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Our Common Inheritance: A Summary

Our Common Inheritance: A Theory of Rights to the Natural World

– A Summary

Around the turn of the 20th century, economically valuable metals were discovered in the Grand Canyon, and the government of the Arizona Territory had to decide whether to allow their mining or not.¹ In an impassioned speech, President Teddy Roosevelt appealed to the citizens of Arizona to protect the Grand Canyon, despite the economic wealth and employment opportunities that its mining would generate:

In the Grand Canyon, Arizona has a natural wonder which, so far as I know, is in kind absolutely unparalleled throughout the rest of the world. I want to ask you to do one thing ... Leave it as it is... [K]eep it for your children, your children's children, and for all who come after you... We have gotten past the stage, my fellow citizens, when we are to be pardoned if we treat any part of our country as something to be skinned for two or three years for the use of the present generation, whether it is the forest, the water, the scenery.²

The debate over the fate of the Grand Canyon is merely one example of conflict over rights to the natural world. Other examples include disputes over the fossil fuels in the Arctic, the fate of the Amazonian rain forest, and the controversies surrounding governments' right to

¹ For further details, see Douglas Brinkley, *The Wilderness Warrior: Theodore Roosevelt and the Crusade for America* (Harper Collins, 2010), Ch. 19.

² Theodore Roosevelt, *A Compilation of the Messages and Speeches of Theodore Roosevelt, 1901-1905*, vol. 1 (Bureau of National Literature and Art, 1906). The text of the speech is also available at: <http://www.theodore-roosevelt.com/images/trenvpics/trgrandcanyonspeech.pdf> (accessed December, 2016)

seize land for development. Such disputes are important. They have critical implications for poverty alleviation, international relations, and environmental protection.

Disputes over rights to the natural world have all too often been settled in practice by “might makes right.” However, there is also a long tradition among political thinkers that examines rights to the natural world in a more principled way. This tradition includes thinkers such as John Locke, Jean-Jacques Rousseau, and Henry George.³

Although these different thinkers ultimately endorse very different theories of rights to the natural world, they each agreed on a common starting point: the natural world is the common inheritance of humankind, including both present and future people.⁴ *The common-inheritance idea* is that, all people, present and future, have some type of equal, robust initial moral claim to the natural world. As Henry George famously wrote:

If all existing men were to unite to grant away their equal rights [to the earth], they could not grant away the right of those who follow them. For what are we but tenants for a day? Have we made the earth, that we should determine the rights of those who after us shall tenant it in their turn?⁵

As George points out, what makes the natural world special is that no one created it. Thus, the typical differentiated labor-based claims individuals have to resources do not apply in this context.

Although the common-inheritance idea was very often endorsed historically, it is a minority position in the contemporary literature on rights to the natural world. Some contemporary thinkers argue that rights to the natural world should be allocated on a first-come-

³ For an anthology with many of the most important thinkers, see Peter Vallentyne and Hillel Steiner, "The Origins of Left-Libertarianism : An Anthology of Historical Writings," (New York: St. Martin's Press, 2000).

⁴ For Rousseau's endorsement of this idea, see Jean-Jacques Rousseau, "Discourse on the Origin and the Foundations of Inequality among Men " in *The Discourses and Other Early Political Writings*, ed. Victor Gourevitch, Cambridge Texts in the History of Political Thought (Cambridge: Cambridge University Press, 1997), 161. For Locke's endorsement of this idea, see John Locke, "Second Treatise of Government," ed. C. B. Macpherson. (Indianapolis, IN: Hackett Publishing, 1980), 18.

⁵ Henry George, *Progress and Poverty* (New York: Robert Schalkenbach Foundation, 1935), 338-39.

first-served basis. The libertarian philosopher Jan Narveson, for example, argues that individuals who are first to incorporate some part of the natural world into their life plans should be seen as its owner because anyone else who uses that part of the natural world would then be interfering with the first-comer's autonomy.⁶ Another approach, endorsed by the political philosopher Chris Armstrong, holds that rights to the natural should be allocated to achieve overall equality of well-being among all individuals.⁷ Many others, including welfare economists and the philosopher Peter Singer, argue that rights to the natural world should be allocated to maximize overall welfare.⁸

In a book I am currently working on, entitled "Our Common Inheritance: A Theory of Rights to the Natural World," I attempt to revive the common-inheritance idea. My aim in this short piece is to provide a brief summary of the book's main ideas and arguments.

