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NOZICKS REPLY TO THE ANARCHIST

*What He Said and What He Should Have Said about Procedural Rights*

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ABSTRACT. Central to Nozick’s *Anarchy, State and Utopia* is a defense of the legitimacy of the minimal state’s use of coercion against anarchist objections. Individuals acting within their natural rights can establish the state without committing wrongdoing against those who disagree. Nozick attempts to show that even with a natural executive right, individuals need not actually consent to incur political obligations. Nozick’s argument relies on an account of compensation to remedy the infringement of the non-consenters’ procedural rights. Compensation, however, cannot remedy the infringement, for either it is superfluous to Nozick’s account of procedural rights, or it is made to play a role inconsistent with Nozick’s liberal voluntarist commitments. Nevertheless, Nozick’s account of procedural rights contains clues for how to solve the problem. Since procedural rights are incompatible with a natural executive right, Nozickeans can argue that only the state can enforce individuals’ rights without wronging anyone, thus refuting the anarchist.

1. INTRODUCTION

Central to Nozick’s Lockean libertarian project in *Anarchy, State and Utopia* is a defense of the legitimacy of the minimal

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† Robert Nozick, *Anarchy, State, and Utopia* (New York: Basic Books, 1974). All unidentified references in this paper refer to this work.
state’s use of coercion against anarchist objections. Locke’s own anarchism stems from his strong voluntarist conception of political obligations. This conception involves a defence of four tenets underlying the liberal state’s use of coercion: (1) state authority requires coercion; (2) coercion by an unauthorised state is illegitimate since it is inconsistent with respect for a person’s ‘natural executive right’ (the natural power of an individual to enforce the laws of nature); (3) only an individual’s actual (explicit or tacit) consent can authorize the state to exercise the individual’s natural executive right on her behalf, and (4) individuals can authorize the state to enforce their rights for them and to enforce new laws as long as those laws are consistent with the laws of nature.2 Nozick’s conception of justice defended in Anarchy, State and Utopia and as interpreted here is Lockean, yet distinct from Locke in that Nozick attempts to refute the third condition above.3 Nozick denies the

2 Somewhat simplified, Locke argues that the reason we must enter civil society is *prudence*. Entering is the prudent choice given “the inconveniences” of the state of nature (TT, II, p. 127), which makes “the enjoyment of the property... [the individual] has in this state... very unsafe, very insecure” (TT, II, pp. 123, cf. 124, 128, 149, 222). Despite demonstrating that it is prudent and justifiable to enter civil society, Locke does not permit forcible entry into it: “MEN being, as has been said, by Nature, all free, equal and independent, no one can be put out of this Estate [the state of nature], and subjected to the Political Power of another, without his own Consent” (TT, II, pp. 95, cf. II: 22, cf. 15, 90, 96–99, 104, 106, 112, 116, 119–122, 134–136, 175, 186). Entering civil society is not an enforceable right or duty, since individuals have a natural executive right. Each individual upon reaching the age of reason must decide for himself whether or not to enter civil society (TT, II, pp. 73, 116–118, 191, 211) – either through explicit or tacit consent (TT, II, pp. 87–89).

3 It seems fair to say that there is no one, standard or classical interpretation of Nozick’s text. Part of the reason for this is probably the nature of the text itself. As Nozick emphasizes, at many places it is suggestive and possibly not everything he argues for or suggests is ultimately defensible within “one perimeter” (p. xiii). Nevertheless, I believe that my interpretation is true to his text, even if other interpretations also may be true, and that it also presents the text as having something philosophically important to contribute to the contemporary debate on the nature of the state. The proposed way of interpreting Nozick project should therefore be both interesting as an interpretation of Nozick and as a philosophical contribution to philosophical issues in political philosophy.