

IDEOLOGICAL FORMULATION OF THE MODERN STATE: ROBERT NOZICK'S THEORY OF THE MINIMAL STATE

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Abstract

There have always been different approaches to the concept of the state in political science and political philosophy. Political ideologies, which interpret political and social problems in contrasting ways, offer differing perspectives on the state, particularly the modern state. In this context, it is common to find analyses of the state shaped by ideological perspectives. This study examines and discusses in detail the libertarian approach to the state, using the work of Robert Nozick as a case study. To begin with, the view of the state within the context of classical liberalism is analysed both historically and theoretically. The study then evaluates libertarianism's view of the state based on modern assumptions. As seen in Nozick's example, the attempt to construct a model of the state in line with an ideological doctrine—rather than an independent philosophy of the state—often gives rise to contradictions. Accordingly, Nozick's conception of the state is subjected to a detailed analysis. The study explores whether Nozick's notion of the state aligns with central themes in modern political thought and provides a critical evaluation of his theory of the state.

Keywords: Libertarianism, Robert Nozick, Minimal State, Liberalism, State Philosophy.

MODERN DEVLETİN İDEOLOJİK FORMÜLASYONU: ROBERT NOZİCK'İN MİNİMAL DEVLET TEORİSİ

Öz

Siyaset bilimi ve siyaset felsefesinde devlet mefhumuna ilişkin farklı yaklaşımlar her dönem olmuştur. Siyasal ve toplumsal sorunları birbirinden farklı hatta zıt yorumlayan siyasal ideolojilerin, devlete, özellikle de modern devlete yaklaşımları da birbirinden farklılaşmakta ve adeta devletin ideolojik formülasyonu diyebileceğimiz devlet analizleri karşımıza çıkabilmektedir. Bu çalışmada, bu durumun bir örneği olarak kabul edilebilecek liberteryen devlet yaklaşımı Robert Nozick'in eseri üzerinden detaylı bir şekilde ele alınacak ve tartışılacaktır. Bu anlamda öncelikle klasik liberalizm bağlamında devlete bakış tarihsel ve kuramsal olarak incelenecektir. Çalışmada liberteryenizmin devlete bakışı modern kabuller üzerinden değerlendirilecektir. Bu çalışmada temel olarak, bağımsız bir devlet

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felsefesinden ziyade ideolojik bir doktrinin ön kabulüne uygun bir devlet modeli inşa etme girişiminin Nozick örneğinde görüldüğü gibi çoğu zaman çelişkilerle karşı karşıya kaldığı vurgulanmaktadır. Bu bağlamda Nozick'in devlet anlayışı detaylı bir analize tabi tutulacaktır. Nozick örneğinde devlet nosyonunun modern siyaset düşüncesinin merkeziliğine uygun olarak ele alınıp alınmadığı sorunsallaştırılacak ve Nozick'in devlet felsefesi hakkında eleştirel bazı değerlendirmelerde bulunulacaktır.

Anahtar Kelimeler: Liberteryenizm, Robert Nozick, Minimal Devlet, Liberalizm, Devlet Felsefesi.

Introduction

Every attempt to explain the state is generally seen as a part of a broader narrative. In other words, the issue is approached more in an ideological perspective while seeking answers to questions such as “what is the state?”, “what constitutes legitimacy?”, and “how does the state function?”. Thus, current questions are framed by ideological categories, such as “What is a liberal state?” or “how Marxism approaches the state?”. Obviously, it is also possible to produce some arguments about the state in sociological and anthropological terms. However, when we problematize the nature of the modern state in terms of political science and political philosophy, sociological and anthropological data can only be utilized to some extent. Therefore, we can say that both the philosophy of the state and theoretical or historical explanations of it, can only be elaborated under the political philosophy.

Christopher Pierson, one of the key state theorists of the 20th century, stated that it would be appropriate to consider the state within the framework of two questions. It is evident that the answers to these questions will allow for a comprehensive evaluation of the subject, considering both political philosophy and the practice of politics. As Pierson (2004, p. 5) suggests;

The first and more normative or evaluative question is: What should the state be and what should it do? This invites us to consider the proper terms for establishing and maintaining any political authority, for defining the appropriate relationship between the state and its members and the acceptable limits of state action. This has been the major concern of political philosophers. The second and more ‘fact-based’ or empirical question asks: What are states actually like? This is the question that has most often been addressed by political scientists and political sociologists. In practice, the two approaches cannot be so neatly separated.

In terms of the state, it is important to keep in mind that perspectives adopting a viewpoint that is as distant from the state as possible from the state can also find a place within contemporary political philosophy and political science for a better understanding. Especially at this point, libertarianism is a view that should be examined due to its perspective on the state. In this context, Andrew Heywood, one of today’s prominent analysts and theorists of

political ideologies, described this ideology as “an ideological stance that gives priority to freedom above other values such as authority, tradition, and equality”. He elaborates; “as a result, libertarians try to maximize the scope of individual freedom and to minimize the field of public authority; they generally see the state as the biggest threat of freedom” (Heywood, 2012, p. 95). This definition demonstrates us that libertarianism occupies a radically different position compared to many ideological approaches to today’s state.

Due to the unique position, we have tried to explain above, the approach of libertarianism, which stands in an oppositional stance regarding the state, will be examined in this study. The subject will be further studied with a special focus on Robert Nozick, the prominent libertarian thinker who lays the strongest emphasis on the state philosophy within libertarianism. However, before going into more detail about the libertarian perspective in general and Nozick’s approach in particular, some problematizations about the philosophy of the state, will be examined in detail. Then, the basic principles and theoretical perspectives of libertarianism as an ideology, will be summarized according to its approach to the state and political phenomena.

