The framework for utopia

(forthcoming in *Cambridge Companion to Nozick's 'Anarchy, State, and Utopia'*)

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1 Introduction

Having argued in Parts I & II of *Anarchy, State, and Utopia* that a minimal state is justified and that no state more extensive than the minimal state is legitimate, Nozick attempts to establish in Part III that the minimal state is an inspiring meta-utopia which we should strive to realise. Nozick's discussion of utopia and his argument to the effect that the minimal state is a framework for utopia is important for three overarching reasons. First, it constitutes a fascinating and underappreciated investigation into utopian theorising. Second, it provides us with an account of the features that a Nozickian society will exhibit, thereby enhancing our understanding of the positive vision underlying Nozick's project. Third, it is meant to constitute an independent argument for the minimal state that does not rely on any moral considerations, in particular an argument that does not rely on Nozick's controversial theory of individual rights (cf. p. 309 footnote & p. 333). The results of the different parts of ASU are meant to converge from different starting-points on the same end-point, namely a minimal state. This means that even if Nozick's libertarianism should turn out to be lacking a solid moral foundation, as has been frequently objected, his argument that the minimal state is a meta-utopia would still have to be reckoned with, which means that it is not possible to circumvent Nozick's defence of the minimal state by simply rejecting his theory of individual rights.

This paper identifies and critically examines three arguments in favour of the minimal state that can be found in Nozick's discussion of the framework for utopia, namely:

1. the minimal state is inspiring because it is a meta-utopia that counts as a realisation of Nozick's possible-worlds model of utopia.

2. the minimal state is the common ground of all possible utopian conceptions and as such can be universally endorsed.

3. the minimal state is the best means for approximating or realising utopia.

While constituting fascinating lines of inquiry, all arguments are found to be wanting. Although they establish interesting and important results, they do not yield the conclusions that Nozick intended to establish.

2   Modelling utopia

Nozick begins his discussion by noting that the minimal state is primarily conceived of in negative terms. Advocates of the minimal state are concerned with placing restrictions on the state, rather than identifying an inspiring positive role that the state is meant to fulfil. Given this negative portrayal, the minimal state seems to lack lustre. In order to find out what exactly it is that the minimal state is lacking, Nozick proceeds to investigate the notion of utopia and examine what features utopias have that make them inspiring and attractive.

Utopia is the best possible world. Utopia is the best imaginable world. It is the world that is such that no better world can be imagined. Nozick takes this characterisation at face value and provides a possible-worlds model to capture this notion. The model is based on the idea of individuals having the power to create worlds as well as their inhabitants by imagining them, whereby each person has the same powers of imagination.[1] This gives rise to a process in which worlds are generated by being imagined. The inhabitants of a world can then either remain within that world or use their powers of imagination to create new worlds.

The question then arises whether any worlds will be stable, i.e. whether any worlds will be such that their members decide to remain in these worlds rather than creating new worlds. If this should be the case, then these worlds will have the important property of being such that none of their members can imagine any other world they believe to be stable and of which they would rather be a member.[2] The notion of a stable world consequently captures the idea of a world

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[1]Nozick imposes various restrictions on what can be imagined in order to avoid trivialising the model. In particular, we cannot (directly or indirectly) specify the preferences of the inhabitants of a world since we could otherwise specify that all inhabitants consider their world to be the best possible world which would ensure that the world would trivially be stable and that the model would accordingly be trivialised (cf. pp. 302-304). The model could be simplified by having populations be randomly generated, since this would ensure that they could not be manipulated in a way that would trivialise the model.

[2]Since the worlds that have to satisfy the condition of not being judged to be better than the utopian world are restricted to worlds that are believed to be stable, the characterisation of stability is circular. Nozick is aware of this problem but sets it aside (cf. p. 305). We can note that this circularity is unproblematic since the conditions for stability of w will be disjunctive, i.e. either there is no world w* that is judged to be better than w, or every world w** that is judged to be better than w is believed not to be stable, whereby the latter condition is cashed out as there being a world w*** that is better than w** and stable, whereby the conditions for w*** to be stable are again our original disjunctive conditions, i.e. either there is no world w**** that is judged to be better than w***, or every world w***** that is judged to be better than w*** is believed not to be stable, etc., thereby making it the case that the stability conditions will not always be finitely

that is judged to be the best possible world by all of its members, a world that is such that no better world can be imagined by its inhabitants. This means that within this possible-worlds model stable worlds are utopian worlds.

> STABILITY$_W$: Stable worlds have the property of being such that none of their inhabitants can imagine any world they consider to be stable and of which they would rather be an inhabitant.

Nozick's possible-worlds model thus allows us to identify a structural condition that worlds must satisfy to classify as utopian, namely that they be stable worlds. Being stable turns out to be a necessary and sufficient condition for a world to have the utopian property. A world that satisfies this condition is a world that is such that none of its members can imagine a better world, a world they would rather be in.[3]

> UTOPIA$_W$: A world w is a utopian world iff w is stable.

An important corollary of this result is that there will be different best possible worlds, different utopias for different people. Utopia is manifold and not unitary. No world counts as the best possible world simpliciter. The betterness ordering is determined by the criteria of bestness and these criteria vary from individual to individual. There is no world that is best according to all possible criteria. There are only worlds that are best according to particular criteria. This means that people who differ in terms of the worlds they classify as the best cannot co-inhabit the same utopia since any world that they co-inhabit will at best be utopian for some of them, but not for each of them. However, they can each have their own best possible world, their own utopia (shared with people who have compatible betterness orderings). This means that there is no world that is the best possible world for everyone. A world can only be best for each of its inhabitants. The model thus translates differences in values as well as differences in weightings of shared values into differences in utopias. To accommodate the diversity of preferences of people we need many utopias and not one.

Nozick's possible-worlds model provides us with an operationalisation of the notion of a best possible world that turns the notion of utopia into a theoretically fruitful notion by identifying informative and clearly specifiable conditions that

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statable.

[3] There being stable worlds presupposes that the betterness ordering on worlds has an upper bound. Given the restriction (discussed below) that worlds are only assessed with respect to institutional features, this does not seem implausible. Moreover, the arguments in favour of the minimal state can be restated in terms of utopian improvements. For instance, rather than arguing that the framework is compatible with utopia, one can argue that the framework is compatible with every possible utopian improvement. Similarly, rather than arguing that the framework is the best means for realising utopia, one can argue that the framework is the best means for achieving utopian improvements.

a world must satisfy to classify as utopian. This operationalisation requires us to specify what the criterion for judging bestness is and what is understood by a possible world:

1. BEST FOR WHOM?

- Nozick notes that what is best for me need not be best for you (cf. p. 298). Yet utopia should be the best possible world in a comprehensive and all-encompassing sense. It should not simply be best for a particular individual or group, but should be best for each of us.

Utopia is the best possible world for each person living in that world.

