

The Limits of Authority and Property

or

How Not to Argue for Anarchism

by

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A Thesis submitted to
the Faculty of Graduate Studies
and Research in partial fulfilment
of the requirements of the degree of
M.A.

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McGill University
Montréal
May, 1993

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Abstract

(English)

Anarchist theory assumes that non-hierarchically organised societies both possible and desirable. To show the former requires (1) empirical evidence and (2) a discussion of the theoretical preconditions of cooperation. To show the latter, it is necessary to show that the faults found with the state can be remedied within non-hierarchically ordered societies. One obvious condition for a successful anarchist theory is that the solutions to these separate tasks are mutually consistent. It is the aim of this thesis to show that the theories of Robert Paul Wolff and Robert Nozick are found wanting in this respect. Both their theories of agency rule out the possibility of non-coercive and stable cooperation, which is a necessary precondition for an anarchist society. I conclude with a brief discussion of Michael Taylor's communitarian proposal and defend it against the liberal.

Resumé

(Français)

Les théories de l'anarchisme présupposent que les sociétés arrangées de façon non-hiérarchique sont et possibles et désirables. La démonstration de leur possibilité demande, (1), des preuves empiriques, et (2), des considérations théoriques en ce qui concerne la possibilité de la coopération entre individus. Pour démontrer la désirabilité d'une pareille société, il faut montrer que les problèmes de l'état peuvent s'arranger dans des sociétés non-hiérarchiques. Une des restrictions pour une théorie d'anarchisme est la cohérence entre sa théorie anti-étatique et ses propositions positives. Le but de cette thèse est de montrer que les théories de Robert Paul Wolff et Robert Nozick ne sont pas satisfaisantes à cet égard. Leurs théories d'agence ne permettent pas la coopération volontaire entre agents, ce qui est une condition nécessaire pour une société anarchiste. La thèse conclut avec une brève discussion de la proposition du communitarisme de Michael Taylor, que je défend contre les libéraux.

Acknowledgments

My first and foremost thanks go to Sue Dwyer, who has been tremendously helpful both philosophically and stylistically, who has shown considerable interest in this project throughout, who has helped me clarify my ideas in numerous discussions, and who, with unrelenting patience and a considerable investment of time, has gone through large numbers of drafts of this thesis. Without her help, this thesis would have been not only philosophically, but stylistically much poorer. Any remaining inadequacies are, of course, my own.

I am also extremely grateful to David Davies without whose encouragement this project might never have been completed, whose door was always open to my philosophical queries, and whose comments on my various chapters sieved out many faults.

This project was first conceived for a tutorial with Sebastian Gardner at St Hilda's College, Oxford, whom I thank for his support; Marguerite Deslauniers gave me the opportunity to develop my anarchy-feminist ideas by letting me give a lecture on this topic in her Introduction to the Philosophy of Feminism course in November 1991, for which Sue Dwyer was again of considerable help, finally, Alex Barber, Michèle Friend, Meera Johri, Harriet Nowell-Smith, Patricia Sheridan and Tamara Vukov provided philosophical and anarchist discussions and much support.

Introduction

A Definition of the Project

Anarchism has often been characterised in such a way that it is left vulnerable to numerous feeble and rather uninteresting criticisms. For instance, anarchists are thought to be committed to the view that authority of any form is problematic (Ritter 1980:65-72). And Engels (1872:102) argues in a *reductio* that anarchists hold that authority limits actions; *mutatis mutandis*, anarchists have to be committed to abolishing the laws of nature, because the laws of nature limit actions. This is, of course, absurd. While the characterisation of anarchists as anti-authoritarian is appropriate, it requires clarification if anarchism is to avoid such facile objections.

Anarchism is a political theory that advocates that a non-hierarchical ordering of society is desirable and possible. The highest, most embracing authority to date is the state. The motivation for anarchism thus arises frequently out of anti-statism, but anti-statism is only a negative pursuit, and radicals of that tradition are frequently labelled "nihilists". This means that although all anarchists are anti-statist (or at least, they are only minimal statist, henceforth minarchists), not all anti-statists are anarchists. Roy (1989) characterises anarchism as an attitude, Miller (1984) as an ideology. I take "anarchism", in contrast to "anarchy", to denote a political and social theory. In journalistic and popular usage, anarchy is mentioned in the same breath as "disorder" and "chaos". Anarchism on the other hand is a political theory, or rather, "anarchism" is the overarching term for a number of social, political and economic theories¹; for example, economic theorists who count themselves

¹ Crowder (1991 chapter 1) argues that such diversity relies on a false characterisation of anarchist theory; communitarians are, according to Crowder, the only true anarchists. He argues this at the expense of excluding the entire libertarian tradition that goes from Lysander Spooner and Benjamin

among political anarchists range from free-market economists (in anarchist literature called "libertarians") to communists (or "communitarians"²). Whatever their economic agenda, all anarchist theorists advocate the possibility of a society in which order is maintained through means other than those of compulsion, fear or habit, as is inevitably the case in hierarchically structured social organisations. The motivation against hierarchy relies on the assumption that the higher degree of autonomy an individual has, the greater her ability to act according to self-chosen ends. This is more likely to be achieved in non-, or minimally, hierarchical societies. Individuals in these societies are subject to no, or only a bare minimum of authority.

There are two necessary and jointly sufficient conditions for a non-hierarchical society to be an anarchist one: Such a society is characterised by (1), a lack of political specialisation among its members, and (2), an absence of concentration of power³. Thus characterised, anarchist theory does not specify more than negative conditions, and so allows for a wide variety of different social and institutional interpretations of the theory.

These two conditions will now be briefly discussed in turn. (1), empirically, political specialisation goes hand in hand with a concentration of power, so that decisions, which in hierarchical societies are generally made by individuals or institutions, can be enforced over the membership of the society.

Tucker to Robert Nozick and Murray Rothbard. Incidentally, radically democratic theory and anarchism share many views - except that radical democrats are not always anti-statist.

² Note that this is the sense in which I shall use the term from now on, no implications concerning the communitarians of the communitarian-liberal debate are implied.

³ Taylor (1982 4-10) has made this point in terms of political specialisation on the one hand and concentration of force on the other. As will become clearer in chapter 2, physical force (there, power₂) needs to be exercised in order to exist, while other types of power do not need to be exercised in order to exist. The possession - rather than the exercise - of power is a sufficient condition for the argument that follows.

Lack of political specialisation ensures that there is no social differentiation between those members of a community who play a political role and those who do not. All members of an anarchist society have the opportunity to participate in all decision-making procedures. (2), power in the social sense (as opposed to the sense used in the natural sciences) is the ability to affect another person's behaviour and is wholly a matter of relative bargaining position. If political roles are reduced to the functional and organisational, i.e., if all political roles deal only with narrowly defined coordination problems, any concentration of power becomes unnecessary. From the anarchist perspective, the advantage this has is that no-one is better situated to enforce her decisions, since no-one has superior access to power, and thus the situation leaves more grounds for the exercise of autonomous choices. Absence of concentration of force, then, becomes one (important) characteristic of a stateless society. Power in anarchist societies can be wielded equally by all members - even if only by proxy, as in Nozick's minimal state. This means that no-one is excluded from participating in the legitimate use of force, or denied the right to issue threats to use force. One consequence of this can be seen in the social structures regulating sanctions. sanctions following the infringement of rules can be enforced by any member of the community⁴

It is beyond the scope of this thesis to provide an argument for the feasibility or the desirability of an anarchist society, even though I attempt to show it is not such a case for flippancy as is frequently made out. I am investigating what presuppositions concerning human nature must be excluded, given that any anarchist theory must make assumptions about human nature that demonstrate the inacceptability of the state, while leaving open the possibility of non-coercive forms of cooperation, so that this anarchist society becomes feasible. I.e., if one wants to draw anarchist conclusions, what

⁴ Cf. the situation in Locke's state of nature.

premises about human agents *may* one have? So, the purpose of this thesis is not to investigate the presuppositions concerning human nature that are necessary to render anarchism plausible or morally acceptable, but which ones are ruled out by the anarchist agenda. I am not here investigating whether anarchist accounts of human nature are empirically correct or even plausible. As will emerge in the course of this thesis, the anarchists' negative argument against the state, while successful in rendering the state illegitimate, is frequently made in such terms that this rules out the possibility of an anarchist society.

I shall focus the discussion on three contemporary texts by self-described anarchists. Robert Paul Wolff's *In Defense of Anarchism*, Robert Nozick's *Anarchy, State and Utopia* and Michael Taylor's *Community, Anarchy and Liberty*. I want to investigate whether the societies they deem desirable can be achieved by the individuals they sketch.⁵ This investigation has two parts, concerning the negative and the positive arguments respectively. Negative arguments only leave the reader with a critique of the state, and thus make her vulnerable to political scepticism (the nihilism characterised above). Positive arguments go further and establish the possibility of alternatives. Anarchists are engaged in the latter as well as the former pursuit. In chapter 1, I discuss the anarchist case for anti-statism, subsequent chapters provide a discussion whether various anarchists' assessments of human nature allow them to reach anarchist conclusions. Chapter 2 argues that anti-authoritarianism is not sufficient to provide an argument against the state, nor does it allow for an anarchist society to emerge. Chapter 3 argues that the safeguarding of private property rights is not a sufficient basis for stability in an anarchist society. I finish with a programmatic conclusion and directions for future work.

⁵ Bakunin's argument in "The Paris Commune and the Idea of the State" (1980) - it seems to me, successfully - shows that this liberal account of human nature begs the question. But since this account is assumed as adequate by the three philosophers that are the focus of this thesis, I have preferred to leave a discussion of his argument for another time.

Wolff, Nozick and Taylor are representative of three particular defenses of anarchism (1) the moral, *a priori* argument from autonomy, (2) the political, property-rights-based (or individualist) account and (3) the economic/ moral, public goods-based (or communitarian) respectively

In chapter 1, I introduce a major motivation for anarchism: anti-authoritarianism. All anarchist theories are anti-statist, since anarchism seeks to abolish all (unnecessary) forms of authority and since the state is the highest authoritarian institution in modern society. Authority is legitimate power.⁶ The state, according to Weberian definitions, is a human association that successfully claims the monopoly of legitimate use of physical force within a given territory. It is generally felt that the use of power stands in need of legitimation, since those subordinate to power experience it as constraining, sometimes humiliating and at times life threatening. Because power is such a pervasive feature of our social experience, and because it is experienced so negatively, societies seek to subject the people in positions of power to justifiable rules (Beetham 1991 chapter 1).

Justifications of the state's use of force are usually based on either normative or prudential considerations.⁷ Normative considerations are based on moral or legal principles, while prudential considerations take account of the material and psychological interests of agents (such as the provision of services and incentives necessary to ensure cooperation in large-scale, complex societies). In this thesis, I will focus on normative justifications of the state,

⁶ "Power", of course, does not imply *coercive* power, but (as will be discussed in chapter 2) merely the ability to influence the incentives, payoffs or beliefs of others, it is hence a very weak term. Conditions for the legitimate wielding of power will be discussed in the chapter 2.

⁷ Normative considerations are generally put forward by (post-Lockean) conservative theorists, such as de Grazia, Devlin and Burke, while prudential considerations are frequently put forward by more liberal theorists ranging from Berlin to Gauthier. This thesis focuses on the former.

although chapter 4 lays the groundwork for future work on prudential justifications. Just because most individuals within a society conform their behaviour to the demands of the law, it is not correct to infer that they have thereby accepted the rule of law as valid. Individuals possibly ought to conform to externally set norms and regulations, but it remains unclear whether (1) these norms and regulations are best set by the state (as opposed to a less hierarchically organized system) and (2), whether or not the problems that arise are not the direct result of the particular function of the state. People behave as if they were obliged, but that is distinct from assuming that they are under a genuine obligation, e.g., one which exists just in virtue of the fact that the relevant laws are derived legitimately according to rules of process. The anarchist concedes that the state is obeyed, for example, out of prudential, self-interested considerations, for utilitarian reasons of preservation of one's property and because of the value placed on social order. But anarchists produce evidence that none of these considerations actually require a state. The idea is that if they are independently valued, they represent general interests which rational and autonomous beings would seek to realize without any need for the threat of sanctions.

I will deal with normative justifications of the state in chapters 1 and 2, and conclude that they cannot be successful against the dissenter. Prudential considerations are shared by anarchists and statist, in the sense that they agree that some societal services are necessary and desirable. But the anarchist does not allow for these considerations to be sufficient for a justification of the state, since she does not take it that the most efficient or desirable solution to these problems is to be found in the state. Chapter 3 argues that statist systems do not provide the only solution to considerations of security.

I shall briefly consider the prudential argument here. Prudential considerations arise since anarchist, statist and other societies are faced with

coordination problems in the provision of social goods, such as personal safety, national security, and minimal welfare. Although all individuals have an interest that the social goods are provided, free-rider problems frequently emerge. Society has the following functions, fulfilled by modern states

- (1). *Defence*. The state defends people's rights of non-interference, e.g., it defends its members against aggression, both from each other and from other states and groups;
- (2). *Provision of Services*. The state provides a) general public services like sanitation, roads and schools and b) services benefitting a few - in the case of hospitals, welfare payments etc;
- (3). *Supervision*. The state supervises the lives of individuals for their own good, e.g., by enforcing prohibitions of drugs, exercising censorship and making education compulsory.

These societal functions are currently generally fulfilled by the state. Agreement that of some these functions are necessary does not preclude widespread disagreement on how they are to be performed and who is to perform them. Statists argue that all three functions are, and should be, fulfilled by the state - the functions of society and of the state are thus coextensive. Communitarians and libertarians agree that the functions of the public sector are narrower than is currently the practice in the state. Communitarians argue that only functions (1) and (2) fall within the range of society, and should be provided by the community. Libertarians only want to see the first function fulfilled, that is, the defense of the individual from others, as, according to them, only that type of interference with other individuals can be legitimated. In either case, communitarian and capitalist anarchists agree

that the state interferes with individuals' lives to an unacceptable and unnecessary degree

Central to the prudential justifications is the claim that the state is the most effective means of solving coordination problems, such as that of minimizing danger to the social order. One anarchist's problem with this particular device - the state - is the following:

To be governed is to be watched over, inspected, spied on, directed, legislated, regimented, closed in, indoctrinated, preached at, controlled, assessed, evaluated, censored, commanded; [.] to be governed means that at every move, operation, or transaction one is noted, registered, entered in a census, traced, stamped, processed, patented, licensed, set right, corrected. Government means to be subjected to tribute, trained, ransomed, exploited, monopolized, extorted, pressured, mystified, robbed, all in the name of public utility and the general good. Then, at the first sign of resistance or word of complaint, one is repressed, fined, despised, vexed, pursued, hustled, beaten up, garroted, imprisoned, shot, machine-gunned, judged, sentenced, deported, sacrificed, sold, betrayed, and to cap it all, ridiculed, mocked, outraged, and dishonoured. That is government, that is its justice and its morality! (Proudhon, quoted in Guérin 1970 16-17).

We can see that Proudhon conflates legalistic and extra-legalistic devices in the humiliation and degradation of the individual, all of which are attributed to the state. Obviously, while imprisonment is legal (and statisticians seek to justify it), beatings, sales and dishonourable acts are not - and it will quite rightly be denied by the statist that these are essential characteristics of the state. It still remains to be seen whether there are any other types of organizations that can provide the state's services outlined above. A hint towards such the provision of such an account will be outlined in chapter 4.

Let me clarify at this point the motivation for the anarchist conflation of law and the state: The assumption is that it is through laws, broadly conceived, that the state interferes with its subjects; "laws" then covers everything from actual statutes contained in the legal code to the rules governing their application and the regulations concerning the acquisition of positions of authority from which laws are applied. It is through laws in this sense that the citizen comes in contact with the state, which is the point of main concern for the anarchist. Whatever the function of a society is, and whichever ends are assumed to be universal, anarchists will argue that there are solutions preferable to statist ones. Such a solution will be briefly considered in chapter 4.

Chapter One

The Illegitimacy of the State

Whether the anarchist is a libertarian or a communitarian, i.e., regardless of the anarchist's stance towards the scope of prudential considerations for the ordering of society, she will agree that the normative justification of the state is ill-founded. This is the most widely agreed upon anarchist characteristic. Crucial to the functioning of the state is its wielding of power. The discussion in the first chapter will focus on the normative justification of the statist solution. What is at issue here is the legitimacy of the state's claim that its use of force within its territory is morally defensible.

One of the chief motivations for anti-statism, as briefly mentioned above, arises out of considerations of the problems involved with certain types of power. Power is the ability to influence others - it need to be through coercive means. This influence can be exercised in a number of ways, for instance (and these will be considered in more detail below), through having superior knowledge, means of coercion, or having a certain position in the hierarchy. But the greater the scope of someone's power, the greater the need for justifying having it, for the more of an issue it becomes for everyone else. The state yields power of a particular kind: *De facto*, the state wields power in the sense that it uses force and coercion against individuals, and this partially accounts for its successful command of the public. The question arises, when the state's power is ever legitimate. Coercive power is more problematic than epistemic power, since the latter is necessary and, when used legitimately, good for individuals as well as societies. This is why the issue would be relatively moot, as the anarchist Godwin argues, were the state's claim to wield

legitimate power based solely on the pretence that it possesses epistemic authority (i.e., authority based on expertise). According to Godwin, considerations of general justice are

equally within the province of every human understanding; [] as weakness and ignorance shall diminish, the basis of government [i.e., its authority] will also decay. (1985.245-248)

Godwin takes the basis of legitimacy of state power as being only expertise coupled with power, that is, a mixture of epistemic and positional authority, both of which (as I shall argue in the next chapter), are acceptable to the anarchist. It is questionable, however, whether it is actually the case that the state's power is accurately described as a case of power based on superior knowledge. While there are many types of epistemic authority wielded by non-state employed experts, there does seem to be a monopoly, as Pearton (1982) argues, over experts of a certain kind - in the guise of military and state security personnel - the need for such experts is created by the problems emanating from such a hierarchically structured system. It is far from obvious that the state's experts of this kind are necessary in all societies. Other non-militaristic types of experts are necessary for the smooth running of modern societies. But if so, the grounds for legitimation of the state's exercise of power would be straightforward: it is mainly a question of investigating in how far the state heeds its experts, and in how far those persons are better informed than other citizens. While it is undeniable that the state has amassed large amounts of information, it is not clear that this information alone is the basis of state power. While most anarchists would agree that expertise provides authority⁸, which can either be epistemic or positional (as I shall argue in chapter 2), the state's authority is based on the use of force. The state governs,

⁸ We shall see in chapter 2 that those who do not, like Robert Paul Wolff, are mistaken

after all, through the use of force and control, and as mentioned above, this stands in need of justification.

1.1. The Frailty of Human Intentions

I will consider two types of arguments from the frailty of human intentions, the moral and the paternalist argument. According to the first, moral argument, individuals are social not only in the sense that they derive *logos* from society, but in that they are fundamentally linked to the structural ordering of the society, such that even the questioning of the social *status quo* will bring about dire consequences for the psyche of these individuals. A first principle of morality is then to support the *status quo*. Empirical evidence will suffice to dismiss this view of human nature. An anthropologically and historically more sophisticated view of human nature is itself not sufficient for the possibility of anarchism. The second argument from paternalism attempts to show that the requirements of rationality demanded by the anarchist social framework are non-human. However, the anarchist can grant this frailty of human intentions to the statist, but will want to preserve the opportunity to consent to the punitive measures required by a stable society.

