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ANARCHY,
STATE,
AND
UTOPIA

Robert Nozick

With a New Foreword by Thomas Nagel

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ROBERT NOZICK

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ANARCHY, STATE, AND UTOPIA was written during a period of transformation and exceptional creativity in American moral and political philosophy. After a long fallow period in the middle of the twentieth century, when most philosophers ignored substantive questions of value, the attention of a new generation was engaged by John Rawls' writings on social justice and by the moral urgency of public controversies over the civil rights movement, the Vietnam War, and the legal control of sex and reproduction.

Robert Nozick was recognized by his peers for his brilliance and independence of mind, but he was part of a close-knit intellectual community that shared a common outlook on the nature of the questions, and a common understanding of the best method for thinking about them. This led to an extraordinarily fruitful interaction among a set of individuals who often disagreed radically on more specific moral and political issues. The community had an informal institutional embodiment in a discussion group called the Society for Ethical and Legal Philosophy (SELF), mentioned in Nozick's acknowledgments, which he and I organized in 1967 and which brought together philosophers, lawyers, and political theorists interested in substantive moral issues, whether about politics, law, or individual conduct. The group included Marshall Cohen, Ronald Dworkin, Owen Fiss, Charles Fried, Gilbert Harman, Frank Michelman, John Rawls, T. M. Scanlon, Judith Jarvis Thomson, and Michael Walzer, among others. For a number of years we met once a month during the academic year, alternating between New York and Cambridge, and on each occasion one of us presented a piece of work in progress for vigorous collective dissection and criticism. Except for Rawls, who was completing *A Theory of Justice*, the members were all just beginning to produce work in moral, political, and legal philosophy that would shape the field over the coming decades.

What united us were two convictions. One was a belief in the reality of the moral domain, as an area in which there are real questions with right and wrong answers, and not just clashing subjective reactions. The other was a belief that progress could be made toward discovering the right answers by formulating hypotheses at various levels of generality and subjecting them to confirmation or disconfirmation by the intuitive moral credibility of their various substantive consequences, as well as by their coherence in explaining those consequences. The method depended on taking seriously the evidential value of strong moral intuitions about particular cases, including imaginary cases, and then looking behind those intuitions for general principles, perhaps quite complex principles, which accounted for and justified them.

These two convictions amounted to a reaction against philosophical attitudes toward ethics that had been dominant in the recent past. One of the legacies of logical positivism was a general skepticism about value judgments, interpreted as essentially subjective expressions of feeling, unlike factual, scientific, or mathematical judgments, which could be verified or falsified, proved or disproved. Insofar as analytic philosophy aimed at discovering the truth, ethics was therefore thought not to be one of its legitimate subjects. In applying analytic methods of reasoning and argument to moral questions, we rejected this subjectivist outlook.

The other assumption we rejected was that if there were a systematic moral theory it would have been some form of utilitarianism. We distrusted not only the content of that theory but its form, which consisted of a single measure of the good—evaluated impartially for everyone—and subsidiary principles of rightness in conduct or of justice in institutions whose validity depended entirely on the instrumental value in promoting the maximum amount of that impartial good. Instead we were disposed to regard right and wrong as independent moral concepts, not definable in terms of a single homogenizing standard of good and bad outcomes. We took moral intuitions about particular examples of conduct and policy seriously as a way to discover the often subtle principles determining right and wrong, justice and injustice—principles that limit the means that may be used to promote even the best ends.

These convictions form the deep common element in the very disparate works that emerged from the group, such as Rawls' *A Theory of Justice*, Dworkin's *Taking Rights Seriously*, Walzer's *Just and Unjust Wars*, Thomson's "A Defense of Abortion," and Nozick's *Anarchy, State, and Utopia*. In spite of strong disagreements, they were all engaged in a recognizably common project of investigating by common methods the true complexity of the moral realm.

That said, Nozick's book presents a distinctive and radical position. He argues that the only legitimate state is a minimal state limited to the provision of security, the protection of property, and the enforcement of contracts—one that bears no resemblance to the modern welfare state with which we are familiar. His libertarianism rests on three claims: (1) the strict moral priority of a set of individual rights to freedom of action and association that limit what may be done to anyone by any other person or group, (2) the denial that there are any independent moral principles applying to collective or political institutions that cannot be derived from the natural rights of their individual members, and (3) the denial that there is a moral reason to mitigate social and economic inequality.