2. BEST ACCORDING TO WHICH STANDARDS?

- An informative operationalisation requires us to appeal to internal rather than external standards. This means that a world is utopian if it is the best possible world in the eyes of those living in that world. We do not assess whether a world is the best according to some objective and external criterion of bestness, but assess whether the people in the world judge the world to be best according to the standards that they endorse. We assess whether they wish to remain in the world or whether they can imagine a world that they would judge to be better.

Appealing to internal standards implies that we do not have to adopt a substantive conception of the good in order to assess for bestness. This allows us to give an account of utopia that does not presuppose any conception of the good and hence does not favour any particular utopian conception from the outset, which is a requisite criterion for an informative operationalisation.

Utopia is the best possible world according to the standards of its inhabitants.

3. WHICH ASPECTS OF A WORLD ARE ASSESSED?

- Since we are concerned with political philosophy, what we are assessing are institutional features. The operationalisation is meant to provide or identify criteria that institutional structures must meet in order to qualify as utopian.

Restricting our focus to institutional features implies that a world that satisfies these criteria can be a miserable world if its non-institutional aspects should turn out to be miserable. Utopian worlds understood in this way need not be good in all respects but need only be best with respect to those features that are the subject of political philosophy. Put differently, the utopian theorising with which we are concerned deals with questions of institutional design and evaluation and not with assessments of all features and aspects of life.

Additionally, this restriction implies that the inhabitants of a utopian world can differ widely in terms of their preferences regarding non-institutional features. For the world to be utopian, i.e. best for each of them, it is only required that their preferences regarding institutional features agree in what counts as best.[4] Accordingly, utopian worlds need not be homogeneous and uniform and do not require that the preferences of their inhabitants coincide. All that is needed for utopia to be possible, is that there be homogeneity with respect to bestness judgements of the assessed features, i.e. of institutional features.

Utopia is the best possible world in terms of its institutional structure.

4. WHAT NOTION OF POSSIBILITY IS AT ISSUE?

- Given that we are assessing institutional structures, we need to hold non-institutional factors fixed when assessing for what the best possible world is. Put differently, we are concerned with the question of what the best possible institutions are in a particular context of non-institutional circumstances.

This is important because different circumstances will require different institutions. What is best in one context need not be best in another context. From this it follows that there is no such thing as the best institutional structure simpliciter. Instead, certain institutional arrangements can only be considered to be the best possible arrangements for a certain range of circumstances. Hence, in order to make meaningful comparisons as to which institutions are better, we need to hold the context fixed. Otherwise, we would not get a total ordering and the notion of a best possible world would not be applicable.

In particular, preferences need to be held fixed. Otherwise it would not be possible to adequately operationalise the notion of bestness by appealing to internal standards. This is because a failure to hold preferences fixed would imply that the standards of bestness would themselves vary. Such shifting standards would not yield a determinate verdict as to which institutional arrangements are the best and we would not end up with a proper betterness ordering.

This feature of the operationalisation has important implications for our understanding of the relation between stability and utopia. According to traditional utopian theorising, utopias exhibit a distinct absence of change and are standardly depicted as conforming to a static end-state. This is because any change in utopia is seen to either lead to a deterioration or at

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[4]It is worth noting that they do not even need to agree in terms of how they order sub-optimal options – all that is required is that they agree in terms of what they judge to be best. Agreement regarding sub-optimal options will only be relevant when dealing with utopian improvements and questions of approximating utopia.

best have a neutral impact. No improvements are possible in utopia since ex hypothesi the world is already the best possible world. Nozick retains this insight insofar as the notion of stability is used by him to capture the idea that a world classifies as the best world and that no improvements are possible.[5] Yet, at the same time, Nozick's account allows for change and does not commit us to a static and rigid understanding of utopia. A dynamic conception of utopia is possible because bestness is defined relative to a set of parameters that can undergo changes. Rather than fixing in detail what utopian worlds have to be like, Nozick provides a structural condition that worlds have to satisfy to be utopian, whereby this condition is specified in terms of the preferences of the inhabitants of the worlds. This implies that as the preferences change the nature of the worlds satisfying the structural condition also changes. This means that Nozick's framework allows for but does not require change. It thereby reconciles a dynamic and flexible conception of society with the idea that a utopian society is in equilibrium and cannot be improved upon.

Utopia is the best possible world given the non-institutional circumstances.

Thus, the relevant notion of utopia is that of the best possible institutional structure (given a context in which certain non-institutional factors are being held fixed), whereby this structure has to be the best for each of us according to our own standards. In short, every member of the world must judge it to be the best possible world. If this condition is satisfied, then the world is stable and has the utopian property.

3   Applying the model

Nozick's possible-worlds model can be transferred to the real world by looking at associations rather than worlds and by considering the process of creating and joining associations rather than the process of imagining worlds. Instead of having different people create new worlds by their powers of imagination until stable worlds emerge, in the real world we have different people forming communities and associations until stable associations emerge. Put differently, associations fulfil a role in the actual world that is analogous to that of worlds in the possible-worlds model.

Though there are disanalogies between the model and the actual world, the analogies are sufficiently strong to ensure that the model is of relevance and has explanatory power. In particular, we can transfer the insight that stable worlds are utopian worlds to the idea that stable communities are utopian communities.

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[5]It is important to keep in mind that assessments in the model are restricted to institutional features, which means that the model leaves room for improvements in utopia in terms of non-institutional features.

That is, we can transfer the insight that stability is the structural condition that must be satisfied for something to have the utopian property (where stability is again understood relative to certain parameters that are being held fixed).

> STABILITY$_A$: Stable associations have the property of being such that none of their members can imagine any association they consider to be stable and of which they would rather be a member.

Accordingly, we can understand a utopian community as a community that is such that none of its members would rather belong to any other community (that they believe would be stable). This means that they judge their community to be the best possible community. Within the actual world being stable is a necessary and sufficient condition for an association to have the utopian property.

> UTOPIA$_A$: An association x is a utopian association iff x is stable.

As in the case of the model, we will again end up with a plurality of utopias. There will be different best possible associations for different people. Utopia will consist of many utopias. If all associations will be stable, then there will be a diverse set of utopian communities, each of which exemplifies the utopian property. This account is in stark contrast with traditional utopian theories which identify a unique way of life, a unique community that is taken to constitute the ideal.

It is important to note that diversity per se does not matter. A diverse collection of associations is not what counts as such. Diversity is not the goal that is to be achieved. What matters is that associations have the utopian property. This means that diversity of associations matters only insofar as we have a diversity of preferences. In particular, a diverse set of associations matters only if (i) people differ in the values they hold and/or (ii) people differ in the weightings they assign to the values that they share, given that trade-offs need to be made and that it is not possible to realise all values simultaneously (cf. p. 297). That is, for one community to count as the best possible community for certain people, it is not enough that these people share the same values. They must also give the same weightings to these values. Otherwise, different combinations of these values will be ordered differently by them.