1.1.1. The Moral Argument

Godwin's argument from expertise considered above is an example of a normative justification of the state, which, if accurate, might be acceptable to some anti-statists. But the existing state's force is not based on such authority alone. Rational agents need a certain degree of stability in order to be able to act on the basis of maxims, principles or strategies. The determination and choice of such strategies requires a certain amount of foresight and foresight requires environmental stability. Without stability, there is chaos - which in turn brings about anomie that is intrinsically bad. Order is provided in organised societies, but organization in turn is the outcome of force. This force

is provided by state authority through its institutions. The state, hence, is a prudentially justified means of maximising the outcomes for rational agents.

This argument can, for instance be found in de Grazia's *The Political Community: A Study of Anomie*. De Grazia argues that, since order is an outcome of authoritarian systems, the latter provide the necessary preconditions for the possibility of moral choices. So society needs a show of force in the form of a state to maintain general safety, since there is always the possibility of criminal organisations taking over, of chaos, destruction and anomie breaking out.

Anomie, the breakdown of laws and norms, is an example of lack of stability. Fast technological or political changes result - it has been argued - in anomie. According to de Grazia, anomie is the inevitable result of questioning one's "common need of a ruler" (1948 xv). The manifestations of anomie range from mental disorders in individuals to war, political associations (*sic*), unemployment and mass movements (*ibid.*) Its consequences are so grave as to

cause the women of some primitive tribes to become barren; it has driven men insane; it has impelled masses of people toward the banners of new ideological movements. (*ibid.*)

According to de Grazia, a situation of anomie is the only conceivable parameter-setting framework in which anyone would want to fundamentally change the status quo. He argues that when it affects the masses, anomie will result in a state of anarchy, the only possible consequences of which are poverty and squalor.

According to such profoundly conservative arguments, the state is necessary and desirable, because it will protect us from internal and external

enemies and will ensure the safekeeping of our property. The very questioning of the state's legitimacy is considered an endangering of the conditions that make human life worth living. This view of human nature is fundamentally opposed to the anarchist's, who will consider it to be sufficient to adduce empirical facts to show that the conservative's view is inadequate (see, for instance, Kropotkin's *Mutual Aid*).

There are empirical reasons to question this characterisation of social systems that involve the necessity of authoritarian systems for the establishment of stability and order. According to a large body of anthropological, historical and sociological evidence⁹, there is no particular reason to assume that authority and power are either sufficient or necessary conditions for the maintenance of order, so that neither facilitates or renders possible the making of moral choices, if, indeed, order is required for the making of moral choices. Indeed it might be argued that authority and power relations are in fact inimical to moral choices (an argument found in Wolff 1971)

The establishment of order can be understood as a type of coordination problem. Any political theory has to be concerned with the solving of coordination problems. The state is not necessarily the best means for this. There are two principal anarchist lines of response to the prudential statist. Only one of these is acceptable, as I will show in chapter 3. Communitarian anarchists argue that coordination can be achieved in small-scale communities which are based on family- (or friendship) models in which "human relations are multi-faceted, close and reciprocal" (Taylor 1982.25-38; this is elaborated in the chapter 4). The communitarian model of society thus requires only a

⁹ See, for example, Ackelsberg (1991) for an account of successful non-hierarchical organisations in the Spanish Revolution; Clastres (1987), Evans-Pritchard (1940), and Sahlins (1972) for evidence from other, less complex societies, Edwards (1973) for the Paris Commune, Quail (1978) for experiments in Britain and Quiet Rumours (1980) for the anarchy-feminist experience

minimally authoritarian structure. Libertarian anarchists, on the other hand, hold that social order can be maintained by market forces. The libertarian anarchist sees a narrower range of options as limiting an individual's freedom than a communitarian anarchist (discussed in chapter 3)

Generally, anarchists argue that the justification of the state by reference to coordination problems is misguided, because it is due to a misidentification of the goals of coordination. In chapter 3 - where I discuss the minarchist Robert Nozick - I will consider in what sense statisticians have identified these goals, in chapter 4, I sketch how an argument could be made which shows that the necessary and sufficient conditions for the possibility of cooperation can be met in non-coercive structures. Coordination over long periods of time with a stable set of actors will eventually yield cooperation, since common norms and expectations will arise, and the individuals concerned will become personally engaged in the solving of communal problems by adopting strategies of cooperation.

1.1.2. The Paternalist Argument

But *would* rational and autonomous beings seek to realize their general interests without the threat of sanctions? This is denied by the paternalist argument which is based on the frailty of human intentions. In this view, the state is necessary because even if it were the case that individual agents may have consented to certain rules of behaviour (whether this process is assumed to be actual or hypothetical), they may - due to weakness of the will, lack of information, or distrust and resentment that "corrode the ties of civility" (Rawls 1971.6) - not abide by the rules or behave in a cooperative manner. They may then have to be forced - legitimately - into keeping their original promise. The anarchist reply is that there is no reason why this process may not be an explicit part of the social contract, in which case it is legitimated by the consent

of the individuals concerned. The possibility of imposition of sanctions, then, is not a prerogative of the state.

The statist's argument proceeds in two steps. First, constraints enhance the weak individual's ability to behave rationally. Second, constraints are strictly speaking not restrictive, since negative liberty is not quantifiable.

Although an individual may wish to act in a particular, e.g., a morally praiseworthy way, she finds it difficult to conform her actual behaviour to her second-order desires. Imperfectly rational agents therefore need external constraints which help them act according to their ideals. External constraints are thus conducive to the fulfilment of their desires, and are not inimical to autonomy, i.e., the freedom to conform one's actions to self-set ends. Far from infringing on liberty, then, such constraints help individuals act autonomously. So, for example, making a person wear a safety helmet while riding her motor-bike, prolongs her life - thus increasing her opportunities for acting autonomously. All prohibitions of this sort do is provide the necessary preconditions for autonomy. Constraints then are paternalistically justifiable because they effectively and rationally take the individual's long-term interests into consideration rather than allowing her to act upon her mere short-term, more likely than not hedonistic, impulses. The limitation of an individual's liberty does not itself impinge on her autonomy, but may, in fact, help her retain it.

This line of reasoning finds further support in the idea that the value of external constraints on the scope of actions, that is, negative liberty, is not quantifiable (Taylor 1982.150-152): the value of negative liberty does not lie in the quantity of tasks and agent can perform, but in their desirability to the agent. Whether individual *A* can wriggle her toes more while she and *B* are shut into otherwise identical coffins will not make *A*'s situation a substantially better one than *B*'s, although the scope of her actions is substantially increased.

The desirability of an action may be seen as itself a function of the autonomy involved in choosing to perform that action rather than another (see Taylor *ibid.*). In the case of someone who prefers to find herself in situations where others make decisions for her, the individual has to at least have been able to choose that situation. The relatively unsubstantial limitation of the individual's freedom - forcing her to wear the safety helmet - may after all constitute an increase, rather than a decrease, of her overall autonomy (because, for example, the helmet increases her chances of surviving a crash). State paternalism, then, is not only not a significant limitation on the autonomy of a person, but it is beneficial to her in so far as it increases her liberty by protecting her from harm. The state may thus be acceptable for paternalist reasons.

The paternalist argument is more acceptable to conservatives (see, e.g., Devlin 1986 273-9) than to liberal statist and anarchists. Anarchists want consent to be actual rather than hypothetical. Unlike the conservative who imputes little self-knowledge to the individual agent, the anarchist argues that the rational agent will be sufficiently aware of her desires and aims to be capable of modelling her actions accordingly. The legitimacy of such institutions as enforced taxation (or of any other state-enforced cooperative behaviour) thus becomes problematic. Rational agency requires minimal consistency of belief and action (cf. Cherniak 1986 chapter 1). Long-term commitments to modes of action are possible. Original consent requires such long-term commitment. If the rational agent does not want to cooperate, it is reasonable to assume that she would not have given her consent originally, and so the state has no legitimate grounds for forcing her into cooperating. If she does want to cooperate, there is no good reason to assume *a priori* that she will not be capable of acting in accordance with cooperative maxims without the threat of externally imposed sanctions. Thus the rational agent will not have to be forced into acting in that particular way, and presumably would not have felt the need to give her consent to paternalistic infringements on her

behaviour. The anarchist claims that to assume people may have good intentions upon which they are unlikely to act, and thus to argue that they need to be helped along by being pushed that little extra bit, is not to allow them a sufficient amount of (desirable) self-determination.

Moreover, the paternalist justification of state power is tainted by the justified suspicion that it could just as easily be appropriated by totalitarian governments - whether paternalist or benevolent - as a *post facto* justification of oppression. It seems that considerations of what one perceives to be the good of others are themselves not sufficient conditions for the legitimate enforcement of these assumptions on others. Paternalist considerations hence remain unconvincing to the anarchist.

According to anarchist theory, when actually exercised power is based on paternalist considerations, and paternalist authority is pervasive and systematic, for instance, when it is institutionalised, two fundamental problems may arise. First, paternalistic authorities foster a mindset in which people expect elites (often in the guise of experts) to make decisions for them and to meet their needs, rather than thinking and acting for themselves (Highleyman 1990:1). Since acting morally is at least acting while taking responsibility, acting on authority amounts to a denial of responsibility on the part of an agent for her own actions. The refusal to assume responsibility for one's actions amounts to an abnegation of one's standing as a moral agent. This abnegation is itself an immoral act - if it were otherwise, the torturer's appeal that she is only acting under orders would constitute an excuse for her actions. In so far as the submission to authority thus infringes on the moral status of an agent, authority itself becomes a factor that has to be taken into account for the moral assessment of actions an individual performs while under authority. Second, the possession of power - whether paternalistic or not - has the potential for corruption and abuse.

1.2. The Normative Justification of the State

Straightforward considerations of human nature led to a dead end. The more sophisticated debate centres around normative justifications. In the statist-anarchist debate, non-prudential justifications are more interesting than prudential ones. The latter are a matter of empirical investigation in which anarchists and statist draw on different evidence. Statists make references to studies of anomie (for instance, de Grazia 1948), anarchists refer to evidence of spontaneous and complex cooperation in non-coercive structures (e.g., Kropotkin 1989). Two non-prudential justifications of state power will be considered here, the contractarian argument and the argument from authority.

1.2.1. State Power as an Instance of Authority

Some non-prudential statist believe that the correct answer to the anarchist's question "Why should I obey state directives?" is "Because the state's orders are legitimate". This is opposed to the above paternalist statist's justification "Because if you don't, you'll be punished - for your own good". Power, coercion and authority have similar effects on an individual's behaviour - she will more often than not do as told. But unlike power and coercion, the concept of authority has played an important part in the *legitimation* of the state. Authority is generally defined as legitimate power or coercion. Weber (whom I will use here as a paradigmatic authoritarian statist) has argued that the belief that the supreme power of the state is legitimate increases the state's stability and effectiveness. This means that belief in authority is a means of social control (for evidence, see Green 1988 5) and is as such useful for - and used by - the state. The belief that the state's power is legitimate in effect engenders behaviour that is consistent with genuine obligation. Thus to show that the belief in state authority is mistaken is to undermine some of the motivations that make individuals abide by the state's commands. It is because

authority can connote a justified version of power and coercion that it is an interesting focus of investigation for the anarchist.

There are three distinct grounds for a belief that state power is legitimate, according to Weber: charisma, tradition and legality. Charismatic grounds are difficult to specify and to differentiate from the other two - after all, many modern state leaders from Adolf Hitler to Ronald Reagan have been characterised as charismatic, and we do presumably want to distinguish between the two cases with respect to the legitimacy of their power. Although both acquired their position of power in keeping with the rules of process, that is, their authority was achieved legalistically, Hitler's *stay* in power was achieved through morally and legalistically dubious means. This category does not allow us to make a distinction on extra-charismatic grounds, and I will henceforth disregard it. Tradition-based authority rests on the established belief in the sanctity of immemorial traditions and the legitimacy of those exercising authority under them, legalistic authority depends on the power having been correctly derived from enacted rules and the right of those elevated to authority under such rules to issue commands (Weber 1968:215).

There are two types of justification, the system-internal and the system-external one. Since I am dealing here with justifications of power, I will consider system-internal and system-external legitimacy. An example for system-internal authority is a position of power that has been correctly derived in accordance with the relevant rules, e.g., someone legitimately assumes the role of policewoman after she has passed the relevant courses and examinations. System-internal justifications can of course be prudential, but the interesting system-internal justifications are non-prudential. After the establishment of the state, it becomes a matter of fact that it is prudential for the individual to obey the state's directives because of the sanctions attached to non-compliance (this is the basis for the paternalist argument). It is thus the

normative system-internal justification that I will be concerned with here. System-external authority is power which is considered legitimate irrespective of the currently prevalent system of government and law, although it may be dependent on tradition and cultural norms. System-external justifications can be prudential or non-prudential, depending on whether appeal is made to, e.g., shared needs or moral tenets respectively. As pointed out in the introduction, the prudential justifications cut no ice with the anarchist.

The Weberian types of authority can be distinguished according to what kind of justification underpin them, system-internal ones or system-external ones. Indubitably, various forms of government derive their legitimacy both internally and externally; a monarchical government, for instance, will justify its wielding of power through appealing to the external authority of tradition, as well as the internal authority of hereditary rule. Of Weber's types of legitimate authority, only legalistic authority has an internal legitimation. That is, the system's own rules and regulations confer legitimacy on the use of power. Charisma and tradition, as well as moral or prudential considerations, are examples of external grounds of legitimation. That is, these grounds are recognised as valid independently of the system in which they occur. I will argue that, when faced with the anarchist critic, only external grounds will be effective as grounds of justifying obligation to obey state authority. Internal grounds of legitimacy are problematic because they presuppose external (prudential or moral) reasons which the anarchist will argue can be met in anarchist systems¹⁰.

The anarchist line against the internal justification of state power is made according to the following lines: Internal justifications amount to

¹⁰ In chapter 2, I shall suggest a fourth ground for the legitimate wielding of power. Power can be legitimated through a combination of deontological and utilitarian features. It has to have been chosen by the person subject to it, i.e. be self-imposed, and it has to be in the subject's interests.

something like pointing to the correct, or even just, application of rules in the generation of more rules in a game. To justify the obligation engendered by laws by reference to the constitution of the government is analogous to an attempt to justify the rules of a game. The advantage of this argument is, of course, that the problem of consent that underlies the anarchist dismissals of the paternalist justification is circumvented. The very participation in a society - a matter than can be very broadly construed - is sufficient for the rules of a society to be legitimately applied to any individual. What is being overlooked here is that just as rules are *constitutive* of a game, the laws, the government, and the state are *constitutive* of a system. If an individual doesn't want to play the game, this type of justification will just beg the question. What needs to be justified is the state's prerogative to impose this game on anyone who finds herself within its territorial limits, which is precisely the question at issue here. The anarchist will not be convinced by the fact that the rules were correctly derived from relevant higher-order system-internal rules. On the other hand, if it were shown to the recalcitrant player that the game is necessary or a particularly good one, she will be more likely to be convinced that she ought to play. Anarchists agree that legitimacy of state authority will, to some extent, be derived from the desirability of the social system it supports - which is an external consideration.

In the anarchist-statist debate, then, internal justifications of the state turn out to be unsatisfactory. A satisfactory justification of political authority cannot be system-internal. While particular laws and their application may derive legitimate statutes system-internally, they may not do so externally. What is legitimate to the statist is not legitimate to the anarchist - since given this type of legitimation, the obligation ensuing is relative to one's overall stance towards the state.

In examining attempts to legitimise the state, the anarchist view is that the legitimacy of authority will be in part derived from the ends which are promoted by such authority and the justice of these ends. Investigating the legitimacy of power does not consist merely in checking whether appropriate regulations are justly applied, but rather in determining whether the reign of authority itself is morally justified. Precisely what the anarchist will not admit is that the requirement to obey the state's commands follows justifiably from the mere adherence to rules of process - nothing follows morally for the individual from the fact that the law demands an action.

Some external justifications will be similarly insufficient, e.g., Weber's appeal to tradition: although establishment of norms through tradition is an important factor in investigations of social practice, such appeals will not convince people who raise questions of moral justification. At least in modern Western societies, moral considerations do, and ought to, outweigh considerations about the preservation of tradition. Reiman attempts to establish another type of external justification: he argues that what makes laws legitimate is their "moral effects" (1972: 54), and further that these effects constitute a sufficient reason to obey them. This can be taken in two ways: First, the term "moral effects" can be taken to mean that *law-abiding* citizens are *ipso facto* complying with the *moral law*. This seems a strange claim, and empirically false: the moral law, however identified, is not a subset of state law. But even if we assume that this is the case, i.e., if we assume that the moral law is enforced by the state, then this does not seem very satisfactory. Statist laws are, after all, backed by forms of coercive power, but coerced moral behaviour is not morally praiseworthy, since praiseworthiness requires moral intentions¹¹. Behaviour that is motivated by fear of negative sanctions is not morally praiseworthy or blameworthy behaviour, although it may be good for

¹¹ Many anarchists, e.g., Bakunin, Kropotkin, Nozick, Wolff, actually consider themselves Kantians.

utilitarian reasons. On the other hand, if Reiman is referring to an overall morally desirable state of affairs that can be achieved through abiding by the law, e.g., cooperation, the anarchist can show that there are, if not more efficient, then at least morally preferable ways of achieving this (see chapter 4).

I have only considered system-internal and system-external justifications. Internal justifications having been ruled out as ineffective against the political sceptic, we can see that external justifications of state power are necessary and - at least the statist ones considered here - are unsatisfactory. One proposal (mentioned above) to find a system-external justification for the wielding of power would be to make it up to *B* to choose whether or not to submit to authority, in accordance with her views on the constitution of her best interests. Statists assume that this is the case in the state, but the paternalistic imposition of such imputation of interest is unacceptable, and (as I shall argue below) it is questionable in how far a choice has actually been made by individuals within existing states.

1.2.2. **The Consensual Argument: Contractarianism**

Liberal contract theorists (see, e.g., Rousseau 1956, Rawls 1971) argue that the state can be legitimated through a form of social contract which is binding on members of the state and enforced by the state's agents. It is assumed that it is in the individual's best interests to enter into the contract.

The social contract provides a solution to coordination problems, e.g., by enforcing cooperation through the threat of sanctions. Generally, the social contract provides the basis for law, and its enforcement takes the form of institutionalised punishment. There are two distinct, compatible, justifications for the legitimacy of the contract's enforcement by the state. The first justification has it that it is in the best (long-term) interests of the contractor to be held

by the contract she agreed to. Some form of anomie¹² and a general lack of social stability and moral degeneration might ensue. If the contract is not enforced, the individual may be too acratie or mean to keep herself bound by the contract, and then contracts become undependable and lose all value. Hence, the state is necessary for the maintenance of order. This justification is paternalistic because it is based on the assumption that it is in the individual's long-term interests to be held to the freely entered contract and because it supplies a justification for the enforcement of this assumption. The other view is that the state's role is to ensure that justice is done on behalf of the people involved in the contract, so that if one side of the partners in the contract fails, for whatever reason, to abide by the terms of the contract, this will not disadvantage the other person or people involved. The state here safeguards the individual's rights.

In contract theory, the central idea is that more or less rational individuals actually (or hypothetically) decide to form a society "in a cooperative venture for mutual advantage" (Rawls 1971:4), for which they choose (or would have chosen) rules of justice and fairness. These rules are chosen in order to minimize potential conflict, and, liberal contract theorists would want to say, maximize individual freedom. The rational agent will abide by the rules since they were agreed to. Abiding by the rules is part of the contract itself, for contracts are formalised promises and give rise to obligations to comply on the side of the contracted individuals. Should an individual - due to lack of rationality or supremacy of self-interestedness - infringe upon the rules of the contract, she will have to be punished. With foresight, the consequences of rule violation will (or ought to) have been agreed upon.

¹² De Grazia (1948) distinguishes between "acute" and "simple" anomie.