1. THEORETICAL OVERVIEW OF THE CONCEPTS OF THE STATE AND MODERN STATE

Whether considered theoretically or historically, the concept of the state is a modern phenomenon. It is quite new that the concepts such as “*status, stato, état, state*”, which are equivalent of the state in different languages, are used to express the state-like structures. Before them, such terms as “*polis, civitas, respublica, regnum*” were used to express political units (Kapani, 2005, p. 40). Even in Kantian thought, who is one of the main ideas of modern thought in many ways, the basic concept is “*respublica*”, namely ‘*republic*’. Kant uses that the political unit, which can establish ‘*eternal peace*’, is a republic, instead of the names like democracy or state. The word that Kant uses instead of the state is ‘*civitas*’ (Kant, 1960, p. 20).

In addition to perspectives on understanding and interpreting the state, Hobbes, according to John Gray, is the first thinker to have been able to assess this issue in detail in a modern sense, both theoretically and practically. Hobbes emphasized on the importance of the formation of an artificial man that has an authority in capable of doing everything to achieve “*inner peace*”, freeing from the natural war situation of mankind. According to him, this structure having absolute power is the sole force for a political solution, “...a state whose authority is unlimited, save by its task of keeping the peace” (Gray, 1996, p. 6).

According to Barry, who pointed out that the state had emerged in Western Europe in the 16th and 17th centuries, even the concept of ‘country’ is unfamiliar with the medieval idea. Barry particularly states that the regulation of law by a central body and that the idea of a single authority is not in medieval political thinking (Barry, 1995, p. 62). Cemal Bali Akal, who

also examines the question of whether a state theory can be formed, says that a state theory that can be valid in a historical and universal sense can only be constituted by considering the relationship of Law/Practice. Akal states that the universal pedestal that can be found from the first societies to today's modern societies in the political and social sense is this relationship of Law/Practice and that in every society it can be found in different forms. However, it is the modern state that eliminates the duality of the Law/Practice and takes both law and practice (Legislative/Executive) into its own hands (Akal, 2013a, p. 16).¹

The term “state” in a given historical period is not simply a product of etymological or linguistic developments apparently. While these disciplines may influence terminology, the change reflects a new form of political organization. At this point, when one uses the term *state* or *état*, he or she referring to a new type or form with distinct characteristics, differentiating it from the classical forms of political community. It is possible to start its first use with Machiavelli in the sense of emphasizing the modern state characteristics. The reason why Machiavelli was accepted as a milestone is not the fact that he was accused of destroying the relationship between politics and morality with the new explanation and legitimacy that he brought to politics; his use of the word “state” in his basic work “*The Prince*” is such that he identifies two key characteristics of the modern state — possibly without realizing it; “the authority to use and control a single power over a given territory and a specific population” (D’entrèves, 2013, p. 197). Machiavelli formulated the state as a structure that mostly acts on maximizing its own power and interest and so expects absolute obedience from its subjects. These features also include elements of the classic definition of the state that would be formulated later by Weber. According to Weber’s classical definition, the state is an absolute sovereign device over a given geographical area and a certain population, which holds the monopoly of the legitimate use of violence. Undoubtedly, as to Weber, the most ideal form of government in conformity with this formulation is *modern state* that began to take shape in the Western Europe after the Treaty of Westphalia; *nation-state* as it took it later (Vergin, 2015, p. 32).²

¹ See Cemal Bali Akal’s study of his own theory of the state and his remarkable work in meaning the forms of modern power through different power relations; (Akal, 2013b).

² Here, a point must be specified. In addition to theoretical approaches, sociological approaches are noteworthy for the state and especially for the modern state. Modernization is largely related to urbanization, migration of population from rural to urban areas, and emergence of cities as a social and political unit. One of the basic stages of the transition from feudalism to modern state is the strong cities that emerged as a result of the dissolution of feudal ties. In this context, see Gianfranco Poggi’s work for an analysis of the transition to the modern state (2014, especially in the second and third chapters). In addition, it can be also seen this work (Huberman, 1982), for the examination of this process which is a relatively old, but worthy, in terms of such traits as development of capitalism from an economic perspective and the emergence of cities and commercial centers.

2. LIBERTARIAN UNDERSTANDING AS A RESULT OF THE STATE'S REDEFINITION INITIATIVES WITHIN THE FRAMEWORK OF CLASSICAL LIBERAL THEORY

Hobbes, and particularly Locke, laid the foundations of classical liberal state philosophy by presenting their understanding of the state as a transition from the "state of nature" to the "state" based on a social contract. The borders that Locke draws for the state would later be complemented by Adam Smith's autonomy of the market, and Locke's understanding of state limited to the fulfilment of basic duties such as security, public order, and justice, which forms the outlines of the liberal state model. Adam Smith "insists that the ideal state structure for economic development is the 'night-watchman state' type of state that keeps the sanctioning power to a minimum" (Hall and Ikenberry, 2005, p. 5). Smith, at this point, allows four functions of the state. It is seen that these four elements that Smith put forward reveal the most descriptive ideas of classical liberalism regarding the state.

During the process of defining and theorizing the modern state structure in classical liberal thought, economists like Carl Menger suggested that economics could merely be "the values and activities of individuals" arguing that economics is not a science. This perspective has been considered one of the most important political and social perspectives of classical liberalism. Within the framework of the classical liberal perspective, Frank Knight has placed individuals right at the core of economics and stated that "society was a collection of individuals, with no choosing mind of its own" (Butler, 2015, p. 25).

These views have long been regarded as important general assumptions of classical liberalism. However, the homogeneity of a liberal thought that advances through liberalism did not last very long. In particular, there were some types of liberalism considered as social or egalitarian liberalism which argued that the state could not be autonomous from the market, because of the changing conceptions of the state in the second half of the 19th century and in the 20th century.