Specifying utopia in terms of the preferences of individuals implies that we can translate a diversity of preferences into a diversity of associations, thereby ensuring that all associations can have the utopian property. The extent to which diversity of communities is to be valued is fixed by the extent of the diversity of preferences. In case preferences should turn out to be uniform, having a diverse set of associations would be sub-optimal and a single homogeneous community would be required instead. What Nozick objects to is not the possibility of a homogeneous utopian society, but rather the *essential* homogeneity and uniformity of traditional utopias. Nozick is simply making the claim that as a matter of fact people differ significantly and that a plurality of associations is required to cater

for these different preferences if utopia is to be achieved. In short, the framework allows for but does not require diversity.

There are various disanalogies between the model and the real world that require us to make some modifications. We will focus on two disanalogies.

1. TRANSACTION COSTS: While imagining worlds involves minimal costs, creating and switching associations can be highly costly.

As soon as transaction costs are involved we can end up with multiple equilibria. The problem then is to avoid sub-optimal equilibria that result from transaction costs. In the presence of transaction costs, stability per se does not suffice for the utopian property. When in a sub-optimal equilibrium, the reason why people do not switch associations is not because they consider the association they are in to be the best possible association. Instead, they do not switch because the process of switching to an association they consider to be better would be too costly to make it worthwhile. The stability that obtains in such a situation is simply the result of transaction costs and not the result of utopia, i.e. the absence of possible improvements. Stability has to be due to the absence of possible improvements, not due to possible improvements being too costly. Only in the absence of transaction costs are we justified in making the inference from an association's being stable to its being a utopian association. Accordingly, we need to look at stability under no transaction costs if stability is to be a sufficient and not only a necessary condition for possession of the utopian property.

2. COERCION: While possible worlds are isolated, associations impinge on each other.

We need to avoid sub-optimal equilibria that result from coercion. In the presence of coercion, stability per se does not suffice for the utopian property. A stable association classifies as utopian if its stability is due to its members voluntarily deciding to remain in it on the basis that they consider it to be the best possible association. The members of an association must remain in that association because they take it to be the best possible association, not because they are coerced to remain in it. Accordingly, we need to look at stability in the absence of coercion if we are to be justified in making the inference from an association's being stable to its being a utopian association. Stability has to be due to the absence of possible improvements, not due to people being coerced to remain in their associations. In short, stability must be the result of voluntary choice.

Taking these disanalogies into account, the result of transferring the possible-worlds model to the real world is that non-coerced stability in the absence of transaction costs is a necessary and sufficient condition for an association to have the utopian property.

4 The framework

Nozick specifies that the framework for utopia is an institutional arrangement "in which utopian experimentation can be tried, different styles of life can be lived, and alternative visions of the good can be individually or jointly pursued" (p. 307). He then claims that this institutional arrangement amounts to the minimal state.

The minimal state is a meta-association. It is a framework within which associations operate. The framework itself is not a utopia, but is the institutional setting within which particular utopias can be realised. While associations have the utopian property if they are stable, we can say that a framework has the meta-utopian property if all the associations that operate within it have the utopian property.

> META-UTOPIA: A framework x is a meta-utopia iff all associations that operate in x are utopian associations.

Unfortunately, Nozick does not tell us how exactly he considers these considerations to support the minimal state. In particular, he neither tell us why it matters that the minimal state classifies as a framework for utopia, nor whether he thinks that the minimal state is the only state that satisfies the description of the framework. Given that Part III is meant to establish the claim that the minimal state is inspiring, we can take Nozick's first utopian argument to go roughly as follows:

> The minimal state is the real-world analogue of the possible-worlds model of utopia. It is an institutional framework that replicates the relevant structural features of the model within the actual world and can consequently be considered as a realisation of the model. Given that the model gives rise to a process that generates utopian worlds and given that such worlds are inspiring, the minimal state should also be inspiring since within it utopian associations are generated which should be considered to be equally inspiring.

This kind of argument faces two significant problems:

1. WHAT NOTION OF 'INSPIRING' IS AT ISSUE?

> - There is some ambivalence in Nozick's description of the virtues of the framework. At times it seems that Nozick considers a society evolved within the framework to be inspiring because of the diversity that it is likely to exhibit. However, in order for the argument to not rely on any particular conception of the good or set of such conceptions, Nozick has to argue that such a society is inspiring because it satisfies the structural condition required for counting as a meta-utopia. If the framework is meant to be in principle inspiring, then its inspiringness cannot be linked to any particular

conception of the good. The framework should accordingly be inspiring even to those who adhere to a conception of the good that explicitly rejects diversity.

While it is clear why the particular utopian associations are inspiring to their members, it is not at all clear why the meta-association should be considered to be inspiring. A society evolved within the framework will be inspiring to someone who wants it to be the case that people can live their lives the way that they choose and that they can freely pursue their utopian ambitions, but it is not clear if there is any sense in which such a society will be inspiring to someone who rejects those views. Similarly, the fact that the framework is likely to exhibit diversity constitutes a reason to support the framework for those people who attach value to diversity. Yet, this does not hold in the case of those people who do not value diversity. The problem is that every aspect of the framework that might be considered to be inspiring will only be inspiring to people adhering to a particular conception of the good. Every ascription of inspiringness seems to have its source in a substantive conception of the good and consequently does not generalise to people who do not share the relevant values. Accordingly, these explanations cannot form the basis for claiming that the framework is in principle inspiring. Thus, Nozick seems to be committed to saying that satisfaction of the structural condition somehow constitutes a sufficient reason on its own for the framework to classify as being inspiring. Yet, how satisfying this structural condition can be considered to be inspiring is not clear.[6]

2. WHAT IMPORT DOES THIS ARGUMENT HAVE?

- Being inspiring does not in any way single out the minimal state and does not allow us to identify the features such a state should have. If the claim that the minimal state is inspiring in virtue of being a meta-utopia is meant to be an argument in favour of the minimal state, then it needs to be shown that such a state is more inspiring or at least more likely to be more inspiring than its alternatives. However, no such argument has been put forward by Nozick and no such argument seems to be forthcoming since many states satisfy the relevant description.

Whilst not being an independent argument, it can nonetheless play some role in Nozick's project since it can be considered as providing independent support for the minimal state by rebutting the charge that the minimal

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[6]Nozick also considers the framework to be inspiring because of the conception of human nature that underlies it, i.e. the framework treats people as autonomous beings who should be free to decide how to live their lives (cf. pp. 333-334). This basis for being inspiring also relies on a substantive conception of the good and cannot be brought in at this stage given that the argument for utopia is meant to be independent of moral considerations.

state lacks lustre and fails to be inspiring. This requires us to look at the inspiringness argument in the context of the preceding part. While Part II of ASU tells us what the minimal state looks like, Part III can then tell us that such a state corresponds to the possible-worlds model, that it is the real-world analogue of the model. Such considerations can thus play a limited role in Nozick's overall argument. They can be used to show that the minimal state is inspiring, even though they do not show that it is uniquely or maximally inspiring. For the inspiringness argument to play this limited role, the minimal state must satisfy the description of the framework (and the framework must be considered to be inspiring), but it is not required that all those states that satisfy this description be minimal states.