I shall look here at two statist arguments which are made concerning the link between the legitimacy of the state and the existence of a social contract. The first has it that the state is consented to in an implicit contract, so that no further justification for the state is necessary. The second claims that the state is justified in so far as it is a necessary precondition for the maintenance of the contract. This necessity is explained by considerations of prudence and morality. Neither of these is ultimately successful against the anarchist critics. For, as the anarchist will argue, neither can take dissenting individuals sufficiently into account.

Contracts are morally binding for the same reason that the breaking of promises is morally wrong. We say that, if *A* has a contract with *B* over the provision of some *X*, it follows that *B* has the right to be supplied with *X*, and that *A* has an obligation with regards to *B* concerning *X*. *B*, then, has a right that *A* provide *X*, and in case of non-fulfilment, that she (*B*) be compensated for this infringement of the contract.

Contracts identify general promises and specify recriminations in case of unilateral defection. Submission to the rule of law could be achieved through a form of contract. Socrates (in Plato 1969.50A-54E) can be read as making such a claim in the *Crito*:

... if any one of you stands his ground when he can see how we administer justice and the rest of our public organization, we hold that by so doing he has in fact undertaken to do anything that we tell him. [...] You have definitely chosen us [the laws], and undertaken to observe us in all your activities as a citizen; and as the crowning proof that you are satisfied with our city, you have begotten children in it. (Plato 1969 52B-C)

This is the first contractarian justification of statism mentioned above. Because the individual does not leave the state, he has implicitly consented to its laws

and regulations. This reading may render Socrates himself irrational: Socrates was incarcerated according to the regulations of the law for failing to do what the state ordered him to do. Once in prison, he seems to be saying that an individual - in virtue of being a citizen - ought to comply with the laws of the state¹³

Socrates claims that an individual implicitly agrees to a contract by being member of a society and in not taking up the option to leave. In order to show that implicit agreement of this kind to a contract is insufficient to justify state power over an individual, the anarchist argues that there is a genuine difference between an explicit contract, as proposed by anarchist contractarians, and its implicit counterpart, evidence for the consent to which is based merely on "behaviour as if". Not leaving is one example of what statist assume to be consenting behaviour¹⁴. Other examples of "behaviour as if" consist, e.g., in paying taxes. But the anarchist counters that in order for an individual to enter freely into a contract, a choice not to comply must have been available to her, the individual must have the necessary and sufficient information concerning human psychology, desirable states of affairs and the possible means of reaching these, and the conditions of the contract as well as its scope must be explicitly stated.

What is more, this imputation of implicit agreement allows for easy cooptation: any consent to state power has to be wholesale. The individual,

¹³ But this does not have to be interpreted as a classic case of weakness of will. One way of representing Socrates as behaving rationally could have it that laws merely set guidelines for behaviour and provide information concerning consequences of one's actions that occur in some specific cases. If this is the case, the individual is left the choice whether to conform or not. This is true even assuming the state makes use of threats: most forms of coercion (Frankfurt 1988 26-47), especially of the kind the state makes use of, i.e., temporally distant penalties, do leave the individual with some measure of freedom and therefore responsibility.

¹⁴ Cf. Locke's Indian "travelling freely on the Highway" as an expression consent to be governed by the English state.

even if she is aware of the fact that her remaining in the state will be construed as evidence for her agreement to the contract, may not have any other alternative but to stay in that society - which is not in the least to say she agrees to any of its terms. The individual does not have the choice to opt out of any *particular* aspect of the state. For instance, the individual cannot, on the grounds that she thinks nuclear armament is objectionable, refuse to pay 20% of her taxes without being subject to sanctions. She cannot practice what she deems redistributive justice like the mythical figure Robin Hood without being punished. In some states, she cannot indulge in the sexual practices she might favour without incurring the likelihood of being punished. The Platonist account of implicit agreement to the contract is thus to be rejected. The ungrounded, and, from the point of view of the individual who has never explicitly consented either to the contract nor the methods of its enforcement, Kafkaesquely arbitrary imposition of threats and punishments in situations of non-compliance rob the individual of important aspects of self-determination. The individual may be fundamentally opposed to a world view in which nuclear armament is necessary, and not at all share the values that restrict her sexual practices. Thus, the operations of the state, rather than safeguard an individual's rights, might promote their infringement. Nor does the individual have a say in what kind of sanctions she deems appropriate for infringements of the "contract". Both the rules she is subject to and the sanctions that follow violations of these rules are imposed by the situation in which she finds herself. If the state is to take the safeguarding of individual rights seriously, the anarchist argues, her consent to the contract and the enforcement of the contract seems to be a necessary condition for the possibility of the success of such an undertaking. Where this is not the case, the anarchist takes this to be inimical to human flourishing and proposes that individuals be actively involved in decision-making procedures which deal with possible responses to defective - i.e. non-cooperative or harmful - behaviour.

1.3.

Anarchist Contractarianism

Both historically and more recently, anarchists have been favourable to the idea of contract (see, e.g., Godwin 1985, Buchanan 1978). They point out that such a contract need neither be idealised (as Rawls would have it), nor be a historical fact (which is what Rousseau is taken to claim), but ought to be an actual - present - occurrence. Anarchists want to insist that individual signatories choose *de facto* whether or not to make a contract. This contract ought to be formed with the cooperation of consenting individuals and the consensus should be repeated at intervals of relatively short time-spans. The repetition of consent is necessary to avoid the problems of historical contract theories which are "binding for all time" (Rawls 1971 chapter I). If the signing of the contract lies too far back (at time t_1), the contract will amount to a mere historical fact for an individual decades or centuries later (at t_2). The contract is then assumed to be binding on the assumption that *had* an individual been present at t_1 , she would have consented to signing it - which is the same assumption made by advocates of hypothetical contracts. The assumption that long-term non-hypothetical contracts are binding for individuals presumes both that individual agents in freely entering into the contract at t_1 accurately foresee their future interests at t_2 , and that conditions do not change so radically as to warrant changes in the contract. Since it is implausible to assume such gifts of foresight in human agents, and since a plausible account of society should take the continual evolution of circumstances into consideration, anarchist contractarians argue for sporadic renegotiation of the contract's terms.

According to anarchist contract theory, an individual, in entering a social contract, chooses the principles of justice and fairness, rather than having them imposed on her as part of the inevitable condition of being a member of a society. The anarchist contractarian argues that if the rational individual wants to cooperate, she will do so. Contractarians who favour merely hypothetical

contracts do not take such a favourable account of human rationality. An anarchist will argue that if a rational individual has the relevant facts, wants to cooperate (in the game-theoretical sense of cooperation) and has the opportunity to do so, she *will* do so. On the anarchist account, this cooperation is due to the fact that social cooperation in any society can be outcome of the considerations of maximisation of their outcomes of all the members of the society, to make this the case will be one of the goals of anarchist society (see chapter 4).

Given their view that human agents are, at least to some extent, irrational, anarchists concede that paternalism is, to an extent, desirable. However, the prerogative of paternalist decision-making need not lie with the state. Anarchists argue that those who feel a need for externally imposed limits could agree - that is, voluntarily submit - to paternalist regulation¹⁵. Just as Odysseus asked to be bound to the mast of his ship for prudential reasons, with the relevant information¹⁶, any individual could enter into similar agreements. Given this, it should be acceptable to the anarchist that it is rational for an agent to forego the possibility of making a certain choice. For instance, the individual might foresee that given the opportunity she will be tempted to take an option which might be harmful to her long-term interests. She might therefore take a general decision which will prevent her from making a short-sighted choice. In principle, such a choice does not exclude the option of consenting to a statist system, as long as each individual enters the explicit contract freely and repeatedly.

¹⁵ For an account of what this amounts to, see Tversky and Kahnemann (1990 70-6).

¹⁶ In terms of rational choice theory: such as, for instance, the probability of negative outcomes and correct discounting of the future.

In signing the contract, an individual agrees to the conditions under which she will cooperate - including the means of coercion which, if necessary, will supply social incentives to abide to the agreement. Anarchists argue that the individual ought to take part in setting up the contract. The legitimacy of anarchist contract enforcement is based on the condition that the consequences of contract infringements on the individual are explicitly part of the contract entered into. A further difference between anarchist and statist hypothetical contractarians lies in *who* is to do the punishing. Anarchist contracts are enforced by peers rather than by institutions, and although, of course, sanctioning processes may well be institutionalised, sanctioning power is reciprocal.

The anarchist rejects the claim that anyone can legitimately restrict an individual's actions against her will. She fears that if the above prudential considerations legitimise socially imposed sanctions on the individual's actions, this may lead to a slippery slope, the outcome of which is that anyone with sufficient power will be able to restrict other people's actions "for her own good" and against that person's will.

Unlike the various types of statist contractarians, anarchist contract theorists advocate that the contract be actual rather than hypothetical, that it be renegotiated at relatively short time intervals rather than be binding for eternity, and that sanctions following infringements of the contract are enforced by individuals within the society rather than by statist institutions. Anarchist contracts thus assume that individuals are capable and willing to have a say in the social framing of their lives and that it is desirable that they be given an opportunity to do so.

1.3.1. The Paradox of Emancipation

Change is generally costly and proportionately requires justification. Hence, the onus is on the anarchist to show not only that an anarchist system is desirable and workable, but that it is superior enough to warrant the costs of fundamental change.

A substantive view of human nature is presupposed in the assumption of the desirability of autonomous decision-making. This leaves the anarchist with a problem. Since the political values of radical critics are generally speaking egalitarian¹⁷, democratic and/or libertarian, and given the anarchist assumption that means should be consistent with the ends¹⁸, the envisaged social change has to be desired and implemented by the people who are to live under the new system. This means that the radical critic is committed to the claim that - since the people do not generally seem aware of the desirability of social change - the "real" interests of the people are quite other than the wants and needs currently experienced by and available to the population.

There are several problems with this claim: first, there is a fundamental epistemic problem of privileged access to "real" needs. It is mistaken to assume that the real needs of all rational beings as such is known to a few, while most of the individuals concerned are not consciously aware of these needs. One might argue that it is impossible to ascertain with any degree of certainty that all humans as such have particular needs, where those are other than those currently experienced by humans. This is a problem for the anar-

¹⁷ An aspiration even the N.S.D.A.P. (i.e., the National Socialist German Workers' Party), had pretensions to.

¹⁸ Incidentally, this is one of the most fundamental bones of contention between Marxist and anarchist socialists. In contrast to the former, anarchists reject revolutionary aspirations concerning re-socialisation of the "new" human beings. Anarchists are generally not committed to re-socialising people, but to find a way a life which provides the most opportunity conducive to their fulfilment.

chist. One way of resolving it is to distinguish between individuals' wants on the one hand, which are generally at least potentially available to consciousness through introspection, and individuals' needs and interests on the other. Needs and interests are more likely to be ascribed to individuals in virtue of the ascriber's values. Why anyone should privilege the radical critic's knowledge of our interests over the conservative's knowledge of them is not clear. The problem with prudential justifications of the state that was raised earlier, was that some individuals in positions of power claim to know better than others what the subject's interests consist in, and then enforce their superior knowledge against the possibly differing preferences of others by imposing sanctions on their actions. The anarchist also claims to have better access to other people's genuine interests. In what sense does she differ from the prudential statist?

Second, the radical critic who presumes to communicate people's "real needs" to them, runs the danger of alienating the people from themselves. Impressed by the critic's eloquence, her sharp criticism of the status quo and her dazzling visions of future fulfilment, people internalise the critic's ascriptions of their own needs and interests. This amounts to an imposition of new systems of values, and results in a reconstitution of people's identity by the critic. This *paradox of emancipation* (Benton's term, see Benton 1980 15) could be addressed through placing individuals in particular situations. They should be set up in such a way that people can themselves become aware of their interests, whatever these are. This need not be done in such a way as to be conducive to individuals becoming aware of "their" interests as predetermined by the critic, since this would amount to a manipulation of the individual by the critic. Situations have to be set up such that their outcome is open-ended, and conducive to individuals becoming aware of their interests, whatever these are. An instance of such a situation in the Spanish revolution that was conducive to such self-knowledge is described Ackelsberg (1991). What seems

to be required is that the situation must be one of self-empowerment and self-determination (for a discussion of this in practice, see Ackelsberg 1991, chapters 1-2)

Reasoned argument as to why a new system is more desirable than the old one may thus be supplemented by consciousness-raising through direct experience. If neither of these is attempted, the radical critics are compelled to continue living within the present system which runs directly counter to their arguments and values. After all, problems within existing states might be reducible to contingent matters. The state might be structurally neutral and merely mismanaged by its agents (as one obvious response to Proudhon's complaint runs). The onus is on anarchist theorists to show anarchism to be preferable to statism on the theoretical level. One way of doing this is to try and show anarchism to be a more effective way of maximising fulfilment of desires; of showing how it is better at preserving freedom and providing opportunities for self-fulfilment; or of showing that it is the least bad of all possible worlds

Power is the condition under which some people are able to control others, and have privileged access to resources. Within structures of power, such as the state, domination is both institutional and material. Both types of domination foster a psychological framework which allows for an ideology that sees inequality as part of human nature, and the inevitability of leaders and the led. Non-hierarchical communities may be more conducive to human agents' autonomy and flourishing, and thus rationally preferable. The assumption is that individuals, in as far as they are rational, will attempt to maximize the fulfilment of their desires and wants. Thus, if there is a system which is more efficient or more likely to be conducive to the fulfilment of the individual's desires, that system will be preferable. It will then be rational to strive towards the attainment of that system (as long, of course, as the costs are not too high).

Chapter Two

The Limited Compatibility of Authority and Autonomy

In this chapter, I will consider Robert Paul Wolff's argument against the state and show that it relies on premises regarding the necessary preconditions for the possibility of moral action that are so strong that the possibility of an anarchist society is ruled out. Wolff bases his argument on the assumption that the exercise of authority is inimical to the autonomy required for moral action. I will begin by defining some of the terms of the debate. After outlining Wolff's argument, two statist replies will be considered and found wanting: Wolff's argument against the state stands, but, as I hope to show, it stands in terms that preclude cooperative measures, and thus rules out anarchism. I will finally consider what types of authority are necessary for anarchism, and how they can be limited in order to maximise the fulfilment of the anarchist agenda.

2.1. Authority and Power

In what follows, authority will be understood as legitimate power. Since authority is the focus of my discussion, I will discuss power only in so far as it is social and relational - because the issue of legitimacy arises for power only in so far as it is a social and relational phenomenon.

Power is *possessed* by an individual *A* over another individual *B* in so far as *A* has the ability to affect *B*'s behaviour with regard to *X*. The possession of power is a matter of a person's relative bargaining position, that is, it

depends on *A*'s access to the relevant resources relative to *B*'s preferences, beliefs and resources. This is a very weak characterisation of power, since it follows that the most banal infringements on other individual's preferences constitutes an instance of power. A person has power in this sense over her neighbour because she can trample on his much-cherished flower-beds. Because of the weakness of this characterisation, the term is politically not very useful - it neither requires intentionality nor significantly different social position for a relation of power to exist. Power is thus pervasive and a potential feature of all social interactions in so far as it is *possessed* - although it need not be exercised. Possession of power does not necessarily translate into its being exercised. *A*'s power over *B* can be *exercised* in a number of ways which I will classify into two distinct spheres. First, *A possesses* power over *B* in the sense that she *can* influence *B*'s beliefs or attitudes; second, she possesses this power in so far as she has the opportunity to exert an influence on the expected payoffs of *B*'s actions for *B*.

Power can be exercised in two distinct ways, which I distinguish by talking of power₁ and power₂. I characterise power₁ as belief-related, and power₂ as action-related. *Prima facie*, the basis of distinction between power which is action-related and power which is belief-related is tenuous, since action is based on belief, and both belief-related power and action-related power will influence belief first and then action. However, there is an important difference lying behind my wanting to make this distinction. In the case of power₂, *A* has the ability and the intention to influence the facts in the world, while in the case of exercising power₁, *A* only reports facts of the world to *B*. Examples of power₁ are epistemic authority (where we commonly say that *A* is *an* authority) and positional authority (e.g., when *A* is an orchestra conductor). Positional authority is legitimate when the acquisition of the position was based on following the prescribed procedures (i.e., they are cases of system-internal legitimacy). Cases of epistemic authority are legitimate,

when the person laying claim to the authority actually does know more about the subject than the persons subject to that authority. One criterion for recognising the exercise of power₂ is that it is accompanied (implicitly or otherwise) by threats, offers or "thoffers". *A* affects *B*'s behaviour by effecting a change in *B*'s expected payoffs; promises of rewards make a course of action more desirable, threats of sanctions make it less so. "Thoffers" are a combination of offers and threats. They make both compliance *more* desirable and defections *less* so. An example of a thoffer is the offer of a financial reward for the revealing of information, accompanied by the threat of imprisonment for failing to do so.

Note that the distinction between power₁ and power₂ does not lie in whether *B* does or does not conform her behaviour to the directives given by *A*. What is relevant is that when *B* does act in accordance with the directive, she will do so in either case on the basis of prudential considerations. The crucial point of the distinction between power₁ and power₂ lies in the origins of the consequences in the case of non-compliance. If *B* does not heed *A*'s directives in the case of power₂, *A* directly or indirectly brings about a particular state of affairs (for example, where *A* is a gunperson). In cases of power₁, on the other hand, the authority figure will only provide *B* with the relevant information of the consequences, rather than bring them about herself.

As we have seen in the introduction, the state's exercise of power is based on a mixture of the two forms of power. State power is power₁ in so far as the state possesses power in virtue of its superior knowledge. Such power will be had by anyone in a position of positional authority who has held this position for some time, because the authority will be in charge of the organisation and, as the central point of the web, will be the coordinator of actions and accumulator of incoming information. The state also has power₂ because it exercises its power with threats of sanctions and thoffers as a means

of enforcing its directives. The state has the ability to bring about certain states of affairs, thereby manifesting power₂. This point is crucial in discussions of legitimacy, for unlike in unmixed cases of power₁, obeying the state becomes a matter of prudence, the parameters of which are set by the person in power herself. The difference between *B* following *A*'s orders because she is threatened with imprisonment and *B* following *C*'s advice because she deems it to be to her advantage is a difference concerning the respect for the integrity and rationality of the individual, and is captured in the differences between anarchist and statist contractarianism discussed in the previous chapter.

The distinction between the two forms of power I have just outlined are made clearer by the following example: if a person in a position of power₁ *A* (who is, e.g., a doctor or a biology lecturer) gives one a particular piece of information concerning the incredible effects that the eating of bananas has on the state of general health of human beings, the so advised *B* will proceed on the assumption that this is probably true, and proceed to eat more bananas - unless she comes across strong evidence to the contrary (e.g., she is given different information by *A'*, a person whom she believes to be better informed), or she rather dislikes bananas, or she is not particularly concerned with health, or she cannot afford them. However *B* will act, the *A*'s advice has entered into *B*'s deliberations, *ceteris paribus*, the advice given will affect *B*'s actions.

The same information concerning the effects of bananas on general health may be proffered to *B* by a person-in-a-position-of-power₂ *A''*, say, a person whom *B* believes to have a gun. Whether *B* believes that the person-in-power is an expert with regards to bananas or not will not affect her actions - she will eat the banana purely on the basis of the threat. The effect of the power in either case with regards to her behaviour if she complies is thus the same: what is different is the reasons *B* has for complying. In the first case, the additional piece of information has influenced *B*'s deliberations by

supplying her with a reason to act one way rather than another. In the second case, *A''* has *displaced* *B*'s own reasons and deliberations concerning the matter and is herself instrumental in the change that has occurred in *B*'s expected payoffs¹⁹.