2. The Problem with Other Approaches?

To make the case for the common-inheritance idea, it is first useful to explain the problem with other approaches for allocating rights to the natural world. Why should rights to the natural world not be assigned to first-comers or allocated to best foster equality of welfare or aggregate welfare?

One reason that these alternative approaches should be rejected is that they have implausible implications. Consider again the case of the Grand Canyon. If we accept Narveson's first-comer theory, then the first person to discover the Grand Canyon would be able

⁶ Jan Narveson, "Libertarianism Vs. Marxism: Reflections on G.A. Cohen's Self-Ownership, Freedom, and Equality," *The Journal of Ethics* 2, no. 1 (1998).

⁷ Chris Armstrong, *Justice and Natural Resources: An Egalitarian Theory* (Oxford University Press, 2017).

⁸ Peter Singer, "Does Helping the Planet Hurt the Poor?," *The Wall Street Journal* 2011.

to do whatever he wants with it. Imagine that, instead of being discovered by Native Americans, the Grand Canyon was first discovered by a very wealthy explorer who thought that it would be fun to watch the Grand Canyon collapse. The explorer sets up a large amount of dynamite and then enjoys the dramatic consequences of the massive explosion. Is the explorer's action just merely because he was the first-comer? I think not.

Egalitarian theories also permit the Grand Canyon's destruction, albeit for different reasons. Remember that the residents of the Arizona territory were very poor relative to future generations of Americans. So, if we simply assign rights to the natural world to best achieve equality of welfare, then we should allow the Grand Canyon to be mined. True, this would be a massive loss to future people. However, if what is important is achieving equality across generations then, in a world with growing wealth and welfare, destruction of the natural world would be justified by such egalitarian theories.

But what about the idea of allocating rights to the natural world to maximize welfare? This approach would admittedly protect the Grand Canyon. But it would have other implausible consequences. Imagine that instead of the Grand Canyon, the impoverished residents of the Arizona Territory wanted to mine a small canyon. Also, imagine that the Arizonians are desperately poor, with many of them facing starvation, and that the only way to alleviate their poverty is by mining the small canyon. It seems as though they should be allowed to mine the small canyon in this case. But if we simply assume that the unmined small canyon would increase human welfare by a very small amount every year and that it will last a very long time into the future, then utilitarianism implies that it is wrong for the Arizonians to mine the small canyon to alleviate mass starvation. This also seems implausible.⁹

⁹ There are, of course, many other possibilities that I have not considered in this short summary. These are considered in the book.

3. The Inheritance Allocation

Of course, to determine whether the common-inheritance idea is any more plausible than its rivals, we need to know what it entails in practice. Yet there is no agreement on this point among those who have historically endorsed the common-inheritance idea. The interpretation that I defend in the book involves two key steps:

1. Each claimant should be initially granted an equal share of the rights to the natural world, where share size does not depend on differences in advantage among the claimants.
2. Individuals' shares can be partially redistributed for morally pressing purposes, but personally important portions of individuals' shares should be granted special protection from redistribution.

This allocation method may seem strange, but it is in fact a familiar one. It is the allocation method that many societies use to allocate legal rights to an inheritance among equal heirs in the case in which there is no will. When a person dies without a will, her estate is divided among her heirs so that each heir, whether wealthy or poor, healthy or sick, receives an equal share. For example, if the estate is money in a bank, then each heir receives ownership of an equal amount of the money. If the inheritance is a family vacation home with sentimental value, the heirs might each receive an equal right to use the home for a particular period of time.

Yet heirs do not generally get to keep all of their inheritance. Some of the inheritance is taxed by the government to achieve other social goals, such as helping the disadvantaged. However, those parts of an inheritance that have particular personal importance are granted special protection from redistribution. For example, the United States offers special protections

to bequests of family land.¹⁰ And the United Kingdom offers an exemption from inheritance taxes to protect a family home from being seized to pay the required taxes.¹¹ Since my interpretation of the idea that the natural world is the common inheritance of humankind is similar to society's distribution of legal rights to inheritances when there is no heir, I will refer to this two-step process as the *inheritance allocation*.

