

A Critical Analysis of Robert Nozick's Entitlement Theory of Distributive Justice

¹Justine Chacha Karoly, ²Sabas Kimani, ³Nyambedha J. Apiyo

123 The Catholic University of Eastern Africa, Kenya.

ABSTRACT: This article highlights Robert Nozick's theory of entitlement. This is theory of distributive justice through which he expressed his argument in the defence of property and individual rights. He developed three principles to describe what entitlement theory consists of. The principles are justice in initial acquisition, justice in transfer and rectification of injustices. These principles make the whole process of acquiring and transferring the property to be historical. That is if the property was initially acquired in justice, then the holder assumes an absolute right to the property. This includes the right to own and transfer of properties to whomever one wills. The fact that, one acquired the property in justice limits others from having anything to do with the property unless with the consent of the owner. Nozick emphasizes the question of rectifying historical injustices involved in the process of property acquisition and transfer. Though a number of scholars considered Nozick's idea of justice in acquisition and rectification as too utopic, but it is important to appreciate the framework he laid to address the problem of injustice in distributive justice.

KEYWORDS: *Entitlement theory, distributive justice, Lockean proviso, Property rights, Robert Nozick.*

Introduction

This article intends to critically analyse the entitlement theory by Robert Nozick and its formulation from John Locke's theory of property right. Three core principles attached to entitlement theory calls for justice in the entire process of property acquisition and transfer. Also the subject matter of correcting all kinds of injustice such as theft and involuntary appropriation of properties remains one of the ideal aspects of Nozick's theory of distributive justice. The mechanism of distributive justice established by Nozick faced several critiques from other scholars as presented in this work.

1. Robert Nozick's Concept of Distributive Justice

Robert Nozick published a book in 1974 that provoked many discussions in the area of Political Philosophy. The book is titled *Anarchy, State, and Utopia*. It was published by Nozick three years after his contemporary Rawls had published a remarkable book titled *A Theory of Justice*, which addresses the question of distributive justice. Nozick's publication was an intentional response to the theory of justice as fairness that Rawls tried to present. The central theme of his political philosophy is the acknowledgement of libertarianism as the guiding principle in the just distribution of resources. In regulating the just distribution of resources, Nozick established a theory of distributive justice in three principles namely justice in initial acquisition, justice in transfer and rectification of injustices in acquisition and transfers. These three principles in their collectiveness are what formulate what Nozick referred to as the Entitlement Theory of distributive justice.

2. Nozick's Entitlement Theory

Entitlement theory is a theory of distributive justice developed by Nozick to describe how resources should be distributed in society. The phrase 'distributive justice,' as used by Nozick in his works, refers to the process of acquiring property under principles of justice in holding and transfer. It is used to address the view that individuals have absolute rights to property as long as they have acquired it according to these principles. This sets a boundary for any other agent to intervene in deciding how to distribute what has already been distributed to the rightful owners without their consent. The phrase does not allow any kind of taxation, levies, and charges except expenses charged for security activities.

In Nozick's perspective, the common meaning of distributive justice as used in the works of philosophers like Rawls should be called the redistribution of properties. This is because the initial distribution occurs when a person acquires property through their labour as added to the unpossessed property or through voluntary transfers with others. Any attempt to transfer a portion or the whole of property that has already been justly acquired from the rightful owner is what Nozick referred to as the redistribution of resources. He is not in

favour of this system because in a free society, no one should have the authority to dictate how others should spend their resources.¹ Consequently, he advanced the entitlement theory as addressed below to explain how resources should be distributed, and in either case individuals have the absolute right of their properties.

The entitlement theory of Nozick consists of three principles that guide property acquisitions, property transfers, and the rectification of injustices in the process of acquisition or transfer. The first principle addresses the process by which individuals acquire the ownership of properties that previously unowned. This addresses the process through which common property becomes private property; he referred to this principle as the initial acquisition of holdings. The second principle, Nozick intended to establish a just process for transferring properties from one person to a new holding; this is referred to as the principle of justice in transfer. Later, he realized that not all individuals would adhere to the established ethical processes of acquiring and transferring properties. Hence, he developed a third principle to deal with all injustices in the process, called the rectification principle.² We shall examine these principles in details to disclose Nozick's ethical perspectives on the system of distributive justice he intended to establish.

2.1 Original Acquisition of Holdings

The original acquisition of holdings is a principle that initiates the entire process of resource distribution in society. It aims to address the question of how common properties that have never been owned by anyone else came to be held.³ This appears to be an attempt by Nozick to legitimize individuals owning privately parts of common properties.⁴ He did not develop this principle from nothingness, but adopted Locke's explanations of the property right theory as described in the *Second Treaties of the Government*.