Accordingly, we can grant Nozick that there is something about the minimal state that is in some sense inspiring to at least some of us. It is not in the first place the minimal state itself that is inspiring. It, after all, is not a utopia but only a meta-utopia. Rather, it is that which happens within the confines of the minimal state that can be considered to be inspiring. It is the associations that develop and operate within it that are inspiring to their members.[7] They can all have the utopian property, thereby making the minimal state into a meta-utopia, something that will be inspiring to all those who value that people can pursue their utopian dreams and can live whichever way they consider to be best. This is not an independent argument for the minimal state, but nonetheless provides some independent support for the minimal state.

5   The common ground

A more promising argument for the minimal state can be identified by focusing on the fact that the minimal state not only is an institutional framework "in which utopian experimentation can be tried, different styles of life can be lived, and alternative visions of the good can be individually or jointly pursued" (p. 307) but that it is a framework in which all possible visions of the good can be pursued. Put differently, while many more-than-minimal states allow for utopian experimentation, the minimal state has the distinguishing characteristic of being a framework that does not exclude or rule out any associations and is accordingly compatible with all utopian conceptions. Given this characteristic, the minimal state can be considered to be the common ground of all possible utopian conceptions and can consequently be universally endorsed.

Thus, if we understand utopia as a situation in which all associations have the utopian property, then this implies that the minimal state is the maximal institutional structure that is in principle compatible with utopia. No matter what

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[7]Cf. "It is what grows spontaneously from the individual choices of many people over a long period of time that will be worth speaking eloquently about" (p. 332).

preferences people should have, no matter what utopian conceptions they should adhere to, the minimal state allows them to pursue their utopian ambitions and is compatible with a situation in which all of these people belong to associations that have the utopian property. Put differently, the minimal state can have the meta-utopian property no matter what utopian conceptions people should hold. That is, if we distinguish between institutional structures that are in principle compatible with a situation in which all associations have the utopian property and those that only accidentally allow for such a situation, then we can see that the minimal state is the maximal institutional structure that can in principle have the meta-utopian property.

> COMMON GROUND 1: the minimal state is the maximal institutional structure that is in principle compatible with utopia.

Any institutional structure that is more extensive than the minimal state will fail to be neutral and will privilege certain views of utopia. Any restrictions on what associations can be like will ensure that there will be some people who do not consider their association to be the best possible association, but would rather be members of an association that would not be subject to those restrictions. This means that any more extensive state cannot in principle be the best for each of us but can only be the best for those adhering to the utopias that are thus privileged. More-than-minimal states will thus only be accidentally compatible with utopia, namely only in those situations in which no one should wish to be a member of an association that is subject to the restrictions of a more-than-minimal state.

An important corollary of this result is that if a state happens to be accidentally compatible with utopia in a certain situation, then it will not perform any functions in that situation that go beyond those of the minimal state. In other words, all the non-minimal features of a more-than-minimal state will be ineffective in utopia. All the restrictions it imposes on what associations can be like will be inoperative in utopia since ex hypothesi no one will want to belong to such an association. Put differently, if a state is merely accidentally compatible with utopia, then it coincides with the minimal state in utopia and any differences between them will not be operative in these circumstances.

> COROLLARY: the functions performed by any state in utopia will coincide with those of the minimal state.

This in turn implies that the minimal state can be universally endorsed. While any state more extensive than a minimal state will privilege certain conceptions of the good, thereby precluding the possibility of having a system that can in principle be endorsed by everyone, the minimal state is compatible with all utopian conception. Accordingly, everyone should hold that the minimal state would at least be an adequate institutional structure in utopia. There should consequently be no in principle opposition to the minimal state. Anyone opposed to the minimal state should at most be contingently opposed to it and should hold that a

more extensive state is only required because people happen to have the wrong preferences. At most, people should oppose the minimal state on the grounds that we are not ready for it yet, that utopia has not yet been reached. As Nozick notes, everyone should hold that the framework is an adequate institutional structure for a society of good men (cf. p. 319).

6   Imperialists

We have just seen that the minimal state is the maximal institutional structure that in principle allows for a situation in which everyone is a member of a utopian association. Within the framework of the minimal state everyone can belong to an association that has the utopian property, no matter what utopian conception they should hold. To this it might be objected that the minimal state excludes what Nozick calls imperialistic conceptions of utopia and accordingly fails to be neutral after all.

Nozick distinguishes between existentialist, missionary and imperialist conceptions of utopia (cf. pp. 319-320). While existentialists hold a neutral stance with respect to the views held by others, and while missionaries want others to adopt their views but require that this adoption be voluntary, imperialists condone the use of force in getting other people to subscribe to their views. Since utopia is incompatible with coercion, it is incompatible with imperialistic behaviour. This incompatibility gives rise to a need to impose restrictions on behaviour and regulate the interactions between different communities. In particular, the framework is required to rule out coercion. Accordingly, the framework appears to be non-neutral and appears to privilege non-coercive conceptions of utopia over coercive ones.

While the framework rules out coercion, it nonetheless does not exclude imperialistic associations. Instead of excluding imperialistic communities, the framework only excludes imperialistic behaviour.[8] Imperialists can form associations and govern their associations according to their preferred principles. The framework simply makes it the case that they cannot impose their preferences on others. Put differently, it is perfectly acceptable for there to be an imperialistic community that has imperialistic ambitions but does not act upon them. As a result, the framework can provide imperialists with associations that have the utopian property. This means that imperialists can be members of associations that are such that there is no other association of which they would rather be members since their current association is governed according to their own ideal principles. Accordingly, the framework can be a meta-utopia even if some or all

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[8]This aspect of Nozick's argument has frequently been misinterpreted. In particular, Nozick's argument has often been misunderstood as having the consequence that imperialistic communities are excluded, that they are forbidden and outlawed by the framework (e.g. Lacey: 2001, p. 67 & Fowler: 1980, p. 552).

people should adhere to imperialistic conceptions of utopia. Everyone can be in an association that has the utopian property. In other words, despite ruling out coercion, the framework still classifies as being the common ground of all possible utopian conceptions since it is compatible with the existence of imperialistic communities and only rules out the use of force in establishing such communities.

Since the meta-utopian property is had by a framework if all associations operating within it have the utopian property, i.e. are such that none of their members would rather be in any other association that they consider to be stable, it is instantiated in situations in which everyone's self-regarding first-order preferences are satisfied. Put differently, when focusing on the meta-utopian property we only look at whether the people within the framework are all members of utopian associations. We do not look at whether their preferences regarding other people or their preferences regarding the meta-association are satisfied. Thus, the result that the minimal state is the maximal institutional structure that can in principle have the meta-utopian property, amounts to the result that the minimal state is the maximal institutional structure that is in principle compatible with a situation in which everyone's self-regarding first-order preferences are satisfied.

> COMMON GROUND 2: the minimal state is the maximal institutional structure that is in principle compatible with the complete satisfaction of everyone's self-regarding first-order preferences.

