

A labour rights-based critique of Nozick's entitlement theory

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Abstract

Robert Nozick's libertarian theory of justice as entitlement proposes that any transfer of private property, including one's skills, based on voluntary consent is legitimate. Applied to the labour context, Nozick contends that labour agreements free from direct coercion are just and should be unregulated to preserve autonomy and liberty, regardless of potential exploitation. This paper argues that Nozick's understanding of consent neglects the lived realities and socioeconomic inequalities that are evident in, for example, employment in the mica mining industry in India, and thus fails to address the unjust exploitation of workers. Mica mining is characterised by hazardous working conditions, child exploitation, and poor compensation rooted in socioeconomic desperation. This paper aims to highlight the necessity-driven, rather than consensual, participation of vulnerable members of society. Through a detailed analysis of Nozick's libertarian principles and their application to labour in a case study of mica mining, this paper demonstrates that the overemphasis on consent and minimal state intervention integral to this theory fails to protect those most vulnerable. This critique uncovers the limitations of Nozick's theory in addressing socioeconomic injustices and emphasises the need for a more comprehensive approach that considers social context and workers' rights. The conclusion of this paper is that Nozick's entitlement theory is incapable of achieving substantive justice in the context of labour rights.

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1. Introduction

The theory of justice as entitlement introduced by Robert Nozick asserts that the legitimate transfer of private property is based on the consent of the previous owner given without threat or coercion. However, this theory condones the active exploitation of the most vulnerable members of society trapped in industries of transfer on the basis of consent, such as mica mining in India. The mine workers in this industry have little access to socioeconomic resources and therefore have limited employment choices. Nozick's theory maintains that products of their labour are still legitimately obtained by corporations and should not be interfered with through the imposition of authoritative rules. In this paper, I will argue that Nozick's understanding of consent neglects the lived realities and systematic injustices prevalent in the employment of mica miners and ultimately fails to challenge the unjust exploitation thereof.

Firstly, this paper will provide a brief overview of Nozick's theory of justice as entitlement in terms of his conception of liberty, consent, and the minimal role of the state. Secondly, I will evaluate rights and consent in the workplace from a Nozickian perspective. Thirdly, I will provide a practical application of Nozick's theory through the examination of the mica mining industry in India. Finally, I will draw upon this application to examine the shortcomings in Nozick's consent argument to show how his theory inadequately addresses socioeconomic injustices.

2. Overview of Nozick's theory of justice as entitlement

Nozick's theory of justice as entitlement is firmly rooted in libertarian principles, with the focus of his

political theory being the freedom of individuals. His argument begins with the premise that individuals have innate natural rights to liberty derived from the state of nature.¹ The conclusion leading from this is that a human being cannot be used by another as a resource because no one can own or infringe on another's rights (Wolff, 1991:7). This is because in the libertarian view, social entities are a consequence of individual interactions. Therefore, society fundamentally consists of individual people living individual lives rather than social groups and to use a person for another's benefit amounts to nothing more than disregard for their autonomy and separateness (Farrelly, 2004:61).² Nock (1992:678) claims that the overriding moral imperative demands that individuals are regarded as the final arbitrators in their own decisions and preferences.

Scanlon (1976:20) highlights that Nozick views the right to exercise one's freedom as a natural right in the strong sense. This means that the creation and legitimacy of these rights are not grounded in the state or any other authoritative body, since people possess these natural rights independently of the social institutions in which they live. Therefore, the state must have no moral role since to do so would amount to the state doing for people what they are already entitled to do for themselves (ibid.). Nozick's strict separation between morality and politics is a problematic assumption that he fails to justify sufficiently. Nozick believes that this is an unjustifiable violation of individual liberty and therefore an illegitimate exercise of state power (ibid.). As such, the only state that can be justified is the minimal state, which bears the singular function of enforcing these natural rights and rectifying unjust holdings (Wolff, 1991:73; Nozick, 1974:149).

¹ "State of nature" here refers to the Hobbesian concept introduced in "Chapter XIII: Of the Natural Condition of Mankind, as Concerning Their Felicity and Misery" in Thomas Hobbes' *Leviathan* (1985, originally published in 1651). The state of nature describes the chaotic and conflict-ridden condition that human beings would devolve into without societal structures and authorities. The assertion that individuals have innate rights derived from this condition means that people inherently possess

the freedom to do whatever is necessary to preserve their own lives and interests.