Because of the different and paradoxical political developments, the ideas proposed in the 19th century have been decisive to overcome the theoretical difficulty. Von Humboldt, one of the most important classical liberal thinkers of the 19th century, played an important role in bringing the views of Locke and Smith in a clearer and more practical way by his explanations. In particular, Von Humboldt's following views on the purpose, activities, and limitation of the state in its establishment process are remarkable in order to make sense of the classical liberal approach while entering into the modern period:

In every attempt to frame or reorganize a political constitution, there are two main objects, it seems to me, to be distinctly kept in view, neither of which can be overlooked or made subordinate without serious injury to the general purposes; these are—first, to determine, for the nation in question, who shall

government, who shall be governed, and to arrange the actual working of the administration; and secondly, to prescribe the exact sphere to which the government, once constructed, should extend or confine its operations. The latter object, which more immediately affects the private life of the citizen, and more especially determines the limits of his free, spontaneous activity, is, strictly speaking, the true ultimate purpose; the former is only a necessary means for arriving at this end (Von Humboldt, 1969, p. 9).

While 19th century liberal views on freedom was understood through a traditional lens, the change of meaning and understanding in the 20th century was quite tragic especially in the United States of America (USA). As the representatives of the political movements in this country, which defend “leftist” ideas, started to be called “liberal”, those who followed the tradition of “classical liberalism” in the US started to use the concept of ‘libertarian’ to describe and “to separate themselves and their ideas from these ‘liberals’” (Yayla, 2005, p. 141).

In addition, many libertarian thinkers focused on the question of limitation of power. A prominent German liberal of the 20th century, Carl J. Friedrich's views on the limitation of power shed light on the political position of the early 20th century libertarianism. At this point, Friedrich tried to explain his views within the framework of the idea and movement of constitutionalism; “This is the power to make the Constitution, to establish the constitutional order, and in case of need, to amend it, modify it, and even replace it with another one” (Friedrich, 1974, p. 20).

Libertarianism, as a philosophical political thought, has been tried to be used in a sense that “an uncompromised power can be ethically justified”. In this context, libertarianism claims that the individuals have some moral powers to acquire “private property” completely on their own or from the others. Thus, libertarianism “welcomes uncompromising power against someone only in case that this person is prevented from violating the rights of another person or correcting such a violation, is an understanding that tends to limit the legitimate powers of the state” (Vallentyne, 2016, pp. 862-863).

Since libertarianism tries to find an answer to the question “what are the legitimate functions of government?”, it is sometimes considered as a thought associated with “anarchism”, which is seen as a continuation of liberal political theory in the USA and the UK (Miller et al., 1995, p. 62). These perspectives are the product of a parallel approach that is completely in line with the general philosophy of freedom of classical liberalism. Nigel Ashford, one of the most important classical liberals of today, makes the following assessment regarding the concept of freedom:

Freedom means that one should be able to choose to act without interference by others. One should be able to decide how one wants to live one's life, unless the action interferes with the liberty of others. Liberty is another word (or synonym) for freedom. Protecting freedom is one of the primary purposes of government (Ashford, 2007, p. 35).

While this understanding reflects an important philosophical basis of classical liberalism, it is certain that libertarianism is based on a philosophical infrastructure that is appropriate for it.

Although some radical considerations may be the subject of the above, libertarianism has played an important role in classical liberalism's recovery from its mixed and eclectic ideological definitions in the 20th century and its return to its classical values. In this context, Hayek was the first important thinker of libertarianism in the 20th century. Hayek is considered to be one of the important figures of the libertarian ideology in the minimal state defence with Nozick. The inclusion of Hayek in libertarian ideology leads to some controversy. As will be explained below, the anti-rationalist emphasis in Hayek's thought even led to him to be accused of conservatism. However, the main motive that led Hayek to be regarded as a pioneer of the minimalist state debate is that Hayek defends market capitalism and criticizes the planning in a context in which the understanding of planning and the welfare state was popular. In his 1944 book *"The Road to Serfdom"* (Hayek, 2006), Hayek criticizes the start of planning policies in the UK, and says that once there is a planning path, there will be no return, and as a result, a slavery will be reached, in which the entire freedom of the individual will be usurped. Hayek also advocates that the functions imposed on the state because of welfare state policies will inevitably cause authoritarian practices and that the state operates in a space limited to basic functions such as security and justice.

At this point, a distinction can be made between the evolutionist and rationalist traditions in liberalism (Yaman, 2017, p. 5; Kırılı, 2015, pp. 50-51). The origins of evolutionist traditions refer to the Scottish Enlightenment, particularly to David Hume's thoughts. Hayek, follows and represents this tradition in modern times. According to evolutionist tradition, reason/rationality can never be the only valid source of information or the valid reference in organizing community life. In particular, according to this tradition that Hayek forms its modern shape with the theory of 'fragmentation of knowledge', the reason is not the only valid source for all the complexity of social life. The current political and social order is largely shaped by the spontaneous order and people's interventions in it can be possible only by changing, transforming or reproducing something that already exists. Hayek explains the spontaneous order and the role of man as follows;

The conception of man deliberately building his civilization stems from an erroneous intellectualism that regards human reason as something standing outside nature and possessed of knowledge and reasoning capacity independent of experience. But the growth of the human mind is part of the growth of civilization; it is the state of civilization at any given moment that determines the scope and the possibilities of human ends and values. The mind can never foresee its own advance. Though we must always strive for the achievement of our present aims, we must also leave room for new

experiences and future events to decide which of these aims will be achieved (Hayek, 2011, p. 75).

Assuming that the human mind can dominate and organize everything will compel us to adopt a positive perspective on centralized organizing efforts, such as planning, which is nothing more than the road to serfdom. On the other hand, the rationalist tradition refers to Locke politically and Kant morally. The important point in Locke's formulation is that people, as rational individuals, have created a sovereign in accordance with their own rationality, because their minds dictate so, rather than being influenced by any external motive.

