state is justified, Nozick seeks to refute modern forms of liberalism, as well as socialism and other leftist ideologies, which contend that, in addition to its powers as a night watchman, the state should have the powers to regulate the economic activities of citizens, to redistribute wealth in the direction of greater equality, and to provide social services such as education and health care.¹²

By applying Nozick's minimal state which is morally justified in its application. This is a guild to societal development that involves the process of improving the quality of life, economic well-being, and social justice within a society. According to Robert Putnam who defines societal development in terms of social capital, which refers to the networks, norms, and trust that enable collective action and cooperation within a society.¹³ For instance, Nigeria system of government needs Nozick's concept for just state that does not violate or deprive individuals belongings. According to some newspapers' headline, it is no longer story in Nigeria regarding individual deprivation of rights due to fuel scarcity and fuel subsidy removal.¹⁴ It is found that many Nigerians are concerned about the impact of fuel subsidy removal on their daily lives, particularly low-income individuals. The Nigerian government's decision to remove the fuel subsidy has led to a rise in fuel prices, causing widespread panic and concerns about the knock-on effects on the cost of living. There are concerns that the removal of the fuel subsidy without adequate protection for low-income individuals could lead to a violation of human rights, particularly their right to an adequate standard of living.¹⁵ Though, the government has argued that the removal of the fuel subsidy is necessary to address corruption and mismanagement in the petroleum sector and to free up resources for other critical sectors such as healthcare and education.¹⁶ However, many Nigerians are skeptical about the government's ability to effectively manage the resources saved from the subsidy removal. Indeed, the current ugly situation in Nigeria calls for remedies by applying Nozick's entitlement theory of Justice in regard to minimal state that ensures societal development and regional upgrading.

Some Critiques Against Nozick's Theory

According to G.A Cohen's critique of Nozick's entitlement theory argues that it is based on a flawed concept of self-ownership, neglects the social and historical context of economic relations, prioritizes individual interests over the interests of others, and fails to distinguish between legitimate and illegitimate forms of inequality. Cohen's critique has been influential in shaping the debate on Marxism, liberalism, and political philosophy. Cohen's critique of Robert Nozick's entitlement theory, as presented in "Self-Ownership, Freedom, and Equality",¹⁷ can be summarized as follows:

1. Flawed concept of self-ownership: Cohen argues that Nozick's notion of self-ownership is too broad and includes not only the ownership of one's talents and abilities but also the external resources that one uses. Cohen contends that this conflation leads to the legitimization of capitalist inequality.
2. Neglect of social and historical context: Cohen asserts that Nozick's theory neglects the social and historical context in which economic relations take place. He argues that Nozick's focus on individual rights and entitlements overlooks the fact that economic inequality is often the result of historical injustices and systemic exploitation.
3. Lack of consideration for the interests of others: Cohen criticizes Nozick's theory for prioritizing individual interests over the interests of others. He argues that Nozick's entitlement theory neglects the fact that individual freedom and well-being are often dependent on the well-being of others.
4. Failure to distinguish between legitimate and illegitimate inequality: Cohen argues that Nozick's theory fails to distinguish between legitimate and illegitimate forms of inequality. He contends that Nozick's theory legitimizes all forms of inequality, regardless of their origin or impact on others.
5. Alternative Marxist approach: Cohen proposes an alternative Marxist approach that emphasizes the importance of equality and collective ownership. He argues that economic relations should be based on the principles of mutual aid, reciprocity, and solidarity, rather than individual entitlement and self-ownership.

Boxill, a political philosopher, has critiqued Robert Nozick's views on distributive justice in his book "Blacks and Social Justice" (1992). Boxill's critiques aim to highlight the limitations of Nozick's libertarian views on distributive justice and to emphasize the need for a more comprehensive understanding of justice that addresses historical injustices, systemic inequalities, and social cooperation. Boxill's critiques can be summarized as follows: The argument that Nozick's entitlement theory ignores the legacy of historical injustices, such as slavery and segregation, which have led to ongoing disparities in wealth and opportunities. Boxill contends that Nozick's emphasis on individual rights and entitlements neglects the role of systemic injustices, Bernard like racism and discrimination, in shaping distributive outcomes. He argues that Nozick's theory does not account for structural barriers, like discrimination and bias that prevent equal access to resources and opportunities. Boxill asserts that Nozick's understanding of distributive justice solely in terms of individual entitlements is too limited. He contends that distributive justice must also consider social and collective well-being.¹⁸