² The libertarian hyper-individualism is problematic in its oversimplification as it overlooks how individual autonomy can be shaped by social structures and interdependencies and fails to account for the ethical complexities of how individuals' choices can impact collective welfare.

Nozick derives his theory of justice as entitlement from the ownership of private property (Wolff, 1991:9). Therefore, freedom is exercised through legitimate transactions involving private property, giving rise to distributions of wealth and property. Wendt (2011:255) explains that a just Nozickian distribution of property arises from free, voluntary transfers of property acquired legitimately – not from equal distribution, which John Rawls advocates for. This highlights a key distinction between Nozick's theory of justice and Rawls' earlier theory where he argues that justice is fairness and equality (Rawls, 1971:11), whereas Nozick posits that holdings have attached entitlement and cannot be distributed equally. Just holdings constitute entitlements. A holding is unjust if it has been acquired through violence, fraud, slavery, or forcible exclusion of others (Nozick, 1974:152). No one is entitled to interfere with these rights, not even the state. According to Nozick, people are entitled to these legitimately obtained assets because their possession does not violate the entitlement of anyone else to these assets (De Gregori, 1979:20).

Consent consequently plays a vital role in Nozick's theory, according to Wolff (1991:7), since Nozick posits that the only things that can legitimately be done to an individual are those to which one agrees, and a lack of consent constitutes a violation of liberty. This includes anything done to one's property. A person's freedom depends on the extent to which others are unable to exert control over them, and to what extent one consents to this control (Wood, 2016:98). This echoes Nozick's (1974:151) core principle of justice that a distribution of property and wealth is just if people are entitled to their holdings through original acquisition, which is the process of obtaining a piece of property for the first time, or voluntary transfer.

Summarily, Nozick condemns any holding acquired through force or coercion that limits individual freedom. Therefore, consent is the primary basis for evaluation of whether a transaction is just. Nozick's evaluation of human interaction is thus governed by a narrow and specific concept that makes no mention of

the social context or relationships in which a person operates but rather treats people as individuals separated from their environment.

3. Nozick on labour rights

The point of departure for Nozick regarding labour is freely given consent. Labour is a voluntary transaction whereby the employee produces something of value to the employer in exchange for money and other benefits. Where the issue of exploitative labour necessarily arises, Nozick (1974:262) responds that the voluntariness of an individual's action depends on the alternatives available to them, and whether these alternatives are directly limited by another person. However, the concept of exploitation extends beyond the scope of voluntariness alone.

Exploitation is the use of a person's vulnerability to achieve the ends of the exploiter (Wood, 2016:92). It is not necessarily harmful or unjust, and exploitation can occur without an infringement of a person's liberty (ibid.). In the modern labour market, employers possess greater power through control of the means of production, job opportunities, and income, whereas employees are vulnerable because they need these things and must satisfy the conditions of the employer to attain them. This creates a power imbalance wherein Nozick asserts that employees still retain the autonomy to accept or reject these working conditions, but they are simultaneously choosing to dispose of the benefits that would come with employment (ibid.:97). This is not unjust, but a demonstration of autonomy which should be respected (ibid.).

This claim ignores the reality that few people are able to choose their working conditions freely because not working at all will render them unable to afford the

basic necessities needed for survival.³ Additionally, while this scenario may be exploitative, it gives rise to a mutually beneficial agreement wherein the employer gained the services of the employee and the employee was paid, which is better for them than if no transaction had occurred at all (Zwolinski, 2007:705).

Nozick holds that exploitation only becomes problematic when it constitutes coercion, as coercion threatens freedom by removing options from an individual, thereby altering their choice set and limiting their autonomy (Wood, 2016:99). Coercion occurs where, for example, a government directly interferes with a market through the policy implementation such as licensing requirements, trade restrictions, and minimum wage regulations, in order to adjust outcomes and thereby distort conditions utilised in individual decision-making (Lindsay, 2020:445). Lindsay (ibid.:449) argues that an individual facing poverty due to lack of employment opportunities in the labour market cannot be said to have been wronged as the market itself because lacks a clearly identifiable wrongdoer. This is unlike the identifiable state imposing regulations on the market with specific intended outcomes.⁴ To Nozick, this state of poverty is merely an unfortunate matter of chance but not coercive – it arises out of bad luck, not violations of liberty since no entity actively infringes on an individual's liberty. This completely ignores the role of structural violence such as structural racism, ableism, xenophobia, sexism, and heteronormativity in the cycle of poverty. Nozick assumes equality from the outset, which, given the inability of people to choose the lives they are born into, is fundamentally incorrect.

