The New Political Theory

MARC F. PLATTNER

During most of the post-war period, the status of political theory within the philosophy departments of American universities could hardly have been lower. These departments have been dominated by a school of thought which has inherited from positivism the belief that the natural sciences provide the model of knowledge, and that mathematics and (Mathematical) logic are the favored tools for all inquiry. Given these methodological predilections, political philosophy fell into a condition of relative neglect. In fact, there was a widespread belief that all substantive social and political theory was dead. As a result, the work that was being done in academic departments of philosophy was virtually ignored by those who were seriously concerned with substantive social and political issues, and vice versa.

A striking indication of the unpolitical character of academic philosophy could be seen in its rather quiescent reaction to the political turmoil that swept American campuses in the late 1960's. Even those few "professional philosophers" who became active radicals tended not to let their passionate political concerns influence in any way their academic efforts. In fact, the only American professor of philosophy whose philosophic writings had any influence on the political events of the 1960's was Herbert Marcuse, who came from a Continental tradition that was contemptuous of—and regarded with contempt by—the dominant Anglo-American philosophic school.

In the last few years, however, there have appeared unmistakable signs of a change in the relationship between academic philosophy and social and political thought. The most prominent of these signs is the stir created by John Rawls' book A Theory of Justice, published in 1971 while Rawls was chairman of the philosophy department at Harvard. This work, an ambitious attempt to define the principles of justice and to set forth the requirements of a good society, received incredibly lavish praise from distinguished professors of philosophy. But the impact of A Theory of Justice extended far beyond academic departments of philosophy. It was prominently reviewed in the nation's most important intellectual journals. Ref-
erences to it turned up even in *Time* magazine. But more important, it was taken very seriously by policy-oriented social scientists and others whose primary concern is with political questions.

Since the appearance of Rawls' book, there has been a continuing rise both in the prestige of political theory among academic philosophers and in the willingness of outsiders to grant this work a respectful hearing. Last year the *New York Times Magazine* published an article by Peter Singer which not only heralded the revival of political philosophy but even suggested that professors of philosophy be regularly consulted in public debates on moral issues, where their methods could "help to resolve practical dilemmas." But perhaps the most striking evidence of the new respectability of academic political philosophy is the reception that has been accorded *Anarchy, State, and Utopia* (Basic Books, $12.95), a new book by another Harvard philosophy professor, Robert Nozick.

*Anarchy, State, and Utopia* has not yet been showered with quite as much attention or praise as Rawls' book received—though it has indeed been generously reviewed by the intellectual journals and has even won a National Book Award. But what makes the favorable reaction to Nozick's book so remarkable is the unorthodox political point of view that he espouses. For Robert Nozick is a libertarian, and *Anarchy, State, and Utopia* presents a spirited defense of the "minimal state," along with a withering attack on those liberals and socialists who would "forbid capitalist acts between consenting adults." Rawls, by contrast, had offered a defense of the liberal welfare state, somewhat modified in the direction of greater egalitarianism. In other words, Rawls' work supported the predominant political opinions among leading academics and intellectuals, so it was easy for some observers to be cynical about why it was so warmly received. There are no such grounds for cynicism, however, about the reaction to *Anarchy, State, and Utopia*, given its bold challenge to the fashionable anti-capitalist pieties of the day.

**Robert Nozick** has divided his book into three parts. The first consists of an argument directed against anarchists which attempts to show that a minimal state—one "limited to the narrow functions of protection against force, theft, fraud, enforcement of contracts, and so on"—is justified. The second part is then devoted to showing that no more extensive a state than this can be morally justified. And the concluding section ("Utopia") makes the remarkable claim that this same minimal state "enables us to get the best of all possible worlds" (p. 332).

The crucial premise of the first part, and indeed of the book as a whole, is stated in the opening sentence of its preface: "Individuals have rights, and there are things no person or group may do to them (without violating their rights)." Nozick does offer a few speculations about the ground of this fundamental premise, but as he himself candidly acknowledges, it is something assumed rather than established (p. 9). (Though he explicitly follows the teaching of Locke to a considerable extent, it is noteworthy that he never speaks
of natural rights.) The bundle of rights which all men, according to Nozick, possess may be roughly summed up as follows: No man (as long as he does not invade the rights of others) may be invaded in his person or liberty or property without his own consent. The italicized phrase indicates another important deviation from Locke, who held that a man could not, for example, "by his own consent enslave himself to anyone." Nozick, by contrast, explicitly recognizes the right of a man to sell himself into slavery (p. 331). In short, Nozick not only seems to deny that rights are natural, but also denies that they are inalienable. In fact, his "nonpaternalistic" (p. 58) view of rights boils down to this: No man can morally be prohibited from doing anything he wants to unless it involves a direct violation of or threat to someone else's rights.