4. Objections to the Inheritance Allocation

Admittedly, the inheritance allocation is also subject to objections. One problem is heterogeneity. How can we give each person an equal share of property rights in a natural world that is so varied? How do we compare a right to oil to a right to arable land to a right to the air?¹²

Fortunately, there is a plausible solution to this problem. Namely, we can try to find an allocation of rights such that no one would willingly trade her share of rights for anyone else's share (this is known among economists as an envy-free allocation).¹³ This solution has long been proposed as a way of allocating rights to inheritances among equal heirs.¹⁴ In the case of a bequest of money, giving each heir an equal amount of money clearly satisfies this envy-free condition. And if heir A really values his deceased grandparents' china and heir B really value their artwork, then this condition can be satisfied even though the heirs receive rights to different objects.

¹⁰ Martha Eller Gangi and Brian G. Raub, "Utilization of Special Estate Tax Provisions for Family Owned Farms and Closely Held Businesses," Internal Revenue Service, <https://www.irs.gov/pub/irs-soi/spestate.pdf>.

¹¹ "Inheritance Tax," Gov.UK, <https://www.gov.uk/inheritance-tax/overview>.

¹² For an example of this criticism, see Narveson, "Libertarianism Vs. Marxism: Reflections on G.A. Cohen's Self-Ownership, Freedom, and Equality," 15.

¹³ For a discussion, see Hal Varian, "Equity, Envy, and Efficiency," *Journal of Economic Theory* 9, no. 1 (1974).

¹⁴ See, for example, Steven J. Brams and Alan D. Taylor, *Fair Division: From Cake-Cutting to Dispute Resolution* (Cambridge University Press, 1996), 11.

A second objection relates to the commitment to treating both current and future people as equal claimants to the natural world. If the earth is finite, how can we possibly give all future people an equal share of rights to it? Assuming the human species lasts for a sufficiently long time, won't that lead to everyone being given a share that's tiny?

One solution to this problem becomes apparent once we realize that natural wealth is growing over time. New natural resources are constantly being discovered. And technology is changing in ways that vastly increase the value of available natural resources. For example, future people may be able to benefit from materials on other planets that we cannot currently access. If the stock of natural wealth is growing over time, then it is possible to give future people an equal share of natural wealth while also granting present people a sizeable share.

Another objection to treating the natural world as humanity's common inheritance comes from deep ecologists. Deep ecologists hold that the natural world has value for its own sake, and thus would object to the idea that the natural world is *nothing more* than humanity's common inheritance. What about highly intelligent animals? And what about ecosystems like the Great Barrier Reef that may have intrinsic value?

In response, I do not claim that the natural world is *nothing more than* the inheritance of humankind. Some parts of the natural world may well have an intrinsic value that sets limits to what human beings can do to the natural world. Yet recognizing the natural world's deep ecological value need not lead us to abandon the inheritance allocation altogether. After all, if heirs inherit a family dog, there are restrictions on what they can do with this inheritance. But the basic principles that determine the allocation of the inheritance need not be dramatically altered. Similarly, we can endorse the idea that the natural world has an intrinsic value that sets

restrictions on what human beings can do with their shares without abandoning our commitment to the inheritance allocation altogether.

5. Why an Inheritance Allocation of Rights to the Natural World?

However, the biggest challenge to the inheritance allocation is explaining *why* rights to the natural world should be distributed in this way. The answer I defend involves a pluralist theory of distributive justice that combines a commitment to familiar principles like fostering equality and maximizing human welfare with a less familiar principle of justice known as *respect for the separateness of persons*. To respect the separateness of persons is to acknowledge that human beings are not merely parts of some broader community. Rather, they are fundamentally individually-responsible agents each with his or her own life to live.¹⁵ On my interpretation, respect for the separateness of persons implies that each person should be granted a special sphere of moral authority – a kind of personal dominion that I call a *predominion*. The rights that constitute this predominion are protected in important ways from *other-regarding demands* – demands that are based on the disadvantage of others or on the aggregate welfare of society.

An individual's predominion is protected from other-regarding demands in two key ways.

1. The rights that constitute this predominion (predominion rights) are determined independently from other-regarding considerations.
2. Predominion rights are given substantial strength in contests with other-regarding demands. And the more central some person's predominion right is to their personhood, the greater the moral weight it is given in contests with other-regarding demands.