Therefore, Nozick believes that where workers are faced with the choice of working or starving, choosing to work is still voluntary even if the terms are exploitative – as long as the exploitation does not

violate their liberty or directly remove alternatives from their range of decisions (Wolff, 1991:84). It is difficult to reconcile this position with Nozick's prioritisation of liberty. He outright denies that workers taking employment opportunities with harsh working conditions, poor legal protection, and low pay are coerced (Spector, 2006:1127). He justifies this by claiming that the lack of more attractive employment alternatives arises because of other people exercising their rights legitimately and thus cannot be unjust (ibid.).

Worker's choices, even in harsh conditions like mines, are significant because they exercise their autonomy (Zwolinski, 2007:689). Nozick argues that most workers willingly accept their employment conditions, even if their options are limited. Beyond a prohibition on direct coercion, Nozick imposes no moral obligations on employers towards their employees – as it would amount to an unacceptable infringement of an employer's liberty. Nozick's employer is free to set whatever working conditions they see fit, and the worker acts as a free agent in selecting an option they deem most befitting their own preferences – even if it is exploitative. It is important to recognise that such choices are made because the alternatives – such as homelessness, financial instability or starvation – are far less desirable. Removing the most preferred option from someone in dire socioeconomic circumstances through normative rights on the grounds that it is exploitative, ultimately harms the individual it is trying to protect, and imposes an unacceptable limitation on their freedom that Nozick argues is unjustifiable (ibid.:695). Nozick argues that this is also unjustified as it does not involve direct coercion by rather mutually beneficial exploitation, which ultimately provides workers with more options, even if they are limited. (ibid.:701).

³ This observation supports the paper's argument that the Nozickian understanding of labour rights neglects the social and economic realities of workers, particularly in the necessity-driven nature of modern employment. This point that will be expanded on later in the paper.

⁴ This assumes that the market is inherently free when there is very little to indicate that it is. Scholars such as Bernard Harcourt assert that the free market is purely an illusion and is instead a heavily regulated system (Brivot, 2011:2).

Nozick's minimal state would oppose an external entity imposing substantive rules on a free and voluntary marketplace, arguing that people choose jobs based on preferences, such as meaningful work or higher wages. The state has no place to interfere with these choices (Maitland, 1989:952). He does not seem to impose the same scrutiny on workplace policies implemented by companies themselves.⁵ Therefore, establishing a set of moral rights for the workplace infringes on the freedom of the worker to choose the terms and conditions of their employment that they judge best for themselves. However, given the power imbalance inherent to the workplace, it may be impossible for workers to advocate for better conditions. Nevertheless, Nozick argues that establishing workplace rights restricts workers' autonomy by imposing terms they did not directly choose and cannot escape (Maitland, 1989:954). This ignores the fact that labour rights are developed to protect workers against workplace power imbalances and provide benefits and rights that a reasonable person is unlikely to object to and is thus protective of individual liberty.

This section demonstrated that in the consideration of employment rights, Nozick's theory avoids engagement with normative rules and instead emphasises the sanctity of (abstract) consent and liberty. It is these overly idealised concepts, disconnected from real-world conditions, that lead to the paradoxical and impractical conclusion that workplace rights that operate to protect workers are instead harmful. Therefore, by neglecting to evaluate actual working conditions that labour rights are intended to regulate, Nozick's theory is incapable of substantially addressing issues of injustice that may arise beyond the scope of coercive exploitation and

⁵ This is another indication that Nozick's theory ignores the context of the modern labour market, ignoring the significant influence of multinational corporations. It is arguable that such large companies often exercise powers akin to a state and thus should be subject to Nozick's minimal state restrictions. This oversight resonates with Wendy Brown's critique of

simple transactions. The following section will demonstrate this.