Evaluation:

Robert Nozick posited that only the minimal state, is morally justified. By a minimal state Nozick means a state that functions essentially as a "night watchman," with powers limited to those incapable to protect citizens against violence, theft, and fraud. By arguing that the minimal state is justified, Nozick seeks to refute anarchism, which opposes any state on whatsoever; by arguing that no more than the minimal state is justified, Nozick seeks to refute modern forms of liberalism, as well as socialism and other ideologies like Boxill and Cohen who contend that, in addition to its powers as a night watchman, the state should have the powers to regulate the economic activities of citizens, to redistribute wealth in the direction of greater equality, and to provide social services such as education and health care.

Cohen's critique: In *Self-Ownership, Freedom, and Equality* — argues that Nozick's Lockean proviso, "no one's situation may be worsened" by appropriation — is too weak. He contends that allowing private appropriation of natural resources leaves the non-owners with no alternative but to accept unequal terms, which violates equality. Cohen also accuses Nozick of treating self-ownership as an absolute right that trumps distributive justice.¹⁹ Nozick insists the proviso is met if appropriation leaves others at least as well off as they would be without private property. Because private ownership enables production and trade, the total amount of goods increases, so even the worst-off can be better off than in a commons. He rejects Cohen's egalitarian baseline. For Nozick, justice is about historical entitlement not patterned distribution. To force a person to use their labor for others' benefit is to treat them as a means, not an end — what Nozick calls "moral side constraints" that protect individual liberty. According to Mack Eric in *Robert Nozick's Political Philosophy* (2010), argues Cohen imports an egalitarian premise Nozick never accepts. Mack maintains that self-ownership is a moral side constraint: you cannot permissibly sacrifice one person's rights for the sake of greater equality.²⁰

Boxill's critique: In *Black and White Self-Esteem* (1992) and "The Morality of Reparation" (1972), Boxill contends that Nozick's theory is morally inadequate because it ignores the legacy of slavery and colonialism. He argues that current distributions in the U.S. and elsewhere are tainted, so rectification is owed to descendants of victims even if present-day transfers are voluntary. Thus, that Black Americans as a group have been harmed by a system, so the group is owed compensation. The moral burden falls on the society that benefited from slavery.²¹ In grade to principle of rectification, Nozick does acknowledge that past injustice can make a present holding unjust. His principle of rectification says we must try to restore the situation to what it would have been absent the injustice. But Nozick limits it by two constraints: causal connection and epistemic uncertainty. You have to show a clear causal line from the specific injustice to the specific present holding. And you have to have reliable evidence of what the distribution would look like without the injustice. Nozick is skeptical we can ever do this with enough precision for large-scale redistribution. Argument that Black Americans as a group have been harmed by a system — Nozick insists moral responsibility is individual, not collective. You cannot hold person A liable for actions committed by person B's ancestors unless A directly participated or directly benefited in a traceable way. This means taxation for reparations is itself a rights violation against current taxpayers who did not commit the injustice. Nozick calls this "moral side constraints" — you cannot use one person as a means to benefit another, even for a good cause. For Nozick, self-ownership is foundational. Forcing a person to give up their labor, property, or earnings for reparations is a form of forced labor, regardless of the moral end. The state's only legitimate role is to protect rights, not to pursue patterned distributive justice. To do otherwise is to treat persons as resources for others' ends.²²

Conclusion

Nozick's entitlement theory of justice and libertarian rights provides a foundational framework for understanding the moral and political dimensions of societal development. By prioritizing individual rights, property, and another flaws regarding Nozick's entitlement theory of Justice such as Principle of acquisition, transfer freedom, Nozick's approach fosters a society that values innovation, creativity, and voluntary cooperation. As societies develop, Nozick's theory offers valuable guidance on: Protecting individual liberties and individual empowerment; encouraging entrepreneurship and economic growth; Limiting government intervention and preventing exploitation.

Endnotes

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