Nozick believes that the task of justifying the minimal state against anarchist objections can be accomplished by showing that such a state may arise from a situation of anarchy without violating anyone's rights. The initial situation of anarchy from which he begins is explicitly based upon Locke's state of nature, and acknowledges all the "inconveniences" that Locke found in such a situation. But Nozick refuses to accept Locke's "remedy" for these inconveniences—a civil government established on the basis of a social contract. Instead, he provides what he calls an "invisible-hand" explanation of the origin of the state—i.e., one in which a state arises without anyone actually having the objective of establishing it.

This "invisible-hand" explanation (which features entrepreneurs who sell "protection policies" to the inhabitants of the state of nature) is, to say the least, much more incredible than Locke's depiction of the social contract, and obviously is not meant to be a genuinely historical account. It encompasses a bewildering assortment of assumptions. At certain stages it assumes that people will routinely violate others' rights. At other stages it supposes that people will act with remarkable restraint. In some places it is meant to describe what would happen; in other places it is meant to describe only what should (if people act morally) happen. Because this explanation is so convoluted and laborious, the first part of Anarchy, State, and Utopia makes for difficult—and often tedious—reading.

Now, why does Nozick go to such lengths to provide this purely hypothetical invisible-hand explanation—as opposed to a contract explanation—of the origin of the state? Surprisingly, that is not such an easy question to answer. He does indeed have some words of high praise for the genre of invisible-hand explanations: They have "a certain lovely quality," are "specially satisfying," "yield greater understanding," and are "more satisfying" (pp. 18, 19) than explanations that account for phenomena on the basis of people's intentions. Perhaps I simply lack the professional philosopher's lofty appreciation of the aesthetic quality of certain kinds of arguments, but all this fails to convince that an extremely complicated and utterly implausible account of something should be preferred to a relatively simple and straightforward one.

Of course, the reason for Nozick's presenting the invisible-hand
explanation would be obvious enough if the Lockean contract explanation were shown to be morally impermissible—i.e., necessarily to violate people’s rights. But Nozick never shows this. Indeed, given his principles, he cannot show it. Locke’s social contract is formed by a group of men in the state of nature, each of whom “by consenting with others to make one body politic under one government, puts himself under an obligation to every one of that society to submit to the determination of the majority and to be concluded by it.” Now, there is absolutely no reason why a group of men in Nozick’s state of nature would not be perfectly within their rights to do the same. In fact, according to Nozick’s “nonpaternalistic” version of the rights of man, they would even be able legitimately to contract themselves into total subjection to a despot. For if an individual may sell himself into slavery, why could a group of men not do the same?

It is clear, of course, why Nozick wants to avoid a contract teaching—a contract teaching easily lends itself to the justification of a more than minimal state. But it is not sufficient to his libertarian purpose for Nozick merely to offer an alternate derivation of the state from a state of nature. To make good his claim that the more than minimal state cannot be justified, he would have to demonstrate that the derivation of the state by a Lockean-type contract is morally impermissible. And this he fails to do.

Instead, in the second part of his book Nozick decides to take John Rawls—and not John Locke—as his principal opponent. The primary thrust of his argument here is thus devoted to showing that the redistributive state à la Rawls violates people’s rights and therefore cannot be morally justified. It is in taking on Rawls that Nozick is at his best. With considerable insight and cleverness he reveals the logically unjustified bias that is built into the “original position” (Rawls’ version of the state of nature), and the morally unjustifiable disregard of individual desert that this leads to in the Rawlsian state. I would suppose that it is this impressive demolition of the heart of Rawls’ argument that principally accounts for the respectful attention that Nozick’s book has received among those who are wholly out of sympathy with his political views.