Locke begins by acknowledging that through natural reason, humans come to understand that they are entitled to the right of self-preservation. The same right guarantee humans the opportunity to enjoy the worldly resources provided by God in common since the creation. He quotes the Psalms, which state that "...God has given the earth to the children of men."⁵ This presupposes that the universe was given for all individuals to access, enjoy, and make a living. In this context, common properties would limit individuals from owning the properties in private means. Therefore, he attempted to describe the possibility of individuals owning parts of the common properties for their own use.⁶

In such attempt, Locke argued that it is God who has given the world in common and has given man the ability to use reason in improving their life. Through reason man can integrate the available resources in common to develop his situation. To avoid conflicts over the use of resources, there must be a systematic way to regulate the worldly resources to be accessible for everyone who would want to utilize them. The system should offer legitimacy to a person who obtains properties to nourish his life as a part of his existence and should no one claim any right to them before they are used for sustaining one's life. For example, suppose in a village there is a huge garden with varieties of fruits, the garden belongs to the village. Therefore anyone in the village has a right to enjoy the fruits of the garden. The freedom to enjoy the fruits of the garden does not give a person the right to take the fruits picked by another person for his own use without his consent.⁷

It is clearly stated in Locke's theory of the state of nature that, possession is among the natural rights that God has created man with, and it is inviolable.⁸ Locke regards human labour as something inherent to a person in nature. According to him, whatever emerges from this labour rightfully belongs to the person who utilized such labour force. A property obtained by man from the worldly resources in common by adding some amount of labour becomes rightfully theirs. The common property when mixed with labour which is a natural property of the labourer are tied together and becomes part of his possession as far as the possession does not worsen the situation of others.⁹ Locke argues, "That labour put a distinction between them and common. That added something to them more than nature, the common mother of all, had done, and so they became his private right."¹⁰

Nozick observed some unsettled issues with Locke's theory of acquisition because it did not set the limit of what labour will be mixed with to be assumed as a private property. For example, if an astronomer cleans a place in Mars, will that give him a moral justification to claim over the right of ownership of the whole

¹ Nozick. *Anarchy*, 150.

² Nozick. *Anarchy*, 149.

³ Nozick. *Anarchy*, 150.

⁴ Pulin B. Nayak. "Nozick's Entitlement Theory and Distributive Justice," *Economic and Political Weekly*, Vol. 24, No. 4, (Jan. 28, 1989), 2-8.

⁵ *The Holy Bible: King James Version*, Psalm 115:16.

⁶ John Locke. *Two Treaties of the Government*. (London: Thomas Tegg, 1823), ST. V. 24.

⁷ Locke. *Two Treaties*, ST: V.25.

⁸ Locke. *Two Treaties*, ST: V.5.

⁹ Locke. *Two Treaties*, ST: V.26.

¹⁰ Locke. *Two Treaties*, ST: V.27.

planet, earth or the whole land? He also raised a question whether a virgin land can be owned under Locke's process, and whether does fencing a piece of unowned land makes one to own it. He also raised another concern about why does mixing one's labour with something make one the owner of it, then he asked why would not be otherwise.¹¹

Nozick's questions had, in fact, been previously attempted by Locke when he stipulated that reason should guide individuals to claim possessions that can be put to proper use before they get spoiled. Locke's argument implies that the mixture of one's labour with common property should be in proportion to what can realistically be consumed. Any accumulated excess will be the common property because nothing was created by God to be spoiled and destroyed.¹²

Furthermore, unjust acquisition occurs when an individual encloses and declares a private ownership of all the land simply because they have the labour force to fence or cultivate it for their personal use. The Lockean *proviso* instructs individuals to own properties but with consideration that there must be a sufficient number of resources left available for others.¹³ Nozick's principle of original acquisition begins by examining the question of whether the initial acquisition of property was just. Nayak suggests that the rules established during the social contract serve as the starting point from which Nozick's theory develops.¹⁴

Nozick's theory of just acquisition, influenced by Locke, states that an individual who utilizes labour to acquire or improve natural resources in a specific way is entitled to full property rights over those resources, provided that this acquisition does not harm others. This process, in line with Locke's principles, ensures that there remains 'enough and as good' available for others, thereby promoting a fair and equitable distribution of resources. Nozick considered this as an idealized account to explain how resources were initially distributed, however none in the contemporary can claim that there are plenty and enough resources especially land left for others.¹⁵

According to Nozick, the principle of original acquisition aims to examine the conditions that an acquisition must satisfy to be just. He begins with Locke's statement that an individual has the right to acquire a part of unclaimed natural world provided he leaves enough and as good in common for others.¹⁶ John E. Roemer considers this a limitation on individuals' ability to claim ownership of naturally scarce resources. For example, under this condition, one cannot have the right to privatize a single available well in the village because doing so would worsen the situation for others. This condition also requires that those who own part of common resources leave enough for others to use, thereby restricting the privatization of scarce resources.¹⁷

Nozick amended the Lockean theory to allow much private ownership. It is stated that "An appropriation of part of the unowned natural world is just as long as it leaves no one worse off than she would have been had that part remained unowned."¹⁸ An example is given that if a person acquires a land that is in its natural state and uses the land to grow the drugs, then sells them at a reasonable price that makes the people better off that they could, makes the acquisition of the land just. This is morally justifiable for both Locke and Nozick because it intends to improve peoples' life.