Nozick, Rothbard and Rand are some of the advocates of this formulation in modern libertarian theory. Certainly, there are significant differences between Rothbard's Rand's, and Nozick's political understanding and views on the state. However, what they have in common is their assumption that political and social functioning is the product of rational individuals, rather than a spontaneous order, as Hayek suggests. Again, these figures, unlike Hayek, advocated a moral conception of what Kant called 'deontological morality', rather than a consequentialist moral conception. Accordingly, if a principle is morally correct, it must be advocated before and after all. In other words, it is not possible to develop an attitude by looking at whether the results of a principle are beneficial to individuals or society. For example, freedom, which is one of the most fundamental rights, is not valuable for providing people with the right to vote, ensuring a competitive environment and contributing to the increase of general welfare. It is valuable for the reason that people have to be free. Moreover, freedom is essentially valuable and indispensable. The post-Hayek thinkers of libertarian ideology are closer to the rationalist/deontological line than the utilitarian/consequentialist tradition. Locke's influence on the analysis of state theory is apparent. For a thinker like Nozick, who appeals to the state of nature and the social contract, Locke will serve as an important reference point both for his emphasis on rationality and for the inalienable rights which he considers essential even in the state of nature.

3. AN ATTEMPT TO REVIVE NEO-CLASSICAL LIBERAL STATE THEORY: NOZICK AND THE MINIMAL STATE

During the nineteenth century, "unlimited majority rule" refrain from many classical liberal thinkers. Some of the values believed by the classical liberal thinkers, especially Bentham and James Mill, to be carried out only in the context of democracy provoked serious fears "about its dangers to traditional freedoms, including property rights" (Barry, 1997, p. 55). At this point, it can be considered that libertarian understanding has an important place in the protection of liberty in the sense of liberal values. However, as a concept in political literature, libertarianism began to be used in the United States from the 1960s onwards. (Barnett, 2004, p. 51). The concept was first

used in the 1950s by Leonard Read to describe his political identity and to define free will by referring to the Latin root of the word meaning “free” (Kirił, 2015, p. 34). Consequently, although such names as Hayek theoretically predict a state-market relationship close to libertarian theses, they are not called libertarian but rather classical liberal. However, when the social democrats began to use the word ‘liberal’ in America for themselves, the ‘classical’ liberals began to use the word “libertarian” to distinguish themselves from the social democrats. Because, in the United States, ‘liberal’ means “advocating a common welfare state, widespread social state services, strongly redistributive taxation, strong state presence in the market economy, and state administration” (Brennan, 2012, p. 29). But the libertarians oppose all of them.

When it is called libertarianism, many people have some connotations of economic or moral perspective rather than political one. The economic perspective and the moral emphasis are undoubtedly one of the foundations of libertarian politics, but ultimately libertarianism applies for economic and moral themes to make new political and social explanations, feeding from classical liberal theories. So, instead of identifying libertarianism with economism and moral doctrine, it is necessary to focus on its political perspective. Thus “libertarianism, a continuation of the classical liberal heritage of the eighteenth and nineteenth century, is a twentieth century political philosophy” (quoted by Sciabarra: Can, 2007, p. 40).

Another difficulty in defining libertarianism lies in the discernment of its similarities or differences with the new right thought. The libertarianism and the new right, as the views suggesting that the role of the state in the economy should be reduced in the 1970s, when the welfare state policies, which the French called ‘glorious years’, began to collapse, are often interchangeable. However, this does not seem to be the right approach; although libertarianism and the new right-wing have an instrumental partnership on the role of the state, there are some fundamental differences in legitimizing the role assigned to the state. Kymlicka explains this point with reference to Brittan;

libertarianism defends its commitment to the market by appeal to a broader notion of personal freedom—the right of each individual to decide freely how to employ their powers and possessions as they see fit. Libertarians therefore support the liberalization of laws concerning homosexuality, divorce, drugs, abortion, etc., and see this as continuous with their defense of the market. Neo-conservatives, on the other hand, ‘are mainly interested in restoring traditional values, strengthening patriotic and family feelings, pursuing a strong nationalistic or anti-Communist foreign policy and reinforcing respect for authority’, all of which may involve limiting ‘disapproved lifestyles’ (Kymlicka, 2002, p. 161).

In Kymlicka’s distinction it is important that he emphasizes individuality for the libertarians. Libertarianism attempts to formulate the

notion of the individual in classical liberalism without any limitations. In the words of Kırılı, libertarianism, “unlike classical liberalism, has been not only the economic theory of the distribution of resources through the free market, but also revealed an ethical justification and a notion of individual who can provide strong intellectual support for individual values” (Kırılı, 2015, p. 39).

This individualist emphasis on libertarianism means one of the two founding principles of this ideology: ‘*self-ownership*’. *Self-ownership* means that there is no external intervention in the use of his body and his own body and that he has absolute authority over his own body, because every person is to be human (Yaman, 2017, p. 7). The individual’s behaviour cannot be limited by the state or any external factor. The only limit in this regard is to prevent other people’s behaviour, to limit their free movement and actions. This corresponds to the ‘harm principle’ in libertarianism. In other words, libertarian theory does not adopt an anarchic and hedonist manner in a sense that everyone can do whatever they want (Kırılı, 2015, p. 42). The harm principle indicates that the only reason to restrict the action of another individual is to prevent harm to others. Although such anarchic capitalists as Ayn Rand and Murray Rothbard advocate stateless market anarchism, this anarchism does not mean irregularity; it is indeed subject to market rules.

Another important principle after the notion of the individual in liberalism after Hayek is an understanding based on rights and morality. In particular, Rand tried to put capitalism on a moral basis and argued that freedom and capitalism should not be pragmatic but rather based on moral principles (Kırılı, 2015: p. 70). For Rand, the legitimization of capitalism as ‘practical’ does not stem from such claims as the best way to achieve ‘the best allocation of national resources’ or to achieve the common good. According to Rand, what justifying capitalism especially is “that it becomes the only system in harmony with the rational structure of man, provides man’s survival as a man, and that *justice* becomes his ruling principle” (Rand, 1993, p.165). Capitalism is right and legitimate because it is basically a fair system as essential to other secondary results. Recently, however, such thinkers as Barnett argue that libertarianism is not a moral but a political philosophy and does not have to choose one of the deontological moral-based or consequentialist/utilitarian moral theories (Barnett, 2004, p. 55). In terms of rights-based emphasis, the most important figure in libertarian theory is Nozick. Nozick begins his most important work in this field, *Anarchy, State and Utopia*, with the motto “*individuals have rights*” (Nozick, 1974, p. ix).