In countering Rawls, Nozick puts forth his own theory of distributive justice, which he labels “the entitlement theory.” This asserts “simply that a distribution [of goods in any society] is just if everyone is entitled to the holdings they [sic] possess under the distribution” (p. 151). And whether someone is entitled to the holdings he possesses is determined by whether he has obtained them without either of two prior principles of justice having been violated: 1) the principle which specifies how unheld things may be originally acquired, and 2) the principle which specifies how already held things may be transferred from one person to another. Nozick excuses himself from the task of filling in the “details” (p. 153) of these principles (i.e., saying what they are), though he does briefly discuss Locke’s principle of original acquisition.
At first sight, this emphasis on entitlement appears to be a sensible corrective to views like Rawls' which totally sever all moral connection between ability or effort and reward. That is, Nozick rehabilitates the traditional and eminently reasonable view that the man who works harder or produces things of greater value is entitled to the superior rewards that he thereby earns. But Nozick wants not merely to restore this view to its rightful place among the principles of distributive justice, but to absolutize it, to make it the only valid principle of distributive justice. According to him, the man who has rigorously adhered to just procedures in amassing his holdings can with complete justice refuse to heed any and all claims that he surrender a single penny of his wealth. His right to the holdings he has amassed is total—unmitigated by any considerations of charity, fraternity, civic obligation, gratitude, or humanity.

In order to support this extremely narrow and one-sided conception of justice, Nozick must make a case for the existence of some sort of absolute right to property. This is another reason why he is forced to deviate from the social contract teaching of Locke. Locke had indeed gone farther than any previous political philosopher in arguing for the existence of a natural right to property—i.e., a right to property that could be firmly established apart from all positive laws. But even Locke did not attempt to maintain that this natural right to property could be preserved in undiluted fashion within the context of civil society. In agreeing to the Lockean social contract, men necessarily agree to allow their right to property to be regulated by the positive laws of the commonwealth.

Nozick is led to reject the contract teaching because he wants every man living in his minimal state to be what Locke says a man can be only so long as he remains in the state of nature—namely, "absolute lord of his own person and possessions." In other words, Nozick wants the "natural" right to property (i.e., the right to property that obtains in the state of nature) to maintain its full force within civil society. I believe that the case for such an absolute "natural" right to property is simply untenable, and that if Nozick ever does attempt to fill in the "details" of his principles of justice in acquisition and in transfer this will eventually become clear to him. But in any case, some of the difficulties to which his position leads are indicated by a third principle of justice in holdings which he finds himself compelled to add to his original two. This is the principle of rectification, which specifies what is to be done to set right violations of the other two principles—i.e., unjust original acquisitions or transfers.

What this third principle means is that no property is justly held if the holding of it in any way was made possible by past injustices. But given the lamentable frequency of injustice in the course of human history, one wonders if any current holdings could be pronounced just in the face of a stringent application of this principle. Is there, for example, any habitable land on the face of the earth whose "rightful" owners were not at some time or other unjustly deprived of it? The difficulty becomes even greater if one grants
Nozick’s view that a more than minimal state is unjust; for this would mean that all tax monies spent by governments in pursuit of more than minimal ends are unjustly transferred. And this would presumably mean, in turn, that most government employees, the recipients of governmental transfer payments, those who are employed by government contractors, etc., would have obtained their holdings unjustly. And then those from whom these people purchased goods and services would also be receiving tainted money.

Intractable problems of this sort must inevitably confront anyone who defends an absolute right to property or who attempts to make a non-conventional right to property fully effective within civil society. Such considerations also reveal that Nozick’s theory, despite its apparent support for capitalist and free market principles, is anything but conservative in its political implications. Indeed, one can safely say that the application of Nozick’s principle of rectification (if it could ever be figured out) to the distribution of property in American society would both lead to more government action and have much more revolutionary effects than a similar application of Rawls’ “difference principle.”

The fact that Nozick could unblushingly urge the adoption of something so totally impractical as the principle of rectification indicates the highly doctrinaire character of his thought. Indeed, it is only someone of a doctrinaire and unpolitical cast of mind who could take seriously the minimal state as he presents it. Nozick believes that he will have overcome the “most weighty and influential” (p. 149) justifications that have been offered for a more extensive state if he can refute the arguments of some 19th and 20th century left-wing opponents of free market societies. As a result, he never even discusses the most obvious sorts of objections to the minimal state that would be raised by an ordinary politician or citizen. Who will build roads and highways? Will dangerous drugs (e.g., heroin) be totally unregulated? Will they be available to children too? Will parents have unlimited rights to treat their children as they wish? To let them remain illiterate? To rent them to those whose sexual tastes they might gratify? To refuse them medical care? Must all public health measures be abandoned? Can government aid not be provided to an area hit by a natural disaster? Until he has addressed questions of this kind, Nozick can hardly claim to have disposed of the case for a more than minimal state.