Nozick presented another example to illustrate the distinction between his principle of acquisition and Locke's. Let's consider Mr. X, who initially acquired a piece of land from the unclaimed natural world with the condition of 'leaving enough and as good for others.' All other people in that area retained their portions under the same condition. After some time, Mr. X, secretly negotiates with each of the other landowners and successfully purchases their land, eventually becoming the single owner of the entire village's land, which he then rents at a price of his choosing. This situation leaves the villagers with no alternative but to rent the land at the set price, which worsens their lives and leaves them with no options. A similar scenario can arise in the event of a natural disaster, such as a drought, where all wells in the village run dry except for Mr. Y's well. Mr. Y, being the only well owner in the village and having acquired it in accordance with the same principle, not being the cause of the drought, can decide to charge any amount he sees fit for the villagers to access water from his well.¹⁹

¹¹ Nozick. *Anarchy*, 174-175.

¹² Locke. *Two Treaties*, ST. V. 30.

¹³ Locke. *Two Treaties*, ST. V.31-32.

¹⁴ Pulin B. Nayak. "Nozick's Entitlement Theory and Distributive Justice," *Economic and Political Weekly*, Vol. 24, No. 4, (Jan. 28, 1989), 2-8.

¹⁵ Mark D. Friedman. *Nozick's Libertarian Project: An Elaboration and Defense*. (London: Continuum International Publishing Group, 2011), 17-18.

¹⁶ Nozick. *Anarchy*, 175.

¹⁷ John E. Roemer. *Theories of Distributive Justice*. (Cambridge: Harvard University Press, 1996), 206.

¹⁸ Roemer. *Theories of Distributive Justice*, 206.

¹⁹ Nozick. *Anarchy*, 179-180.

Initially, each individual was entitled to what they possessed because the initial acquisition adhered to the *proviso*. Subsequently, each person had the right to transfer their property as they did. Locke's perspective holds that charging a higher amount for land use would be unjust as it worsens the villagers' situation. In Nozick's view, both Mr. X and Y have the right to charge any amount they consider appropriate, or even provide it for free, as their acquisition did not violate any fundamental principles.²⁰

Goldsmith considered Locke's principle of acquisition to be based on the concept of the right to life. The right to life is a natural right given to man by God since creation. It is a right that comes with a natural duty of preserving one's life and others, and the condition for acquisition is grounded on the need to leave enough and good resources for others to preserve their lives. Hence, for Locke, the private ownership of property does not give man a right not to use the ownership for serving others' lives.²¹ This is not the case for Nozick, who argues that if the acquisition was just, the owner has an absolute right of ownership. Man is not obligated to use what he has acquired in justice to help others in preserving their lives.²²

Therefore, Nozick's principle of original acquisition asserts that a person who acquires property justly at the beginning is entitled to ownership of that property. The just initial acquisition restricts others from using the property without the holder's consent, and the holder possesses an absolute right to the property. Nozick concurred with Locke's theory of acquisition and the *proviso* that initial acquisition is rooted in history, tracing back to a time when worldly resources were held in common ownership. Consequently, all subsequent transactions as we shall address shortly derive their moral legitimacy from this initial acquisition. In this regard, if the initial acquisition was just, then the subsequent transfers are also just, but if it was unjust, even current transfers lack moral justification.

2.2 The Principle of Justice in Transfer

In establishing Nozick's argument for the original acquisition of property paves way for responding to the second principle of the entitlement theory. The principle is about the transfer of what is already acquired in justice. In this case, Nozick is concerned with the clarification of transfer of properties, the criteria to consider and whether a just holder is coerced to transfer what he has to another holding. In undertaking this activity, this part will draw a bit background of this principle from the libertarian principle of which Nozick belonged to, and then describing it from Nozick's perspective.

Nozick presented the principle of justice in transfer that aligns with the libertarian principle of liberty, assuming that properties were acquired in accordance with the principle of original acquisition. In the libertarian world, liberty is defined as "the absence of coercion by other human beings. To the extent that a person is forced against his will to do something he is not free to do."²³ It is considered as a guiding rule for the entire system of human life that must be upheld. Russell Hasan identified liberty as a principle fixed in the golden rule, as stipulated in various world religions, cultures, and by philosophers like Kant.²⁴

Russell Hasan argued that if one believes that the golden rule in ethics is the best principle to follow, then through logical deduction, libertarianism can be seen as the most suitable political philosophy to guide us. He attempted to define libertarianism as the principle of non-violence, non-aggression, or zero violence towards others. Therefore, if the golden rule is about treating others as we would like them to treat us, it is evident that no one would want others to act violently towards them or coerce them into doing something against their will, including the redistributing their properties.²⁵

In the same line of thought, Nozick advanced a system through which man can distribute what he holds in principle to another holding. He regards the initial acquisition of property as the first move of ownership, and the transfer of the said property as the second ownership. It implies that, there is no way a property that was acquired in the first move can be transferred to another holding without going through the second move which is justice in transfer.²⁶

Nozick emphasised the place of voluntariness in the transfer of property from one source to another in such a way that any just transfer must involve the willingness of the holder to make such a transfer. The concept of voluntary transfer in Nozick involves two factors: one is whether a person's actions are limited by natural

²⁰ Nozick. *Anarchy*, 179.