While the framework allows everyone to be in an association with the utopian property, i.e. everyone's preferences regarding what kind of association they wish to be a member of can be satisfied, it is not the case that other kinds of preferences can always be satisfied. In particular, other-regarding preferences and preferences regarding meta-associations will not always be satisfied.[9] For instance, unless everyone should be in favour of the minimal state, it will not be the case that everyone's preferences concerning meta-associations are always satisfied by the framework. As Fowler notes, "in the eyes of the communities the minimal state is forcing *its* ideals on them" (Fowler: 1980, p. 559). The framework allows people to choose their ideal association, but it does not allow them to choose their meta-association. Every meta-association will impose its ideals on those people who prefer a different meta-association.[10] The minimal state is not an exception in this regard. What makes the minimal state special is that its ideals are compatible with all self-regarding first-order preferences.

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[9]Since meta-associations are concerned with relations between individuals belonging to different associations and regulate the interaction between associations of which one may not be a member, it follows that preferences regarding meta-associations are other-regarding preferences.

[10]As long as people have different preferences regarding meta-associations, then the only situation in which no ideals are imposed is if there is no meta-association. While an anarchical situation will not involve the imposition of ideals, it will not satisfy preferences regarding meta-associations either (excepting those of anarchists since they prefer for there to not be a meta-association).

The restriction to first-order self-regarding preferences is required if utopia is to be in principle possible. That is, if we understand utopia as in some way involving the complete satisfaction of preferences (here preferences regarding institutional matters), then the maximal non-arbitrary set of preferences that are in principle co-satisfiable are preferences that are self-regarding and first-order. Put differently, a situation in which everyone's preferences are satisfied is in principle only possible if we restrict our focus to self-regarding first-order preferences, i.e. preferences about the association of which one is a member.[11] Other-regarding preferences as well as preferences about meta-associations must be excluded since they are not in principle co-satisfiable, i.e. these preferences are such that satisfaction of one of them precludes satisfaction of many others.

> COMMON GROUND 3: the minimal state is the maximal institutional structure that is in principle compatible with the complete satisfaction of the maximal non-arbitrary set of preferences that are in principle co-satisfiable.

The need for this restriction is nicely illustrated by imperialists since their preferences are essentially such that, as long as anyone holds views that differ from theirs, they will not be satisfied unless not everyone is satisfied.[12] Since it is impossible in principle to satisfy all preferences of all people, the best that can be achieved is for a restricted range of preferences to be satisfied. The maximal non-arbitrary set of preferences that are in principle co-satisfiable are first-order self-regarding preferences. Thus, to the extent to which the idea of utopia is in principle possible, it can only consist in every association having the utopian property, i.e. a situation in which everyone's first-order self-regarding preferences are satisfied, and the maximal institutional structure that is compatible with such a situation is the minimal state.

Though the minimal state is the common ground of all utopian conceptions, the fact that other-regarding preferences and preferences concerning meta-associations will at best be accidentally satisfied implies that imperialists will oppose or at least not fully endorse the framework. This is because the framework does not allow them to use what they consider to be adequate means, namely coercive means, for realising their utopian visions. Imperialists will consequently see themselves as being restricted by the framework. Even though they would not rather belong to any other association, they would prefer for their association to be embedded in a different framework, namely one that would not restrict

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[11]First-order preferences are here contrasted with preferences regarding meta-associations rather than with preferences concerning higher-order associations. The latter are self-regarding and in principle co-satisfiable, whereas the former are other-regarding and not in principle co-satisfiable.

[12]Cf. "you can't satisfy everybody; especially if there are those who will be dissatisfied unless not everybody is satisfied" (p. 320).

their coercive behaviour. Accordingly, while allowing imperialists to be members of associations that have the utopian property, the framework cannot in principle provide them with a world that has the utopian property, i.e. there are worlds that are such that they would rather have their association be a part of those worlds, namely worlds in which they can implement their imperialistic ambitions or worlds in which everyone adheres to their views. It can, of course, happen that a particular imperialistic utopian vision is fully realised, in which case the imperialists will no longer oppose the framework. As Nozick notes, they "will oppose the framework so long as some others do not agree with them" (p. 320) but if everyone should agree with them, then they will no longer oppose the framework. Similarly, missionaries will not be fully satisfied with the framework as long as others should hold differing views since they would prefer to be in a world where everyone adhered to their utopian conception. This means that the opposition to or lack of full endorsement of the framework on the part of imperialists and missionaries is not a principled opposition, but is contingent on what preferences other people happen to have.

Nozick has frequently been criticised on the basis that he needs to smuggle in moral considerations to deal with imperialists (cf. Hailwood: 1996 & Mack: 1975, p. 10). We can now see that these criticisms are misplaced. There is no need to appeal to moral considerations in order to rule out imperialistic behaviour. The impropriety of imperialistic behaviour simply follows from utopia being the best possible world for each of us. Imperialistic behaviour is ruled out because this is a presupposition of achieving a meta-utopian situation, i.e. a situation in which all associations have the utopian property. More precisely, it is necessary that no one be coerced to live in a particular way, i.e. that no one be subjected to imperialistic behaviour, if it is to be possible that everyone is to be a member of an association with the utopian property. In this way we can have a situation in which all self-regarding preferences are satisfied, i.e. all preferences regarding the community of which one is a member. This, though, leaves the other-regarding preferences of imperialists (as well as of missionaries) unsatisfied. It might now be asked why we privilege the self-regarding preferences of non-imperialists over the other-regarding preferences of imperialists. The reason why other-regarding preferences are excluded is that their inclusion would contravene the co-satisfiability criterion, a criterion that follows from utopia being best for each of us. If only some people's preferences are satisfied, then the world will only be the best possible world for those people and not for each of us. This means that the preferences that must be satisfied for a situation to be utopian must be co-satisfiable. As we have seen, the maximal non-arbitrary set of in principle co-satisfiable preferences is the set of first-order self-regarding preferences. Accordingly, for utopia to be possible, for a situation that is best for each of us to be possible, imperialistic behaviour has to be ruled out.

7 The framework and the minimal state

Nozick claims that the framework is to be identified with the minimal state and that Part III constitutes an independent argument for the theory defended in the prior parts. It is, however, questionable to what extent a meta-association that satisfies the condition of not placing any restrictions on the non-imperialistic pursuit of utopian conceptions should be identified with a Nozickian minimal state. In particular, the argument that the minimal state is the maximal institutional structure that is in principle compatible with utopia provides at best partial confirmation or corroboration for the results established in Parts I & II and to some extent even seems to be in conflict with those results. (1-5 focus on partial confirmation, while 6 establishes a direct conflict.)

1. The compatibility argument only establishes an upper bound, insofar as the minimal state is the maximal institutional structure that is compatible with all possible utopian conceptions, and no lower bound. The argument shows that no state more extensive than the minimal state is in principle compatible with utopia, but this leaves open the possibility that it would be preferable to have a less-than-minimal state (such as Nozick's ultra-minimal state) or no state at all.