Instead of confronting such obvious questions, Nozick has chosen to conclude his book by arguing that the minimal state is not merely “the only morally tolerable one... [but] the one that best realizes the utopian aspirations of untold dreamers and visionaries” (p. 333). Nozick does not claim that the minimal state is a utopia

---

1Rawls’ “difference principle” requires the institution of that distribution of wealth and income which maximizes the financial position of the least advantaged. But since differential incentives for the sake of productivity may result in greater wealth for all, the “difference principle” may yield a relatively unequal distribution.
in the usual sense of the word; rather it is a "meta-utopia" or "framework for utopias," which grants individuals the freedom to establish within it whatever kinds of communities they wish. One reason why this sort of set-up is to be preferred to any particular vision of utopia is because it more adequately takes into account the complexity and diversity of human beings.

Nozick seems to envisage his "meta-utopia" as an agglomeration of vastly divergent sorts of communities—socialist, capitalist, religious, etc., etc.—flourishing side by side under the auspices of the minimal state. He does not seem to have considered whether communities that share so little in the way of common values would cohere sufficiently to form any kind of state at all. But let us leave this problem aside, and turn instead to the question of whether the minimal state really would generate the degree of diversity that Nozick apparently expects. His assumption seems to be that since the minimal state provides the greatest freedom, it would tend to nourish the greatest variety of human types. But in fact, the "free society" is not simply neutral in regard to the way of life of its members. One needn't be a Marxist to recognize that a society that equally allows all individuals freely to acquire, possess, and dispose of property is inevitably a capitalist society, and tends to produce one predominant kind of man—the bourgeois. (It is not likely, for instance, to produce many monks or warriors or saints.) A reading of Tocqueville's *Democracy in America* suffices to show how a society founded upon freedom and equality will foster the existence of certain human types and effectively rule out the existence of others. Especially pertinent in this context is Tocqueville's demonstration of how the abolition of the law of entail (which restricts the free disposal of landed estates) dooms the aristocratic sense of family, and hence the aristocratic type of man, to extinction. Clearly, the aristocrat would not spring back to life in Nozick's minimal state.

To be sure, none of the above considerations detract from the possibility that the "free society" is also the best society. But they do point to the need for a more sober and careful weighing of both its advantages and its possible disadvantages. It will not do simply to claim that the minimal state is best because it embraces or leaves room for all other possibilities. As Nozick himself asserts elsewhere: "That it is impossible simultaneously and continually to realize all social and political goods is a regrettable fact about the human condition..." (p. 297). One's understanding of the character of the free society will necessarily be impoverished unless one has a sense—as Tocqueville did—of what it may lack.

The lengthiest and most important argument by which Nozick attempts to establish the utopian claims of the minimal state involves the use of a rather fanciful model for generating a utopia. Because it is so revealing both of the character of Nozick's thought and of the style of much of his argumentation, I quote from it at length:
Our subject here...is the best of all possible worlds. For whom? The best of all possible worlds for me will not be that for you. The world, of all those I can imagine, which I would most prefer to live in, will not be precisely the one you would choose. Utopia, though, must be, in some restricted sense, the best for all of us; the best world imaginable, for each of us. In what sense can this be?

Imagine a possible world in which to live; this world need not contain everyone else now alive, and it may contain beings who have never actually lived. Every rational creature in this world you have imagined will have the same rights of imagining a possible world for himself to live in (in which all other rational inhabitants have the same imagining rights, and so on) as you have. The other inhabitants of the world you have imagined may choose to stay in the world which has been created for them (they have been created for) or they may choose to leave it and inhabit a world of their own imagining. If they choose to leave your world and live in another, your world is without them. You may choose to abandon your imagined world, now without its emigrants. This process goes on; worlds are created, people leave them, create new worlds, and so on.

Will the process go on indefinitely? Are all such worlds ephemeral or are there some stable worlds in which all of the original population will choose to remain? If this process does result in some stable worlds, what interesting general conditions does each of them satisfy? (pp. 298-99)

Of course, in this kind of situation, “stable worlds” could come about only through the making of concessions and bargaining. So Nozick can apply an economic-style analysis, which eventually leads to the conclusion that the “stable world” of the model, when projected onto the actual world, will be Nozick’s “framework for utopias” (i.e., the minimal state).

The first thing to observe about this model is that the individual imagines not the world that he thinks would in some sense be the best for human beings (which, after all, is how utopia is generally understood), but the world in which he himself would prefer to live. These two procedures obviously need not be identical: The former is necessarily philanthropic; the latter may be utterly selfish. (For example, Nozick assumes that some people will initially choose a “utopia” in which they are absolute monarchs.) But because all those involved are granted equal rights of free choice, each individual is forced to moderate his selfishness to win the cooperation of others, and thus—assuming everyone’s rights are scrupulously respected—an “optimal” situation emerges.