²¹ M. M. Goldsmith, The Entitlement Theory of Justice Considered, *Political Studies*. Vol. XXVII, No. 4, (1978), 578-593.

²² Nozick. *Anarchy*, 179.

²³ John Hospers. *Libertarian: A Political Philosophy for Tomorrow*. (New York: Nash Publishing, 2013), 19.

²⁴ Russell Hasan. *Golden Rule Libertarianism: A Defence of Freedom in Social, Legal and Economic Policy*. (Liberty Magazine, 2014), 6-7. Available via. Available via. <https://annas-archive.org/md5/87a53b710d32d63d5c5e49aa86b44da4>. Accessed on. 12/01/2023

²⁵ Hasan. *Golden Rule Libertarianism*, 6-7.

²⁶ Nozick. *Anarchy*, 150.

factors, and the other is the limitations imposed by others' rights. Nozick explains that if nature provides only one option, and a person chooses that option, it is still considered a voluntary choice. For example, since nature doesn't grant human beings the ability to fly, if a person chooses to walk in a place he wished to fly, it cannot be considered an involuntary choice because we are constrained by the laws of nature.²⁷

The second factor is the availability of others' rights, which can act as constraints on one's choices. An example is given involving a capitalist who employs workers at a minimal salary in his company. The capitalist has the right to ownership of the company and its generated revenue. He also has the right to distribute the revenue as he sees fit, including setting the salary scale for each job in the company. Then again, the workers have the right to their labour force. They can choose to exchange it for any offered amount they find acceptable. If they are not satisfied with the offered amount, they have the right to quit the job. The workers' choice for the work will be considered as a voluntary choice because they have the right not to work if not satisfied. The workers have no moral authority to coerce the capitalist to pay more in favour of their desires because the employer has also the right to distribute his properties according to his will. In this case, even though the workers are paid a low wage, they have chosen to work voluntarily; otherwise, they have an option to remain unemployed.²⁸

It is noted that Nozick's principle of justice in transfer also involves a full transfer of rights and applies when a person has an absolute right to resources. This process occurs when ownership is transferred from someone who has acquired property justly to another individual. It is important to emphasize that one does not become the owner simply because someone has transferred the property to them but with the condition that the acquisition was just. The full ownership of a right gives the holder an absolute right for transferring that which is in possession. This would include a voluntary slavery, giving a property as a gift, and exchanging one's possession anyhow voluntarily.²⁹

To sum up, Nozick's principle of justice in transfer, particularly in the context of distributive justice, advocates for the voluntary transfer of properties or its portion from the rightful owner to another individual. Nozick believes transfers as just only when they are deliberately favoured by the holder's consent. However, there are concerns about how he arrives at this conclusion without providing a clear definition of what justice entails. Accordingly, transfers that do not align with justice in transfer must be addressed to prevent situations where the rights of holders are worsened by involuntary transfers. This leads to the subsequent consideration of how to handle transfers that deviate from the principles of justice in transfer.

2.3 Principle of Rectification

In principle, the process of property acquisition and transfers ought to be sanctioned by the Lockean *provisio* and free will, respectively. However, history reveals that some properties came to be possessed through stealing, coercive transfers, enslavement, and seizing, to name a few. Once a property is acquired by the use of ill means, it results worsening other life, controlling and limiting others freedom to enjoy their full right of ownership. The past injustices in the distribution of the resources tend to shape the current holding, and even the on-going injustices are anticipated to shape the future system of holdings and consequently people's livelihood. The problem that Nozick intends to address in this principle is the necessity of establishing a mechanism to deal with the historical injustices in property acquisition.³⁰

Aristotle, in his work *Nicomachean Ethics*, laid the foundation for addressing injustices in the distribution of resources by introducing the concept of 'rectificatory justice.'³¹ According to him, common properties should be distributed equally among those who deserve a share. The distribution should take into account individual contributions or what each person deserves. Then, a just distribution is when resources are organized according to arithmetic proportionality. In cases where the distribution is unequal, resulting in some individuals receiving more or less than they deserve, it is considered a violation of proportionality and, therefore, an injustice in distribution. Aristotle points out that both injustice and inequality in transactions infringe upon the rights of others, as resources may be distributed to undeserving individuals. Aristotle proposes the need for a judge to equalize distribution through penalties, taking away undeserved property from the wrongdoer. This will ensure that the victim receives their rightful due.³²

²⁷ Nozick. *Anarchy*, 262.

²⁸ Nozick. *Anarchy*, 262-265.