4. Practical application of Nozick's theory: mica mining

The practical scenario through which I will evaluate Nozick's theory of justice as entitlement focuses on labour rights issues of mica mining in India. Mica is a valuable crystalline material profited off by major international brands in cosmetics, electronic appliances, and automobile paints (Das & Goel, 2021:1344). The majority of mica on the market comes from Jharkland in India, even though mica mining is illegal there. This has led to this industry operating free from labour regulations, free from the obligation to provide acceptable remuneration, and free from sufficient health and safety protocols to mitigate risks posed by mining mica (ibid.:1345). It is also important to mention that while this is criminalised, the growth of this industry has largely been attributed to ineffective state governance and mismanagement (ibid.:1361).

Mining operations rely on members of communities living in the surrounding Jharkland area. The environment in which these communities live is not conducive to agriculture, and it is also removed from larger cities (ibid.:1347). Therefore, employment opportunities are limited, and people work in mines out of necessity. Furthermore, the people live in abject poverty, with little access to adequate socioeconomic resources and little power to alleviate their situation. Mica mining also poses health hazards to mine workers, with prolonged exposure leading to tuberculosis, cancer, and asthma, while mine collapses cause multiple deaths a year (Das & Goel, 2021:1348). Another dire consequence of this illegal mining operation is the extensive use of child labour, with

neoliberalism, which argues that states increasingly prioritise corporate interests over the welfare of individuals, effectively transforming state power into a mechanism that serves global capital (2015:17). Although it must be considered that this extensive corporate globalisation developed mostly after Nozick published his theory of justice.

children as young as five being removed from school and sent to mines by desperate families (Jain & Singhal, 2022:584). Despite the life-threatening conditions and routine abuse suffered by these children at the hands of their adult employers, children are forced to work long hours for small amounts of money (ibid.:587). The demand in the market that drives this work results in children being deprived of an education and better employment opportunities that could help them escape poverty (Das & Goel, 2022:1345). Therefore, their social mobility is stunted, and mine work becomes a generational necessity, with their future children facing the same circumstances.

Furthermore, the mica mining process consists of a chain of agents along which this valuable product is passed, each one charging a higher price, and the miners that face the worst conditions receive the most meagre payments (ibid.:1352). According to Nozick, each of these steps are just since it involves the voluntary transfer of goods for money. The miners exercise their free will in participating in the employment opportunity, which they then sell to agents from larger corporations. The alternative to this employment is starvation. Nozick's theory of justice claims that the most important aspect of this transaction is that the autonomy of the workers is respected. However, it is difficult to perceive this situation as anything other than harmful and exploitative, especially considering the risks involved.

What is clear is the instrumentalisation of the vulnerability and desperation of these communities to justify child abuse, low pay, and dangerous working conditions. While this employment opportunity temporarily (barely) alleviates the burden of poverty, it ultimately reinforces a vicious, unjust cycle. Nozick's theory of justice interprets this entire transaction as legitimate on the basis of liberty.⁶ However, Nozick's understanding of liberty and respect for autonomy provides no entry point to engage with these injustices

and it is clear that it does nothing to directly address the reality of this human rights crisis, which is the purpose of a theory of justice.

5. Critique of Nozick's theory

This section will critique Nozick's theory in the context of mica mining, as discussed above. Firstly, I will discuss the contradictions of Nozickian liberty. Secondly, I will examine how Nozick's formulation of consent fails to address issues of child labour, and moralised exploitation, and finally, I will discuss the shortcomings of the minimal state.

5.1. On liberty

Liberty is the most important aspect of justice to Nozick. To him, the most prominent threat to liberty is the existence of obligations that no one has consented to (Scanlon, 1976:15). This singularity renders his theory insufficient as it is not the only factor to be considered in questions of justice. He merely asserts that people have an inherent right to be free and act freely without compelling justification for why liberty alone is absolute (ibid.:7). It is insufficient to position liberty as the sole criterion for evaluating powerful institutions, such the labour market, as it overlooks broader aspects of consent and other values beyond an individual's separateness and socioeconomic circumstances (Nock, 1992:678). Scanlon (1976:17) emphasises that even liberty itself contains considerations of power dynamics when evaluating its function in a potentially just system since often the freedom of one person can limit the freedom of another – for example, a landowner's legitimate use of property limits other individuals' rights to use that property as it belongs to the landowner. This reveals a contradiction in Nozick's work as evaluating these power dynamics ensures that freedom is meaningful and not merely theoretical. This omission could allow significant inequalities to undermine meaningful liberty.