The central element in Nozick’s thought is the rights of individual. Alongside John Rawls, Nozick, one of the most prominent liberal theorists of justice in the 1970s, places individual rights and freedoms at the core of his theory of justice. In Nozick’s theory, the concept and significance of justice are regarded as inherently linked to the protection of individual uniqueness (Kocaoğlu, 2014, p. 38). With all its purity, ‘*self-ownership*’, one of the fundamental principles of libertarian theory, is present in Nozick’s

perspective. Moreover, Nozick constitutes his state model in such a way that these rights are protected and cannot be violated in any way during the transition to the state. For Nozick, "people enter into all kinds of human relations and organization with these rights which they have from the very beginning as innate and natural" (Uslu, 2007, p. 145). Nozick's approach to the concept of rights is teleological rather than instrumental. In the words of Nozick;

But there is no social entity with a good that undergoes some sacrifice for its own good. There are only individual people, different individual people, with their own individual lives. Using one of these people for the benefit of others, uses him and benefits the others. Nothing more. What happens is that something is done to him for the sake of others. ... There is no moral outweighing of one of our lives by others so as to lead to a greater overall social good. There is no justified sacrifice of some of us for others. This root idea, namely, that there are different individuals with separate lives and so no one may be sacrificed for others (Nozick, 1974, pp. 32-33).

Especially, the right to own it is such a center where all other rights are derived. Nozick also adopts Kant's principle of 'treating people not only as means but as purposes in themselves and in others' (Kymlicka, 2002, p. 161). According to Nozick, each individual, in a Kantian manner, is an end in themselves and cannot be used merely as a means to others' ends. (Erdoğan, 2002, p. 101). Therefore, the main purpose of Nozick's state theory is to question whether there is a legitimate state that will protect the rights of the individual and not violate it in the same sense or not.

Nozick argued that such a state can only be a minimal state and that this is the only legitimate form of the state that will not violate individuals' rights. Nozick presents the conclusion he reaches about the state just at the beginning of his book as follows;

A minimal state, limited to the narrow functions of protection against force, theft, fraud, enforcement of contracts, and so on, is justified; that any more extensive state will violate persons' rights not to be forced to do certain things, and is unjustified; and that the minimal state is inspiring as well as right (Nozick, 1974, p. ix).

Nozick says that to justify the state he envisions, it must be referred to the state of nature. In his view, the theory of natural rights is an efficient theory in explaining the emergence of such a state, and Nozick explicitly refers to the theory of classical natural law and natural rights. What makes Nozick significant in his field is not only the effective response he gives to welfare state advocates, but also his focus on political philosophy, a field that had been largely neglected in 20th-century liberal thought. In doing so, he engages in a critical examination of the state while legitimizing the classical night-watchman state model.

For Hayek and Issiah Berlin, two important figures in 20th century liberal thought, it is more difficult to come to terms with an important political

and state philosophy. Berlin's theory of 'value pluralism' is philosophically important, but it is controversial whether it can be considered as a political philosophy or not. Hayek's theory of knowledge is also quite authentic, but it stands out in his theses against planning. But Nozick "had asked, as others before him, the essential and difficult question: Why is it necessary to exist the states in which ordinary people owed loyalty?" (Epstein, 2000, p. 105). In the beginning of his discussion, Nozick argued that the fundamental question of the philosophy of politics is whether there should be any state at all, and this question is more important than the question of how the state should be organized (Nozick, 1974, p. 4). Therefore, Nozick and his major work, *Anarchy, State and Utopia* open a unique field for the discussion of the philosophy of the state from the libertarian perspective.

Nozick is an advocate of minimal state. However, he based his minimal state defense on the formulation of such a state that would emerge from the state of nature and that would not violate the rights of individuals. The emphasis on the rights of individuals is important; because Nozick intends to demonstrate that all processes in his fiction are ethical to show the legitimacy of the minimal state.

The first part of the Nozick's book is about his reckoning with anarchism, which may be more attractive to the individual than obeying a state. Hence, according to Nozick, "If one could show that the state would be superior even to this most favored situation of anarchy, the best that realistically can be hoped for, or would arise by a process involving no morally impermissible steps, or would be an improvement if it arose, this would provide a rationale for the state's existence; it would justify the state" (Nozick, 1974, p. 4). In other words, Nozick considers the minimal state, which he deems legitimate, as a state that is compulsory and can be removed from nature. Nozick, who needs to clarify why he is referring to the nature, explains the reason for applying it elsewhere;

State-of-nature explanations of the political realm are fundamental potential explanations of this realm and pack explanatory punch and illumination, even if incorrect. We learn much by seeing how the state could have arisen, even if it didn't arise that way. If it didn't arise that way, we also would learn much by determining why it didn't; by trying to explain why the particular bit of the real world that diverges from the state-of-nature model is as it is (Nozick, 1974, pp. 8-9).

However, his conception of the state of nature is not Hobbesian, but Lockean, and Nozick clearly states that he follows Locke in this sense (Nozick, 1974, p. 9). In the Lockean state of nature followed by Nozick, human beings are moral subjects that have some rights. It is a rational process to relinquish some of their freedoms and rights and move to a state structure by contracting. The state of nature will evolve into a state structure as a result of its rational projections, not with the concern of death or security. Nozick's justification for applying the theory of natural rights is "by using the theory of

state of nature and by examining the rules and conditions of the state of nature... to refute the thesis of anarchy and to show the state innocent" (Yaralı Akkaya, 2010, p. 229). The distinguishing feature of this state is its adherence to the protection of individual rights without any infringement. In other words, Nozick aims to demonstrate that "the state can emerge without violating any individual's rights, and that the minimal state is the sole form of governance that does not infringe upon these rights" (Kocaoğlu, 2014, p. 64).