¹⁵ Robert Nozick, *Anarchy, State, and Utopia* (New York: Basic Books, 1974), 33-34. For a discussion, see Matt Zwolinski, "The Separateness of Persons and Liberal Theory," *The Journal of Value Inquiry* 42, no. 2 (2008).

This idea may seem strange and complicated, but the plausibility of this way of understanding the commitment to respecting the separateness of persons can be seen if we consider people's rights to body parts. Take, for example, rights to my kidney. Few would deny that my kidney falls within my proper sphere of moral authority. Admittedly, in certain extreme cases (e.g., when my kidney is the only thing that can save a billion lives), society might ultimately decide that my kidney should be forcibly redistributed to others. But even in this extreme case we are *re*-distributing my kidney – taking away something that is in an important sense *mine*. The separateness of persons explains why this is so. It insists that certain rights should be determined independently of considerations of others' disadvantage or aggregate welfare. Therefore, respect for the separateness of persons ensures that I am granted a predominance right to my kidney regardless of how many other people might need it.

This kidney example also illustrates the way in which a commitment to the separateness of persons protects individual rights in the face of other-regarding demands. Admittedly, when one billion lives are at stake, we might decide that the relevant moral values outweigh my predominance rights to my kidney. But a person's predominance rights to his kidney are nevertheless very strong. Forcibly redistributing my kidney to save one person who is suffering from major kidney failure is, I take it, impermissible. This is so despite the fact that such a redistribution would clearly increase equality of welfare and aggregate welfare in society (i.e., by saving another person's life). My kidney is important to my key life plans (e.g., it serves certain health functions and protects me in case my other kidney is damaged) and is also an important part of my body. It is therefore fairly central to my personhood – to who *I* am. Therefore, on my interpretation of respect for the separateness of persons, my predominance rights to my kidney should receive substantial priority in a contest with other-regarding demands. The commitment

to the separateness of persons thus helps to explain why my kidney should not be forcibly redistributed to save one other person's life, despite the moral benefits of this type of redistribution.

The key claim that I defend in the book is that individuals' predominions include, not only their body, but also to a certain portion of the natural world. If we see individuals' predominions as extending in this way, we can justify the inheritance allocation. First, just as individuals' predominion rights to their bodies should be determined without regard to differences in advantage, so, too, their predominion rights to the natural world should be determined without regard to differences in advantage. This is what justifies giving everyone, rich or poor, healthy or sick, American or Japanese, an equal *initial* share of rights to the natural world. While shares can sometimes be redistributed to address very weighty claims of disadvantage, those predominion rights to the natural world that are central to individuals' personhood are granted special protection from such other-regarding demands. So, for example, just as inherited family land is granted special protection from redistribution, so, too, a person's predominion rights to a pristine Grand Canyon might be protected, even if mining the Grand Canyon would alleviate substantial poverty.¹⁶

6. Implications: Natural Commodities and Global Poverty

Accepting the inheritance allocation has important implications for both poverty alleviation and for environmental protection. Let's consider first the case of commodities such

¹⁶ Of course, rights to body parts are generally more central to people's personhood than parts of the natural world. However, this is not always true. A grove of trees that I believe are the home of my dead ancestors may be more important to who I am than one of my attached eyelashes. Thus, although the protections that respect for the separateness of persons will offer to individuals' equal share of the natural world are generally weaker than the protections offered to people's bodies, the type of protection and its underlying rationale are similar.

as fossil fuels and mineral wealth in an area without any particular aesthetic or ecological value. In these case, the inheritance allocation implies that leases to use these resources should be auctioned off, with the proceeds shared equally among every person in the world. This is similar to the way that commodities without sentimental value (e.g. some gold bars) are treated in the case of an inheritance with equal heirs.

Treating the natural world in this way would have enormous benefits for alleviating global poverty. A conservative (and admittedly simplistic) estimate suggests that each person would be entitled to approximately \$500 of natural wealth per year.¹⁷ For the hundreds of millions of people living on less than a dollar a day around the world, \$500 every year would constitute an enormous benefit.