²⁹ Ralf M. Bader and John Meadowcroft, Eds. *The Cambridge Companion to Nozick's Anarchy, State, and Utopia*. (Cambridge: Cambridge University Press, 2011), 162.

³⁰ Nozick. *Anarchy*, 152-153

³¹ Aristotle. *The Nicomachean Ethics*. Book V, 1131a2-20. Trans by. David Ross. (Oxford: Oxford University Press.1980.), 1132a-b.

³² Aristotle. *Nicomachean*, 1132a-b.

In addressing distributive injustice, Nozick shares with Aristotle on the idea of correcting injustices in distribution. Nozick's principle emphasizes the need to rectify historical injustices, especially in the acquisition and transfer of property. He highlights the importance of addressing and rectifying injustices in the distribution of resources to uphold principles of justice. Aristotle seems to address injustices that occurred not too long ago, hence not likely to face difficulties in tracing the historical injustices of several centuries back.

The challenges posed by Nozick in his principle are concerned with how to evaluate the presumed situation of the victims in the absence of injustices. Questions arise about organizing compensation for those whose livelihoods were affected and addressing perpetrators who are no longer living. Nozick also raises concerns about the descendants of offenders benefiting from past injustices and the extent to which historical injustices should be addressed.³³ Furthermore, he questions how far back one can go to rectify historical injustices and what actions victims or their descendants can take to address injustices committed by individuals or governments. Despite calling for the rectification of historical injustices, Nozick did not provide concrete answers to some of these challenges.³⁴

Jonathan Wolff's observations on Nozick's rectification principle aim to describe the difficulty and near impossibility of its operation. Wolff notes that Nozick presents the principle in simple statements, as if adjusting a few elements could easily rectify past injustices. The past injustices addressed in the theory encompass all properties acquired illegitimately by individuals and governments throughout human existence. Wolff views Nozick's call for society to redress and evaluate the entire process of property acquisition as a confusing mental exercise, which he referred to as 'mind-boggling.' The complications identified by Wolff that would arise from the principle include the lack of sufficient and concrete information about past injustices. Moreover, the complexity of addressing the historical looting organized by colonizers worldwide poses a significant challenge to the realization of the principle.³⁵

Furthermore, Wolff argues that because rights are inviolable and property rights are considered natural according to Nozick, it follows that injustices in property acquisition must be rectified. He has presented the view among libertarians on how to address this issue. The popular view is that which permits taxation to establish a minimal state to deal with injustices in property acquisitions but yet condemns taxation for general public welfare. This perspective assumes that all historical injustices should be taken for granted, and the arrangement should start afresh by assuming that everything was in order.³⁶

Nozick discourages taxation for the public's welfare because it does not correspond with the features of the minimal state. Nevertheless, the idea of taking for granted the injustices due to complications do not find a place in his philosophy. He argues that the mere passage of time and the lack of proper mechanisms to address historical injustices, as well as the absence of concrete information regarding the extent of the losses and the impact on others' livelihoods, does not make the injustices just. Wolff notes that, Nozick proposes the need to institute a general mechanism that would benefit the victims of historical injustices, an appeal that seems to align with Rawls' different principle.³⁷

Augustine Terhide Maashin published a recent work on *Robert Nozick's Minimal State: A Critique*, his main concern is to evaluate and critique the idea that taxation in the civil state violates individuals' property rights and freedom. Maashin presented two scenarios to illustrate how taxation cannot be seen as a violation of an individual's property rights. However, he also discussed how taxation is a fundamental aspect of the social contract that comes with being a citizen of a specific state. In the first scenario, Maashin points out that taxation becomes a violation of individuals' rights when it is imposed without the consent of the taxpayers, thus going against their will.³⁸ This is what Nozick is referring to as an involuntary transfer of property rights to another individual or agency.

In contrast, taxation cannot be said to be a violation of one's property rights because it is one of the responsibilities that comes with one being a citizen of a particular state. Maashin tried to describe the concept of citizenship in two ways. The first one is that of inheritance or natural citizenship, and the second is citizenship by contract or by registration after fulfilling some requirements placed by a particular state. In describing citizenship by contract, Maashin explains that in many countries today, there is a requirement for individuals seeking citizenship to contribute to the nation's revenue by paying taxes and other governmental levies. This is part of the conditions they agree to before being granted citizenship. Therefore, for individuals with non-native

³³ Nozick. *Anarchy*, 152.

³⁴ Nozick. *Anarchy*, 152.

³⁵ Jonathan Wolff. *Robert Nozick: Justice, Property and Minimal State*. (Cambridge: Polity Press, 2003), 123.

³⁶ Wolff. *Robert Nozick*, 124.

³⁷ Wolff. *Robert Nozick*, 124.