⁶ This will be discussed further in section 5.2, especially concerning child labour.

Furthermore, autonomy cannot be properly respected by merely considering the collection of individual preferences at a certain point in time (Scanlon, 1976:18). Individual liberty extends beyond the simplistic framework of consensual obligations and transactions. Nozick's theory, however, does not consider the multifaceted ways in which individuals can exercise their autonomy and assert control over their lives and the institutions in which they exist (ibid.:19). His theory lacks an understanding of the intricate networks of social rights, relationships, and obligations that constitute society and shape personal freedom, thereby reducing the complexity of human agency to a narrow conception of voluntary exchange. Consequently, Nozick's property rights framework is not an adequate account of liberty, specifically economic liberty (ibid.:25).

Furthermore, Nozick treats the preferences realised by consent as substantially the same, requiring only the sufficient exercise of free will within a range of choices. This disregards the origins and content of these preferences, failing to consider how they are influenced by social and economic conditions (ibid.:18). Considering liberty alone risks undermining its realisation, as the exercise of one's freedom is entrenched within a social system comprised of systemic constraints and competing interests (ibid.). This is important because the consequences of these individual choices are impacted by social conditions and the network of rights necessitated by these conditions. This results in the theory falling short of addressing the real complexities of liberty and robs it of its critical power (ibid.).

The importance of such a network of rights is also seen in Fowler's assertion that the Nozickian society requires, at the bare minimum, a moral education (1980:554). Nozick's theory of justice concocts a world wherein people are utterly free to pursue whatever life they choose so long as their choice does not violate the liberty of others. But it would be difficult to achieve this without people at least possessing a rough understanding of what constitutes a violation of

liberty to others. Nozick acknowledges this when he asserts that people's conceptions of utopia are antagonistic (ibid.:551). If this is accurate, then what constitutes a violation of one person's liberty is likely to differ depending on their social context and hence, a moral education is necessary. Furthermore, since liberty is subjective, it cannot be universal as Nozick proposes. The absence of this consideration in Nozick's theory indicates that it neglects the essential role that the morality of the community plays in the function of liberty (ibid.:563).

Nozick therefore fails to address issues of substantive injustice and human rights violations because his theory regarding liberty does not consider the realities of functioning in a complex social world. Nozick's case rests on the free market to such a great extent that there is no consideration for interpersonal relationships and complex interactions outside of the market (De Gregori, 1979:27), which is problematic for a theory of justice since social relationships play a vital role in this discourse. He also fails to consider the true nature of this "free" market. In respect of liberty, it is clear that Nozick does not consider fundamental aspects of what makes (free) humans in society (free) humans *in* society. If his theory is incapable of this, then it is unclear how it could be used to assess prevailing systematic injustices. This highlights the superficiality of Nozick's liberty which paradoxically categorises mica miners, as some of the most oppressed people, as free.

5.2. On consent

The crux of Nozick's approach to labour rights rests on the consent of the worker. However, Nozick fails to offer any persuasive reason as to why an industry like mica mining is consensual. He assumes too much when he asserts that people would accept the productive benefits of his *laissez-faire* capitalist system as adequate compensation for what they might have had to sacrifice in choosing to participate (Nock, 1992:689). A willingness to partake in an exploitative labour system cannot be inferred from mere acceptance of material benefits provided by this

system when the employee was faced with a much harsher alternative (Nock, 1992:689).

Nozick's theory is founded on consent but denies it where it is most important because it neglects to consider its outcomes (Lindsay, 2020:461). To argue that the freedom to contract in a market constitutes evidence of consent is to diminish the meaning of consent. Real consent is derived from choices made through being aware of one's circumstances in life and the potential outcomes and consequences of a particular choice (ibid.). Consent given beyond these parameters is insufficient.