In either case, *B* has to take responsibility for the consequences of her actions. In the first case, if *B* does not comply, her health may suffer; but in the latter case, any damage to her health will be brought about (in this case with somewhat more certainty) by the person who has issued the directive, *A''*. Given *B*'s preferences for survival, it becomes imperative for her to heed the directive in the second case for reasons other than the those brought about by nature and general circumstances.

The question is, what confers legitimacy on the exercise of power, i.e., when is influencing others legitimate? To have power legitimately (i.e., to have authority) is to be correctly ascribed the grounds of legitimation. Power is legitimate in the case of exercise of power, when the belief *B* has about *A*, which is responsible for *B*'s compliance, is correct. This means that someone has, or is attributed with, authority in so far as she wields power legitimately. *A* is thus invested with authority in so far as people recognise her directives as good reasons to act. *A* is correctly invested with epistemic authority over *B*, if *A* actually has superior knowledge about *X* relative to *B*, *A* is correctly invested with positional authority over *B*, if *A* actually has the position *B* believes she has, and has acquired it in accordance with the relevant regulations that govern the acquisition of such positions. If a person *A* is incorrectly ascribed authority, i.e., if the grounds of legitimation are identified incorrectly or are non-existent, *A* exercises power, not authority.

¹⁹ In Frankfurt's (1988) terms, *A* gives *B* a reason to act in accordance with her first-order desires, while *A''* has *B* consider her second-order desires.

But it is with the legitimate exercise of power₂ that I am concerned here. B's autonomy is preserved more obviously in the case of power₁ than in the case of power₂ - the person in authority just provides her with information on the basis of which she can then take decisions - and so power₁ is not in such dire need of justification. Power as expertise (power₁) allows the agent to act in accordance with her preferences and with her expectations of her payoffs intact, it is the payoffs of her actions that are directly influenced in the case of power₂, and her preference structures are thereby altered. It is the power of the latter type that anarchists have found the most problematic, although I shall argue that some forms of power₂ are necessary for the maintenance of social order and justifiable given certain limiting conditions.

2.2.

Wolff's Incompatibility Argument

Traditionally, anarchist argument has focused on the fact that authority serves to support a morally objectionable political structure and is itself morally problematic in so far as it does this. More recently, Robert Paul Wolff has made the reverse argument - authority is itself morally objectionable because it impinges on our duty to be autonomous. Autonomy is a necessary precondition for the making of moral choices. Since no state can exist without recourse to authority, the state ought to be abolished. Even though there is a legitimate case to be made against the authority of the state, Wolff is wrong in regarding *all* forms of authority as impossible to legitimate, or so I shall argue. The failure of Wolff's argument is partly due to the fact that he fails to appreciate what kinds of obligation follow from the different kinds of authority.

In his *In Defense of Anarchism*, Wolff argues for the *de facto* incompatibility of *de jure* authority and individual autonomy. There has been some

controversy in the literature (e.g., Smith 1973:290) as to whether Wolff is more plausibly regarded as arguing for the conceptual rather than actual incompatibility of authority and autonomy; although this reading has some textual evidence, it is uninteresting, for Wolff spends chapter 2 of *In Defense of Anarchism* discussing a theoretical reconciliation in the form of unanimous direct democracy, which rules out the conceptual interpretation. Although Wolff's argument lacks clarity and consistency, charity requires that one does not impute to him the belief that what is logically impossible is theoretically possible.

For Kant, a person is autonomous if and only if she has the ability to conform her actions to the moral law²⁰. In *The Autonomy of Reason*, Wolff argues that as long as the agent acts according to self-set principles which maximise her desires, she is autonomous. He provides an instrumental - as opposed to a substantive - account of rationality, that is, no particular ends are rationally required. Such self-set principles are chosen as desire-maximisers. These principles or desires may or may not coincide with societal norms. It follows from any decision to act in compliance with principles set by others, that the agent acts heteronomously and contrary her duty to be autonomous (which she by virtue of being a rational agent). Autonomy is, in Wolff's reading of Kantian ethics, a logically necessary prerequisite for the possibility of moral action. The problem, as Wolff conceives it, is how the moral autonomy of the individual can be made compatible with the authority of the state (1971:vii). In agreement with Weber, Wolff argues that the prevalent assumption that state authority is legitimate makes the agent act as if the state's regulations were morally binding. The state has absolute command over an individual, even where the force of this command is based on a

²⁰ See Kant (1956).

mistaken assumption about its morality. The state hence stands in contradiction to our duty to be autonomous and has to be done away with.

Wolff's first premise is that human agents are rational and free. To say an individual is rational means that the agent can form principles which feature as guidelines to possible and actual actions: self-legislature is the fundamental expression of freedom²¹. The notion of reason used here is purely instrumental (i.e., all decisions are made in an attempt to maximize fulfilment of the self-set principles and desires). To say that an agent can be free is to say that the agent can choose among different possible actions on the basis of those guidelines. According to this instrumental view of rationality, the agent's desires are motivations for acting; the desires are themselves not rationally assessable. On investigating Kant's notion of autonomy in *The Autonomy of Reason*, Wolff argues that the fully autonomous agent can only be committed to ends and principles she has chosen herself. According to Wolff, the individual's ends are not rationally assessable. Wolff says

rational agents are bound to substantive policies only in so far as they have freely chosen those policies. [...]he content of moral principles derives from collective commitments to freely chosen ends. (1973.181).

Rational and free agents are autonomous in so far as they conform their actions to their own principles. Rationality in human agents implies they can be autonomous, which in turn means they ought to take responsibility for their actions. Thus, according to Wolff, implies that they ought not commit themselves to performing an act merely because it is either required by rules and laws or mandated by social and institutional norms. In order to maximise

²¹ Dworkin (1988:17) shows that most philosophers will agree that self-determination (or autonomy) does require rationality. This is disputed by Wolf (1990). She argues that it is impossible not to relinquish one's autonomy while conforming to rules - even if they are self-set. She argues that autonomy does not involve rationality (1990:53): "autonomy means you have to be free to act in *disaccordance* with reason and desire" (emphasis added).

fulfilment of desires, the rational person will choose to perform a particular action on the basis of knowledge of the relevant facts. All decisions of the autonomous agent must be made on the basis of "information gathered and assessed" (1971 46) - not on the basis of the morally relevant rules, which, according to Wolff, might be wrongly identified.

According to Wolff's analysis of authority, any situation in which *B* submits to an authority is one in which he ipso facto relinquishes his autonomy, that is, he suspends his powers of deliberation. *A* has authority over *B*, if *B* does *X* only because *A* told *B* to do *X* under the *post facto* rationalization that *A* could, if asked, have given *B* a good reason to do *X*. *B* is in fact suspending judgment on whether the act is a good thing to do. *B*, says Wolff, relinquishes his moral autonomy if the motivation for his action is authority, i.e., if *B* is heteronomously motivated with reference to *X*, he thereby fails to take responsibility for his action²². Any exercise of authority is thus indefensible, because incompatible with the moral responsibility of the individual. Since the defining characteristic of the state is authority, the state necessarily impinges on its subjects' autonomy, and is thus *a priori* unjustifiable.

2.2.1. The Statist Offensive from Compatibility

Frankfurt (1973) and others argue that autonomy is compatible with Wolffian authority if the agent voluntarily commits herself to obey. When *B* promises to do *X*, *B* is obligated to do *X*, since the promise amounts to a self-set principle and moral agents have the duty to act according to their self-set principles. Now *X* could be to "obey commands". If *B* promises to obey commands, she is obligated to obey them. Obedience to authority then becomes a self-set principle and acting on it thus preserves autonomy. Thus

²² Note that Wolff's use of the term "heteronomous" - as the negation of his "autonomous" - should not be confused with Kant's use of the terms.

B could confer *de jure* legitimacy on *A* to be an authority over her by promising to obey *A*. obligations towards the state can thus be self-created and consistent with autonomy

This line of argument is explicitly denied by Wolff. He argues that self-imposed subjugation cannot preserve autonomy:

If the promise to obey is the sole ground to comply with the state then we are no longer autonomous. such a promise does bind, but only by surrendering our autonomy. (1971.41).

Promising to obey is problematic in virtue of promises being commitments about the future, binding future selves. By promising to obey, the individual ceases to be the author of the laws to which she submits (1971 29).

The statist has an easy time with Wolff if he objects to voluntary commitments on principle: commitments either have to be open to revision, in which case they are not binding. The question may well be asked if they are then commitments at all. Or they are not open to revision, in which case the agent is bound heteronomously. If autonomy presupposes the permanent possibility of changing one's mind, this implies that decisions are not binding over time. If commitment over time is problematic, it is difficult to see how any form of communitarian living is possible, any society requires that individuals be able to make commitments and be held to them. In that case, even pure direct democracy (the one form of government which Wolff deems acceptable *a priori*) is immoral²³. On the plausible assumption that there are differences among the preferences of members in any group of individuals, universal agreement is immoral, because it would require some individuals to weigh considerations of cooperation against self-interest and forfeit fulfilment of their

²³ A position Wolff must be committed to, as I will argue below.

own ends, and this, as we have seen, is heteronomous. Thus, non-hierarchical decision-making procedures are impossible, because once a decision has been taken, this would bind the individual over time in the sense that once a contract has been entered into, the individual signatories have to abide by it at future times. The most fundamental problem with this kind of commitment in an anarchist programme is that it does not allow for an anarchist society. Anarchism is a theory of human organisation based on voluntary association - external commitments are to be replaced largely by internal ones (for a discussion, see chapter 4). Contracts involving promises to be bound by communal decisions to which the individual has voluntarily given her consent are constitutive of anarchist society (see chapter 1). Some form of obligation must be acceptable to the anarchist if we are to reach an anarchist conclusion (- this will be discussed further in the anarchist offensive below). In refuting the statist's objection, Wolff commits himself to a position incompatible with anarchism.

Wolff's refutation is internally inconsistent in another point as well. His critics have pointed out that Wolff does accept that some promises only involve a piecemeal surrender of one's autonomy (1971 15, 29). Wolff deems it compatible with the individual's duty to be autonomous that she obeys a captain's orders on the occasion of a ship sinking, and that she follows a doctor's directives when she does not know any better. It might be said that one obvious reason for this partial surrender being acceptable is that its benefits are worth the costs. Then, the statist continues, it becomes acceptable to consider reneging on autonomy for reasons of efficiency or convenience - utilitarian reasons outweigh deontological ones. The problem is that this makes room for instrumental arguments for the use of authority. Given a particular social coordination problem, totalitarian decision-making procedures might turn out to be a good deal more efficient in terms of time and costs involved than majoritarian democracy.

Prima facie, Wolff seems to have engaged on a slippery slope towards statism. But the statist's argument concerning the compatibility of autonomy and authority plays on the assumption that there is only one type of authority, and that if Wolff allows utilitarian considerations to outweigh deontological ones in the case of some types of authority, *mutatis mutandis* these considerations may well apply to statist authority.

However, analysis of Wolff's examples of acceptable "piecemeal surrenders" of autonomy shows that Wolff is concerned only with types of positional authority, in the case of the captain, and types of epistemic authority in the doctor's case. Both examples are cases of belief-related power, for the authority's *dictum* - the captain's orders and the doctor's advice - can enter into deliberations about how to act, they are descriptive of the state of affairs and as such form part of the information at the agent's disposal. Cases of power₂, on the other hand, *create* new facts. Crucial to the Wolffian conclusion that the state should be abolished is the idea that the state is in a problematic position of wielding power₂ - the position to dictate to individuals what they are to do. The state's institutions are, as it happens, invested with authority, for people assume (mistakenly, or at least unthinkingly, according to the anarchist) that the state wields its power legitimately. That is, the state is invested with *de facto* authority by being falsely ascribed *de jure* authority. Wolff claims that to dismantle the state's aura of legitimacy, is to undermine its *de facto* authority. The statist has a point when challenging Wolff with one type of inconsistency: his argument for the incompatibility of authority and autonomy has as an unfortunate consequence that individuals may never join a community structure. It is too quick to argue, though, as some of his critics have done, that there is an internal inconsistency between Wolff's examples of legitimate instances of authority and the claim that the state is to be abolished because it wields authority. The authority referred to in the two cases is not of the same kind.

2.2.2. The Statist Offensive from Irrelevance

As long as we hold that it is not the case that all power is necessarily incompatible with autonomy, (and, as I have argued above, this is necessary for the possibility of an anarchist society), it may well be true that state power is of the non-problematic, compatible kind. For instance, it could be argued that there are prudential reasons that override normative ones. Thus, while it may well be that no normative justification can be found for the state, this does not mean it should be abolished (Bayles 1971:756) - there may be prudential considerations (among other factors) to be taken into account. There is no particularly good reason why some countries choose the left side of the road as the one to drive on, and in that sense, no justification for driving on any particular side of the road may be found, but few will find that a sufficient reason to stop driving on the side established by convention and law. Equally, there may be prudential reasons to submit to the law and to keep it as an authority. State authority is merely a particularly efficient solution to cooperation problems.

Anarchists point out that, first, the cooperation problem as posed by statists is mistaken (because their fundamental assumptions about human nature are false: rational agents neither have the problems nor the needs identified in statists' cooperation solutions) and second, however identified, the cooperation problem stands in no need of external solutions (I take this up in my final chapter). Furthermore, while efficiency is generally the preferred evaluative criterion in the case of non-moral issues, if (statist) authority can be shown to be morally objectionable, it will not do. Should torture be found the most efficient means of changing behaviour, this should still be rejected on moral grounds.

But say the state's solutions to cooperation problems are a matter of efficiency - due to the bureaucratic experts' superior knowledge of *methods* to

achieve our (allegedly) common ends. In that case, rational agents will (*ceteris paribus*) submit to its directives. The anarchist worries that individuals whose ends differ from those identified by the bureaucrats are nevertheless compelled to comply. If the grounds for power were merely a matter of efficiency, power₁ should be sufficient to convince agents to act according to the regulations. If the directives *are* in my own interest, since I am a rational agent, I will comply²⁴. But the state's demands are actually backed up by power₂ in the form of threats and "throffers"; that is, my failure to conform to the state's demands will be punished (economically, by deprivation of freedom etc.), while compliance will bring economic and social rewards.

Statists point out that it is not clear how laws immediately prescribe actions, and thus it is not clear whether the state wields power₂. Since the conditions for the wielding of power₂ are the ability and the intention of one party to affect someone's incentives, in any particular case, it could be argued, a citizen can (and presumably should) make her own decision whether to conform to the law or not. In doing this she has ample opportunity to investigate those of her moral values which will be involved. This is so even if she takes into consideration that there may be good reasons to obey laws in general. If she decides for herself what is right and how she ought to behave, she retains her autonomy, whether this happens to conform to a law or not. It is thus not the existence of laws that restricts people's autonomy, as Wolff seems to claim. In cases where the state requires a person to perform particular tasks, as in the case of military service, it is clearer that Wolff may have a point that the state does impinge on the individual's autonomy.

²⁴ Where the agent's rationality is not sufficient to ensure her cooperation, the anarchist contract, as argued in 2.3, is as effective and morally more acceptable in imposing sanctions than the state.

Another way this argument has been made (Beauchamp and Witkowski 1973:538) has it that the state might promote individual autonomy by setting the framework for an individual's expression of her autonomy: an individual's aims might be mirrored by the aims of the state²⁵. We can imagine this to be the case, to name but a few scenarios, where (1) the individual has decided for some reason of her own to adopt whatever it is that the state decides as a preference of her own, (2) the individual has been brainwashed or socialised into adopting the state's laws and decisions as her preference structure, or (3) the individual may be committed to the pursuit of the common good and hold the belief that the state is the most efficient means to that end

Case (1) legitimises the state's power over this individual, but, as argued above, it is presumptuous to assume that all current individuals have this preference structure, and an explicit contract is warranted. Case (2) is an infringement on the individual's claims to physical and psychological integrity, and hardly constitutes legitimacy. The third case is both the most plausible and the one the statist needs to adopt. Here, the individual acknowledges that her knowledge is limited and that consequently her competence to adopt maximising principles is also limited. The state is able to make the right choices on the agent's behalf, where right choices are those which maximise fulfilment of her desires. Its superior judgment is due to its resources of bureaucrats, scientists and other experts. It would then be rational and autonomy-preserving for the individual to decide to defer to the experts' better judgment when it comes to the determination and implementation of policies. Authorities may be privileged providers of information on given issues – so rather than *B*'s autonomy being infringed when given advice, it may be

²⁵ It has been pointed out to me how Kant argues that "the republican state can be seen as an expression of individual autonomy because it expresses our rational desire to live alongside other people on fair terms". This "rational desire" is, according to the anarchist, more likely to be fulfilled in a non-hierarchical social environment.

enhanced, for the information provided by the state may enhance the individual's chance to maximise the fulfilment of her desires²⁶.

If acting in accordance with state policy is due to acknowledgement of the fact that obedience to the state is the most effective means to our individual and collective ends, there is then a genuine obligation for rational agents to support and obey the state. Wolff's rational autonomy may then be perfectly compatible with the agent's obedience to the state.

If it can be shown that there are forms of authority which leave the individual with freedom of choice, and therefore responsibility, authority is not *a priori* incompatible with moral responsibility. Thus the claim that the state is necessarily indefensible is mistaken. How the state *actually* operates is another matter that is open to investigation. It may well prove to coerce unnecessarily, but this is a practical rather than an *a priori* problem. That is, we could work at improving the state through making it more just, less interfering, more autonomy-enhancing. The state is not *a priori* objectionable. Wolff's philosophical anarchism thus lacks sufficient negative theoretical foundations: He has not provided us with a compelling argument as to why we should do away with the state.

The anarchist argues against this argument, according to which laws provide information so that the individual arranges her desires as compatible with state policy, on the grounds that it is a mistaken account of the facts. The anarchist argument runs as follows: a distinction has to be made between *prima facie* and absolute authority. The difference could be put in terms of conforming your behaviour to the directive, versus acting in conformity with the

²⁶ Another necessary presupposition is that the state correctly identifies the individual's preferences; this will be discussed in the next two chapters.

directive. The former binds hypothetically, i.e., as long as no other consideration or obligation is overriding, while the latter binds like categorically, that is, no other end than the directive itself is to be taken into consideration in deciding on the appropriate action.

The anarchist argues that it is mistaken to assume that the state merely supplies further relevant factors in the form of hypothetical directives (which is argued by Reiman 1972:54), because hypothetical directives do not imply any moral obligation to act. While advice given by persons in positions of power₁ is primarily a reason for belief, and only secondarily a reason for action, the state's exercise of power₂ primarily provides reason for action and is absolutely binding. State institutions do not allow for dissent or argument in the sense that it is unclear who to direct dissent and argument to, and if those individuals can be found, they are sometimes themselves in positions in which they are capable of dispensing with the appropriate penalty for non-cooperative behaviour. State directives leave no leeway to be overridden by moral considerations, and state power is thus absolute (Green 1988:27). In this sense, state directives are similar to categorical directives, for they are not meant to allow other - self-chosen - ends to determine the choice of action.

Not only is it mistaken to assume that the state's laws are effectively forms of power₁, but, furthermore, the state admits as much. There is good evidence that the state does not deem its directives as binding only *prima facie*, contrary to Bates (1972:178), Bayles (1971:756), Frankfurt (1973:411), Ladenson (1972:337), Pritchard (1973:298) and Reiman (1972:2), who all argue that state directives only provide further relevant considerations. The state acts as if its authority were absolutely binding, for it does not permit an individual to use the state's directives, at least where these directives take the form of penal laws, as mere advice. The individual will not be exempt from sanctions just because her moral considerations outweigh prudential considerations. Graham

(1982 125-126) provides evidence that even in cases of civil disobedience in which appellants genuinely believe their acts benefit the state, their belief is not taken into consideration in court - there is thus not judicial admissibility of dissent with state directives. For instance, the House of Lords argued that "the interests of the majority are not necessarily the same as the interests of the state" (Graham, *ibid*). *De facto*, personal moral principles are deemed irrelevant grounds in deciding whether or not to obey the state when state institutions come to deliberate on the sanctions appropriate in dealings with this dissenter.