Nozick's interpretation of the logic of rights as side constraints is of fundamental philosophical importance, whether or not one agrees that the specific rights he identifies have the absolute priority that he gave them. Formally, this aspect of morality assigns to each person an inviolability that prohibits others from treating him in certain ways—killing, injuring, coercing, expropriating, defrauding him—except insofar as this may be necessary to prevent him from violating the same rights of others. Nozick emphasizes that it is not equivalent to counting the violation of such rights as a serious evil to be minimized, for that would justify the violation of rights to prevent greater violations by others—for example, committing one murder to prevent several other murders. Rights do not submit to such a calculus: they are boundaries around each innocent person that may not be crossed, even to prevent greater evils.

As becomes clear from Nozick's detailed and ingenious discussion, the delineation of these rights and their limits, showing how it is possible for them to be accorded consistently to everyone, is a complex and subtle matter. He recognizes the difficulties of defining the scope and limits of legitimate self-defense, or of specifying the conditions of acceptable imposition of risk on others together with principles of compensation as an alternative to coercive prohibition of activities that carry such risk. But whatever the details, his central thesis is clear: each person has a strict moral right to act freely, as he chooses, without interference by others, so long as he does not violate the equal rights of anyone else.

Nozick's conception of a free society follows if one takes this principle to provide the sole justification of coercion or force, for the state must employ coercion to enforce its laws and pursue its goals. If the freedom of individuals may not be interfered with, without their consent, unless they violate or threaten to violate the same freedom of others, the coercive state cannot have goals that go

beyond the protection of individual freedom. (Nozick rejects Locke's transition from individual natural rights to a stronger state via imputed universal consent.) Respect for rights is also the condition of justice: a social order is just if the distribution of advantages and disadvantages is the cumulative historical result of free choices by individuals acting within their rights to engage in production, acquisition, voluntary transactions, cooperative agreements, and bequests.

The difference between libertarianism and more mainstream liberal views is not just that liberals combine individual rights with other values in justifying state action. They also have a different view of what rights there are: most importantly, they do not include among the inviolable basic individual rights an unlimited natural right to acquire and dispose of private property. Instead they take proper rights to be determined in part by convention and law, including tax law. In the liberal view the justice of those laws depends not only on the right to personal liberty but on other values as well, such as the promotion of the general welfare, mitigation of economic insecurity, and equality of opportunity. For Nozick, by contrast, taxation for any purpose other than the protection of individual rights to liberty is as wrong as theft or forced labor (and in his theory it is no easy task to show that taxation even for that purpose is not illegitimately redistributive).

Nozick's rejection of a qualified and conventional definition of property rights depends on his strict moral individualism: the view that no independent moral principles apply to the evaluation of social and political institutions that cannot be derived from the preinstitutional principles governing individuals. This is a major difference from Rawls, who held that justice was essentially a virtue of institutions, rather than merely a consequence of justice in individual conduct. Nozick's view is also individualistic in the sense that he does not find it objectionable when some people are left with very little while others prosper greatly, simply because the former have almost nothing to offer that others are willing to pay for, while the latter can produce what many people value, or have been given resources by others who have earned them. He urges us to focus not on the results—the unequal welfare of the recipients—but on how those results come about, from the free choices of buyer and donor to direct their resources to whom they will, whether to obtain the goods or services they want to benefit someone they care about.

The moral importance of the point of view of the economic actor is one of the things that Nozick's insistence has made it henceforth impossible to ignore. Things or actions that may be beneficial do not come into existence out of nowhere; they often, in his words, “come already tied to people who have entitlements over them . . . , people who therefore may decide for themselves to whom they will give the thing and on what grounds” (p. 235). But it is also important that when it comes to state action Nozick believes there is nothing weighing on the other side of the balance. Specifically, he believes that even members of the same society have no claim on each other for positive assistance, apart from what is freely given. Each of us is entitled to our natural assets, and to whatever flows from them by the exercise of free cooperation and exchange with others. If some flourish and others are left behind there is nothing wrong in that, nothing that the state may use its power forcibly to correct. As Nozick says repeatedly, it is no more wrong than the fact that *A* cannot marry *B* because *B* prefers to marry *C*. *A* may be miserable, but no one has suffered a wrong or an injustice. There is no moral presumption in favor of equality; the separateness of persons is the basis of the moral order.

Nozick later gave up this uncompromising position, allowing to the state some of the aims that he had formerly permitted only to the free choice of individuals or voluntary associations. In *The Examined Life* (Simon & Schuster, 1989) he says that the libertarianism of *Anarchy, State, and Utopia* “neglected the symbolic importance of an official political concern with issues or problems, as a way of marking their importance or urgency, and hence of expressing, intensifying, channeling

encouraging, and validating our private actions and concerns toward them. . . . There are some things we choose to do together through government in solemn marking of our human solidarity, served by the fact that we do them together in this official fashion and often also by the content of the action itself” (p. 287). The implication seems to be that some form of social solidarity might legitimately be supported by taxes, and not just by charity.