Furthermore, consent, like liberty, cannot stand alone. Nozick's legitimisation of just acquisition of transfer positions such transactions as morally neutral when they are not. How assets are acquired or transferred is necessarily impacted by social conditions, a network of rights, personal values, and political decisions. These are where the moral significance of transactions lies (Lindsay, 2020:460). Nozick fails to account for this. The simple fact that an arrangement is mutually beneficial or that any exploitation present is not coercive is an insufficient justification for the limitation of internationally recognised rights such as dignity, health, and fair remuneration.

Finally, the most egregious aspect of mica mining is the use of child labour. Nozick attaches no further particulars to his theory in *Anarchy, State, and Utopia* (1974) regarding children, who possess a diminished capacity to exercise their free will in general. He is, however, opposed to forced labour and, arguably, the exploitative employment of a human being with a diminished capacity to exercise their free will would constitute forced labour, which Nozick does not condone. However, as explored above, Nozick qualifies coercion in strict terms without nuance for situations such as the mica mining example. This constitutes a significant gap in Nozick's theory that is not

adequately addressed and fails to consider lived realities.

Nozick's understanding of consent neglects to consider the social context people live in and how this may inadvertently limit their autonomy. This is seen in the failure to clarify issues of children's consent and advocacy for a moralised conception of exploitation.

5.3. On the minimal state

Nozick's theory posits that one can transcend one's upbringing since people are primarily responsible for their character and treatment of others' liberty. This perspective allows Nozick not to consider social context, implying that people are capable of removing themselves from their circumstances at will (Fowler, 1980:555). This in turn creates a conception of a state that does not have to assist the disadvantaged members of society through mechanisms like welfare schemes, which arguably could restore liberties that Nozick champions (ibid.:560). Poverty arising from imbalanced holdings – even if they are legitimate by Nozick's standards – is seen as an inevitability of life that the state is powerless to rectify, no matter how extreme such a deprivation might be (ibid.). It is easily imaginable how this could result in social unrest or even violence where there are large disparities of wealth creating conditions of abject suffering and blatant injustice.⁷ This consideration certainly contradicts Nozick's notion of a peaceful society where coexists without interference.

The mica mining example also illustrates the importance of state intervention in exploitative working conditions. Local communities and civil society organisations have advocated for the implementation of legislation and state intervention within this industry to combat the established illicit shadow economy that blatantly abuses its most vulnerable workers with poor wages, unsafe conditions, and no job security while simultaneously

⁷ The KwaZulu-Natal and Gauteng riots in June 2021 are an example of such unrest. Sparked by the imprisonment of Jacob Zuma, the riots involved widespread unrest, looting, and violence across the two provinces. The riots highlighted deep

socioeconomic inequalities and frustrations and resulted in significant damage to businesses, infrastructure, and the loss of over 300 lives.

evading tax obligations and legal oversight (Das & Goel, 2021:1361). By formalising this sector, illegal labour practices and abuse of vulnerable workers can potentially be reduced, while contributing to national stability through proper regulation. Nozick would oppose this move since he does not believe that the state should hold any moral authority and should be confined to a “night-watchman state”, protecting only the interests of liberty following his principles of justice because freedom is the most important consideration (Nozick, 1974:149). This is ironic considering that this dire situation was exacerbated by poor state governance and the lack of state intervention and regulation (Das & Goel, 2021:1358). Nozick raises an unanswered question of what happens to the most vulnerable members of society who cannot turn to the state for assistance and cannot rebel against their employers because of their dependence on them.

Therefore, Nozick’s conception of the minimal state designed to satisfy the needs of freedom fails to offer any protection to those who may be impoverished by this system and fails to even dignify these people with a comprehensive evaluation of their circumstances, demonstrating again the inadequacy of this theory in addressing social injustices.

6. Conclusion

This paper evaluated the usefulness of Nozick’s theory for worker exploitation in the mica mining industry. After careful evaluation of his theory and the conditions mica miners endure, it must be concluded that Nozick’s theory of justice cannot sufficiently address socioeconomic injustices due to its prioritisation of consent in the realisation of liberty and state intervention. This does not fully encapsulate the lived reality and inequalities many workers face and therefore cannot provide truly just rules for property transfer. Due to this, Nozick’s theory is unable to engage with actual questions of justice on any level beyond prescribing liberty and denying social context, which is a fundamental part of any understanding of justice.

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