

A Use of Nozick's Notion of Catastrophe: The Distributive Justice Problem of Environmental Refugees

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This paper will focus on the problem of environmental refugees related to environmental decay and resource loss. Robert Nozick's distributive justice theory will be used as a theoretical framework to analyze the problem of environmental refugees. The restrictive nature of Nozick's theory of distribution is rather practical since it meets with many of the current mores regarding wealth accumulation, desert, and aspirations for inheritance. Given our current reluctance to redistribute to prevent the effects of environmental decay, and to pay to prepare for disasters generally, the prospect of a redistributive solution to environmental refugees that permanently alters patterns of ownership is rather unlikely. Nevertheless, given the rather unfortunate possibility of increasing numbers of environmental refugees in the future, a practical means to provide for their well-being needs to be considered.

Accordingly, there is a need for us to develop theoretical solutions to the problem of resource loss and environmental refugees. Having some idea of how to approach a problem, even in the abstract, is better than being caught unawares when a crisis sets in. Thus, long-term redistributive solutions are needed that allow for nations individually to handle concerns about the distribution of assets. The potential for international efforts and assistance may be minimal depending on the political sentiments of a particular time. Also, the assessment of the cost of climate change is determined by the goodwill of industrialized nations, which is also dependent on the political sentiments of a particular time. Simply, compensation and aid for environmental refugees from the (identified) responsible parties or those who could pay may not be forthcoming.¹ The radically unprecedented nature of these events should inspire us to

¹An anonymous reviewer to this paper notes that currently there are agreements on international distributive justice and the care of refugees. This comment is very valuable and should be considered by readers. Neverthe-

confront the necessity of redistribution in ways that are more in alignment with our current mores of ownership and what can be achieved within the limits of a single nation. Nozick's distributive justice theory is, thus, a good framework for analysis, since the demands it places on our mores are limited, and Nozick does not consider obligations of international redistribution. Before Nozick's ideas are discussed and applied to the problem of environmental refugees, a brief description of the refugee scenario will be provided.

The Environmental Refugee Scenario

Given current conjectures about the possibility of flooding and areas of the world rendered uninhabitable due to climate change, there is the widespread possibility for large numbers of people to become refugees due to environmental decay.² In order to provide a tractable theoretical problem, the environmental refugee scenario will use the following assumptions and conditions. It will be assumed that given the impossibility of refugees to return to their place of origin that they will either stay at their point of arrival or move to another location within the same nation. International migration, after immediate arrival, is considered to be impossible. All of these areas will be considered as owned by someone who is not a refugee. Additionally, it is assumed that it is immoral to force someone to return to a situation that will result in their death. There are a sufficient amount of resources to be redistributed in a given nation. The scenario requires redistribution for the survival of the refugees, but the total amount of resources is at the level of moderate scarcity.

Nozick's Distributive Justice Theory Applied to the Environmental Refugee Scenario

Robert Nozick provides a very rigorous and thorough defense of what he calls the entitlement principle of self-ownership. Simply put, a person is entitled to hold something if they have acquired it justly or it has been transferred to them justly. A just acquisition or just transfer is when the object acquired or transferred has been done so voluntarily and without fraud, coercion, or theft (Nozick 1973, 46-47). In normal circumstances, redistribution which is not the result of a gift or due to rectification is unjust. Nevertheless, there is the possibility for redistribution within Nozick's system during the condition of catastrophe. With problems

less, in this paper, I seek solutions to situations where our current agreements are ignored by the international community.

²On a discussion of environmental refugees see Casillas (2016). On a discussion of uninhabitable heat, increases see Sengupta (2018). On rising sea level estimates see Kulp and Strauss (2019).

involving disasters, where the perpetrators cannot be identified or cannot be assessed, the condition of catastrophe would apply. Nozick finds that if a natural disaster occurs, then the right to the entitlement that people have to their holdings can be temporarily overridden (Nozick 1973, 76-77). Refugees from environmental decay are comparable to castaways. If catastrophe applies, then the holding rights of the original residents can be temporarily overridden to meet the rights of possession of the refugees.

In order for catastrophe to apply, the current post-disaster conditions must be lower than a baseline scenario (Nozick 1973, 77). Nozick does not give a definitive answer of how to determine the baseline scenario, by his own admission. Nonetheless, he does provide an outline of how to begin to conceive of such an estimation (Nozick 1974, 74). If the given value of natural resources and the current wealth which is available to refugees are at least as valuable as those that would be available in the baseline, then catastrophe has not occurred and the current residents' rights to holdings do not have to be overridden.

If the amount of resources available to the refugees is below the baseline, then redistribution would occur and rights of holding would be temporarily overridden. If a catastrophe does hold, then redistribution would tend towards equality since there is no standard for a correct distribution used by Nozick, such as usefulness, satisfaction, utility, economic growth, dignity, or the fundamental interests of citizens. There would be redistribution from those who have the most holdings to those who have not enough (according to the baseline) until either a distribution comparable to the baseline minimum has been achieved or, if there are not enough resources for the baseline to be achieved for all, an equal distribution.³ This redistribution toward equality, instead of immediately to equal distribution, would cater to the notion that holding rights are overridden but have not disappeared (Nozick 1974, 77).

Such temporarily overridden rights could have two possible forms. First, those who enjoy the overridden rights could have direct access to the holdings of those whose rights have been overridden. This may include the temporary occupation of land and buildings and the temporary use of equipment and resource flows. Those who occupy the property would pay rental fees or pay royalties in the case of extracted resource flows. A possible grace window for the payments of rental fees and royalties could be used. The price of the property would fluctuate like any priced asset. The claims to the occupied property could be traded on markets for other assets or used as collateral. Thus, the original owners would possess the title to the

³Michael Davis notes in his comment that there must be a clear definition about who has which rights in the catastrophe situation. I agree that a greater definition is required regarding whose rights are being overridden. As a starting point for further discussion, I think it can be said that the property rights of the current residents are being overridden and the rights of the refugees and the current residents to at least a baseline possession are being satisfied.

property even if they cannot use the property directly. When the catastrophe is over, those who enjoyed occupation must either vacate or continue to pay the rental fee or extracted resource royalties.

Second, the financial value of all holdings could be distributed towards the baseline for the refugees, or if that is impossible towards equality to all old and new residents. The refugees could receive their financial wealth in the form of a loan and the old residents would be the creditors of the loan. The loan rates could be set according to the characteristics of the borrowers, with rate limits set to the dire necessity of the conditions. Auctions could be used to distribute the holdings, and people would use the distributed financial wealth to bid.

This redistributive situation could exist for the foreseeable future, with real property claims and loans being inherited for generations. These possibilities adhere to the spirit of Nozick's work since these are voluntary transactions (after the redistribution due to catastrophe). Such assets for future repossession or loan payment could be bequeathed or sold to speculators, providing a benefit to those whose rights were overridden.

Final Comments

The Nozickian-inspired redistribution discussed in this paper would override property claims only indirect use. The original owners would retain the right to rental payments and royalties, the right to reclaim their property in the future, the right to sell their claim, the right to receive payments for their property converted into a loan, or the right to sell their loan. This is a practical outcome that meets with many of our current attitudes regarding property and the accumulation of wealth. We do have a duty to care for the vulnerable, but realistic consideration of how this will be achieved is needed.

References

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