Yet Nozick’s single-minded defense of a political theory based exclusively on individual rights remains a classic exploration of one important element in the evaluation of political institutions and policies. Though Nozick himself was the opposite of a political conservative in most of his views and attitudes, this libertarian element is part of the ideology of modern conservatism, and with the rise of free-market conservatism in the 1970s and 1980s, *Anarchy, State, and Utopia* was sometimes seen as providing that aspect of the movement with a philosophical foundation. (Analogously, the writings of Rawls and Dworkin were seen as providing philosophical foundations for the politics of egalitarian liberalism.) But the book’s interest is much wider than that. Like other works that develop in detail an extreme position, it is an absorbing stimulus to thought even for those whom it does not persuade. Nozick doesn’t just set out a position. The book is dense with argument, with questions and objections in response to every proposal, with multiple alternative possible responses to each question, with imaginative examples and analogies to illustrate every point. It deploys material from economics and decision theory to very good effect, and it includes fascinating digressions, of which the most famous is the section on the experience machine. The book is a dialectical feast, displaying the agility and intelligence of the highest order. It is also written in an irresistible style and voice, an audibly speaking voice full of energy and drive. And it is often very funny. Those who knew Nozick personally can hear him on every page.

Nozick went on to write books on other subjects, including *Philosophical Explanations* and *The Nature of Rationality*. Though *Anarchy, State, and Utopia* will continue to be his best-known work, he was much more than a political philosopher, and I would like to say something about the distinctive philosophical character that is manifest in all his writings.

Philosophy has always depended on the interaction and uneasy rivalry between the creative theoretical imagination, which tries to burst the boundaries of mental custom, and the disciplinary controls of logic and rational justification. These two forces of disorder and order have competed for dominance throughout the history of the subject. Both were present to the highest degree in Robert Nozick’s temperament, and he tried to give them both maximum expression. He loved formal structures and logical argument, but his approach to philosophical problems was fundamentally intuitive. His logical speed, strength, and accuracy made him intellectually fearless, and he was prepared to follow his imagination and his instincts wherever they led.

Early in his career he became known as the most lethal philosophical critic of his generation—someone who could come up with a counterargument or counterexample to any claim that even the most careful philosopher put forward. It must have occurred to Nozick, as it occurred to others, that no philosophical theory that he might devise could possibly resist his own critical powers. But because he thought it was better to make something new than to avoid error by defensive caution, he adopted toward his own exuberant creative impulses a kind of disinhibiting acceptance, and he did not subject them to his full destructive capacities—something that was absolutely necessary to permit them to flourish. The fact that he could see and acknowledge in advance the objections that others might raise gave him the authority to take this freedom, and he used his dialectical skills to produce some of the most original and absorbing structures of thought in contemporary philosophy—complex theories of rationality, rights, value, knowledge, personal identity, explanation, consciousness, objectivity, and

truth. The task led him far beyond the traditional bounds of philosophy, in a voracious attempt to grasp and make use of the major results of the social, physical, and biological sciences, and even Eastern mysticism. He was a philosopher of extraordinary range, and his deliberate recklessness together with the power and clarity of his mind gives his work an untamed but logically formidable character that sets it utterly apart.

Nozick was unlike anyone else. There seemed to be no passivity in his nature. His force of will, clarity of outline, and personal and cerebral charm made him an unforgettable presence. Personally, politically, and intellectually he was outspoken, and would rather say something decisive with which others could strongly disagree than something qualified that might reduce conflict. He distrusted the impulse to round off the corners, because he knew that it was easy to lose definition and avoid difficult choices that way. It was a form of courage, really: he recognized that to be the complete author of his words, his actions, and his outlook took constant effort and the willingness to draw fire.

He mellowed with time, but his fierce independence never diminished: his last book, *Invariances* is at least as daring as any of those that came before. He had the largest possible ambitions, and he used his extraordinary mental powers to transform his understanding of himself and the world and to express that understanding with a rare lucidity.

Thomas Nagel
March 2011

PREFACE

INDIVIDUALS have rights, and there are things no person or group may do to them (without violating their rights). So strong and far-reaching are these rights that they raise the question of what, if anything, the state and its officials may do. How much room do individual rights leave for the state? The nature of the state, its legitimate functions and its justifications, if any, is the central concern of this book; a wide and diverse variety of topics intertwine in the course of our investigation.