2. Nozick states that the major role of the central authority "would be to enforce the operation of the framework – for example, to prevent some communities from invading and seizing others, their persons or assets" (p. 329). However, he does not tell us how to understand assets. For this we need an account of property rights, but no such account straightforwardly follows from the compatibility argument. Put differently, the framework argument does not yield any clear account of property rights, yet property rights play a crucial role in the conception of the minimal state developed in Parts I & II.

3. The framework rules out coercion since coerced stability does not give rise to the utopian property.[13] However, the framework argument lacks sufficient resources to rule out killing. The reason why the argument does not result in a prohibition on killing is that utopia is specified by means of a structural condition that only applies to those people that do exist at

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[13] It should be noted that even the restriction on coercion is much more limited than that in place in Parts I & II since the framework argument only rules out being coerced to belong to an association that one does not consider to be utopian. Yet, the absence of this type of coercion is compatible with other types of coercion that do not concern the issue of which association one is a member of. Put differently, it is possible that someone is in the association that he or she considers to be best possible association despite the fact that this person is coerced to do things that he or she does not like.

a particular time. This means that stability can be achieved by eliminating all those people that are dissatisfied, i.e. those that are such that they can imagine associations of which they would rather be a member.[14] The structural condition looks only at those people that do exist and not at those that have been killed.[15]

4. All that matters is that everyone be in an association that has the utopian property. It does not matter how we get to such a stable situation. In particular, people can be coerced into utopia. The fact that people were coerced to enter an association in no way undermines the utopian character of an association, as long as all its members wish to remain in the association. Put differently, we can be coerced to do that what we would have chosen anyway, or what we would have chosen in the absence of akrasia. This means that choice per se is irrelevant and drops out of the picture. All that matters is that our preferences be adequately aligned with the associations to which we belong. Relatedly, being prohibited from leaving an association is unproblematic as long as one does not desire to leave that association, that is, as long as that association retains its utopian character. Only once one no longer wishes to remain in an association does a prohibition on leaving it give rise to a sub-optimal and hence non-utopian situation.

5. The structural and non-historical nature of the characterisation of utopia also has untoward consequences when looking at preference formation. What matters is that at each time associations be aligned with preferences. How preferences are formed or how they change is irrelevant from the point of view of the framework argument. This means that it is possible to attain utopia by changing people's preferences. In particular, stability can be achieved by changing the preferences of all those people who are dissatisfied in such a way that they will come to judge the associations of which they are members as being utopian according to their new preferences. This implies that a situation in which everyone considers the association of which he or she is a member to be the best possible association is a utopian situation, independently of whether it has been achieved by brainwashing or in some other way.[16]

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[14]This problem is closely related to what Nozick calls 'moral avoidance' in *Philosophical Explanations* (cf. Nozick: 1981, pp. 460-462).

[15]An analogous problem for Nozick's entitlement theory has been identified by Davis (cf. Davis: 1981). Whilst Davis's critique can be answered by appealing to Nozick's recursive characterisation of justice (cf. Bader: 2010, pp. 104-105), no analogous response is possible in the case of the framework argument since we do not have a recursive characterisation of utopia in terms of procedures that must be satisfied to yield a utopian situation.

[16]Here, again, it is important to keep in mind that the notion of utopia at issue is restricted insofar as only institutional features are being assessed, thereby making it the case that the ob-

6. Nozick suggests that joining an association can bring with it commitments regarding the conditions under which the association can be exited (cf. pp. 330-331). For instance, if someone signs a contract to the effect that he or she will remain in a particular association, then that person will not be allowed to leave while the contract is in force even if that person's preferences should change and the person should no longer regard that association as the best possible association. According to Nozick's moral philosophy, the person can be forced to remain in that association and such a use of force would not count as coercion, since Nozick is dealing with a moralised conception of coercion. The framework argument, on the contrary, does classify such a use of force as coercion since it is based on a non-moralised conception and implies that this kind of coercion gives rise to a sub-optimal equilibrium that needs to be avoided if utopia is to be achieved. If someone's preferences change, then a meta-utopian situation is not restored until that person switches to an association that conforms to the modified preferences. Prior commitments, contracts or promises to the previous association seem to be irrelevant from this point of view and completely drop out of the picture. Put differently, the exit option flowing from the framework argument is entirely unrestricted, whilst the exit option resulting from Nozick's moral argument is limited since it requires that commitments and obligations be met.[17] The difference between the moralised and non-moralised conceptions of coercion thus implies that Parts I & II rule out certain actions as being impermissible, such as breaking a contractual agreement in order to exit a sub-optimal association and switch to a utopian association, while Part III classifies them not only as permissible but as required for achieving utopia.

Thus, we can see that the argument that the minimal state is a framework for utopia only partially confirms the results established in the previous parts of ASU and to some extent is even in conflict with those results. The differences and conflicts result, on the one hand, from a clash between a moralised and non-moralised understanding of coercion and, on the other, from a clash between a procedural account of morality and a structural account of utopia.

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jectionable character of brainwashing does not undermine the utopian nature of the resulting situation. While people are very likely to prefer being in a world in which they are not brainwashed, it is not the case that they would rather be members of different associations, and it is only the latter preference that is relevant for the notion of utopia that is at issue.

[17]More precisely, the framework is not opposed to exit costs per se but only rules out those exit costs that prevent a utopian situation from arising and that keep us in sub-optimal equilibria.

8 External standards

So far, being utopian has been understood as being the best in the sense of being judged to be the best by the members of the association or the inhabitants of the world. The operationalisation has appealed to internal standards of bestness, to the judgements and preferences of the members or inhabitants. On the basis of this understanding, it has been argued that the minimal state is a real-world analogue of Nozick's possible-worlds model of utopia and that the minimal state is the maximal institutional structure that is in principle compatible with utopia.

This conception of utopia can be rejected. Instead, it can be insisted that utopia consists in conformity to certain objective and external standards.[18] This raises the question how Nozick can respond to someone who rejects the operationalisation and argues that we should appeal to external rather than internal standards. Three strategies suggest themselves, namely to (1) strengthen the case for internal standards, (2) find ways to connect external to internal standards in such a way as to ensure that the results are still valid, and (3) identify arguments in favour of the minimal state that hold even in the context of external standards.

1. INFORMATIVE OPERATIONALISATION: Those who reject an operationalisation in terms of internal standards and instead appeal to external standards to specify the notion of utopia are not able to accord a substantive and theoretically interesting role to this notion. Disagreements will then not be directly about utopia but will concern the underlying conception of the good. All debates can accordingly proceed in terms of the more fundamental questions about value and the good. On such a view, 'utopia' will simply be a label attached to certain situations singled out by one's value theory. The notion of utopia will consequently only be a convenient shorthand that is dispensable in moral and political theorising. Yet, if one wants to grant a distinctive role to the notion of utopia and wants to allow that there is an interesting characterisation of utopia on which people can agree even if they adhere to different conceptions of the good, then one needs to provide a non-trivial and non-question-begging operationalisation of this notion. Whilst a direct specification of utopia that derives from a particular conception of the good simply consists in attaching a label, an operationalisation in terms of internal standards allows us to give an informative indirect specification of utopia. Such an operationalisation allows one to have substantive debates about this notion and discover interesting results.