This line of reasoning, which is at the core of Nozick’s whole approach, is based on the assumption that the wants or preferences of individuals form the unquestionable starting point of political philosophy. It is not possible to make moral judgments about the intrinsic value of these wants or preferences, or to rank them in any way. Considerations of what is good or moral come into play only extrinsically, through the collision of one individual’s wants with
those of others. And the goal of politics is understood to be merely that of providing a mechanism (or “framework”) for handling these collisions in such a way that all individuals can satisfy their wants to the greatest possible extent. The original formation of these individual wants or preferences (i.e., education in the broadest sense) is not a proper concern of the political community—or of the political philosopher. The political philosopher cannot offer any guidance about what people should want, about what is good for man. In short, the central issue of traditional moral philosophy—“What is the best way of life?”—must be totally severed from the questions addressed by the political philosopher, if not abandoned altogether.

It is worth noting that Nozick’s view of man is essentially the same as the modern economist’s view of man: The ends which a man chooses to pursue are regarded as essentially non-rational, as mere “consumer preferences,” as it were. But his choice of means toward the attainment of these non-rational ends can be governed by the strictest sort of rationality—namely, economic rationality. It is this shared underlying view of human nature that permits the extensive use which Nozick makes of economic theory and allied disciplines such as game theory and decision theory. These are tools that may be very useful in maximizing the attainment of certain kinds of pre-existing ends—but they shed no light whatever on the worth of those ends themselves. They are also tools that may help a thinker to achieve great mathematical and logical subtlety—but they are perfectly compatible with, and may sometimes even tend to promote, moral and political obtuseness. For the political realm is always concerned with the worth of ends, and hence can never be reduced to the purely instrumental rationality of economics. Political man is infinitely more complex than economic man.

Though the above critique is directed specifically against Nozick, it essentially applies to his apparent antagonist, John Rawls, as well. Rawls also begins with economic man: The inhabitants of his “original position” are not even permitted to know their own conception of the good, yet they are described as “free and rational persons concerned to further their own interests.” Hence, game theory and decision theory can play a central role in Rawls’ construction too. On the deepest level, the differences between Nozick and Rawls are not very great; in fact, the gulf between them is hardly any wider than that which separates libertarian market economists from social democratic market economists.²

To the extent that the grave moral and political problems that confront us today transcend the limits of economic thinking, they

² It should be noted that Nozick prefaces his massive refutation of Rawls with a paragraph of extravagant praise for the latter’s achievement: “A Theory of Justice is a powerful, deep, subtle, wide-ranging, systematic work in political and moral philosophy, which has not seen its like since the writings of John Stuart Mill, if then” (p. 183). Though some might regard this as little more than deference to a distinguished colleague, I believe it points to the fundamental area of agreement between Rawls and Nozick to which I refer.
are also beyond the scope of the new "political philosophy" represented by Rawls and Nozick. It is revealing that neither Rawls nor Nozick indicates anywhere that he is writing in a time of crisis, when the essentially liberal values that both support are being subjected to a growing assault. The question about which both of them are most passionately concerned is the distribution of income and wealth, and while this is, to be sure, an important issue, it has but little relation to the drastic decline in legitimacy that has befallen all our leading social and political institutions. About this crisis, game theory, decision theory, and economic analysis can tell us next to nothing.

Of course, it is not necessarily incumbent on the political philosopher to address the issues of the moment. After all, political philosophy has traditionally been understood as dealing with timeless questions. But the great political philosophers of the past have all been men with a far-ranging knowledge of history and of politics. The same cannot be said of Robert Nozick. *Anarchy, State, and Utopia* reads like the work of a talented logician who suddenly became interested in political philosophy and decided to write a book about it. Nor does Nozick give evidence of knowing very much about the great works of political theory. Though he relies heavily on Locke, he does not make a single reference to Hobbes or to Rousseau's *Discourse on Inequality* (which contains what is probably the most powerful critique ever made of Locke's state of nature).

It is certainly an encouraging sign that academic philosophers have begun to take political philosophy seriously again. The eagerness with which the wider public has received the books of Rawls and Nozick indicates that there is a continuing hunger for the serious discussion of moral and political principles. Unfortunately, though, the fledgling efforts of the new political theorists are incapable of satisfying that hunger in any lasting way. Perhaps that is because they come from an academic discipline which has been so much under the spell of mathematics and the natural sciences. In any case, what Robert Nozick has given us is the political thought of an unpolitical man.