Our main conclusions about the state are that a minimal state, limited to the narrow functions of protection against force, theft, fraud, enforcement of contracts, and so on, is justified; that any more extensive state will violate persons' rights not to be forced to do certain things, and is unjustified; and that the minimal state is inspiring as well as right. Two noteworthy implications are that the state may not use its coercive apparatus for the purpose of getting some citizens to aid others, or in order to prohibit activities to people for their *own* good or protection.

Despite the fact that it is only coercive routes toward these goals that are excluded, while voluntary ones remain, many persons will reject our conclusions instantly, knowing they don't want to believe anything so apparently callous toward the needs and suffering of others. I know that reaction because it was mine when I first began to consider such views. With reluctance, I found myself becoming convinced of (as they are now often called) libertarian views, due to various considerations and arguments. This book contains little evidence of my earlier reluctance. Instead, it contains many of the considerations and arguments, which I present as forcefully as I can. Thereby, I run the risk of offending doubly: for the position expounded, and for the fact that I produce reasons to support the position.

My earlier reluctance is not present in this volume, because it has disappeared. Over time, I have grown accustomed to the views and their consequences, and I now see the political realm through them. (Should I say that they enable me to see through the political realm?) Since many of the people who take a similar position are narrow and rigid, and filled, paradoxically, with resentment at other freer ways of being, my now having natural responses which fit the theory puts me in some better company. I do not welcome the fact that most people I know and respect disagree with me, having outgrown the not wholly admirable pleasure of irritating or dumbfounding people by producing strong reasons to support positions they dislike or even detest.

I write in the mode of much contemporary philosophical work in epistemology or metaphysics: there are elaborate arguments, claims rebutted by unlikely counterexamples, surprising theses, puzzles, abstract structural conditions, challenges to find another theory which fits a specified range of cases, startling conclusions, and so on. Though this makes for intellectual interest and excitement (I hope), some may feel that the truth about ethics and political philosophy is too serious and important to be obtained by such "flashy" tools. Nevertheless, it may be that correctness in ethics is not found in what we naturally think.

A codification of the received view or an explication of accepted principles need not use elaborate arguments. It is thought to be an objection to other views merely to point out that they conflict with

the view which readers wish anyway to accept. But a view which differs from the readers' cannot argue for itself merely by pointing out that the received view conflicts with *it*! Instead, it will have to subject the received view to the greatest intellectual testing and strain, via counterarguments, scrutiny of its presuppositions, and presentation of a range of possible situations where even its proponents are uncomfortable with its consequences.

Even the reader unconvinced by my arguments should find that, in the process of maintaining and supporting his view, he has clarified and deepened it. Moreover, I like to think, intellectual honesty demands that, occasionally at least, we go out of our way to confront strong arguments opposed to our views. How else are we to protect ourselves from continuing in error? It seems only fair to remind the reader that intellectual honesty has its dangers; arguments read perhaps at first in curious fascination may come to convince and even to seem natural and intuitive. Only the refusal to listen guarantees one against being ensnared by the truth.

The contents of this volume are its particular arguments; still, I can indicate further what is to come. Since I begin with a strong formulation of individual rights, I treat seriously the anarchist claim that in the course of maintaining its monopoly on the use of force and protecting everyone within its territory, the state must violate individuals' rights and hence is intrinsically immoral. Against this claim, I argue that a state would arise from anarchy (as represented by Locke's state of nature) even though no one intended this or tried to bring it about, by a process which need not violate anyone's rights. Pursuing this central argument of [Part I](#) leads through a diversity of issues; these include why moral views involve side constraints on action rather than merely being goal directed, the treatment of animals, why it is so satisfying to explain complicated patterns as arising by processes in which no one intends them, the reasons why some actions are prohibited rather than allowed provided compensation is paid to their victims, the nonexistence of the deterrence theory of punishment, issues about prohibiting risky actions, Herbert Hart's so-called "principle of fairness," preemptive attack and preventive detention. These issues and others are brought to bear in investigating the nature and moral legitimacy of the state and of anarchy.

[Part I](#) justifies the minimal state; [Part II](#) contends that no more extensive state can be justified. I proceed by arguing that a diversity of reasons which purport to justify a more extensive state, do not. Against the claim that such a state is justified in order to achieve or produce distributive justice among its citizens, I develop a theory of justice (the entitlement theory) which does not require a more extensive state, and use the apparatus of this theory to dissect and criticize other theories of distributive justice which do envisage a more extensive state, focusing especially on the recent and powerful theory of John Rawls. Other reasons that some might think justify a more extensive state are criticized, including equality, envy, workers' control, and Marxian theories of exploitation. (Readers who find [Part I](#) difficult should find [Part II](#) easier, with [Chapter 8](#) easier than [Chapter 7](#).) [Part II](#) closes with a hypothetical description of how a more extensive state might arise, a tale designed to make such a state quite unattractive. Even if the minimal state is the uniquely justifiable one, it may seem pale and unexciting, hardly something to inspire one or to present a goal worth fighting for. To assess this, I turn to that preeminently inspiring tradition of social thought, utopian theory, and argue that what can be saved from this tradition is precisely the structure of the minimal state. The argument involves a comparison of different methods of shaping a society, design devices and filter devices, and the presentation of a model which invites application of the mathematical economist's notion of the core of an economy.