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[18]A number of criticisms of the framework implicitly appeal to external standards. For instance, Singer's criticism that the framework does not pay sufficient consideration to the historical circumstances within which choices are made presupposes that there are external standards for evaluating preferences (cf. Singer: 1981, pp. 38-39). Such criticisms are ineffective against an operationalisation based on internal standards since preferences constitute the standards by means of which we assess institutional structures, whilst they themselves are beyond criticism and evaluation.

An operationalisation via internal standards not only provides us with a theoretically interesting and fruitful notion, it also gives us a plausible and well-grounded understanding of what utopia amounts to. Rather than resulting from an arbitrary and ad hoc stipulation, we are led to this characterisation by a natural chain of reasoning that proceeds from (i) utopia is the best possible world, to (ii) utopia is the best imaginable world, to (iii) utopia is the world that is such that none of its members can imagine a better world. Defenders of external standards have to reject this natural chain of reasoning.

2. ENDORSEMENT CONSTRAINT: We can connect external to internal standards by imposing a condition that requires that utopia not only consist in conformity to certain objective and external standards, but that these standards also be endorsed by the members of the association, i.e. requiring that external and internal standards coincide in utopia. Imposing such a condition can be motivated by noting that utopia is supposed to be the best society for its members, which suggests that they should recognise and judge it to be the best. What is objectively best should ideally not be completely disconnected from what the subjects take to be best. The endorsement condition allows us to retain the previously established results in the context of external standards. In particular, we can retain the result that in utopia more-than-minimal states will not do anything that would exceed the functions of the minimal state, i.e. in utopia the state will at most exert the functions of a minimal state. Accordingly, we can also retain the result that there should be no in principle opposition to the minimal state.[19]

It should be noted that connecting external standards to internal standards by means of an endorsement condition only leads to interesting results in contexts where there are different best lives for different people. If we have complete homogeneity, then we will end up with a unique best association. The framework will then become completely irrelevant and ineffective. Put differently, the framework only plays a significant role if there is a plurality of associations, which requires that there be different best lives for different people (i.e. different values or different weightings of shared values, where trade-offs need to be made).

3. INSTRUMENTAL CONSIDERATIONS: Once external standards are brought in, epistemic worries arise. While one might reasonably hold that there is an objectively best society, claiming that one knows exactly what such a soci-

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[19]At least, we can retain these results if we restrict our focus to first-order self-regarding preferences. Whether such a restriction can be justified in the context of external standards is not clear since it is questionable whether the justification we gave for the restriction to first-order self-regarding preferences in the context of the operationalisation in terms of internal standards has an analogue in the context of external standards.

ety looks like is another matter. In particular, the vast complexity of life suggests that a healthy dose of epistemic humility is in order. Given how complex life is, it seems impossible to design the best community. To the extent to which we have a conception of the best possible world or best possible society, this conception is significantly shaped by our experiences and is not simply the result of armchair theorising. It is by reflecting on our experiences, as well as those of others, that we develop a conception of what the best society might look like. The impossibility of designing utopia from scratch then opens up room for instrumental arguments to the effect that having a diverse collection of associations and the freedom to experiment allows us to overcome our epistemic limitations and identify the objectively best life. Instead of trying to design utopia, we need to rely on filter mechanisms that weed out inappropriate products from a large set of generated alternatives. This means that we require a plurality of associations and have to let people freely form associations and decide how to live their lives if we are to identify utopia, even if utopia itself should be unitary.[20]

9   The more than minimal state?

The appeal to epistemic considerations based on the superiority of filter-devices over design-devices suggests a third line of argument, namely to conceive of the framework argument as an instrumental argument. Rather than focusing on the inspiring nature of the framework or on the fact that it is the maximal institutional structure that can in principle be universally endorsed, instrumental arguments are based on the idea that the framework is the best means for approximating or realising utopia. Such instrumental claims can be made both within the context of internal standards and within the context of external standards. The framework may have beneficial instrumental effects in terms of bringing about a situation in which everyone judges his or her association to be the best possible association, as well as in terms of bringing about a situation that corresponds to certain external standards that are taken to specify what utopia consists in.

Yet, all such instrumental arguments in favour of the minimal state that try to establish that such a state is a good means for achieving or approximating utopia (whether understood according to internal or external standards), are problematic

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[20]Care is required in interpreting the status of this argument. It has frequently been assumed that the epistemic argument is Nozick's main argument in Part III. This is incorrect. Nozick does not provide an instrumental argument for the framework on the basis of its beneficial epistemic effects, but instead appeals to instrumental considerations to respond to those who assume that there is one objectively best community, showing that even those who suppose that there is one best community should endorse the framework for instrumental reasons. This is clearly brought out by the disclaimer with which Nozick prefixes his discussion of filter mechanisms and design devices: "Suppose (falsely) ..." (p. 312).

since there might well be cases where the minimal state may be non-optimal and where either a less-than-minimal or more-than-minimal state may be superior. Accordingly, instrumental considerations will not uniquely and unconditionally support the minimal state and will thereby not establish the conclusion that Nozick intends to establish.

SUB-OPTIMAL EQUILIBRIA: As regards approximating utopia understood according to internal standards, we can see that there can be circumstances where this might be best achieved by means of non-minimal states. In particular, if the framework has the role of ruling out coercion given that coerced stability does not give rise to the utopian property, then it would seem that the framework should also have the role of avoiding other kinds of stable yet non-utopian situations. Such sub-optimal equilibria can, for instance, result from (i) transaction costs, (ii) co-ordination failure, (iii) faulty beliefs/reasoning, and (iv) akrasia or practical irrationality.

1. As we saw above, stability that results from transaction costs does not give rise to the utopian property. If people remain in their associations for the reason that moving to a situation they would consider to be preferable is too costly, then such a stable situation fails to be utopian.

2. A sub-optimal equilibrium can arise if we have a situation that is stable, not because no improvements are possible, but because co-ordination problems prevent people from moving to an intrinsically better stable situation.

3. Given that a utopian association is understood not as the best possible association but as the best possible association believed to be stable, there seems to be room for epistemic mistakes (that do not rely on any value judgements). If someone judges an association to be the best possible stable association even though there is another association that that person judges to be better but mistakenly considers to be unstable, then one ends up with a sub-optimal equilibrium, i.e. a stable yet non-utopian situation.

4. If someone remains in an association, not because that person judges this association to be the best possible association but because of weakness of will, then that association will be stable but not utopian.

