

## Chapter 3

# Entitlement Theory

Having demonstrated in Part I of his book that the minimal state *can* be justified, Nozick set himself the task in Part II of showing that the minimal state “is the most that can be justified. Any state more extensive violates people’s rights” (p. 149). He turns first to arguments for more extensive state power that are based on a concept of distributive justice. He addresses this primarily by means of what he calls the “entitlement theory,” which also sets the stage for the application of his theory of rights to various other issues in political economy.

The first point Nozick makes in this regard is that the very expression “distributive justice” loads the dice somewhat, for it presupposes that there is a particular amount of stuff to be distributed and that some distributor has gotten something wrong that needs to be corrected by the state. However, he says, “we are not in the position of children who have been given portions of pie by someone who now makes last minute adjustments to rectify careless cutting. There is no *central* distribution, no person or group entitled to control all the resources, jointly deciding how they are to be doled out” (p. 149). Arguably, Marxism might be a counter-example to this last claim, but Nozick addresses Marxism later in the book. But certainly in even moderately liberal societies, the point is valid, as “diverse persons control different resources, and new holdings arise out of the voluntary exchanges and actions of persons” (p. 150). Market prices for both goods and labour can emerge without there being a central planner. So Nozick argues that, rather than refer to “distributions,” it would be more neutral to refer to people’s “holdings” and then present a theory of justice in holdings.

Nozick approaches his entitlement theory in three parts. First is a consideration of the original acquisition of holdings, the second concerns the

transfer of holdings from one person to another, and the third concerns the rectification of injustice in holdings. We'll look at these in turn, but in general, he argues that "the holdings of a person are just if he is entitled to them by the principles of justice in acquisition and transfer, or by the principle of rectification of injustice (as specified by the first two principles). If each person's holdings are just, then the total set (distribution) of holdings is just" (p. 153). It's easy to see why we need all the parts: it seems straightforward to say that if Smith freely gives something to Jones, Jones is entitled to that thing, but there may be more to the story. For example, if Smith steals Brown's car and then presents it to Jones as a gift, we wouldn't say that Jones is entitled to the car. So Smith has to be entitled to the car first before she can (justly) give it to Jones. But if Smith *is* so entitled, then Jones' holding is therefore just.

The important difference Nozick wants to highlight between his entitlement theory and the leading distributive-justice theories is that the other theories (see chapter 5) look at a current time-slice, or apply a structural principle such as utilitarianism, and thus are ahistorical, whereas his entitlement theory is historical. The ahistorical theories he calls "end-state principles." His point in making this distinction is that looking at the end state of affairs, or indeed any intermediate time-slice, may not tell us everything we need to know about justice. For example, say you come upon two children looking at their Halloween candy, and see that Jill has three Snickers bars and Jane has 27 pieces of hard candy and one Kit-Kat. You might think this is an unfair distribution; how could it be fair that Jane has so much more candy than Jill? That is one possibility, of course; Jane might have stolen some of Jill's stash. But another possibility is that Jill is exceptionally fond of Snickers and has traded away all her hard candy to obtain more of them. If this is what has happened, Nozick would say the holdings are just. Both children were entitled to their holdings before the trade, and then traded according to their (different) preferences, and thus are entitled to their holdings after the trade. Nozick favours historical principles because they "hold that past circumstances or actions of people can create differential entitlements or different deserts to things" (p. 155). If we adopted an ahistorical or end-state principle, such as "all children should have equal amounts of candy," we would actually be missing information about how the end-state arose that would be relevant to assessing its justice.

In particular, Nozick distinguishes his entitlement theory from principles of distribution he calls “patterned” (p. 156). These are principles of the form “distribute according to \_\_\_” – whether it is need, effort, contribution, or what have you. Patterned distributions declare an end-state just when the end-state has been brought about by the pattern. It might be easier to see what he means with a silly example, say, that resources should be distributed by height. So if we saw that, uniformly, the taller one was, the wealthier one was, this would be a “just” distribution, because it is what the pattern calls for. Less silly, perhaps, would be the call for all wealth to be distributed equally. This, too, would be a pattern: as long as everyone is equally wealthy (or equally poor), the distribution is just. In both cases, Nozick would say, we do not know all we need to know in order to claim that the distributions are just. His point is that people are entitled to whatever holdings arise from the correct application of the entitlement theory. In general, one might be entitled to something without “deserving it” on the basis of a patterned theory. For instance, if a kindly person ahead of you in line decides to “pay it forward” and sponsor your meal, you are entitled to that meal, although it would be odd to suggest that you *deserve* to be given a free meal.

The key aspect of the entitlement theory is it puts *process* ahead of *outcome*. This is in keeping with Nozick’s defense of rights against utilitarianism earlier in the book. The rights people have foreclose certain processes – to be killed, robbed, enslaved – and the way to acquire just holdings is to participate in certain processes – just transfers and just rectifications. Just holdings do not come about because they fit a preconceived pattern, but because they are the result of people engaging in just processes. It’s not enough to note that I have acquired five bars of gold – it matters whether I was given them in trade as opposed to having stolen them. To engage in the just processes that produce transfers, and therefore new holdings, is in fact an exercise of the rights Nozick described earlier. This brings us immediately to one of Nozick’s most influential arguments, which we take up in the next chapter.