My emphasis upon the conclusions which diverge from what most readers believe may mislead one into thinking this book is some sort of political tract. It is not; it is a philosophical exploration

issues, many fascinating in their own right, which arise and interconnect when we consider individual rights and the state. The word “exploration” is appropriately chosen. One view about how to write a philosophy book holds that an author should think through all of the details of the view he presents and its problems, polishing and refining his view to present to the world a finished, complete, and elegant whole. This is not my view. At any rate, I believe that there also is a place and a function for our ongoing intellectual life for a less complete work, containing unfinished presentations, conjectures, open questions and problems, leads, side connections, as well as a main line of argument. There is room for words on subjects other than last words.

Indeed, the usual manner of presenting philosophical work puzzles me. Works of philosophy are written as though their authors believe them to be the absolutely final word on their subject. But it is not, surely, that each philosopher thinks that he finally, thank God, has found the truth and built an impregnable fortress around it. We are all actually much more modest than that. For good reason. Having thought long and hard about the view he proposes, a philosopher has a reasonably good idea about its weak points; the places where great intellectual weight is placed upon something perhaps too fragile to bear it, the places where the unravelling of the view might begin, the unprobed assumptions he feels uneasy about.

One form of philosophical activity feels like pushing and shoving things to fit into some fixed perimeter of specified shape. All those things are lying out there, and they must be fit in. You push and shove the material into the rigid area getting it into the boundary on one side, and it bulges out on another. You run around and press in the protruding bulge, producing yet another in another place. So you push and shove and clip off corners from the things so they’ll fit and you press in until finally almost every thing sits unstably more or less in there; what doesn’t get heaved *far* away so that it won’t be noticed. (Of course, it’s not all *that* crude. There’s also the coaxing and cajoling. And the body English.) *Quickly*, you find an angle from which it looks like an exact fit and take a snapshot; a fast shutter speed before something else bulges out too noticeably. Then, back to the darkroom to touch up the rents, rips, and tears in the fabric of the perimeter. All that remains is to publish the photograph as a representation of exactly how things are, and to note how nothing fits properly in any other shape.

No philosopher says: “There’s where I started, here’s where I ended up; the major weakness in my work is that I went from there to here; in particular, here are the most notable distortions, pushing and shovings, maulings, gougings, stretchings, and chippings that I committed during the trip; not to mention the things thrown away and ignored, and all those avertings of gaze.”

The reticence of philosophers about the weaknesses they perceive in their own views is not, I think, simply a question of philosophical honesty and integrity, though it *is* that or at least becomes that when brought to consciousness. The reticence is connected with philosophers’ purposes in formulating views. Why do they strive to force everything into that one fixed perimeter? Why not another perimeter, or, more radically, why not leave things where they are? What does having everything within a perimeter *do* for us? Why do we want it so? (What does it shield us from?) From these deep (and frightening) questions, I hope not to be able to manage to avert my gaze in future work.

However, my reason for mentioning these issues here is not that I feel they pertain more strongly to this work than to other philosophical writings. What I say in this book is, I think, correct. This is not my way of taking it back. Rather, I propose to give it all to you: the doubts and worries and uncertainties as well as the beliefs, convictions, and arguments.

At those particular points in my arguments, transitions, assumptions, and so forth, where I feel the

strain, I try to comment or at least to draw the reader's attention to what makes me uneasy. In advance, it is possible to voice some general theoretical worries. This book does not present a precise theory of the moral basis of individual rights; it does not contain a precise statement and justification of a theory of retributive punishment; or a precise statement of the principles of the tripartite theory of distributive justice it presents. Much of what I say rests upon or uses general features that I believe such theories would have were they worked out. I would like to write on these topics in the future. If I do, no doubt the resulting theory will differ from what I now expect it to be, and this would require some modifications in the superstructure erected here. It would be foolish to expect that I should complete these fundamental tasks satisfactorily; as it would be to remain silent until they are done. Perhaps this essay will stimulate others to help.