But would Bill Gates really receive a check for \$500 every year? The inheritance allocation would not have this implication. Although Gates has *an initial* right to an equal share of the world's natural commodity wealth, this wealth is of near-trivial importance to him. And there are very pressing competing claims of justice both in the United States and elsewhere. Gates's share of the world's natural wealth can thus be rightly redistributed to address these pressing claims.¹⁸

However, poor Americans' share of the world's natural commodity wealth would not necessarily be redistributed to even poorer individuals in developing countries. This wealth is *theirs*. Moreover, unlike Bill Gates, \$500 a year is by no means trivial for their life plans. Just as my kidney should not be redistributed to someone suffering kidney failure, even though it

¹⁷ I estimated this using World Bank data from 1998. See Arundhati Kunte et al., "Estimating National Wealth: Methodology and Results," in *Environmental Economics* (The World Bank, 1998). I divided the total market value of the natural resource wealth by the total global population and assumed that it was invested to provide an annuity in perpetuity. The final figure depends critically on the interest rate used, but my very primitive estimations gave figures somewhere on the order of \$500 per year.

¹⁸ Note that this is different from the case of inheritances, in which respect for the presumed intentions of the deceased gives us reason to allow even very wealthy heirs to keep a substantial portion of their initial shares).

could do more good in that person's body, so, too, a poor American's share of the world's natural wealth should not be redistributed to others, even if it could do more good in someone else's life.

7. Implications: Environmental Protection

The inheritance allocation also has important implications for environmental protection. Note that bequests are not always simply auctioned off to the highest bidder. When an estate is comprised of objects that have high personal value to a sufficient number of heirs, it is sometimes kept intact. So, too, there are cases in which valuable parts of the natural world should be owned in common rather than sold to the highest bidder.

Consider again the case of the Grand Canyon. One reason it would be a mistake to mine this natural wonder is that it is much more economically valuable in its natural state. But even if some mining company could outbid preservationists (perhaps because future people are predicted to be too poor to afford a sizeable admission fee to the Grand Canyon), mining the Grand Canyon would not necessarily be permitted by the inheritance allocation. Just as valuable parts of an inheritance are sometimes kept intact for all the heirs to enjoy, so, too, there are good reasons to keep the Grand Canyon intact based on the claims of future people.

Admittedly, in extreme cases, even the Grand Canyon's mining can be justified. If the United States is facing mass starvation that can only be alleviated by mining the Grand Canyon, then future people's rights to even this natural wonder could be overridden. However, poverty of the kind that was actually faced by the residents of the Arizona territory when Teddy Roosevelt made his speech was not of this most severe kind. Since the Grand Canyon can be expected to be an important part of many future people's life plans, their rights to the unmined Grand

Canyon are fairly strong. And since many future people's rights are at stake, the aggregate strength of these rights is more than sufficient to justify keeping the Grand Canyon intact. The inheritance allocation justifies strong protections, not only for the Grand Canyon, but also for a variety of other ecologically and aesthetically valuable parts of the natural world. These protections are grounded, not only in respect for deep ecological value, but also in respect for the rights of future people to the natural world.

Conclusion

There is a long tradition among political thinkers of viewing the natural world as humanity's common inheritance. Yet in much of the contemporary economics and political philosophy literature, the natural world is increasingly seen as simply one good among many – a good that should be allocated to first-comers or in utilitarian or egalitarian ways. My aim in the book summarized here is to revive the common-inheritance idea by demonstrating the problems with existing alternatives and by defending a novel and attractive way of respecting humanity's common-inheritance to the natural world.

The basic idea is that rights to the natural world should be allocated among all people, present and future, in a way very much akin to the allocation of an inheritance among equal heirs. Each person, poor or rich, is entitled to an equal initial share of rights the natural world. These rights can sometimes be redistributed for to address pressing moral claims. But rights that are personally important to many individuals (e.g. rights to an unmined Grand Canyon) are granted special protection. This rights allocation method is justified by a pluralist theory of justice that grants a central place to the separateness of persons.

This summary has necessarily left many questions unanswered. How precisely do we decide when parts of the natural world should be sold or granted protection? What claims, if any, do nation-states have to the natural resources found in their territorial boundaries? How should we transition from the highly imperfect regime of natural resource ownership today to the regime that justice requires? These questions and many others are addressed in the book. My aim in this summary has been to motivate interest in these questions by briefly explaining why and how we should see the natural world as the common inheritance of humankind.