

Chapter 6

Redistribution and the Growth of the State

The discussion of redistributivist arguments leaves Nozick in a position of having demonstrated that while the minimal state can be justified over the objection of individualist anarchists, no more extensive state can be. But he anticipates objections that the minimal state would be “frail and insubstantial” (p. 276). He addresses this sort of objection with a thought-experiment about the growth of the state which reveals how the subtle expansion of government power inevitably leads to rights violations.

In the thought-experiment, he imagines people in the minimal state realizing that they can trade or sell some of their rights—“raising money by selling shares in themselves” (p. 282). In principle, this is actually what people do all the time in the real world. By accepting a job offer, for example, you give up—trade—your right to watch TV all day, in exchange for receiving a paycheck. In the thought-experiment, the people sell or trade all sorts of rights: “the right to decide from which persons they could buy certain services (which they call occupational licensure rights); the right to decide what countries they would buy goods from (import-control rights); the right to decide whether or not they would use LSD, or heroin, or tobacco... (drug rights)” and several other examples (p. 283). Whoever ended up with majority shares in people’s rights would thereby have authority over that person.

Incautious critics castigate Nozick’s argument at this point, on the grounds that this theory of rights seems to mean people could sell themselves into slavery. This is not Nozick’s point, and of course it’s conceptually incoherent to suppose that slavery is compatible with the conception of rights as

inviolable moral side-constraints that he has advanced. His point, rather, is an allegory for how state power expands. Since in the allegory people have voluntarily sold off their rights, someone must be buying them—he imagines an assortment of holding companies. If the people imagined their rights as shares, then it would end up being that the person’s rights were owned by many, just as stock in real-world corporations is widely dispersed. Like at any stockholder’s meeting, there would be majoritarian decisions made about each person. Since this would be exceptionally unwieldy, “general decisions are made for everyone” (p. 285). But once the decisions are general and majoritarian, it’s hard to maintain that rights are no longer violated: some non-transferred rights will be treated as if they had been transferred. “Since the decisions apply to all equally,” Nozick elaborates, “...each person is thought to benefit from the efforts of the others to rule wisely over all, and each is an equal in this endeavor, having an equal say with the others” (p. 286). What is lost in the shuffle, he concludes, are the rights of the minority.

Nozick refers to this allegorical system as “demoktesis,” meaning “ownership of the people, by the people, and for the people,” (p. 290) wherein majority shareholder decisionmaking is binding on all, since, after all, the shareholders acquired the shares in people’s rights through having been sold them. It is ironic that Nozick’s critics treat this situation as a *reductio ad absurdum* of Nozickian rights theory, since the demoktesis is meant to be analogous to democratic governance. In telling this story, he says, “we have arrived, finally, at what is recognizable as a modern state. Indeed, we have arrived at a *democratic* state” (p. 290). The allegorical demoktesis shows that the basic idea of collective decisionmaking inevitably becomes rights violative, and that it doesn’t help matters to note that any particular individual “has a say,” since only the majority decision carries weight. This approach to governance cannot help but violate rights.

Lest the demoktesis allegory be too subtle, Nozick follows it with a related allegory that gets at the same point, the perhaps more well-known “Tale of the Slave” (pp. 291-293). This story proceeds by a series of nine steps, in which he asks the reader to first imagine a slave “completely at the mercy of his brutal master’s whims” (p. 290). In each of the subsequent steps, things seem to improve—for instance, beatings are not random, more free time is allowed,

and so on. One transition is from a situation where the slaves are only required to work for the master three days a week and can do what they want the other four days, to one where they can do whatever they want all seven days, but must send back three-sevenths of their wages. This step hearkens back to Nozick's earlier argument about the analogy between taxation and forced labour. The process continues to a situation in which all the other slaves (except the reader) get to vote on how much labour or money they (and the reader) must owe the master. Later, the reader gets to vote only when there's a tie, and later, votes like everyone else. In this case, Nozick observes, "[if the others happen to be] exactly tied your vote carries the issue. Otherwise it makes no difference to the electoral outcome" (p. 292). This scenario is, again, democratic society. In democratic society, we are allowed to attempt to persuade others, but failing that, are obliged to obey the result of the majority decision. In the final step of this allegory, it is the same, and Nozick says, "The question is: which transition from case 1 to case 9 made it no longer the tale of the slave?" (p. 292).

The point of the rhetorical question seems to be that the slave in the allegory remains very much unfree even in the final step, although to be sure she has more freedom than in the first step. But even in the last scenario, as long as more people than not think she should pay the master three-sevenths of her wages, she must do so, and it is not clear how this is different from earlier steps. That the brutality accompanying the rights violations has lessened does not change the fact that her rights are being violated. Step 9, like the *demoktesis*, is analogous to democratic society, and highlights the way in which democratic societies are not guarantees against rights violations. The error Nozick seems to be pointing to is the idea that participating in a majoritarian process somehow entails that one's rights are necessarily protected. But as the allegories show, that's simply incorrect. Majority-rule decisionmaking can violate rights just as easily as a king or slave-owner does. Democratic participation may lessen the scope of the violations, but does not eliminate them, and in one sense is potentially worse: since the nominal rationale for the rights violation is "the will of the people," it comes to have a greater veneer of moral authority than if it were simply the whim of the king or the master. So, Nozick reiterates, no state that doesn't have its basis in the protection of individual rights can be made consistent with those rights. So demands for a more robust state with

functions other than defensive necessarily involve holding some people's rights as less valuable than those of others, and, on the theory he's laid out, "there is *no* legitimate way to arrive at the asymmetry of rights" (p. 276).