³⁸ Augustine Terhide Maashin. "Robert Nozick's Minimal State: A Critique." *Jurnal Ilmu Sosiologi Dialektika Kontemporer* Vol. 10, No. 2. (July – December 2022), 1-7.

citizenship, paying taxes is a part of their contractual obligations to maintain their status as citizens of that particular country.³⁹

Despite his insightful explanation about the necessity of paying taxes for individuals with citizenship by contract, Maashin fails to realize that even those with citizenship by inheritance have a natural duty to contribute to their nations' development through taxes. This is because they possess the inherent right to be called the citizens of particular countries, but this right comes with the responsibility of supporting the government to fulfil its duties. This is the same conclusion arrived at by Bruce T. Coram when he composed logical propositions to prove that the concept of the minimal state has no solid foundation to grant the justification that taxation which is meant to the provision of public welfare violates rights.⁴⁰

Generally, Nozick's entitlement theory comprises three propositions that collectively establish the basis for distributing resources. The first proposition deals with the privatization of commonly held properties. It asserts that if the original acquisition of property adhered to the Lockean *Proviso*, the acquisition is said to be just. This grants the individual absolute rights and full ownership over the property. The second proposition outlines the individual's right to transfer holdings to another owner, termed justice in transfer. This concept emphasizes the voluntary nature of such transfers, considering any involuntary transfers as unjust. According to the theory, justice in transfer represents the second path through which a person can acquire property, following the initial acquisition.⁴¹ In cases where property is acquired in ways contrary to the aforementioned principles, the minimal state is obligated to rectify past injustices. Rectification aims to restore proportionality by reclaiming what was originally acquired against the principles of justice in transfer.

3. A Critique to Nozick's Entitlement Theory

Emre Arda Erdenk criticised the idea of historical justice by holding that; naturally, human beings cannot create anything out of nothing. He is concerned with the thesis that resources in their natural setting must be in the first place be unowned. This implies that, no resources were under someone's ownership. If that is the case, then, the discussion is how people came to own properties that were once unowned and the rights they have over the resources. He asks, "What right do people acquire over unowned land?"⁴² To make it clear, Erdenk is challenging the notion that if a property was unowned, and now it is owned by someone else, this ownership limits others with the same right to own the same property. If private ownership of unowned properties is granted, what is the right that the holder of the property has over that ownership? Erdenk observes that Nozick does not offer a constructive response to the question about such kind of initial acquisition. Instead, he appeals to the Lockean principle of justice in acquisition which is widely known as Lockean property right which leads to Lockean *proviso*.⁴³

Erdenk's critique of Nozick's historical justice lies in the fact that "the proviso cannot be applied to all instances of appropriation but only in the initial stage."⁴⁴ It is so because the condition for Lockean *Proviso* is that in private ownership, those owning resources must leave many and good for others. Erdenk considers this as evidence that justice in acquisition cannot be historical, because there is no way the state can organise a regress movement to the pre-historical time to find out who owned what, and to what extent ownership worsened the situation of others.

Platz raised the same concern about how long will the historical injustices be traced back. He argues;

One might worry about the practicality of this insistent focus on the past. It begs questions about the history of how we got to the present that might be hard to answer: How far back should we go to find and rectify injustices? Does every historical injustice, however, minute, require rectificatory measures? And it invites conclusions that seem both impractical and harmful, e.g. that the Americas and Australia belong to whatever population(s) can claim to have occupied them first; all others must leave. (Perhaps Manhattan and some of Pennsylvania were contractually acquired from the native inhabitants, but did they truly have a right to sell it? Or did they, perhaps, acquire it by force? Who knows?).⁴⁵

³⁹ Maashin. "Minimal State," 1-7.

⁴⁰ Bruce T. Coram. "The More-Than-Minimal State Defended against Nozick." *Politics*. 23(1), (May 1988), 56-61.

⁴¹ Nozick. *Anarchy*, 149-150.

⁴² Emre Arda Erdenk. "Problems of Robert Nozick's Principle of Justice in Acquisition: Nozick's Misunderstanding of the Nozickean Proviso and Its Consequences." *Journal of Alternative Perspectives in Human Sciences*, Vol. 1 (1). (2010), 21-30.

⁴³ Erdenk. *Problems of Robert Nozick*, 21-30.

⁴⁴ Edrenk. "Problems of Robert Nozick," 21-30.

⁴⁵ Platz. *Theories*, 109-110.

The problem with Platz and Erdenk's observation is that it ignores the past injustices in the distribution of resources in the society as addressed by Nozick. In the entitlement theory, Nozick explains that a just distribution is that which arises from a series of legitimate and voluntary transactions. It starts from an initial state where none possessed anything, and whether these transactions respect people's rights. It is a matter of fact that if the legitimacy of ownership in the initial stage is watered down, the traditional distributive justice like the end-state fairness of Rawls will be applied to justify past injustices like fraud, theft, and all properties acquired through corruption.