I have argued so far that the state's effects on the individual as well as the intentions of the state courts point to the fact that the state's exercise of power is not a matter of power₁, but of power₂. The statist (e.g., Reiman 1972.11) can still reply that the consenting individual may well arrange her desires such that her actions conform to the state's expectations. But a person who "obeys" a command only when it coincides with her autonomy is not "obeying" authority at all. To obey someone in power₂ is to conform to their requirements unconditionally, i.e., independently of one's agreement on the merits of performing the actions required by the authority. Cases of power₂ do not entail an obligation to surrender judgment in the sense of refraining from forming a judgment on the issue - and acting against one's judgment is not equivalent to surrendering one's judgment. But: to submit to an arbitrator in a dispute is not to take the arbitrator's decision into account in making a final decision, but to submit to her decision regardless of the balance of one's own considerations, and, as we have seen, this is not an option left open by the state.

In cases of power₂, then, *B* acts in accordance with commands in the sense that she will have to act according to someone else's deliberations. In cases of power₁, *B* need not suspend judgment but will be able to take new information into consideration. The latter then may help a person to gain

autonomy (which, Wolff argues, requires assessing information), while the former is inimical to it²⁷.

2.2.3. Wolff's Failure as Anarchist

If (1), the individual exercises reason only in finding the most effective means to achieve her ends, and (2), autonomy consists in obedience only to law which an individual imposes on herself, then the Wolffian anarchist may find herself in trouble for two reasons.

First, the members of a given community may have differing opinions - and since Wolffian autonomy requires that one act in accordance with self-set laws, then individuals face an impossibility of reaching a common agreement. The community is then faced with the dire prospect of each agent following only her own agenda. the imperative nature of her autonomy would not allow another course of action. If universal agreement is impossible, consensual decision-making procedures are ruled out. This, of course, renders any kind of social life impossible, in particular anarchist social life. The very issue which makes anarchist communities preferable to authoritarian ones is that, in the former, each individual partakes in decision-making with regards to social life, and is not bound by majority rule. If consensus is impossible, the individual is either thrown back into a pre-social state, or she must (for prudential reasons) opt for majoritarian decision procedures. But even this might be ruled out, for it requires coordination and the possibility of agreement on common ends. Without the possibility of rational argument (as argued above, Wolff does not take the ends or principles of the individual to be an appropriate subject for critical scrutiny), common ends can only be reached by chance. Neither anarchism nor democracy are thus possible.

²⁷ Perkins (1972 121) fails to draw this distinction and comes to the strange conclusion that all authority is beneficial to autonomy.

Wolff's characterisation of autonomy as the supreme duty brings me to the second reason. If autonomy is the supreme duty, it requires that rational agents defend it at all costs, especially against any attempts to lead them into acting for reasons which are beyond their comprehension and assessment. The imperative would not only occasionally force one to forfeit the benefits of cooperation, cooperation itself may even be immoral, because it entails reneging on individual responsibility. As ends are not rationally accessible, arguments concerning ends can never be persuasive. Since many ends are reachable only through cooperation, individuals will have to get others to accept at least some of their ends. This seems possible only by motivating people through changing their expected payoffs - the usual means of power₂. Since each individual has a duty to guard against that, she will herself have to employ defensive methods. We are, then, left not with a state of rational self-governing autonomous beings (as is required for an anarchist system), but with a Hobbesian horde in a perpetual state of war. Ironically, the very foundations of Wolff's anarchism may be the best argument for a state.

So Wolff's characterisation of morality implying a duty to autonomy makes anarchist cooperation impossible and, ironically, provides a *prima facie* argument for the state. Hence, a different account of autonomy is necessary in order that anarchism be possible, and preferably one that is truer to the facts about human motivation.

2.3.

Authority in Anarchism

Wolff's characterisation of autonomy does not lead to a feasible account of anarchism and it is questionable as an accurate account of human nature. Wolff's view of authority needs clarification, but it is not as clearly mistaken as statist commentators have argued. Wolff's argument is not that the authority of the state is too broad, but rather that there is a problem with the

state having authority at all. Authority of the various kinds (epistemic, positional and forceful) - and I agree here with the statists - can be compatible with the preservation of autonomy, especially if submission to it is freely chosen. As I have argued, some authority is necessary for social organization. Wolff should have concentrated his argument against certain specific manifestations of authority, namely, (1) unwarranted, illegitimate cases of power₁ and power₂; and (2), cases of authority, in which authority is not necessary for the possibility of cooperation and learning, and which are based on power₂.

The state can be compatible with an individual's autonomy if she has chosen to submit to its directives. So for those individuals who are statists, there is no necessary incompatibility between the authority of the state and individuals' autonomy. For anarchists, i.e., people who have not chosen to submit to the state, the state's authority is illegitimate, what is authority (legitimate power) for a statist is mere, unjustified, power for an anarchist. One of the problems is that the state derives its legitimacy from its superior knowledge (acquired because of its functional role - it thus creates the parameters in which only its directives are legitimate) but exercises this power derived from epistemic authority with forms of power₂.

If the defining mark of the state is exercise of this kind of power₂ that does conflict with the autonomy of at least some subjects, moral considerations *should* allow us to reconsider an assessment of the state's general compatibility with autonomy. It is questionable whether all authority is equally compelling and thus whether all acting on authority is equally heteronomous. Moreover, it may be granting too much to move from heteronomous motivation to denial of responsibility. It could be said that rational agents are, after all, responsible for choosing to accept an authority as such and that they are capable of reasoning about their actions independently. But the question of choice

involved here has to be investigated. To what extent are individuals free to choose to be part of the state? To what extent are individuals free to choose the state's rules of operation, the state's laws and the sanctions attached to these laws?

It is true to say that an individual has chosen to stay in a society (and thus to submit to its government and its laws) only if she has faced a situation in which she genuinely has the opportunity to leave. The choice to stay and abide can only be imputed to the degree that it is reasonable to think someone had a choice in the set-up of the situation as a whole. It is not reasonable to assume that because a person did not leave the state, that she is satisfied with the situation, if she has never faced a situation in which it might reasonably be said that the individual could have chosen otherwise.

The anarchist points out that (see chapter 1): First, the assumption that "behaviour as if" is insufficient to warrant the imputation of choice to an individual is invalid. Second, this imputation allows for easy cooptation: the individual, even if aware of the implicitness of the "contract", may not have an alternative but to stay in that society - which is not in the least to say she agrees with any of its terms. The Platonist account of implicit agreement to the contract is thus to be rejected. The anarchist wants to allow the individual signatories to choose *de facto* whether or not to comply to the contract. This contract would be consented to at intervals of relatively short time-spans and formed with the cooperation of the consenting individuals.

If a rational individual wants to cooperate, or behave in such a way as to take others' interests into account, she will do so. On the anarchist account, this cooperation is not due to an assumption that social cooperation in any society is the obvious outcome, merely because it maximises the individuals' desires; rather, to make this the case will be one of the goals of anarchist

society. In signing the contract (see chapter 1), an individual agrees to the conditions under which she will cooperate - including the means of coercion etc which will supply the necessary social incentives to abide by the agreement. The anarchist response to the moral justification of the state - that the individual's rights need safeguarding - is that the mechanism by which a contract will be enforced may well be part of the contract itself. Prudential justifications of state power which are based on hypothesized or original consent could just as easily be appropriated by totalitarian governments - whether paternalist or benevolent - as a *post facto* justification of oppression. It seems that paternalism is itself not a sufficient condition for the legitimacy of a process.

Executive authority (based on power₁) requires obedience in an anarchist society, but its legitimacy is derived from the fact that it actually does carry out the will of members, is accountable to them and subject to review and removal. In the state, directives, the means of their enforcement, and hiring procedures are initiated from above. Members who have acquired a position of authority, where accountable, cannot be closely monitored by the people they have authority over, and are not in all instances revokable by them. Anarchist societies restrain positional authorities by allowing every member to exercise positional authority (Godwin 1985 496), possibly backed by power₁, through rotating posts and revoking of the power in case of infringement.

Power₂ most obviously and problematically infringes upon autonomy, but, though it too is necessary in an anarchist society in order to prevent unilateral defection, i.e., to circumvent free rider problems, it can be limited so as to become justifiable. Its legitimacy will be determined by consent of the members of the society, by being beneficial to them and by the members believing it to be so, and the figures in authority must be revokable by the people subject to that power. The scope of power₂ can thus be limited so as

to maximise autonomy rather than infringe it. Thus, the legitimacy of authority can be grounded on the basis of how useful it is, whom it serves and whether it is revokable.

This chapter has been concerned with the moral argument for anarchism. According to this argument, the making of moral choices requires that individuals act according to their self-set principles. Any substantial infringement of the latter by imposition of other-set principles is an abrogation of the individual's responsibility. Since the state imposes sanctions and throffers, the state has real potential to conflict with autonomy. I have argued that this type of argument does not work either for the negative or the positive anarchist programme. Different types of power are compatible with responsibility, and it may well be that the state's power is one of these types. If the notion of autonomy involved is too strong to allow any compatibility, it is questionable in how far this autonomy is not in fact inimical to voluntary cooperation. The moral argument thus fails both to provide a cohesive anti-statism and plausible preconditions for the feasibility of an anarchist society.

In the next chapter, I will consider another argument for anarchism, one made on the basis of human rights. And I intend to show how this argument, too, fails, albeit for different reasons.

Chapter Three

The Poverty of Property

Nozick, it might seem, is not strictly speaking an anarchist. He finds a place in this thesis because - although Nozick argues for minimal *statism* (hence called minarchism) - in the sense specified in the introduction, he is an anarchist. The two conditions for anarchism are that (1) there is no political specialisation among the members of an anarchist society, and (2), that there is no illegitimate concentration of power.² First, Nozick's minarchy (supposedly) does not substantially impinge on the basic equality of the use of force and rights of its members. Second, this structure does away with positions of political specialisation by some members over others. In this chapter, I will argue that given Nozick's initial assumptions, this minarchist goal cannot be achieved. Nozick's argument is more complex and multi-faceted to be dealt with in one chapter, so I will deal with only one issue - property rights - which is the focus of difference between communitarian and libertarian anarchists, and the basis for Nozick's argument (Wolff 1991.3) The argument in this chapter can be read as applying to other libertarian theories

Nozick's motivation for reform of the state is his concern with human rights, notably property rights which, as he sees it, are not, nay cannot be upheld in statist structures. Criticism of the state on the basis of property rights is inadequate. A society established with the purpose of securing only the negative rights identified by Nozick will furthermore be neither desirable nor stable given the primacy of these rights. Stability as a desideratum for an anarchist society was identified in chapter 1.

This argument against libertarianism proceeds from two points of view, the individualist and the communitarian. "Property rights" stands for a cluster of rights, and is generally taken to include the right to sell, destroy, give away, transfer the piece of property and to derive profits out of it. I first try to derive such property rights from considerations as to what it is to be an individual and how rational agents express themselves in interactions with the world. I then try to derive property rights from considerations such as the standard of living arising out of invisible hand processes. In both cases, the property rights that can be derived from these considerations are limited. Individualist considerations of property rights direct our attention to the scope of rights that can be derived. As I want to argue, only some of the rights normally identified as part of the above cluster can actually be derived. Communitarian considerations direct our attention to what kinds of things we can claim property rights against (i.e., it turns out that legitimate appropriation only extends over some objects).

I begin by showing, in a discussion of Locke, (1), that considerations of self-ownership and labour-mixing theories lead to conclusions quite different from those which libertarian theorists attempt to reach. Libertarians and Locke share the same initial assumptions of property rights but derive substantially different conclusions from them. The initial assumptions are hence not sufficient to establish particular types of property rights, and other initial assumptions need come into play for Nozick to reach his conclusions. (2), I will show that the acquisition of property rights based on personal right will only establish the justifiability of some property-related rights (e.g., the right to use a piece of property, but not the right to transfer or destroy it).

The second part argues that moral and prudential considerations allow us to reach conclusions opposite to Nozick's, given that we seek the blueprint for a good society. Nozick claims optimisation of opportunities to achieve the

good life as the motivational basis for his attempt to establish a libertarian society. Liberty, according to libertarians, is the most effective means for achieving a good life. But survival and a decent life, as well as opportunities for improvement, require more than a situation of relative negative freedom. The merits of different situations of negative freedom, as I have argued in chapter 1, cannot be evaluated. I show that the good life implies that the community has a larger role to play in fulfilling the functions of society than Nozick is prepared to accept.

Nozick bases his Hempelian potential explanation of the coming about of a minarchy on Locke's thought experiment concerning the origins of rights in the state of nature and the possibilities of their preservation in civil society. A potential explanation in Hempel's sense is one which explains why something happened by deducing that the phenomenon will occur from a statement of laws and initial conditions. The explanation proceeds by establishing which general laws and antecedent conditions have to obtain in order for a phenomenon to occur (Hempel 1965:246). Nozick justifies his minarchy by giving such a potential explanation for it. According to Nozick, a potential explanation is

what would be a correct explanation if everything in it were true and operated (Nozick 1974:7).

The implication is, of course, that not everything in such an explanation has to be true in order for it to count as a valid explanation. That is, a potential explanation can be a valid deduction from laws, facts and processes that do not exist in the actual world. Evidently, merely to explain how something can come about is distinct from providing a justification for it. But Nozick has it that just steps preserve justice:

Whatever arises from a just situation by just steps is itself just. (1974:151).

If this statement proves correct, in order to show the justice (and thereby justifiability) of the minarchy, it would be sufficient for Nozick to show that first, the initial state of nature he envisions (with Locke's help) is itself just, and second, that his principles of justice in transfer are just and preserve justice

I shall be taking issue here with Nozick's presentation of the initial conditions as just. Nozick argues that theories of justice which make use of current time slice principles of distribution of property (or holdings) attend only to the structure of a distribution, while historical principles take account of past actions. In patterned historical principles, a just distribution is to be determined by some natural dimension - e.g., each according to their need, merit or labour. Unpatterned principles, among which Nozick counts his own, allow only voluntary transfers as legitimate changes in holdings. The original acquisition of these holdings is hence crucial to the possibility of reaching a just state of affairs

Nozick specifies a procedure, or a set of procedures, which must be followed if an acquisition of property is to be justified:

1. A person who acquires a holding in accordance with the *principle of justice in acquisition* is entitled to that holding.
2. A person who acquires a holding in accordance with the *principle of justice in transfer*, from someone else entitled to that holding, is entitled to the holding.
3. No one is entitled to a holding except by (repeated) applications of 1 and 2. (Nozick 1974 151).

These principles are to establish what is commonly referred to as "full liberal ownership" (Wolff 1991:94), that is, the right of a person to use, manage, possess, modify, destroy, waste, consume, bequeath, sell, give away and profit

from her property. Examples of legitimate transfer are bequest, sale, gift, accession; examples of illegitimate transfer are fraud, coercion and theft

3.1. Locke: The Libertarian Connection

Locke aside, Nozick does not discuss other principles of justice in acquisition (1974 150ff). We cannot deduce from this that Nozick takes Locke's account to be providing the necessary and sufficient conditions for justice in acquisition. Given his criticisms of Locke, Nozick can be read as rejecting Locke's account, but this would leave him with no account at all of what justice in acquisition amounts to (Wolff 1991 117). Without a justification of initial conditions, his potential explanation has no grounds to which to apply general laws, and the minarchy remains unexplained *and* unjustified, and thus falters at the outset. It is presumably safe to assume that Nozick does broadly accept Locke's labour-mixing theory as a sufficient condition for justified acquisition of property, even if it is in need of improvement, although Nozick does not provide these. I will try to show that Locke does not lend himself easily to a libertarian framework, and that body rights do not provide sufficient conditions for the granting of full liberal property rights^{2*}

3.1.1. **Locke's Limited Property Rights**

Locke attempts to derive human rights in political society from pre-social natural rights. In *The Second Treatise on Government*, he argues that man can find the content and nature of these rights through the use of reason. God's will is to preserve mankind, for god made man for his own pleasure. Through his ability to reason about the means necessary for self-and other-

^{2*} My interpretation of Locke's *Second Treatise* closely follows James Tully's *A Discourse on Property, John Locke and His Adversaries*, which I find convincing. Since much of Nozick's argument rests on his interpretation of Locke, a plausible interpretation of Locke which refutes Nozick's unqualified statements about him robs Nozick of an important and necessary premise.

preservation, man can uncover god's will and thereby find what natural rights he has and what this amounts to. This is a teleological enterprise, since our very existence has the purpose of glorifying god. God's intentions are uncovered by looking at what purposes man's natural attributes embody - which were given to man for a reason (Tully 1980 38f). The first of god's intentions which reason uncovers is the preservation of man. The requisite means for this are the following three natural rights: the right to life, the right to liberty to preserve the self and others, and the right to goods and other means to achieve self- and other-preservation (Locke 1986.11, 5, II.16, 6; see Tully 1980 45ff).

In order for man to fulfil god's will and satisfy the latter's pleasure, god gave the world to "mankind in common" (1986.16, II 25); through natural reason, man knows that each person has a right "to the things nature affords" (1986.19, II.31). Man is given property "for the subsistence and comfort of his life" (1989.209, I 92). The property is common, for god did not intend Adam to be the sole owner of the earth. God gave Adam the earth on behalf of all. Men are free, equal and independent with no natural superiors. Given this initial situation of common property, it might seem a problem to explain how private property can arise.

In fact, private property in the sense of full liberal property rights, only comes into being, according to Locke, in civil society. Locke's argument proceeds to show how it is possible (as distinct from justifiable) for common property to be individuated. In the state of nature, there are only "individuations of the common", which is a limited type of property right. Individuations of the common are temporary, limited appropriations of commonly owned land, subject to a number of conditions, to an individual working of the land. Man mixes his labour with the land and thus appropriates land, but still remains "a tenant in common".

The argument for the individuation of the commons proceeds as follows
 God is the proprietor of man,

for men being all the workmanship of one omnipotent and infinitely wise maker ... they are his property whose workmanship they are, made to last during his, not one another's, pleasure. (1986 6, II 6)

while man is proprietor of his own person and of the actions of his person (1986.17, II 27). Workmanship allowed god to become proprietor. This, it seems, is one way of acquiring property. Men - unlike god - exercise workmanship on common property, not their own. The labourer makes an object by mixing his labour with material provided by god, and so makes the object into his own, in a similar way in which god makes the world and man out of prior material god created (Tully 1980 117).

Locke identifies three possibilities of achieving an entitlement to part of the common property: through work, charity and inheritance. The latter two are transferred entitlements and will be discussed below

Since man owns his actions and so has a right in deriving benefits from them, he can, by working on an object, derive benefits from that object (1986.17, II.26). Locke gives two justifications why man comes to have an entitlement to land - rather than just the added value - through mixing his labour with land. First, the earth was made for use by man. Man only fulfils his duty to preserve himself and others in making something out of it. Since god wills that every man has right to his share, individual appropriation is not robbery, and there is no need to seek the consent of others, because the common remains common, i.e., property rights remain temporary. Second, the allocation of rights to land provides incentives to till the land which not only increases this particular piece of land's productivity, but means that more land

will be left over for others to use. This is because much higher benefits are derived from tilled land, and the individual tiller then has to use less land for his own subsistence.

These entitlements to parts of the common are subject to stringent quantitative and qualitative limits. The amount of improved field which an individual man can call his own is limited by what he can use to products of, not by how much land he can improve.

... and indeed it was a foolish thing, as well as dishonest, to hoard up more than he could make use of. (1986.28, II.47).