In each of these cases, it seems to be an open question whether the minimal state is the best institutional structure for avoiding sub-optimal equilibria, or whether a less-than-minimal or more-than-minimal state may be better suited for that task. For instance, such non-minimal states might be required for reducing transaction costs in order to increase mobility which would allow us to avoid sub-optimal equilibria to a greater extent and hence get closer to utopia.[21]

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[21]To find out whether a more-than-minimal state would be required, one would have to look

Moreover, instrumental arguments based on internal standards face the problem of finding a principled way of weighing up the satisfaction of different people's preferences. When we are concerned with identifying the conditions that must be satisfied for the complete realisation of utopia, 'neutrality' between different people follows from the understanding of utopia since utopia is understood as being best for each of us, requiring that everyone counts equally in the sense of everyone's (self-regarding, first-order) preferences having to be fully satisfied if utopia is to be achieved. This, however, is not the case when it comes to instrumental arguments that aim at approximating utopia. When examining which option is best, one needs to weigh up and aggregate costs and benefits that accrue to different people. Yet, unless one brings in moral considerations it is not at all clear how to establish what weightings one should attach to different people's preferences. In the absence of such weightings, instrumental reasoning will not be able to aggregate and will not be able to always yield a determinate verdict as to which option is best supported by instrumental considerations.

Furthermore, if weightings can somehow be established, it might be possible to achieve a better approximation of utopia by compelling people to join or remain in certain associations, thereby making options available that otherwise would not have existed and that allow for optimising the overall satisfaction of preferences. For instance, if association A would not be viable without x but x would prefer to be in A*, then it can be the case that forcing x to join or remain in A will lead to the result that a large number of people can be members of an association they consider to be utopian, namely association A, and x will be the only one who will be in a sub-optimal position. The option whereby x is forced, leading to a situation in which everyone other than x will be in an association they consider to be utopian, seems to be preferable from an instrumental point of view over the option whereby x is not forced but instead joins A* making it the case that x is in an association that x considers to be utopian, while everyone else who would otherwise have been in A will not be a member of an association that they consider to be the best possible association.

OPTIMAL RATE OF EXPERIMENTATION: As regards approximating utopia understood according to external standards, we can also see that there can be circumstances where this might be best achieved by means of non-minimal states. While Nozick makes a good case to the effect that the minimal state is commendable for allowing people to experiment and learn from each other, Nozick is aware of the fact that such an instrumental argument does not uniquely support the minimal state. To strengthen the epistemic argument, he notes that the framework has the distinctive advantages "of a filtering process incorporating mutually improving interaction between the filter and the surviving products of the generating pro-

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at how widespread such sub-optimal equilibria are, what the extent of their sub-optimality is and what the likely costs of removing them are.

cess" (p. 317). Yet, this does not guarantee the superiority of the minimal state over alternative systems in all possible circumstances. It might well make the minimal state the best system on the whole, but this is compatible with there being particular exceptions. In particular, since the framework leaves room for experimentation but does not require it, it seems possible that there can be situations in which there is not enough experimentation, in which people are too reluctant to try out new things. Put differently, in some cases providing incentives for experimentation may allow us to achieve a more optimal rate of experimentation and the provision of such incentives is a role that might be fulfilled by a more-than-minimal state (cf. p. 329 footnote).[22]

While the minimal state may turn out to be optimal for overcoming our epistemic limitations as well as for dealing with sub-optimal equilibria, these claims require substantive argumentation. Whether such instrumental arguments uniquely support the minimal state cannot be established a priori but is an empirical question that may well vary from context to context. Whilst the minimal state might be optimal in a large number of cases, there could well be cases in which a different institutional structure would be optimal.

Additionally, since instrumental arguments are goal-directed, they cannot yield side-constraints. As soon as optimisation is at issue, trade-offs can become necessary to achieve the optimal way of approximating utopia, yet such trade-offs are precisely what side-constraints are meant to exclude. This means that even if instrumental considerations should establish 'individual rights' corresponding to those that Nozick puts forward in Parts I & II, these rights would not have the status of side-constraints but could be out-weighed. Accordingly, clashes can arise insofar as instrumental considerations can recommend or require actions that are ruled out by the side-constraints.

10   Conclusion

Nozick provides us with a fascinating investigation of the notion of utopia and clearly demonstrates the fruitfulness of utopian theorising. Unfortunately, it is not entirely clear what he is arguing. We have identified three possible lines of argument in favour of the minimal state.

The first argument shows that the minimal state is a realisation of Nozick's possible-worlds model and that it can consequently have the meta-utopian property. It then tries to argue on this basis that the minimal state can be considered to be inspiring. This argument is problematic since it is not at all clear in what sense such a framework is meant to be inspiring. Moreover, such considerations do not

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[22]Again, one would have to weigh up the likely costs and benefits of the provision of such incentives to see whether a more-than-minimal state might fill a useful role.

constitute an independent argument but at best provide support for a conception of the minimal state that has been established on independent grounds.

The second argument establishes that the minimal state can be considered to be the common ground of all possible utopian conceptions and can consequently be universally endorsed. This is because it is the maximal institutional structure that is in principle compatible with the complete satisfaction of the maximal non-arbitrary set of preferences that are in principle co-satisfiable. Moreover, we were able to extend this argument to show that at most the functions of the minimal state will be operative in utopia and that there should consequently be no in principle opposition to the minimal state. This argument also had some shortcomings. While it underwrites certain functions of the minimal state, such as ruling out coercing people against their will, it fails to rule out anti-akratic forcing and does not even generate a prohibition on killing. Additionally, there emerged conflicts with the understanding of the minimal state that Nozick developed in Part II of ASU due to the fact that Part II relies on a moralised conception of coercion, while a non-moralised conception is at play in the utopia argument. Finally, the argument can be circumvented by appealing to external standards.

The third argument attempts to establish that the minimal state is an optimal or at least a very good means for realising or approximating utopia, independently of whether or not utopia is understood according to internal standards or external standards. The problem with this argument is that it makes advocacy of the minimal state contingent and dependent on empirical claims. In particular, significant additional arguments are required to establish the instrumental superiority of the minimal state over more-than-minimal as well as less-than-minimal states. Moreover, which institutional structure turns out to be best in promoting the realisation of utopia may well differ from context to context, which implies that such instrumental considerations may well warrant a role for a more-than-minimal state, for instance in terms of reducing transaction costs. Finally, this argument does not establish restrictions that have the status of side-constraints.

Thus, it seems most charitable to interpret Nozick's discussion in Part III not as an independent argument for the minimal state, but as an attempt to provide further support for the conception of the minimal state that has been developed in Parts I & II, by (i) showing in what ways the minimal state can be considered to be inspiring, by (ii) highlighting the vast diversity of different utopian conceptions that can be accommodated by a minimal state, and by (iii) specifying the instrumental benefits, in particular the epistemic benefits, that are likely to result when people are allowed to freely experiment and live their lives as they see fit. These supporting considerations derive from the fact that the minimal state does not specify a particular utopia that is to be achieved, but is instead a framework within which all possible non-coercive utopian conceptions can be realised. It is a system that allows people to create the communities they wish, to live their lives as they desire and to pursue their utopian dreams.

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