ACKNOWLEDGMENTS

THE first of the nine chapters of this essay were written during 1971–1972, while I was a Fellow at the Center for Advanced Study in the Behavioral Sciences at Palo Alto, a minimally structured academic institution bordering on individualist anarchy. I am very grateful to the Center and its staff for providing an environment so conducive to getting things done. [Chapter 10](#) was presented in a symposium on “Utopia and Utopianism” at a meeting of the Eastern Division of the American Philosophical Association in 1969; some points from that delivered address appear scattered in the other chapters. The whole manuscript was rewritten during the summer of 1973.

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PART

I

State-of-Nature Theory, or How to Back into a State without Really Trying

Why State-of-Nature Theory ?

IF the state did not exist would it be necessary to invent it? Would one be *needed*, and would it have to be *invented*? These questions arise for political philosophy and for a theory explaining political phenomena and are answered by investigating the “state of nature,” to use the terminology of traditional political theory. The justification for resuscitating this archaic notion would have to be the fruitfulness, interest, and far-reaching implications of the theory that results. For the (less trusting) readers who desire some assurance in advance, this chapter discusses reasons why it is important to pursue state-of-nature theory, reasons for thinking that theory would be a fruitful one. These reasons are necessarily somewhat abstract and metatheoretical. The best reason is the developed theory itself.

POLITICAL PHILOSOPHY

The fundamental question of political philosophy, one that precedes questions about how the state should be organized, is whether there should be any state at all. Why not have anarchy? Since anarchist theory, if tenable, undercuts the whole subject of *political* philosophy, it is appropriate to begin political philosophy with an examination of its major theoretical alternative. Those who consider anarchism not an unattractive doctrine will think it possible that political philosophy *ends* here as well. Others impatiently will await what is to come afterwards. Yet, as we shall see, anarchists and anarchists alike, those who spring gingerly from the starting point as well as those reluctantly argued away from it, can agree that beginning the subject of political philosophy with state-of-nature theory has an *explanatory* purpose. (Such a purpose is absent when epistemology is begun with an attempt to refute the skeptic.)

Which anarchic situation should we investigate to answer the question of why not anarchy? Perhaps the one that would exist if the actual political situation didn't, while no other possible political one did. But apart from the gratuitous assumption that everyone everywhere would be in the same nonstate boat and the enormous unmanageability of pursuing that counterfactual to arrive at a particular situation, that situation would lack fundamental theoretical interest. To be sure, if the nonstate situation were sufficiently awful, there would be a reason to refrain from dismantling and destroying a particular state and replacing it with none, now.

It would be more promising to focus upon a fundamental abstract description that would encompass all situations of interest, including “where we would now be if.” Were this description awful enough, the state would come out as a preferred alternative, viewed as affectionately as a trip to the dentist. Such awful descriptions rarely convince, and not merely because they fail to cheer. The subjects of psychology and sociology are far too feeble to support generalizing so pessimistical

across all societies and persons, especially since the argument depends upon *not* making such pessimistic assumptions about how the *state* operates. Of course, people know something of how actual states have operated, and they differ in their views. Given the enormous importance of the choice between the state and anarchy, caution might suggest one use the “minimax” criterion, and focus upon a pessimistic estimate of the nonstate situation: the state would be compared with the most pessimistically described Hobbesian state of nature. But in using the minimax criterion, the Hobbesian situation should be compared with the most pessimistically described possible state, including *future* ones. Such a comparison, surely, the worst state of nature would win. Those who view the state as an abomination will not find minimax very compelling, especially since it seems one could always bring back the state if that came to seem desirable. The “maximax” criterion, on the other hand, would proceed on the most optimistic assumptions about how things would work out—Godwin, if you like that sort of thing. But imprudent optimism also lacks conviction. Indeed, neither proposed decision criterion for choice under uncertainty carries conviction here, nor does maximizing expected utility on the basis of such frail probabilities.

More to the point, especially for deciding what goals one should try to achieve, would be to focus upon a nonstate situation in which people generally satisfy moral constraints and generally act as they ought. Such an assumption is not wildly optimistic; it does not assume that all people act exactly as they should. Yet this state-of-nature situation is the best anarchic situation one reasonably could hope for. Hence investigating its nature and defects is of crucial importance to deciding whether there should be a state rather than anarchy. If one could show that the state would be superior even to the most favored situation of anarchy, the best that realistically can be hoped for, or would arise by a process involving no morally impermissible steps, or would be an improvement if it arose, this would provide a rationale for the state’s existence; it would justify the state.*