What is acquired are limited property rights for a time being (1986.17f, II.28f). But if a man accumulates more than he can make use of, i.e., more than his share, he "thereby robs others" (1986. 22f, 27f, II.37, 46). The right to property is thus conditional upon, in the case of land, its cultivation or its use through other ways of making useful products (1986 21, II.35). Land that is not used goes back to the common (1986.23f, II.38)

Although what becomes property is both the land and the products of cultivation (1986.21f, II.36), two different kinds of property rights are involved, for land - unlike labour and the products of labour - cannot be exchanged (1986.27f, 29, II.46, 50) The right to use land and its products is limited to the use of products and "that they may serve to afford him conveniences of life" - the fruits of labour may not be destroyed or otherwise abused. Labour confers no additional rights than the right to use products (1986.17, II 27). There is no right to land as such, but a use right in improved land if its products are used.

The common belongs to everyone in the same manner, to use for the duty of acquiring the means necessary for support. This means that property rights are justified only in so far as they establish means to furthering the

common good. There is no right to any item outside these strictures. This is where rights of transfer come in. Goods are held individually because this serves the function of preserving mankind. Since property is there for a person to preserve himself and others, any further enjoyment, once his own preservation is secured, is conditional on the preservation of others.

charity gives every man a title to so much out of another's plenty, as will keep him from extreme want, where he has no means to subsist otherwise. (1986.5f, II.6).

By not providing charity when he can do so, the proprietor invades the share of products now belonging to the needy and is liable to punishment (1986 22f, II.37). Should this duty not be discharged voluntarily, the claim right of the needy imposes an enforceable duty.

Locke's rights of property are by no means coextensive with liberal property rights. They only provide a "liberty to use" objects of property (1986.24, II.39) subject to the above conditions. A further restriction is that there must be "enough, and as good left in common for others" (1986 17, 20f, II.27, 33f, 36) for those who can work, while for those who cannot, the charity principle provides products of labour. If the proviso no longer obtains, as happens after the establishment of government (1986 23f, 27, II 38, 45) - it being one of the purposes of government to find alternate means of securing rights, natural individuation of common property ceases to be justifiable and conventional individuation based on consent is required (1986 21f, II.36).

If "mixing one's labour" with a piece of land (a metaphysically strange notion if taken literally) results in owning it, it would seem impossible to hire anyone to help with the land and still keep it. But Locke includes the "grass my horse has bit, turfs my servant has cut; and the ore I have digg'd" (1986.18, II.28), as his own labour and claims himself thus to be entitled to its products.

The product of owned goods is presumably legitimately appropriated by the owner, thus in the case of the horse, the owner appropriates both the horse's actions and the products of its actions. Unlike the horse, the servant cannot be the master's property. Every man is proprietor of his own person and the actions or labour from it, and has in himself "the great foundation of property". Yet the servant's labour is the master's property. We saw earlier that a man's actions are his own. As Locke explains (1986 27, 47, II 44, 85), a free man is not selling his actions in general (which would make him a slave), but undertakes to make himself a servant to another by selling him for a certain time the service he undertakes to do, that is, a particular task which gives the employer no other rights over the servant, in exchange for wages he is to receive (see Tully 1980 135ff). The charity principle and the proviso that enough should be left for others ensure that the choice not to become a servant is available in the state of nature, because usable land and products of nature are available for consumption. If the needy cannot otherwise come to the necessary goods, the affluent must fulfil their needs in charity. The affluent cannot take advantage of another's necessity (1986 25, II 42). If man is driven by necessity, the relation is based on force, and is thus a master and vassal arrangement, which violates the servant's rights to self-ownership and which is therefore unacceptable.

The enjoyment of the right to property in the state of nature is thus very uncertain, and constantly exposed to the invasion of others (1986.70f, II 123). Greed may be essential to human nature. With the introduction of money through habits of greed, hoarding for the first time becomes possible, and natural appropriation theory ceases to have application. To accommodate this change and reestablish the sense security which pre-dates the social acceptance of greed, men unify into civil societies (1986 77f, II.136). In a state of government, possession of land and the right of property is determined by law (1986 19f, 29, II 30, 50). Property in political society is a creation of that society and has been fixed in law by actual agreement of the individual and by general

consent (1986.23f, 27, II.38, 45). Since the common good is the end of civil society, and a necessary condition for the attainment of the common good is the preservation of the individual and his rights, the legislation of the civil society has to take the common good into account. Thus property must be regulated in such a way that the common good is furthered, which includes the preservation of each.

In government, the law of the land specifies how legitimate appropriation is to take place, since the end of society is to preserve its members (1986.92, II 161). In order for law to be legitimate, consent of the members of society is necessary. Law is not so much concerned with limiting people's actions, as to provide direction to free and intelligent agents in their own interests, prescribing them courses of action which are in the general interest (1986.32, II.57). Since civil society is established for the common as well as the individual's good, not to submit to the laws in political society is unreasonable. The individual good had been preserved to some extent by the laws of nature in the state of nature, and these laws of nature thus must become guidelines for laws in civil society. Laws are right only in so far as they are founded on the law of nature (1986.8f, II 12). We find then, that in civil society, too, rights of property are limited:

it would be a direct contradiction for any one to enter into society with others for the securing and regulating of property: and yet to suppose his land, ... should be exempt from the jurisdiction of that government. (*ibid.*)

Since individuation of the common is no longer possible, the survival of the individual has to be secured by the government. Relationships common in capitalism of worker and employer are thus illegitimate, since the proviso no longer obtains and the worker has no other choice. In Locke's terms, the worker thus ceases to be a free man. The relations between individuals in the

capitalist system have robbed the worker of his share of the world owned in common. Before the employer may employ anyone, he must share his goods in such a way that no-one is driven by need to work for him. The charity principle now finds application in central distribution of the means necessary to attainment of the natural rights to life, to liberty of self and other preservation, and to the goods or means to do so.

Locke's overall project thus does not lend itself easily to appropriation by liberal property rights theorists. Since property rights are subject to natural law, the function of which is to preserve mankind, they are subject to the limitations discussed above. Ownership is temporal, possession only extends over use, receipt of income from one's possessions is limited by considerations of the welfare and the opportunity of choice of the employee. Powers of transfer only hold in the case of a certain range of personal property (land cannot be transferred at all, and most property can be possessed only where it is needed). Powers of exclusion do not extend to profits from the property. The incidents of ownership common to civil society, which Nozick wants to extend, - possession, use, management, receipt of income, power to transfer and exclude, liberty to consume or destroy, immunity from appropriation - are thus excluded from Locke's framework. Without *caveats*, it seems that libertarians can appropriate Locke only by reinterpreting his project rather freely.

Nevertheless, it may be the case that if we abstract Locke's theory of acquisition through mixing of labour from his own interpretation of it, a libertarian may arrive at a reasonable theory of acquisition from which we can derive liberal property rights.

3.2.

Property Rights as Extension of the Person

The theory that rights over things in the world are a consequence of rights of self-ownership has intuitive appeal. The motivation for the argument lies in the intention not to use people merely as a means to an end. Now if respect for others involves not interfering with the outcome of their actions, and if people's intentions when interacting with objects is to gain property rights over them, respect for others involves respect for their property rights, unless harm is to be prevented. The connection between a person's intentions and social convention with respect to property rights has to be investigated. Conventions merely specify what acts are necessary or sufficient for the legitimate acquisition of property rights, and they become normative and are enforced. Conventions do not justify, although they may be useful in providing explanations for people's expectations (see my discussion of Weber's external legitimation in chapter 1).

Personal rights have to be respected by acknowledging a person's right to non-interference. They include rights to physical integrity, and other physical rights can be understood in an analogy to liberal property rights: the rights to use, destroy, derive profit, and possess. This is what is called self-ownership. Others may not do these things with my body or my property without my consent. Interference with a person, her body or her possessions is not permissible without her consent, unless she forfeited her right by, for instance, violating a similar right of another. Other rights are derivative of this right of self-ownership, e.g., a person's rights to liberty. Things done to a person or to her possessions without her consent are illegitimate. A person cannot sell herself into slavery and thereby forfeit the rights she has without losing an essential aspect of her person; similarly, if a person's property is separated from her person, this constitutes a violation of her person. A person can sell her services or contribute them voluntarily to a cause, just as she can

rent out her property or let others use it. But slave labour denigrates the status of an individual. Similarly, libertarians argue, the appropriation of a person's property or income by the state or by another individual denigrates her status as a free agent and ignores, so Nozick says, the separateness of persons.

If the analogy holds, as Nozick must hope, rights of self-ownership are inviolable and override considerations of need, desert or happiness. This leads Nozick to the entitlement theory of justice. What is decisive in the quest for justice in property holdings are not features of persons, like their needs or merit, but facts about how they obtained property. I shall discuss several attempts to derive property rights from body rights and discuss the incorporation theory and projection theory, as well as a legal argument.

3.2.1. Incorporation

Wheeler (1980), in an elaboration of the incorporation theory he attributes to Nozick, argues that the free agent's body extends over things:

things can become part of our bodies (1980.179)

for example the things a person brings into her body as food, which are thereby incorporated. Natural rights include the right to incorporate things into the body, such as food, or to add artificial body parts, such as an artificial leg or silicon breasts. This turns things which previously everyone had the right to use into things only one person has a right to use (*ibid.*). Artificial limbs are morally equivalent to ingested food - because the limb, once attached, also becomes a thing only one person has the right to use. This right remains the same if the artificial limb is subsequently removed (1980.180). Property rights are thus extensions of personal rights in one's body:

there is no line between what's [sic] part of the body of a person and what is his property (1980.181).

Wheeler argues that similarly, clothes, houses and money are extensions of the person's body sphere. A house is part of a person just as a turtle's shell is. Thus forcing the owner of the world's food supplies to part with some of his property is like

taking the flesh of the only robust person against his will to feed to starving. (1980.186)

There are obvious disanalogies between a person's rights to her body and her full liberal rights to property. If two people were to collaborate in the making of an indivisible object, they would each own the same object (Braybrooke 1980.196) - which is not generally possible in the case of a body. Moreover, human agents feel an emotional attachment to their bodies. Even having food pumped out of one's stomach or having one's house destroyed is not experienced in the same ways as the loss of one's sight or an arm. For most animals - humans included - shelter is not a body part.

The disanalogies go further: a person can disown her property - give it away, sell it, destroy it; it may become the property of someone else, without this changing anything about the object of property. A person cannot do this with her own life, and most would say, not with her body either, without the life ceasing to be her life in a substantial way. A person's life, arm, or breast cannot become someone else's and remain what it was. While, should a person destroy all her property, the owner continues to exist, should she destroy all parts of her body, she will cease to exist. The analogy of rights to one's body and rights to one's property is only possible to a limited extent. Property rights which are derived in an analogy with body rights are thus limited: rights of transfer and abuse are ruled out. Thus, full liberal ownership cannot be based on personal rights. So, a weaker version would have to suffice.

Although there is something initially plausible about the relation between physical and property rights, the strong conclusion Wheeler draws is counter-intuitive. The argument may stem from a confusion of the use of the self-referential personal pronoun 'my' - in 'my' life - with the possessive genitive. 'My' is not necessarily an expression of ownership, but of sentiment. 'My Mum' or 'my headache' are not indications of ownership. Neither is 'my stomach', or 'the food in my stomach', and it is clear that even if they were, it is difficult to make anything of legal or philosophical interest concerning the contents of rights follow from that fact. Sentiment frequently, though not necessarily, accompanies feelings of ownership, but this may be due to social conditioning rather than expressing something particularly interesting about and fundamental to human nature (Hollowell 1982 12).

3.2.2.

Projection

Hegel's projection theory (1983 §§15-31, cf. 1973 §§18-37; a term coined by Munzer 1990 67) has it that the person remains a mere abstraction unless she is an owner. This is because acquisition of property amounts to a freeing of the immediacy of the will (Ilting 1983.292). An individual gets to own an object (1973 261 §30, 1983.50 §21) by taking it into physical possession, expressing one's will on it (*Formieren*) and in taking symbolic possession of it (e.g., by naming it) and thereby publicly laying claim to it as one's private property. By gaining possession over an unowned object, (*res nullia* or *res abjecta*), a person first expresses her personal freedom and thus gains the possibility of self-ownership (1983 53. §26).

Since this expression of one's free will is only legitimate with hitherto unowned objects, it seems that those born late are disadvantaged, and this does not seem very just.

Only potentially free, self-owning things can come to own external things. Indeed, they can come to own anything that is not-self-owning. The cow, though, seems to demonstrate intentions when walking towards the field or lowering its horns, about to attack. Demonstration of intention may be an important *indice* for essence. Now a cow can possess a patch of grass, cause changes in it and symbolically lay a cow-patch onto it. Does it thereby acquire a right in the patch of grass? Is it asserting its personality by projecting it into an object? If so, it is self-and other-owning, and cannot itself be owned. Still, whether by a cow or a human, the claims to property being made may well be mere user-claims, not ownership ones. That is, the cow may be claiming 'this is my patch of grass while I'm chewing on it, but once I've moved to the next patch, any other creature may lay claim to it'. Liberal property rights do not follow from the projection theory without much further ado. All property is initially owned in common (1983 55 §29). The free will asserts itself by laying claim to objects the person uses over a period of time (1983 54 §27), it is not apparent to me what rights other than privileged user rights (of which more below) can follow from the logical necessity of the will to express itself externally.

3.2.3.

Law

Munzer (1990.44-58) makes another attempt at an argument. He tries to derive property rights from legally recognised body rights. A person has moral rights because she has interests and makes choices. Essential to the possibility for her to fulfil her interests are "body rights". Her body rights are rights to use, manage and exclude others from her body. The legal rights corresponding to these moral claims support a course of action against usurpers. Most rights that persons have to their bodies protect their interests or choices (bar those of transfer) and are inalienable - they cannot be waived. For instance, individuals have the right not to be murdered, and, to a lesser extent, the right to free speech. An individual may choose not to exercise the

latter right, but cannot choose not to have it protected. There are some rights of transfer, though. Individuals do have the right to sell some of their body fluids (e.g., blood and semen) and give away certain body parts while alive (e.g., a kidney). Individuals also have the right to commercially exploit interests in their body, for instance by prostituting themselves, or through artificial reproduction of their figures (for instance, John Paul VII has a copyright over statuettes of the Pope). But most body rights do not include transfer rights of any kind. If one were to derive property rights from body rights so understood, it would not necessarily follow we could transfer all property.

The attempts to derive property rights from personal rights considered so far have not succeeded in showing that rights in property do - or ought to - include the incidents of liberal ownership. Wheeler's argument proceeds by intuitive analogy, but equally intuitive disanalogies were found. Hegel's argument uses a metaphysical notion of expression of the will in the external world - but it is not clear why the logically necessary expression of the will has to bring with it precisely those rights outlined in libertarian theories of property rights. Finally, Munzer makes an argument concerning other legally sanctioned rights in the body, but closer investigation shows that the latter do not extend to full rights of transfer. It is, then, unclear how property rights are derived from personal rights, and even if we had found them to be coextensive, it would have still been open to debate how or why the scope of the one translates onto the other.

3.3.

Limited Property Rights

Property rights in the full legal sense include the right to use, manage, possess, modify, destroy, waste, consume, bequeath, sell, give away (Munzer 1990:44f). Most legal property rights are limited; not all of the just mentioned rights are jointly necessary for something to constitute property. Often,

individual ones are sufficient. For instance, land holdings have limits on what the owner may do with them, through zoning laws etc

Nozick admits that property rights are limited by actual harm caused to others, and, indeed, he admits more. For instance, neighbours have a say in the colour an individual paints the facade of her house (1974:282). This is presumably because what a person does with her property - modify it - will affect the value of other people's holdings, for instance, by modifying their enjoyment of their garden view. If this effect of a person's modifications of her property is an acceptable ground to allow others to have a say in what she does to it, in a sense, they then have a (albeit limited) say in what she may do with her property. It may be fair to conclude that this is also the case of other effects in Nozick's own terms. The neighbourhood may have a say concerning the expansion of a factory which may be aesthetically displeasing to them. Or environmentalists who have bought up all the neighbouring swampland might have their enjoyment of happily croaking frogs impinged upon by the malodorous fumes emanating from the existing plant, which constitutes a diminishing of the value of their property. Even if having a say in another's property is dependent on being an owner oneself, it seems that full liberal property rights also are limited for Nozick.

It might be plausible to assume that property rights are even further restricted, that is, to consumption and possession, with limited rights to transfer particular goods (this is highlighted in Allen's (1982) distinction between personal consumption property and acquisitive property). Both consumptive (sic) property and acquisitive property supply a set of rights in an object, including the right to control its use, disposal, control, and the right to benefit from its utilisation. Consumptive property is generally owned for its own sake. Acquisitive property, on the other hand, provides a source of income or augments a person's income and supplies power relations. In the

case of acquisitive property, ownership and control are often separated (Causer 1982:133f). The power derivative of acquisitive property stems from a further set of rights: it supplies above and beyond those of consumptive property. Acquisitive property entails opportunities of exercise of power over labour where its utilisation requires the use of labour of others. Authority relations are thus established, and - empirically - the ownership of acquisitive property facilitates the accumulation of further capital, and establishes further authority relations. For an anarchist or minarchist framework - ostensibly concerned with the minimisation of power relations - this should provide cause for concern.

A libertarian argues that such limits to what can be owned and what is to be done with property substantially restricts a person's liberty. Nozick argues that liberty is to be allowed to do what one has the right to do. Unlike Hobbes, who claims that liberty is the right to do whatever one likes, Nozick has it that liberty is to have the right to act within the moral law. If liberty were the right to do whatever you pleased, the moral law would have to be considered restrictive of a person's liberty (Wolff 1991:97-99). Since moral considerations outweigh other considerations, it seems that the mere fact that something restricts your liberty is not sufficient to remove this restriction. Where it is assumed that liberty is the right to act within the moral law, it is still not clear that restrictions of property rights are restrictive of liberty. No particular right to transfer property can be derived from the moral law alone. Without further specification, it is not clear whose account of the moral law we are dealing with. In Locke's and Kant's view, for example, the moral law requires that we help each other. Hence, according to the above reading of Locke, since the moral law requires that everyone's survival must be secured, an individual cannot lay claim to more extensive property rights than consumption and possession. To restrict a person's actions to the requirements of the moral law

is not an infringement of an individual's liberty. To assume the full liberal private property rights is to beg the question against patterned theories.

Locke's proposition to restrict property rights to consumption and possession, thus excluding transfer and destruction, is appealing to the anarchist, since on these grounds, the possibility of legitimate acquisitive property and its accompanying capitalist-worker power-relations cannot arise.

3.4.

The Meaning of Life

A second way in which Nozick might attempt to derive property rights is through an argument from the meaning of life. Nozick derives negative rights in his discussion of Kant's second formulation of the categorical imperative:

act in such a way that you always treat humanity [] never simply as a means but always at the same time as an end. (Nozick 1974:30f)

Nozick argues that rationality, free will and moral agency are not by themselves sufficient to show that the possessor of these properties deserves special treatment. Nozick's suggestion is that an individual has a conception of the meaning of life if he exhibits the following: rationality and free will, in conjunction with the ability to regulate and guide his life in accordance with some overall conception he chooses to accept. He can and does make long-term plans, and limits his own behaviour in accordance with principles (1974:49f). This self-limitation in view of long-term goals is something worthy of respect. Rights to non-interference (negative rights) can be derived from respect for this ability to shape one's own life. Likewise, for Nozick, such respect rules out any duty to aid others (positive rights - rights to be provided with a thing or a service).