Katrina Wyman tries to evaluate a moral justification for addressing the said historical injustices in property acquisition. He treated the subject matter by drawing attention to the relevant examples of the historical injustices committed against African Americans during the slave trade. Wyman is convinced that we cannot underrate the influence of historical injustices on the current socio-economic situations of the Afro-Americans, yet, sees no moral justification for the redress of historical injustices.⁴⁶

The bottom line of his argument is based on the assumption that redress has not been widely implemented in many cases, even after extensive public debate. He conceives moral complexity on the matter and raises questions about the value of the time and resources devoted to debating and pursuing redress for past wrongs.⁴⁷ In this sense, he defined historical injustices as, "the wrongs that took place in the past, sometimes decades or even centuries."⁴⁸ The wrongs addressed in the definition entail the violation of fundamental human rights which were based on race, religion, or ethnicity.⁴⁹

He further emphasised that the wrongs in the historical injustices in the USA are precisely explained when the following four characteristics are held into consideration.

(a) they were committed or sanctioned at least a generation ago; (b) they were committed or authorized by one or more collective agents, such as a government or corporation; (c) they harmed many individuals; and (d) they were involved in violations of fundamental human rights, often discrimination based on race, religion, or ethnicity.⁵⁰

Wyman presented his thoughts by highlighting criticisms of the two prominent arguments that were used to justify the rectification of historical injustices. The two arguments argue that rectification will discourage misconduct and that rectification will promote distributive justice. These are the arguments advanced by various scholars like Robert Westley and Max du Plessis. The argument that rectification will deter wrongdoing suggests that providing redress or reparations for historical injustices will act as a restriction or warning against future wrongdoing. It is believed that by acknowledging and rectifying past injustices, society can discourage or prevent similar injustices from occurring in the future.⁵¹

Wyman considered this argument as less promising in ending future injustices by pointing out that, numerous historical injustices were typically organised and ratified by government authorities in collaboration with private corporations. In such a perspective, the governments, in particular, are unlikely to be discouraged by the prospect of paying past injustices as they tend to respond more to political costs than monetary ones, which are typically externalised to taxpayers. Moreover, the government may discount future costs, such as reparations, since they might not come due until long after the current decision-makers have left office. The same method remains sceptical for the Private Corporations in a way that though they are more sensitive to monetary costs, they may discount the possibility of future reparations, as they operate in competitive markets, and the obligation may never materialize.⁵²

The second argument for rectification as a means to attain fair distributive justice posits that providing redress for historical injustices can help rectify social and economic inequalities. The process of distributing back and setting a mechanism to allocate compensation for past injustices promotes a fair distribution of resources and opportunities. The main idea is that redress can contribute to a more just and equitable society by reducing the wealth gap between the rich and the disadvantaged groups of historical injustices.⁵³ This argument provoked the discussion between distributive justice and corrective justice.

⁴⁶ Wyman. "Moral Justification," 127-196.

⁴⁷ Katrina M. Wyman. "Is There A Moral Justification For Redressing Historical Injustices?" *Vanderbilt Law Review*. Vol. 61, Issue 1, art. 3 (January 2008), 127-196.

⁴⁸ Wyman. "Moral Justification," 127-196.

⁴⁹ Wyman. "Moral Justification," 127-196.

⁵⁰ Wyman. "Moral Justification," 127-196.

⁵¹ Robert Westley. "Many Billions Gone: Is It Time to Reconsider the Case for Black Reparations?" In *Should American pay: Slavery and the Raging Debate on Reparations*. (New York: HarperCollins Publishers Inc., 2003), 109-118.

⁵² Wyman. "Moral Justification," 127-196.

⁵³ Westley. "Many Billions Gone, 109-118. And Max du Plessis. "Historical Injustice and International Law: An Exploratory Discussion of Reparation for Slavery," *Human Rights Quarterly* Vol. 25, No. 3, (August, 2003), 624-659.

Jules Coleman describes the goal of corrective justice as not to achieve a broader social or distributive justice, but rather it is all about addressing the specific harm or injustices suffered by the individual. The theory emphasises that it is a specific individual who has caused such injustices is responsible for compensating for such loss and no one else. He argues, "If I take your watch, I must/return it. No one else has that duty. If I have somehow destroyed it, then I owe you compensation. No one else does."⁵⁴ Jules proceeded to describe that if the wrongdoer is not willing to be responsible for taking the burden of compensation, the state should always act as an agent in discharging the duties of rectification under distributive justice.⁵⁵

In this regard, the underlined aspect is that the benefits of the rectification have to be directed to the sufferers of the historical injustices, and compensated by specific people or agents who were the actors of the injustices. Wyman criticized the argument in favour of rectification based on distributive justice because "equally disadvantaged children are treated differently for no reason relevant to their current resources or need."⁵⁶ Hence, this argument may not be very effective or convincing. In appreciating, the concept of historical justice of Nozick this work intends to evaluate this aspect in a way that can be applied in guiding the formulation of policies to rectify past injustices and guide just distribution.