This investigation will raise the question of whether all the actions persons must do to set up and operate a state are themselves morally permissible. Some anarchists have claimed not merely that we would be better off without a state, but that any state necessarily violates people’s moral rights and hence is intrinsically immoral. Our starting point then, though nonpolitical, is by intention far from nonmoral. Moral philosophy sets the background for, and boundaries of, political philosophy. Where persons may and may not do to one another limits what they may do through the apparatus of a state or do to establish such an apparatus. The moral prohibitions it is permissible to enforce are the source of whatever legitimacy the state’s fundamental coercive power has. (Fundamental coercive power is power not resting upon any consent of the person to whom it is applied.) This provides a primary arena of state activity, perhaps the only legitimate arena. Furthermore, to the extent moral philosophy is unclear and gives rise to disagreements in people’s moral judgments, it also sets problems which one might think could be appropriately handled in the political arena.

EXPLANATORY POLITICAL THEORY

In addition to its importance for political philosophy, the investigation of this state of nature also will serve explanatory purposes. The possible ways of understanding the political realm are as follows: (1) to fully explain it in terms of the nonpolitical; (2) to view it as emerging from the nonpolitical but irreducible to it, a mode of organization of nonpolitical factors understandable only in terms of novel political principles; or (3) to view it as a completely autonomous realm. Since only the first promises a full understanding of the whole political realm,¹ it stands as the most desirable theoretical alternative.

to be abandoned only if known to be impossible. Let us call this most desirable and complete kind of explanation of a realm a *fundamental* explanation of the realm.

To explain fundamentally the political in terms of the nonpolitical, one might start either with a nonpolitical situation, showing how and why a political one later would arise out of it, or with a political situation that is described nonpolitically, deriving its political features from its nonpolitical description. This latter derivation either will identify the political features with those features nonpolitically described, or will use scientific laws to connect distinct features. Except perhaps for this last mode, the illumination of the explanation will vary directly with the independent glow of the nonpolitical starting point (be it situation or description) and with the distance, real or apparent, of the starting point from its political result. The more fundamental the starting point (the more it picks out basic, important, and inescapable features of the human situation) and the less close it is or seems to its result (the less political or statelike it looks), the better. It would not increase understanding to reach the state from an arbitrary and otherwise unimportant starting point, obviously adjacent to the start. Whereas discovering that political features and relations were reducible to, or identical with, ostensibly very different nonpolitical ones would be an exciting result. Were these features fundamental, the political realm would be firmly and deeply based. So far are we from such a major theoretical advance that prudence alone would recommend that we pursue the alternative of showing how a political situation would arise out of a nonpolitical one; that is, that we begin a fundamental *explanatory* account with what is familiar within political philosophy as state-of-nature theory.

A theory of a state of nature that begins with fundamental general descriptions of moral principles, permissible and impermissible actions, and of deeply based reasons why some persons in any society would violate these moral constraints, and goes on to describe how a state would arise from that state of nature will serve our explanatory purposes, *even if no actual state ever arose that way*. Hempel has discussed the notion of a potential explanation, which intuitively (and roughly) is what would be the correct explanation if everything mentioned in it were true and operated.² Let us say that a *law-defective* potential explanation is a potential explanation with a false lawlike statement and that a *fact-defective* potential explanation is a potential explanation with a false antecedent condition. A potential explanation that explains a phenomenon as the result of a process *P* will be defective (even though it is neither law-defective nor fact-defective) if some process *Q* other than *P* produced the phenomenon though *P* was capable of doing it. Had this other process *Q* not produced it, then *P* would have.* Let us call a potential explanation that fails in this way actually to explain the phenomenon a *process-defective* potential explanation.

A *fundamental* potential explanation (an explanation that would explain the whole realm under consideration were it the actual explanation) carries important explanatory illumination even if it is *not* the correct explanation. To see how, in principle, a *whole realm* could fundamentally be explained greatly increases our understanding of the realm.† It is difficult to say more without examining types of cases; indeed, without examining particular cases, but this we cannot do here. Fact-defective fundamental potential explanations, if their false initial conditions “could have been true,” will carry great illumination; even wildly false initial conditions will illuminate, sometimes very greatly. Law-defective fundamental potential explanations may illuminate the nature of a realm almost as well as the correct explanations, especially if the “laws” together form an interesting and integrated theory. And process-defective fundamental potential explanations (which are neither law-defective nor fact-defective) fit our explanatory bill and purposes almost perfectly. These things could not be said as strongly, if at all, about nonfundamental explanation.

State-of-nature explanations of the political realm *are* fundamental potential explanations of the

realm and pack explanatory punch and illumination, even if incorrect. We learn much by seeing how the state could have arisen, even if it didn't arise that way. If it didn't arise that way, we also would learn much by determining why it didn't; by trying to explain why the particular bit of the real world that diverges from the state-of-nature model is as it is.