Even though Nozick is loyal to the line of Locke in the theory of the state of nature and natural rights, he does not adopt the theory of the contract, which is an exit tool in the state of nature of Locke. In other words, according to Nozick, the transition from a state of nature to a political society cannot be explained by a hypothetical contract and a hypothetical concept of consent to be done "suddenly" and "immediately" (Uslu, 2007, p. 150). At this point it is certain that Nozick saw his perspective as a part of traditional liberal theory. Because Nozick particularly refers to the fiction formulated in Adam Smith as 'invisible-hand' and in Hayek as 'spontaneous order' and says that the transition to the political community can happen spontaneously and in several phases. While Adam Smith's interpretation of the concept of the invisible hand is grounded in an economic framework, Nozick's application of the concept is situated within a political context (Macit, 2011, p. 90). In this way, he distinguishes his perspective from the classical meaning of the invisible-hand and the theory of the social contract, according to which people come together and waive some of their rights.

According to Nozick, individuals do not necessarily have to build a state organization to protect their rights in the state of nature. Instead, it can be made up of protective associations that act in the logic of the market and meet the security needs of people. Based on various divisions of labour, these protective associations can be established in each region. However, independent individuals who do not wish to participate in these protective associations can also exist. But, "While several different protective associations or companies initially are offering protection services in the same geographical region", then, "What will occur when there is a conflict between clients of different agencies?" (Nozick, 1974, p. 15). These different protective associations engage in a struggle to resolve disputes between them, and these will evolve into a dominant protective association over time. The dominant protective association is not a state, but a structure between the state and multiple protective associations.

According to Nozick, unlike the dominant protective associations, a state is a monopoly on the decision of using of force and whom to use it in each geographic region and it offers protection services to everyone in that geographic area (Nozick, 2006, p. 56). For Nozick, the second reason why it is not considered as a state is that those included in the dominant protective association system are only those who pay a fee for protection. In other words, the protection service does not have the nature of a public service and the

relationship between the protective associations and the citizens operates according to the market rules (Nozick, 2006, p. 57). However, even within the dominant protective associations, there are independent members and their participation in the dominant protective associations depends on their own will: they will not participate if they don't wish to do so. However, Nozick is aware of the fact that the transformation to the state requires that independents to be included in this protective association. Accordingly, he suggests the principle of risky actions and compensation. Independents have the option of not being included in the protective association, but they can take action that could harm people in the protection of the protective associations. Nozick implies the risky actions as the actions that are most likely to violate the rights of others (Uslu, 2007, p. 156).

In this context, Nozick says that these risky actions should be prohibited by protective associations. In fact, such a ban, or if we consider the state of nature, the prohibition of retaliation is incompatible with a liberal/libertarian understanding of freedom. But Nozick says that this prohibition may be justified with the principle he calls 'compensation'. Accordingly, the prohibition of a risky act is legitimate only if one who prohibits such a risky action compensates for this prohibition in favour of the one prohibited. According to this principle, which Nozick conceptualizes as the compensation principle, compensation should be paid to the people due to these activities which are prohibited (Nozick, 1974, p. 84). The objective here is to meet the disadvantages of individuals emerging from this prohibition, whose risky actions are prohibited, and the amount of compensation can be defined as an amount to meet this disadvantageous state. The phase following the establishment of a dominant monopoly of protection in a given region and the prohibition of pro-independence in performing justice in particular, is the meeting of compensation amount by the customers of the ruling protection association.

The reason why Nozick describes the dominant protective association as an ultra-minimal state rather than a state is because it does not have these two basic characteristics of the state: it gives some people the opportunity to exercise his rights and does not protect all individuals within their scope (Nozick, 1974, p. 23). Nozick here again refers to the principle of compensation for the protection of independents. According to Nozick, there is no doubt that the least expensive way to compensate the independent would be supplying these people with protective services (Nozick, 1974, p. 110). Thus, the dominant protective association has the monopoly on violence in a geographical region. This stage represents an ultra-minimal state phase similar to market anarchism. Here, Nozick distinguishes his own conceptualization from the concept of 'night watchman', which is the minimalist state in classical meaning as follows;

An ultraminimal state maintains a monopoly over all use of force except that necessary in immediate self-defence, and so excludes private (or agency)

retaliation for wrong and exaction of compensation; but it provides protection and enforcement services only to those who purchase its protection and enforcement policies. ... The minimal (night-watchman) state is equivalent to the ultraminimal state conjoined with a (clearly redistributive) Friedmanesque voucher plan, financed from tax revenues (Nozick, 1974, pp. 26-27).

But the problem lies here; how will the transition from ultra-minimal state to minimal state occur? For Nozick, "Those operating an ultraminimal state are morally required to transform it into a minimal state" (Nozick, 1974, p. 119). However, Nozick does not have a descriptive answer to the question "why is the situation, he sees as obligatory, 'morally necessary'?" Because people may not want to move from an ultra-minimal state to a minimal state. Nozick accepts this possibility but concludes the matter as follows; "The explanation remains invisible-hand one" (Nozick, 1974, p. 119). Consequently, the minimal state is a legitimate and morally acceptable state. It is inevitable for any state with broader powers than this to violate people's right (Nozick, 1974, p. 149).

At the end of his book, Nozick summarizes his theses concerning minimal state, that is to say the legitimacy reasons for minimal state, as follows;

The minimal state treats us as inviolate individuals, who may not be used in certain ways by others as means or tools or instruments or resources; it treats us as persons having individual rights with the dignity this constitutes. Treating us with respect by respecting our rights, it allows us, individually or with whom we choose, to choose our life and to realize our ends and our conception of ourselves, insofar as we can, aided by the voluntary cooperation of other individuals possessing the same dignity (Nozick, 1974, pp. 333-334).