In this regard, Platz, Erdenk and Wyman's have admitted that the question of justice in property acquisition in the world has been dominated by numerous historical injustices. For example, in Africa, we once had a slave trade and colonialism and now neo-colonialism. Walter Rodney explained that during colonialism, Africans were used as cheap and forced labour in the plantations, processing industries, mining sites and other areas for free. Sometimes they were paid low wages to sustain their poor living and continue working.⁵⁷

European trading companies like the Imperial British East Africa Company, Germany East Africa Company, The Royal Niger Company and The British South Africa Company conducted unequal trade in the name of what they called legitimate trade with Africans. The imperial companies imported manufactured goods to Africa and sold them at a higher price, or in exchange for minerals or labour force.⁵⁸ The initial acquisition of resources during this era was organised in unjust manner and involved the transfer resources into another ownership without the primary owners' consent. This framework left a significant influence on the present system of resource distribution characterized by lack of citizens' involvements when it comes to determining how resources should be distributed.

4. Conclusion

Nozick's entitlement theory contributes to the understanding of the concept of distributive justice. The theory presents three key principles constituting Nozick's entitlement theory. These principles are principle of justice initial acquisition, justice in transfer and rectification principle. Nozick presents a framework to protect property right while setting the moral perspective on what should be a right property. Also the theory calls for state to establish a rectification mechanism to restore ill-gotten properties and lastly to highlights the need respect individual autonomy in property management and moral duties. The critique laid down by scholars cannot underrate in any way the good elements of the theory as it emphasis justice throughout the process of acquiring and transferring properties.

REFERENCES

- [1] J. Skoble. *The Essential Robert Nozick*. (Tokyo: Fraser Institute, 2020).
- [2] R. Nozick. *Anarchy, State and Utopia*. (Cambridge: Blackwell, 1974).
- [3] P. B. Nayak. "Nozick's Entitlement Theory and Distributive Justice," *Economic and Political Weekly*, Vol. 24, No. 4, (Jan. 28, 1989), 2-8.
- [4] The Holy Bible: King James Version.
- [5] J. Locke. *Two Treatises of the Government*. (London: Thomas Tegg, 1823).
- [6] M. D. Friedman. *Nozick's Libertarian Project: An Elaboration and Defense*. (London: Continuum International Publishing Group, 2011).
- [7] J. E. Roemer. *Theories of Distributive Justice*. (Cambridge: Harvard University Press, 1996).
- [8] M. M. Goldsmith, *The Entitlement Theory of Justice Considered*, *Political Studies*. Vol. XXVII, No. 4, (1978), 578-593.
- [9] J. Hospers. *Libertarian: A Political Philosophy for Tomorrow*. (New York: Nash Publishing, 2013).

⁵⁴ Jules L. Coleman. *Risks and Wrong*. (New York: Cambridge University Press, 1992), 312.

⁵⁵ Coleman. *Risks*, 313.

⁵⁶ Wyman. "Moral Justification," 127-196.

⁵⁷ Walter Rodney. *How Europe Underdeveloped Africa*. (Washington DC: Howard University Press, 1982), 167.

⁵⁸ Rodney. *How Europe Underdeveloped Africa*, 167-170.

- [10] R. Hasan. Golden Rule Libertarianism: A Defence of Freedom in Social, Legal and Economic Policy. (Liberty Magazine, 2014), 6-7. Available via. Available via. <https://annas-archive.org/md5/87a53b710d32d63d5c5e49aa86b44da4>. Accessed on. 12/01/2023
- [11] R. M. Bader and John Meadowcroft, Eds. The Cambridge Companion to Nozick's Anarchy, State, and Utopia. (Cambridge: Cambridge University Press, 2011).
- [12] Aristotle. The Nicomachean Ethics. Trans by. David Ross. (Oxford: Oxford University Press.1980).
- [13] J. Wolff. Robert Nozick: Justice, Property and Minimal State. (Cambridge: Polity Press, 2003).
- [14] A.T. Maashin. "Robert Nozick's Minimal State: A Critique." Jurnal Ilmu Sosiologi Dialektika Kontemporer Vol. 10, No. 2. (July – December 2022), 1-7.
- [15] B.T. Coram. "The More-Than-Minimal State Defended against Nozick." Politics. 23(1), (May 1988), 56-61.
- [16] E.A. Erdenk. "Problems of Robert Nozick's Principle of Justice in Acquisition: Nozick's Misunderstanding of the Nozickean Proviso and Its Consequences." Journal of Alternative Perspectives in Human Sciences, Vol. 1 (1). (2010), 21-30.
- [17] K.M. Wyman. "Is There A Moral Justification For Redressing Historical Injustices?" Vanderbilt Law Review. Vol. 61, Issue 1, art. 3 (January 2008), 127-196.
- [18] R. Westley. "Many Billions Gone: Is It Time to Reconsider the Case for Black Reparations?" In Should American pay: Slavery and the Raging Debate on Reparations. (New York: HarperCollins Publishers Inc., 2003).
- [19] J.L. Coleman. Risks and Wrong. (New York: Cambridge University Press, 1992).
- [20] W. Rodney. How Europe Underdeveloped Africa. (Washington DC: Howard University Press, 1982).