Positive rights entail positive duties. The libertarian Ayn Rand (1952) gives an account why positive rights are ruled out if one is concerned with the meaning of life: an individual has to be free from the claim of others in order to be able to fulfil herself. If a person's life is to be meaningful, she must be free from enforceable claims of others. Moreover, if positive rights are enforced, e.g., in the welfare state where everyone is provided with the necessities of life, the situation may well turn out to be patronising and in fact responsible for the creation of a dependency culture. A life in dependency of others or of a system, so Rand claims, is not meaningful. Godwin also argues that charity breeds dependence and servility in the poor, and imperiousness in the rich (1985:727f).

In the following, four arguments linking private property rights and the meaning of life will be investigated. Before discussing what kind of a life is meaningful, we have to know what preferences individuals have. Public goods, such as those identified as functions (1) and (2) of a society in the introduction, are necessary preconditions for the possible attainment of everyone's preferences, given that they include security from dire straits and minimal amounts of security, individuality, control. A certain structure of the public realm is also necessary for the fulfilment of other preferences which include the preferences not to be exploited, not to have one's life disrupted by problems of distribution and production, and that there not be large differences of economic power. Rational agents prefer whatever is a necessary condition for the satisfaction of their preferences. Some preferences, I shall argue, are community-related (and currently often provided by the state). Among these, we can count certain preferences for the attainment of minimal conditions which are necessary for all agents in order for them to satisfy cultural and personal preferences they have: physical security from attack, access to roads, education, protection against fire and natural disasters, minimal financial security. Other preferences are for personal goods such as control, privacy,

the opportunity to develop desired character traits. To secure the latter, it is beneficial to have some personal private property - e.g., clothes and books.

In this section, I consider various arguments to the effect that property rights are necessary to create and preserve stability, individuality, liberty and motivation.

3.4.1. Stability

Private property rights, it could be argued, are necessary for the possibility of a good life, because they are required for agency. In order to be motivated, a rational agent requires a minimum of stability. The agent has to have a certain level of certainty that the future is to some degree predictable. Where possessions are stable, the situation provides some guarantee for a minimal degree of predictability. The ends and long-term goals of many agents are abiding, and the agent will become frustrated if material things she expects to be available, and which are needed to achieve these ends, are unavailable. Permanent frustration leads to depression, inertia and apathy.

The proponent of limited property rights queries whether this certainty need rest on far-reaching property rights. Under certain controlled conditions, user rights may well provide an agent with similar certainty. Stability can be provided, for instance, by certainty of regularity of income; property rights could encompass preferential user rights (cf. Taylor 1982: 154) with reciprocal sharing arrangements, which means that the objects an individual owns will be available whenever she needs them, but will be freely available to others when she is not using them. Exclusive access is then not part of one's property right in an object, and there are costs involved, say, the time it takes to have one's tool returned. Overall, this type of situation seems to promote people's opportunities to engage in a wider variety of actions, which were previously

closed off to them for lack of the requisite tools, rather than promote frustration.

3.4.2. Individuality

According to the argument from individuality, private property is necessary as an expression of individuality, we can observe that small children go through a stage of clinging to possessions at the same time they start asserting their individuality (Hollowell 1982 35f). Private property is necessary for some self-expression and taste, the possibility of leisure activity, the development of desirable character traits. But does this mean that this property need be personal in the sense of full liberal property rights? I shall consider two ways in which property could be connected to individuality: (1), because property increases positive liberty, and (2), because it makes life (more) meaningful.

Against this, it may be said that personhood is conceptually and morally independent of property. Neither self-awareness nor individuating characteristics seem to increase proportionally with the quantity or the originality of a person's holdings. If that were so, a person would be less of an individual, and thwarted in her attempts at self-expression, if she only has the choice between a Trabant and a Wartburg (the only two makes of cars available to residents of the German Democratic Republic) - compared to her neighbour who can choose between hundreds of makes. Nuns, who take a vow of poverty, would seem amazingly thwarted in their personality.

The connection between the possession of property and a meaningful life is anything but obvious. Godwin argues that poverty breeds ignorance by want of leisure, while

accumulated property treads the powers of thought in the dust, extinguishes the sparks of genius, and reduces the great mass of

mankind to be immersed in sordid cares, besides depriving the rich [] of the most salubrious and effectual motives to activity (1985 729ff)

So, for example, an affluent person with the time and the goods to develop incredible skills may be a television addict. Affluence provides leisure and a range of opportunities of activities to engage in. If the situation were such that property rights are limited, the options open to this addict may well be reduced. The former situation is not all good though: in the actual world, this TV *aficionado* can also wield power oppressively in virtue of his possessions. It is true that in a society like ours, lack of a minimal amount of property means that an individual will have less opportunity to develop her talents, but that may be an argument against our kind of property rights rather than one that shows their necessity. If the opportunity for a meaningful life includes the possibility to develop talents and characteristics one values highly, and this is only possible through possession of property which affords the individual leisure, education and the requisite material goods, then it seems either that people should have a certain minimal amount of property which affords these opportunities, or that private property rights as they stand should be abolished. The first option resembles the welfare state solution, and, as I have argued above, breeds dependence.

Currently existing property rights in Western society involve the power to decide what is to be done with one's property, to control who else is to be excluded or included in the use of the property, and to decide on the conditions of that use. Sufficient amounts of property help to protect the individual from misfortune, insulating her from the full impact of joblessness, natural disasters, psychological and financial effects of economic downturns.

However, if these securities seem important for the general feeling of well-being of an individual - and if these considerations are so important, it

may be worth questioning whether only property owners are to share in that. When land is taken into private property, if everything was held in common, everyone else loses the liberty to use that land. As Rousseau says, there may be no room left for the soles of one's feet. Unlimited appropriation restricts what others can do, undermining their liberty and autonomy. Lentham (1989-57) points out that if what makes something a person's property is that no-one else can use it, the acquisition of a piece of property means that millions have just lost an opportunity, and only one person - the new owner - has gained something. In this case, property inhibits liberty rather than promotes it.

Nozick argues against this by weakening the Lockean proviso, making appropriation unjustifiable if there is nothing left for others to *use* (rather than to appropriate) (1974.176f). Nozick justifies this weaker form by arguing (1) that other things "will counterbalance the diminution in opportunity", and (2), that "enough and as good should be left for others" now is to mean that no one's situation, all things considered, is worsened (1974.178f). Since compensation is appropriate only if "civilisation is a net loss for an individual" (*ibid.*) (civilisation pertaining to the state of affairs when society is to revert to minarchism), it has to be investigated in each individual case whether when people are starving, this would or would not have been the case in the state of nature. Presumably, the severely mentally or physically disadvantaged would have died in any case, and are not eligible for compensation. For the sane, otherwise healthy and nevertheless unemployed and starving, the collective has to investigate whether they would have had more of a chance in the state of nature. But whose situation is to be investigated: the present individual with no agricultural skills, who would have starved in the state of nature, or the individual this person might have been, had there been no civilisation? Does the latter make sense? And if the choice falls on the former, the proviso will find very little application. Especially, if the situation has to

be worse "all things considered" - having learned to read might be an adequate compensation for an otherwise miserable life

But private property is legitimate because it

increases the social product by putting means of production in the hands of those who can use them most efficiently (profitably) (Nozick 1974.177).

Either this is the case because having property makes people into better users - or because people get to have property because they are better users. The former may be true, and would also have the consequence that it seems more just to give everyone a try, and only then select the best economists to be proprietors. The latter seems empirically false, and plausible only under the assumption that economic prowess were transmitted genetically, which would justify inheritance of wealth.

As it is, property rights are responsible for the creation of important inequalities. Poor individuals may not have enough property to develop a minimal amount of control, privacy and individuality in their lives, all of which are prerequisites for an individual to lead a meaningful life. An individual living in a poor, crime-ridden neighbourhood in an overcrowded apartment will not have the leisure, freedom from interruption and security to develop her abilities. Property involves exclusion of others to some extent, but for many the opportunity to develop the skills necessary to achieve a meaningful life requires opportunities not open to them. Surely there are other ways to promote privacy beyond the enforcement of private property rights. For instance, the community could allocate rooms to individuals which are for their personal use, are reasonably large and sound-proof and can be secured from the inside. These rooms may not be destroyed or transferred, and are thus the right to them is a limited property right.

3.4.3. Liberty

According to Nozick, because

the central core of the notion of a property right in x ... is the right to determine what shall be done with x (1974 171),

the second principle of justice in acquisition is the principle of justice in transfer. The voluntariness of the action is necessary, but not sufficient, for maintenance of justice in transfer: unlimited transfers may violate the Nozickian proviso, for example when someone buys up all the water, or when there is no land left to use and people are starving. Since

whatever arises from a just situation by just steps is itself just (1974.151),

the arising situation will itself be just. Nozick defines an action as voluntary when the actor's choices are not restricted in situations in which her rights are not infringed

whether a person's actions are voluntary depends on what it is that limits his alternatives. If facts of nature do so, the actions are voluntary. .. Other people's actions place limits on one's available opportunities. Whether this makes one's resulting action non-voluntary depends on whether these others had the right to act as they did (1974 262).

For an action not to be voluntary, two necessary conditions have to be fulfilled. First, the scope of action has to have been restricted by other rational agents. Second, these constraining actions must themselves violate rights. Inequality by itself, as Nozick argues in the marriage analogy, does not infringe on people's liberty.

The analogy has it that the men $A-Z$ and the women $A'-Z'$, alphabetically ordered in terms of their desirability (and are thus preferred in that order by all individuals), pair off, A with A' , B with B' , C with C' , and so on. Z has the choice to pair off with Z' - his least favoured choice - or to remain celibate.

Nozick's assumptions of monogamy, heterosexuality and constancy presumably preclude the latter option. Given the strict ordering of everyone's preferences, they all have to take the partner that is highest in the list that is still free. All individuals thus have the option of one other person - Z and Z thus do not actually have fewer options than anyone else, - but furthermore, Nozick argues, their being worse off (both got their very last choice) is not an infringement on their liberty worthy of compensation, since their situation is the outcome of everyone else's voluntary actions, and since everyone acted within their rights.

A person's choice among differing degrees of unpalatable alternatives is not rendered nonvoluntary by the fact that others voluntarily chose and acted within their rights in a way that did not provide him with a more palatable alternative (1974 263f)

As far as Nozick is concerned, the difference is merely that A got his most favoured preference, and Z his least favoured. Nozick's analogy pertains to that of industrial workers and owners of the means of production. Everyone would prefer to be an owner rather than a worker, and owners' choices preclude workers' opportunities. The latter are not due any compensation, however, since the restricted scope of the workers' opportunities is due to others' (i.e., the owners') voluntary and rightful actions. If the reason that Z and Z' can be imputed a choice as to selection of partners is due to the fact that all those who shaped Z and Z' 's environment by their choices acted within their rights, to work for exploitative wages rather than to starve is voluntary, as long as those who acted restricting this choice acted within their rights. Workers are hence not forced to work for the capitalist, even where workers are used as means to an end, and thus as instruments to another's purposes, the voluntary submission of the worker makes the capitalists' exploitation non-restricting of liberty. Since the workers are not forced to work on unfair terms,

they are not exploited. No-one has to work for a capitalist if there is a reasonable alternative.

The communitarian anarchist argues that to conclude that the economically disadvantaged are in *Z*'s position is to reduce liberties to too small a scope. *Z* has only a single choice to make. Marriage does not effect a similar range of options as the choice of a job. The choice of a marriage partner less significantly affects one's choice set than one's economic position. One's relative economic status positions the individual within a hierarchical structure with social, economic and political consequences. The economically advantaged, let us call her *A**, chooses her profession, education, social position etc., a choice set which is not only larger than the choice set of the economically disadvantaged, *Z**, but that includes options from which *Z** is barred altogether. We can see that Nozick's transference of the marriage analogy onto capitalist socio-economic relations does not work. It is not the others' actions that will prevent *Z** from becoming a bank manager but her position relative to theirs within the social structure. Actions available to *Z** are a mere subset of those available to *A**. It is thus not a one-time choice that is affected, but the whole structure of choices available to the individual. While a comparison of overall utility of options available to the different people is impossible, significant inequalities may reduce the likelihood that individuals will exercise their autonomy (Dworkin 1988.164). Significant inequalities may prevent people from making out of their lives what they want to.

Nozick's definition of non-voluntariness is too strong to be plausible. It follows from his definition, for example, that to imprison someone rightfully is not to force them to stay in gaol, and that those trapped in a mine are not forced to remain where they are.

3.4.4.

Motivation

Private property is considered by economists and utilitarians to be a preference satisfier. It induces people to competition, which, as Adam Smith argued, serves the interest of society via "invisible hand" phenomena.

I will argue in the following section that cooperation is a more direct means to the furthering of the interest of society. Indeed, it may turn out that it is not useful for the common and the individual good to let people keep what they produce, since it leads to a lack of stability and to the location of inordinate political power in the hands of a few. To some extent, the outcome of our deliberations on the best means of furthering the interest of society will depend on what we think social goals are. First, even if the private property rights of modern capitalist societies may produce the highest quantity and/or the highest quality of economic goods, they may distort or retard the acquisition of non-economic goods. Second, the modification of existing motivational structures through organising competition within a general structure of cooperation might yield better results.

The above derivation of property rights from personal rights has concerned consumptive property. The justification for private ownership of acquisitive property has to proceed along other grounds. Recall that both consumptive property and acquisitive property supply a set of rights in an object, including the right to control its use, disposal, control, and the right to benefit from its utilisation, but while consumptive property is owned for its own sake, acquisitive property provides a source of income or augments a person's income and supplies power relations. Acquisitive property entails authority relations which is cause for concern for an anarchist or minarchist project. There are two reasons why private ownership of acquisitive property is desirable. (1) It might constitute a high priority on the preference ordering of individuals. (2), there may be objective utilitarian considerations that private

ownership of the means of production leads to a better satisfaction of other economic preferences of the individual

Ownership of acquisitive property cannot be counted as itself a preference satisfaction, unless it can be shown that people derive satisfaction from owning the means of production (rather than from the power that ensues from such ownership). It might be difficult to argue for private ownership of acquisitive property through preference satisfaction from the state of nature, though, for ownership of acquisitive property is not a naturally arising preference in the state of nature (as distinct from the preference for power)

A possible - and frequently used - justification for the second reason arises from the notion that such a situation is more likely to be more efficient in producing goods which are themselves preference satisfiers, because the acquisitive framework allows a faster response to changes in consumer interests, at less cost. Consequently, consumer preferences are more likely to be satisfied in an acquisitive framework. This receives empirical backing, since it is the case that the wealthiest countries with higher levels of available or accessible technology are capitalist, and acquisitive property is the hands of individuals. Where profit maximisation is the unique goal of production, productivity will be high.

However, these advantages are outweighed by economic exploitation and the problems which arise in situations of differences in power. Economic and political disadvantages yield situations of immense dissatisfaction in those who are so badly off that the conditions they find themselves in cannot minimally satisfy their preferences. If differences of wealth are large enough, they produce preference dissatisfaction in the poorest who come to feel resentment and hopelessness. Costs involved in the unequal distribution of wealth include lack of opportunity to gain meaningful work. Dissatisfied workers

become less effective, and consume more in sickness pay and welfare payments - overall satisfaction declines.

3.5.

Equality

It might be the case that moderate equality of consumptive property²⁹ is more efficient than immoderate equality on the one hand, and substantial inequality on the other - for moderate equality creates some incentive and freedom of exchange without entailing differences in power and control which entail dissatisfaction. Utility considerations and the Principle of Diminishing Marginal Utility (PDMU) also show that the value of a wide class of goods is maximised if they are distributed relatively equally.

The preferences of individuals may tend towards greater equality of all individuals as part of the public good, not from altruist motives, but from self-insurance. The motives are risk-aversion and uncertainty about one's economic future. On the side of the economically advantaged, the motive may be stability. The need to avert revolt and to maintain one's position require some sharing of profits. In political models where there are great differences in wealth and power, instability can be prevented through use of power. Large demonstrations and hunger strikes, for example, can be dealt with through deployment of the police force. Destabilising dissenters can be prosecuted. Here, preference for stability goes hand in hand with certainty about one's economic future, and is unlikely to include a preference for economic equality for all. This stability in an anarchist model with little monopoly of force must be brought about by other means, for the suppression of economic discontent through political means is here impossible. For any member of the society to

²⁹ The details of moderate equality will be based on the general affluence of a society. Generally, it means that people's interests are satisfied within certain parameters of value and need, and that each individual has furthermore access to the same (quantitatively and qualitatively) basic goods.

be quite so confident about their economic well-being, some insurance mechanism - possibly in the form of economic redistribution - is preferred even by the initially comparatively well-off. Economic and personal security will here mean that economic disparity must be prevented.

3.5.1. The Tragedy of the Commons

It is generally held by property rights economists that the 'tragedy of the commons' can only be avoided through private property rights (Taylor 1987: 13-18; originally discussed in Hardin 1968: 1243-8). Commonly held property, or resources which are characterised by open access, lead to free rider problems: each individual finds it in her best interest to exploit the commons, regardless of what other individuals may do. If everyone else exploits the commons, it is to the individual's benefit to increase her share in the profits, and the same holds if everyone else refrains from using it. Similarly, it will be to no-one's benefit to invest in the commons, for although each individual will prefer that someone invests, they also prefer that it should be anyone but them who does so, for the increased profits will benefit all, but the cost will be carried by the individual. The individual, then, adds another of her animals to the grazing grounds, or emits untreated sewage into the lake, or kills as many whales as possible. Without private property rights, each individual has an incentive to intensify her use of the resource, although this means that every unit of everyone's input becomes slightly less productive. Intensification of the use of the resource continues to the point where all return is dissipated. The outcome will inevitably be that the lake will be polluted beyond use, whales will become extinct, and the grazing grounds will become overgrazed. The rational action of each individual, in attempting to maximise her payoffs, brings about a state of affairs inimical (Pareto-inferior) to all, i.e., an outcome that is strictly less preferred by every individual than at least one other outcome.

With the establishment of private property rights, since the cost of over-exploitation is borne by the individual alone, it is assumed that the outcome will not be Pareto-inferior. It is a mistake to assume that if only one individual had access to the resources, over-exploitation could be prevented. For instance, much privately owned rainforest land has been destroyed for the sake of a few years of profitable ranching. The overuse of the grounds is not due to a deliberative process concerning what others will do: no matter what others will do, it will be in the individual's best interests to exploit the commons. Even were the individual to take the value of future payoffs into consideration, if the extinction of the whales is far enough off, the present value of these future payoffs will be zero, because future payoffs are generally assumed to be exponentially discounted to obtain their present values. The individual will then still try to maximise her payoff for the current time period and overexploit the resource.

Commonly held resources - as opposed to resources to which there is open access - are *de facto* not as vulnerable to the "tragedy of the commons" as the above discussion may lead one to assume. The use of resources that are communal property are subject to strict regulations which govern access and intensity of use by the individual. Who can graze her animals on the communal pasture, and how many animals she will be allowed on it, will be determined and controlled by the community. This prevents overuse and overgrazing.

Approximate equality of non-productive private property would yield opportunity for approximately equal control, individuality and privacy, and there is only moderate risk of exploitation and imbalance of power. Thus, strict equality of preference satisfaction is not advocated here, since some individuals may nurture the taste for particularly expensive preferences, and others may be so chronically depressed that no castle by the sea will satisfy

them. Coercive equal treatment would mean compensating for the "natural lottery". Leveling arrangements, with generalised reciprocity biased in favour of those in need, could be maintained through conditional cooperation (of which more in chapter 7).

Situation: in which all members enjoy equal access to communal property, or where property is distributed regardless of the contributions of the individual. The assumption of freedom and rationality of individuals being free riders. That is, the individuals work less than they are able to or expected to. Some social mechanisms to make free riders less attractive include ostracism, exclusion from social life, and ejection from the community as the most extreme sanction.