Nozick's discussion seeks to demonstrate the necessity and legitimacy of the minimal state. Nozick has regarded the state as a compulsory entity; that is, it is not possible to reject the state completely as the anarchists claim. However, the state must only be a minimal state, and only in this way one can speak of a state which is morally acceptable and does not violate individual's rights. Nozick's theory has been discussed in many ways, and it has been claimed that he could not fill the gaps in his theory. But just as the theorists of natural law and social contract of the classical period, Nozick stands out for his construction of a philosophy of the state in order to justify his own theory; that is to say, the minimal state. The theorists of the natural law of the classical period have applied to the metaphors of natural law and the state of nature for a similar purpose already. The explanation of Kapani in this context is very important;

Neither Hobbes nor Locke nor Rousseau attempted to explain how the state came into being while examining the hypotheses of 'state of nature' and 'social contract'. They have dealt with these hypotheses as a starting point in the establishment of their political theories. *What they really want to show is*

not the source of the state, but what should be the basis of the political community called 'state' (Kapani, 2005, p. 38; Emphasis is on us).

As a matter of fact, Nozick emphasizes the fictionality of his reasoning process by saying, “*even if no actual state ever arose that way*” (Nozick, 2006, p. 35), and accepts that he used this fiction for the reason that it would serve his own purposes. It is precisely for this reason that Nozick’s theory of minimal state and individual rights has been claimed to be “arbitrary” (Salahuddin, 2018, p. 4). Nozick, in his attempt to legitimize the minimal state, has engaged in a fundamental philosophical problematization of the state in general, and the modern state in particular. However, it is argued that Nozick’s highly hypothetical theory of the modern minimal state theory, to which he attributes necessity despite everything, “is charming indeed, but not very heartwarming, reassuring or realistic” (Childs, 1977, p. 24). Nozick’s later distancing from this work as well as his shift towards other areas and some intellectual transformations has left these theses somewhat unresolved. Naturally, this does not diminish the significance of Nozick’s contribution which is one of the most important theoretical studies on state theory in the 20th century.³

Conclusion

The attempts of historical and theoretical explanations and interpretations of the concept of the state continue to be one of the fundamental issues of political philosophy. From classical state theorists to today’s anarcho-capitalists, the existence and legitimacy of the state have been problematized and will continue to be so. However, today thinking on an object or issue, or more accurately, political thought, is carried out from an ideological perspective. This is true not only for classical liberal and Marxist doctrines, but also for libertarianism and, specifically, in the case of Nozick.

Though Nozick’s arguments on the state are quite significant in terms of its effect in and after the period it is written, there are important gaps in Nozick’s theory. Nozick has primarily been criticized for placing excessive emphasis on individual rights. However, in attributing such significance to these rights, he refrains from engaging with debates such as those on positive and negative liberty, which hold considerable importance even within liberal thought.

Consequently, Nozick appears to overlook the fact that, in the process of constructing individual freedom, the natural and social disadvantages an individual may encounter necessitate the consideration of positive freedoms.

³ Nozick’s book won “*The National Book Award*” and was listed by *The Times* as one of the “*Most Effective Postwar Book*” (Karagöz, 2002, p. 110). Additionally, Epstein’s following assessment should be taken into account in terms of the effect of Nozick and his work: “*If this book had been only refuted once, it wouldn’t matter. The fact that it’s ‘refuted’ in heaps of times shows that he is the author of one of the lasting classics of political philosophy*” (Epstein, 2000, p. 107).

Similarly, another criticism directed at Nozick is that he prioritizes the conditions for individual freedom and structures the state based on this priority, rather than considering the conditions of freedom for all individuals or society as a whole. However, a significant limitation is that Nozick did not expand on his theory in later years and distanced himself from political philosophy. The criticism of Nozick or the interpretation of his theory have largely remained unresolved. Nozick, who carried out one of the most important questionings of the state in the libertarian theory, has not pursued this effort. It is more difficult to come across with a Nozick-influenced philosophy of state because the later libertarian thinkers mostly adopt a market attitude by rejecting the state.

Thus, in the sense of libertarian theory and specially Nozick's theory of the state, it is seen that these theories exhibit several conceptual limitations. Its main reason is that such doctrines as liberalism, classical liberalism, and Marxism regard the state as secondary in comparison with the economy/market. In the words of Hall and Ikenberry, Liberalism and Marxism "see the state as important phenomenon in the second-order; they acknowledge that it is the social forces that influence the structure of the state and the reasons why it takes action" (Hall and Ikenberry, 2005, p. 13).

In this context, many important 20th-century philosophers, who are not liberal, have made significant criticisms against liberalism and liberal thinkers on this subject. According to Schmitt, one of these thinkers, liberalism, due to its nature, denies the state and the political; it removes from its ontological structure by making it impartial and depoliticized. In other words, liberalism has not founded a positive theory of the state and its own reform and tried to subordinate the political to morality and to economize (Schmitt, 2014, p. 91).

Ultimately, it is essential to undertake a philosophical examination of the foundations of the state, with particular attention to the unique characteristics of the modern state, rather than approaching the subject from an ideological standpoint. Within this framework, an inquiry into the relationship between Law and Practice offers a promising avenue for exploring the distinctive features of the modern state. If a thorough inquiry and the production of a 'theory' are to be conducted within the boundaries of political science, without shifting to an international perspective, then the relationship between Law/Practice provides a more specific and state-like framework. An analysis based on the relationship of Law/Practice, from the first stratified societies in the ancient times to today's modern 'omnipotent' understanding of state, makes it possible to follow a more consistent line.

Therefore, while interpreting the modern state, it is important to emphasize that it is a political organization that unifies both Law and Practice on its own duty for the first time in history. Only in this way the attempts to understand and interpret the state can be made by breaking free to some extent from the secondary perspectives offered by the ideologies.