Since considerations both of political philosophy and of explanatory political theory converge upon Locke's state of nature, we shall begin with that. More accurately, we shall begin with individuals in something sufficiently similar to Locke's state of nature so that many of the otherwise important differences may be ignored here. Only when some divergence between our conception and Locke's is relevant to *political* philosophy, to our argument about the state, will it be mentioned. The completely accurate statement of the moral background, including the precise statement of the moral theory and its underlying basis, would require a full-scale presentation and is a task for another time. (A lifetime?) That task is so crucial, the gap left without its accomplishment so yawning, that it is only a minor comfort to note that we here are following the respectable tradition of Locke, who does not provide anything remotely resembling a satisfactory explanation of the status and basis of the law of nature in his *Second Treatise*.

* This contrasts with a theory that presents a state's arising from a state of nature by a natural and inevitable process of *deterioration*, rather as medical theory presents aging or dying. Such a theory would not "justify" the state, though it might resign to its existence.

* Or, perhaps yet *another* process *R* would have if *Q* hadn't, though had *R* not produced the phenomenon, then *P* would have, . . . So the footnoted sentence should read: *P* would have produced the phenomenon had no member of [*Q*, *R*, . . .] done so. We ignore here the complication that what would prevent *Q* from producing the phenomenon might also prevent *P* from doing so.

† This claim needs to be qualified. It will not increase our understanding of a realm to be told as a potential explanation what we know to be false: that by doing a certain dance, ghosts or witches or goblins made the realm that way. It is plausible to think that an explanation of a realm must present an underlying mechanism yielding the realm. (Or do something else equally productive to our understanding.) But to say this is not to state precisely the deep conditions an underlying mechanism must satisfy to explain a realm. The precise qualification of the claim in the text awaits advances in the theory of explanation. Yet other difficulties call for such advances; see Jaegwon Kim, "Causation, Nomic Subsumption, and the Concept of Event," *The Journal of Philosophy*, 70, no. 1 (April 26, 1973), 217–236.

The State of Nature

INDIVIDUALS in Locke's state of nature are in "a state of perfect freedom to order their actions and dispose of their possessions and persons as they think fit, within the bounds of the law of nature without asking leave or dependency upon the will of any other man" (sect. 4).¹ The bounds of the law of nature require that "no one ought to harm another in his life, health, liberty, or possessions" (sect. 6). Some persons transgress these bounds, "invading others' rights and . . . doing hurt to one another" and in response people may defend themselves or others against such invaders of rights (chap. 3). The injured party and his agents may recover from the offender "so much as may make satisfaction for the harm he has suffered" (sect. 10); "everyone has a right to punish the transgressors of that law to such a degree as may hinder its violation" (sect. 7); each person may, and may only "retribute to [a criminal] so far as calm reason and conscience dictate, what is proportionate to his transgression, which is so much as may serve for reparation and restraint" (sect. 8).

There are "inconveniences of the state of nature" for which, says Locke, "I easily grant that civil government is the proper remedy" (sect. 13). To understand precisely what civil government provides as remedies, we must do more than repeat Locke's list of the inconveniences of the state of nature. We also must consider what arrangements might be made within a state of nature to deal with the inconveniences—to avoid them or to make them less likely to arise or to make them less serious on the occasions when they do arise. Only after the full resources of the state of nature are brought into play, namely all those voluntary arrangements and agreements persons might reach acting within their rights, and only after the effects of these are estimated, will we be in a position to see how serious are the inconveniences that yet remain to be remedied by the state, and to estimate whether the remedy is worse than the disease.*

In a state of nature, the understood natural law may not provide for every contingency in a proper fashion (see sections 159 and 160 where Locke makes this point about legal systems, but contrast section 124), and men who judge in their own case will always give themselves the benefit of the doubt and assume that they are in the right. They will overestimate the amount of harm or damage they have suffered, and passions will lead them to attempt to punish others more than proportionate and to exact excessive compensation (sects. 13, 124, 125). Thus private and personal enforcement of one's rights (including those rights that are violated when one is excessively punished) leads to feud to an endless series of acts of retaliation and exactions of compensation. And there is no firm way to settle such a dispute, to end it and to have both parties know it is ended. Even if one party says he will stop his acts of retaliation, the other can rest secure only if he knows the first still does not feel entitled to gain recompense or to exact retribution, and therefore entitled to try when a promising occasion presents itself. Any method a single individual might use in an attempt irrevocably to bring

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