To conclude, neither the individualist approach, nor the communitarian approach yielded a justification for Nozickian property rights. I tried to show that it is not possible to unequivocally derive full liberal property rights from Locke, nor from considerations of respect for the individual's physical integrity or legal rights. Communitarian considerations from the purpose of society as providing a framework in which individuals fulfil themselves again do not support libertarian conclusions. Anarchism might in fact not be possible within a liberal propertarian framework, since extensive inequality provides dissatisfaction and potential unrest, the quelling of which in turn requires a concentration of force. This violates one of the necessary conditions for an anarchist society. Finally, the argument based on the tragedy of the commons was shown to be empirically unfounded. Libertarian anarchism thus not only rests on uncertain premises, but does not yield anarchist conclusions. In the next chapter I will outline an argument which in my view provides both empirically verifiable premises and in which the anti-statist considerations are consistent with the requirements of an anarchist society.

Chapter Four

The Possibility of Communitarianism

The argument in this thesis has been mainly a negative one: I have been investigating how not to argue for anarchism, and have argued (1) that full liberal property rights do not afford the stability required for an anarchist community, (2) that some kinds of authority are to some extent necessary and legitimate to solve coordination problems, and (3) that neither of the above approaches are by themselves particularly good arguments against the state, because neither unlimited property rights nor the freedom to do whatever one wants provide the necessary stability. I have, however, shown in chapter 1 that it is difficult to legitimize state power both from a theoretical and a practical perspective, since this requires no less than the actual consent of the governed. If anarchism turns out to be a viable option, it seems *prima facie* preferable on abstract considerations of legitimacy. In chapter 2, I have shown how authority relations can be legitimate in an anarchist society, and chapter 3 has given an argument for property rights that preserve stability. The legitimacy of exercised power and the stability of an anarchist society ensue in part because anarchist society not only allows individual members to choose the regulations and enforcement mechanisms in actual short-time contracts, but it also gives the individual a genuine choice to leave. Use of power in anarchist societies is legitimate in so far as it is chosen by the participants in the society, and in so far as it is in their best interest. The latter problem can possibly be addressed through experimental situations, in which people's needs and interests are gauged, as I have argued in the introduction, such that the paradox of emancipation is avoided.

The consent of the governed within the actual state has not been forthcoming, partly because it has never been explicitly demanded, and it seems plausible to conclude that the existing state is illegitimate. The illegitimacy of the state has been established, now an alternative possibility of an ordered society is to be presented. Anarchist society can solve coordination and collective action problems through internal solutions which provide order, security, redistribution mechanisms and whatever other functions of the society are necessary. A cursory, positive argument for anarchism is set up in the following.

The problem in communities is frequently this: although all members prefer universal cooperation in the provision of public goods (e.g., street lighting, security) to universal non-cooperation, they also prefer that all others cooperate and that they themselves do not. Cooperation is hence hard to achieve and maintain, i.e., unstable in game-theoretic terms. Additionally, individuals frequently have no incentive to move unilaterally from universal non-cooperation to universal cooperation. I distinguish between two types of solutions to this, internal and external ones. Internal solutions emerge spontaneously among the parties. External solutions are sustained by formal third-party controls that provide mechanisms for sanctioning and monitoring, and involve changes in the individuals' beliefs, preferences and expectations. The majority of current political solutions for solving collective action problems are external, and range from offering selective incentives through private property, to changing conventions and norms and applying state coercion (Taylor 1990:223f).

In *Community, Anarchy and Liberty*, Taylor proposes external solutions to collective action problems in a sophisticated communitarian model of anarchism. A community consists of a group of people who share beliefs and values, the relations among its members are "direct and many-sided", and individuals

practice generalized reciprocity (1990 22⁵, 1982 28ff) Relations are direct to the extent that they are unmediated. They are many-sided in the sense that individuals relate to each other in more than one function. Reciprocity can be characterised by short-term altruism and long-term self-interest. I help you now assuming that you will help me later. Actions of reciprocity make participant individuals better off (for anthropological evidence for this, see Sahlins 1972 chapter 5). An example of such a community are the Nuer (described by Evans-Pritchard 1940). No individual or group within the community possesses monopoly of force or the right to licence its use. Even where one individual has more influence than others (because of their charisma, beauty or skill), their decisions cannot be enforced; they wield at best power, in the form of epistemic authority.

Communities, *pace* Nozick, are required in an anarchist system, for only here can social order be maintained without an apparatus of enforcement mechanisms. "Community" here is a technical term, and not coextensive to the sometimes synonymously used "society". A community requires some measure of rough equality of material conditions, as I have shown in chapter 3. The more the wealth of individual members diverges, so, generally, will the interests and values of the individuals. Wealth, like anything else that is greatly valued by a society, can be a potential base for considerable power over others. Where there is gross economic inequality, relations are less likely to be close and many-sided, and reciprocity is weakened. Rough economic equality can be maintained through levelling practices, such as redistribution from the temporarily rich to those temporarily in need, while there could be a general attempt to avoid gross inequalities of wealth (Taylor 1982:95-140). The state is not necessary for this.

Taylor's community assures the rationality of cooperation through a range of positive and negative sanctions. These include the modification of

beliefs by such processes as socialisation, rituals of belonging, threats of retaliation, offers of reciprocity, threats of its withdrawal and sanctions of approval and disapproval. Social structures thus alter the expected utilities of individuals, such that it becomes rational for them to cooperate

While Taylor's proposals are no worse than statist coercion or statist influencing mechanisms, they are more direct and hence, the liberal may well fear, experienced as oppressive by the individual member of the society. If this is the only way an anarchist community can function, the appeal of anarchism somewhat diminishes. Modes of behaviour regulation through modification of belief, attitudes and values are external impositions. What is more, external solutions presuppose a prior solution to a second-order collective action problem. If each individual prefers to be a free rider, it is not clear why she should collectively with others decide to punish free riders. The sanctioning of free riders is itself a collective action problem. Even should she prefer free riders to be punished, the individual would rather be a free rider on the sanctioning by others.

But in his later writings, *Cooperation and Rationality* and *The Possibility of Cooperation*, Taylor proposes internal solutions to collective action problems, which neither involve changes in the possibilities open to individuals, nor changes to their preferences and beliefs. All members of the community prefer universal cooperation to universal defection, because all members prefer to have social goods provided, and this provision often requires cooperation. Each member, then, also has the preference to cooperate conditionally if there would otherwise be no cooperation. Mutual conditional cooperation can emerge spontaneously ("I'll cooperate if and only if you do", or tit-for-tat) and provide an equilibrium (given a number of conditions) provided that each player's discount rate is sufficiently small. The situation also yields endogenous enforcement mechanisms and so the need for third-party controls is

eliminated. Some members will cooperate conditionally only provided that *all* other members will cooperate, and each player has a double incentive, for she has an interest in herself cooperating and an interest in the other players conforming.

Hechter (1990:240-9) has two objections to this: First, he argues that unless each participant is absolutely confident in her estimate about the cooperation of all the other individuals, she cannot trust the other participants. Absolute confidence requires perfect information. The acquisition of information is very costly in terms of time and resources, which makes the monitoring of others' behaviour costly. Second, it is necessary to know the past behaviour of others in order to be certain about their trustworthiness in these matters. But these underlying assumptions of zero monitoring costs, and concerning the possibility of perfect past monitoring, are ad hoc and unreasonable. Internal solutions thus fail, so only external solutions are feasible, and as formal controls are a collective good, they require the enactment of rules to deter free riders and ensure cooperation.

Hechter overlooks that coordination can be achieved through repeated interactions, knowledge of others and reciprocity of relations which would also suffice for providing sufficient information and the incentives to cooperate. The information need not be perfect. Where relations are close and multifaceted enough, as they are in Taylorian communities, trust becomes an important factor in everyday relations, and the incentive to discourage destruction of trust is strong as everybody relies on everybody else.

Another problem Hechter raises for Taylor's internal solutions is the "Folk theorem". The Folk theorem shows that all kinds of non-cooperative equilibria are possible besides cooperative ones. In an application of the Folk theorem, Krebs (1982:245-52) has shown that in many cases, one possible

equilibrium (i.e., each participant's strategy is optimized given the other participants' strategy) to prevent the coming about of a Prisoner's Dilemma situation is for all participants to enter into, and subsequently honour, an agreement. But a number of other options are possible. Apart from the case in which *A* cooperates if and only if *B* cooperates, *B* could threaten *A* with massive retaliation if she (*A*) did ever fail to cooperate, and only agree to cooperate two out of three times. Some solutions favour *A*, some *B*, some will be efficient and some not, but they will all be rational for the individual players. This means that there is nothing inevitable about cooperation in game theory. The same structures and incentives would yield different, equally feasible outcomes as there is no reason to favour any one out of a large number of possible equilibria. There is then no reason to assume that rational agents will choose the tit-for-tat strategy as the most likely to prevent a Pareto-inferior outcome. While internal solutions *can* emerge, it is not clear that they will emerge.

One potential solution lies in contract theory. With the initial contacts and ventures in cooperation among people who have direct experience of each other's behaviour over a period of time, coordination can emerge. Where coordination is possible, a contract can be set up to encourage conditional cooperation. An objection to contract theoretical solutions to problems of cooperation is that voluntary collective action is hard to motivate, the need for a state which could sanction people individually arises precisely because of this. But this solution is a circular one, as the problem is resolved by collective action. However, the set-up of the problem has it that all individuals prefer collective action to no action at all, and this is a reasonable assumption given the participants' preferences. The motivation to solve the problem is hence given. Voluntary collective action can emerge if participants cooperate conditionally on everyone else cooperating.

Assuming that anarchism is desirable, the thesis has been concerned with showing that anarchism is possible given certain initial assumptions. The situation of scarcity of resources, the size of modern agglomerations and the rapid growth of world population do not lend themselves to optimistic speculation about the setting up of small communities. But I hope to have shown that theoretically, in any case, the case for anarchism is not as dire as often supposed

Selective Bibliography

- Ackelsberg, Martha, Mujeres Libres, Individuality and Community,
Bloomington. Indiana University Press (1991)
- Allen, Graham, "Property and Family Solidarity", in Hollowell (1982) 165-182
- Bakunin, Michael, "The Paris Commune and the Idea of the State", in Bakunin
on Anarchism, ed Sam Dolgoff, Montreal Black Rose Books (1980) 259-
273
- Bates, Stanley, "Comments and Criticism - Authority and Autonomy", Journal
of Philosophy 69 (1972) 175-176
- Bayles, Michael, "In Defense of Authority", The Personalist 52 (1971) 755-759
- Beauchamp, Tom and Witkowski, Ken, "A Critique of Pure Anarchism",
Canadian Journal of Philosophy 2 (1973) 533-539
- Beetham, David, The Legitimation of Power, Atlantic Highlands, NJ
Humanities Press (1991)
- Bentham, Jeremy, "Anarchical Fallacies", in Nonsense Upon Stilts - Bentham,
Burke and Marx on the Rights of Man, ed Jeremy Waldron, London
Methuen (1987)
- Bough, Graham, "The Poverty of Autonomy: The Failure of Wolff's Defense of
Anarchism", in Roussopoulos (1986) 107-122
- Braybrooke, David, "Our Natural Bodies, Our Social Rights: Comments on
Wheeler", Nous 14 (1980) 195-202
- Buchanan, James, "A Contractarian Perspective on Anarchy", in Pennock and
Chapman (1978) 29-42
- Causser, Gordon, "Some Aspects of Property Distribution and Class Structure",
in Hollowell (1982) 131-148
- Cherniak, Christopher, Minimal Rationality, Cambridge, Mass: MIT Press
(1986)
- Clastres, Pierre, Society Against the State, translated by Robert Hurley with
Abe Stein, NY: Zone Books (1987)

- Cohen, Gerry, "Self-Ownership, World-Ownership and Equality", in Justice and Equality Here and Now, ed. Frank Lucash, Ithaca: Cornell University Press (1986)
- Crowder, George, Classical Anarchism, the Political Thought of Godwin, Proudhon, Bakunin and Kropotkin, Oxford: Clarendon Press 1991
- De George, Richard, "Anarchism and Authority", in Pennock and Chapman (1978) 91-110
- Devlin, John, in Philosophy of Law, ed. Joel Feinberg and Hyman Gross, Balmount, California: Wadsworth (1986) 273-279
- De Grazia, Sebastian, The Political Community, a Study of Anomie, Chicago: University of Chicago Press (1948)
- Dworkin, Gerald, Book Review of *In Defense of Anarchism*, in Journal of Philosophy 68 (1971) 561-567
- , The Theory and Practice of Autonomy, Cambridge: Cambridge University Press (1988)
- Edwards, Stewart, The Communards of Paris, 1871, London: Thames and Hudson (1973)
- Engels, Friedrich, "On Authority", in Anarchism and Anarcho-Syndicalism, Selected Writings by Marx, Engels, Lenin, Moscow: Progress Press (1972)
- Evans-Pritchard, E. E., The Nuer, a Description of the Modes of Livelihood and Political Institutions of a Nilotic People, Oxford: Clarendon (1940)
- Frankfurt, Harry, "The Anarchism of Robert Paul Wolff", in Political Theory 1 (1973) 405-414
- , The Importance of What We Care About, Philosophical Essays, Cambridge: Cambridge University Press (1988)
- Godwin, William, Enquiry Concerning Political Justice, London: Penguin (1985)
- Graham, Keith, "Democracy and the Autonomous Moral Agent", in Contemporary Political Philosophy: Radical Studies, ed. Keith Graham, Cambridge: Cambridge University Press (1982) 113-138

- Green, Leslie, The Authority of the State, Oxford: Oxford University Press (1988)
- Guerin, Daniel, Anarchism, from Theory to Practice, translated by Mary Klopfer, London: Monthly Review Press (1970)
- Hardin, Gerald, "The Tragedy of the Commons", Science 162 (1968)
- Hardin, Russell, "The Social Evolution of Cooperation", in Schweers Cook and Levi (1990) 358-378
- Hechter, Michael, "Comment On the Inadequacy of Game Theory for the Solution of Real-World Collective Action Problems", in Schweers Cook and Levi (1990) 238-249
- Hegel, Georg Wilhelm Friedrich, Vorlesungen über Rechtsphilosophie I (1830-1831), herausgegeben und mit einem Kommentar in sechs Bänden von Karl-Heinz Ilting, Stuttgart: Frohmann-Holzboog (1973)
- , Die Philosophie des Rechts, die Vorlesung von 1819/20 in einer Nachschrift, ed. Dieter Henrich, Frankfurt am Main: Suhrkamp (1983)
- Hempel, Carl Gustav, Aspects of Scientific Explanation, New York: Free Press (1965)
- Highleyman, Liz, "An Introduction to Anarchism", Boston: Black Rose (1990)
- Hollowell, Peter, "On the Operationalisation of Property", in Property and Social Relations, ed. Peter Hollowell, London: Heinemann (1982) 11-31
- Kant, Immanuel, Critique of Practical Reason, translated by Lewis White Beck, London: Macmillan (1956)
- Kavka, Gregory, "An Internal Critique of Nozick's Entitlement Theory", Pacific Philosophical Quarterly 63 (1982) 371-380
- Krebs, David, "Rational Cooperation in the Finitely Repeated Prisoners' Dilemma", Journal of Economic Theory 27 (1982) 245-252
- Kropotkin, Peter, Mutual Aid - A Factor of Evolution, Montreal: Black Rose Books (1989)
- Ladenson, R., "Legitimate Authority", American Philosophical Quarterly 9

(1972) 335-344

Locke, John, The Second Treatise of Government, New York: Macmillan (1986)

--, "The First Treatise of Government", in Two Treatises of Government, Cambridge: Cambridge University Press (1989)

Martin, Rex, "Wolff's Defense of Philosophical Anarchism", The Philosophical Quarterly 24 (1974) 140-149

Milgram, Stanley, Obedience to Authority, New York: Harper & Row (1969)

Miller, David, Anarchism, London: Dent (1984)

Munzer, Stephen, A Theory of Property, Cambridge: Cambridge University Press (1990)

Nozick, Robert, Anarchy, State and Utopia, Oxford: Blackwells (1974)

Pareto, Vilfredo, The Mind and Society, ed Arthur Livingston, translated by Andrew Bongiorno and Arthur Livingston, London: Harcourt Brace (1935)

Pearson, Maurice, The Knowledgeable State, Diplomacy, War and Technology since 1830, London: Burnett (1982)

Pennock, J. Ronald and Chapman, John, Nomos XIX: Anarchism, Yearbook of the American Society for Political and Legal Philosophy, New York: New York University Press (1978)

Perkins, Lisa, "On reconciling Autonomy and Authority", Ethics 82 (1972) 114-123

Plato, "The Crito" in The Last Days of Socrates, London: Penguin (1969)

Pritchard, Michael, "Wolff's Anarchism", Journal of Value Inquiry 7 (1973) 296-302

Quail, John, The Slow-Burning Fuse - The Lost History of the British Anarchists, London: Granada (1978)

Quest, Edward, "Whatever arises from a Just Distribution by Just Steps is Itself Just", Analysis 37 (1977) 204-208

Quiet Rumours, an Anarcha-Feminist Anthology, London: Black Star Press (n.d.)

Rand, Ayn, The Fountainhead, Indianapolis: Bobbs-Merrill (1952)

Rawls, John, A Theory of Justice, Cambridge: Harvard University Press (1971)

Reiman, Jeffrey, In Defense of Political Philosophy, New York: Harper & Row (1972)

Ritter, Alan, "The Anarchist Justification of Authority", in Pennock and Chapman (1978) 130-142

---, Anarchism, a Theoretical Analysis, Cambridge: Cambridge University Press (1980)

Rousseau, Jean Jacques, "Du Contrat Social", translated by Gerald Hopkins, in Social Contract, Oxford: Oxford University Press (1956) 237-440

Roussopoulos, Dimitri, The Anarchist Papers, Montreal: Black Rose Books (1986)

Roy, Remi, Anarchism and Civil Society, Dissertation, Montreal: McGill University (1989)

Sahlins, Marshall David, Stone Age Economics, Chicago: Aldine-Atherton (1972)

Schweers Cook, Karen and Levi, Margaret, The Limits of Rationality, Chicago: University of Chicago Press (1990)

Smith, Malcolm, "Wolff's Argument for Anarchism", The Journal of Value Inquiry 7 (1973) 290-295

Sterba, James, "The Decline of Wolff's Anarchism", The Journal of Value Inquiry 11 (1977) 213-217

Taylor, Michael, Community, Anarchy and Liberty, Cambridge: Cambridge University Press (1982)

---, The Possibility of Cooperation, Cambridge: Cambridge University Press (1987)

---, "Cooperation and Rationality: Notes on the Collective Action Problem and

Its Solutions, in Schweers Cook and Levi (1990) 222-240

Tully, James, A Discourse on Property, John Locke and His Adversaries, Cambridge: Cambridge University Press (1980)

Tversky, Amos, and Kahnemann, David, 'Rational Choice and the Framing of Decisions', in Schweers Cook and Levi (1990) 60-89

Weber, Max, Economy and Society, vol 1, edited by G. Roth and C. Wittich, New York: Bedminster (1968)

Wheeler III, Samuel, "Natural Property Rights as Body Rights", Nous 14 (1980) 171-193

Wolf, Susan, Freedom within Reason, Oxford: Oxford University Press (1990)

Wolff, Johnathan, Robert Nozick - Property, Justice and the Minimal State, Stanford: Stanford University Press (1991)

Wolff, Robert Paul, In Defense of Anarchism, New York: Harper & Row (1971)

---, The Autonomy of Reason, New York: Harper & Row (1973)