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References

- Ağaoğulları, M. A. (2011). *Batı'da siyasal düşünceler tarihi*. İletişim Yayınları.
- Akal, C. B. (2013a). *Devlet kuramı*. Dost Kitabevi Yayınları.
- Akal, C. B. (2013b). *İktidarın üç yüzü*. Dost Kitabevi Yayınları.
- Ashford, N. (2007). *Principles for a free society*. Institute for Humans Studies Press.
- Barnett, R. E. (2004). The moral foundations of modern libertarianism, Peter Berkowitz (Ed.), *Varieties of conservatism in America* içinde (pp. 51-74). Hoover Press.
- Barry, N. (1997), *Komünizm sonrası dönemde klasik liberalizm* (ÇEV. M. Erdoğan). LDT Yayınları.
- Barry, N. (1995). *An introduction to modern political theory*. The Macmillan Press.
- Brennan, J. (2012). *Libertarianism: what everyone needs to know*. Oxford University Press.
- Butler, E. (2015). *Classical liberalism- A primer*, London: The Institute of Economic Affairs.
- Can, N. (2007). Siyasal bir felsefe olarak liberteryenizm. *Atatürk Üniversitesi Sosyal Bilimler Enstitüsü Dergisi*, 10(2): 39-51.

- Childs, R. A. (1977). The invisible hand strikes back, *Journal of Libertarian Studies*, 1(1): 23-33.
- D'Entréves, A., P. (2013). Devlet kavramı, (ÇEV. B. Baysal) Baysal, Cemal Bali Akal (Der.) *Devlet kuramı* içinde (pp. 193-211). Dost Kitabevi Yayınları.
- Erdoğan, M. (2002). Robert Nozick'in ardından veya 'Bireylerin Hakları Vardır'. *Liberal Düşünce*, 7(27): 99-103.
- Epstein, R. (2002). Özgürlüğe adanmış bir ömür: Robert Nozick (ÇEV. M. Erdoğan). *Liberal Düşünce*, 7(27): 105-107.
- Friedrich, C. J. (1974). *Limited Government: A comprasion*. Prentice-Hall Inc.
- Gray, J. (1996). *Post-Liberalism; Studies in political thought*. Routledge Press.
- Hall, J., A. ve Ikenberry, G., J. (2005). *Devlet*. İstanbul Bilgi Üniversitesi Yayınları.
- Hayek, F. V. (2006). *The Road to serfdom*. Routledge Press.
- Hayek, F. V., (2011). *The Constitution of liberty*, Ronald Hamowy (Ed.) The collected works of F. A. Hayek volume XVII, The University of Chicago Press.
- Heywood, A. (2012). *Siyasetin Temel Kavramları*, (ÇEV. Hayrettin Özler), Adres Yayınları.
- Huberman, L. (1982). *Feodal toplumdaki yirminci yüzyıla*, (ÇEV. Murat Belge). Dost Kitabevi Yayınları.
- Kant, I. (1960). *Ebedî barış üstüne felsefî deneme*, (ÇEV). Yavuz Abadan-Seha L. Meray). Ankara Üniversitesi Siyasal Bilgiler Fakültesi Yayınları.
- Kapani, M. (2005). *Politika bilimine giriş*. Bilgi Yayınevi.
- Kırlı, Ö. (2015). *Liberteryenizm*. Orient Yayınları.
- Kocaoğlu, M. (2014). *Robert Nozick: Adalet teorisi ve temel kavramları*. İmaj Yayınevi.
- Kymlicka, W. (2002). *Contemporary political philosophy; An Introduction*. Oxford University Press.
- Macit, M. H. (2011). Görünmez el: Robert Nozick ve minimal devlet, *Muhafazakar Düşünce Dergisi*, 7(28): 85-98.
- Miller, David, vd., (1995), *Blackwell'in siyasal süşünceler snsiklopedisi II (K-Z)* (ÇEV. Bülent Peker-Nevzat Kırac). Ümit Yayıncılık.
- Nozick, R. (1974). *Anarchy, state, and utopia*. Basic Books Press.
- Pierson, C. (2004). *The modern state*. Routledge Press.
- Poggi, G. (2014). *Modern devletin gelişimi*, (ÇEV. Şule Kut- Binnaz Toprak). İstanbul Bilgi Üniversitesi Yayınları.
- Rand, A. (1993). Kapitalizm nedir?, Atilla Yayla (Der.) *Sosyal ve siyasal Yazılar* içinde. Siyasal Kitabevi.

- Schmitt, C (2014). *Siyasal kavramı*, (ÇEV. Ece Göztepe). Metis Yayınları.
- Salahuddin, A. (2018). Robert Nozick's entitlement theory of justice, Libertarian rights and the minimal state: A critical evaluation, *Journal of Civil & Legal Sciences*, 7(1): 1-5.
- Uslu, C. (2007). Robert Nozick: Anarko-kapitalizme karşı minarkizm, *Liberal Düşünce*, 12(47-48): 143-169.
- Vallentyne, P. (2016), Liberteryenizm (ÇEV. Ahmet Kemal Bayram). Adam Kuper-Jessica Kuper (Ed.) *Sosyal bilimler ansiklopedisi 'ikinci kitap (L-Z)' içinde* (pp. 862-865). Adres Yayınları.
- Vergin, N. (2015). *Siyasetin sosyolojisi*. Doğan Kitap.
- Von Humboldt, W. (1969). *The limits of state action* (Ed. and Trans. John Wyon Burrow). Cambridge University Press.
- Yaman, P. (2017). Liberalizmin çatışan ekolleri: Liberteryenizm ve evrimc liberalizm, *Amme İdaresi Dergisi*, 50(2): 1-23.
- Yaralı Akkaya, A. (2010). Liberalizmin sınırlı devlet teorisine çağdaş bir bakış: Robert Nozick ve minimal devlet, Hilal Onur İnce (Ed.), *Günümüzde yeni siyasal yaklaşımlar içinde*, Doğu Batı Yayınları.
- Yayla, A. (2005), *Siyasî düşünceler sözlüğü*. Adres Yayınları.