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Property Rights, Fossil Fuel Imports, and Climate Change

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Abstract: Shmuel Nili claims that when a country buys fossil fuels from dictatorships it becomes complicit with property rights violations in those dictatorships. Thus, Nili argues, people who have a strong commitment to property rights should support a ban on fossil fuel imports from dictatorships, and a transition to renewable energy. This article critically discusses Nili's argument. The argument fails to consider competing moral reasons that some people may have to oppose a ban on fossil fuel imports from dictatorships, such as moral preference for family and compatriots. The argument also mistakenly assumes that renewable energy would be overwhelmingly economically attractive when fossil fuel imports are forbidden, and that switching to renewable energy would not involve importing stolen goods too. The article ends more propositively, by elaborating an alternative argument that Nili dismisses too quickly, and which may help persuade those who are strongly committed to property rights of transitioning to renewable energy: the argument that transitioning would help avoid violating those rights through contributions to harmful climate change.

Keywords: climate change; property rights; Shmuel Nili; dictatorships; complicity; fossil fuels

1 Introduction

Public policies that reduce greenhouse gas emissions often have benefits beyond mitigating climate change. Some examples are that banning the sale of internal combustion vehicles can help prevent respiratory diseases, and that replacing existing taxes with a carbon tax can help reduce fiscal evasion (Ürge-Vorsatz et al. 2014; Vogt-Schilb and Hallegatte 2017). These 'co-benefits', as they are often called, can

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help persuade people to support and adopt emissions-reducing policies, even people who do not believe that mitigating climate change is a policy priority (Bain et al. 2016).

In his recent book *Philosophizing the Indefensible,* Shmuel Nili offers a novel co-benefit argument for replacing fossil fuel energy with renewable energy. The argument applies to countries that import fossil fuels from dictatorial countries. Nili's main claim is that when a country buys fossil fuels from dictatorships it becomes complicit with property rights violations in those dictatorships (Nili 2023, 170–91). A country that bans importing fossil fuels from dictatorships, and switches to renewable energy, gets the moral co-benefit of not being complicit any more with those rights violations.

Nili does not employ the term 'co-benefits'. Instead, he describes his argument as an exercise in 'strategic' political theory – which often but not always resorts to co-benefits arguments. Strategic political theory aims at persuading other people by arguing from the best version of the premises within these people's worldview (Nili 2023, 17). Throughout his book Nili deploys strategic arguments to persuade those who support a number of 'indefensible' policies and political choices – policies and choices grounded in a complete omission of morally vital factors, or in completely implausible interpretations of those factors (Nili 2023, 4–5). The last three chapters separately address three indefensible economic policies, of which chapter 6 – the final chapter – discusses the policy of allowing the generation of energy using imported oil and gas.

Nili's strategic argument for transitioning to renewable energy is tailored to persuade a particular group of people who simultaneously hold the following two beliefs. First, a belief about climate policy: the belief that mitigation policy should not be a priority. Secondly, a belief about property rights: that reasons to respect a person's property rights trump reasons based on other people's welfare (Nili 2023, 177–8). Nili addresses his strategic argument at portions of the US population who hold these two beliefs in conjunction, but there are many people in other countries who hold them in conjunction too.

Indeed, at least 31 % of the world population thinks that climate change mitigation is not a policy priority (UNDP 2024). As Nili explains for the US case, the group of people who do not support urgent mitigation action includes not only radical climate skeptics – who believe that fossil fuels pose no grave threat – but moderate skeptics too. These are people who agree that climate change poses grave threats but deny that climate change poses threats to themselves or their compatriots in the present generation (Nili 2023, 176–7).

Something similar can be said about the second belief, about property rights. Respect for prior possession is probably a universal human trait. Humans, like many other animals, recognize prior possession as a primary way of solving

conflicts over resources (Herskovits 1952; Strassmann and Queller 2014). There is of course a lot of variation in the degree to which different societies value property vis a vis other moral values. Nili focuses on people who give property rights very high importance, and claims that this is the case in American political culture (Nili 2023, 178). Many other societies are like that, however. There are 14 countries with an even stronger property rights regime than the US (Levy-Carciente 2023).

This article critically discusses Nili's argument. Section 1 describes the argument in more detail, and argues that it fails to consider competing moral reasons that people may have to keep importing oil and gas from dictatorships – reasons based on moral preference for family and compatriots. Section 2 challenges the argument's assumption that renewable energy would be overwhelmingly economically attractive when stolen oil and gas are forbidden; and the assumption that switching to renewable energy does not also involve importing stolen goods. Section 3 is more propositive. Nili claims that his complicity argument is needed because the most common alternative strategic argument fails. The alternative is the contribution argument: a strong commitment to property rights requires switching to renewable energy as a means to avoid violations of those rights through contributions to harmful climate change. Nili dismisses the contribution argument too quickly. Nili's interlocutors could in fact endorse it in a slightly revised version.

2 The Limits of Concern for Complicity with Dictatorships

Nili claims that dictators steal from their subjects the oil and gas that is produced in their countries. Oil and gas in dictatorships are typically state owned. Dictatorships do not let the people object to oil and gas sales, or control the revenue directly or via elected representatives (Nili 2023, 132–3). It is true that dictators often spend part of that revenue in improving the standard of living of their population. Yet dictators often spend part of the revenue in ways that are not in the interest of their people – and in fact opposed to that interest, such as securing the survival of the dictatorial regime or paying for the dictator's toy projects (Nili 2023, 148–63). At least part of the oil and gas, and their resulting revenue, is therefore stolen.

Nili argues that when a country or corporation buys stolen oil and gas from dictatorships, they become complicit with theft (Nili 2023, 132). People who care about property rights should avoid being complicit with theft. Moreover, people who believe that property rights trump welfare reasons should stop importing stolen fuels even if that comes at a dramatic economic cost for themselves. Fortunately, however, the cost need not be dramatic. Banning stolen fossil fuels does

not require completely stopping consumption of energy. Energy from imported oil and gas can be replaced with renewable energy, which is relatively cheap (Nili 2023, 183–4, 186). (Note, however, that switching to renewable energy would still require a significant upfront investment, as we will see in Section 2, and could therefore have significant short-term welfare costs).

Nili claims that this argument works despite the fact that theft is happening across the border (Nili 2023, 182). Property rights "are not diluted by spatial distance – nor, for that matter, by 'distances' of identity or citizenship" (Nili 2023, 182). Complicity with theft is as serious when theft happens at home as when it happens abroad.

Nili's strategic argument is powerful, and it certainly has above "nonzero probability of swaying some opinions" in the direction of renewable energy (Nili 2023, 19). I worry, however, that some interlocutors may find that the reasons grounded in property rights that Nili invokes may not really apply to the cases he has in mind; and if the reasons do apply, they may be outweighed by other reasons.

Let us first consider whether reasons grounded in property rights really apply to dictator cases. Nili assumes that 'the people', not the dictators, are the true owners of oil and gas (Nili 2023, 183). However, Nili does not explain why his interlocutors should agree. They could instead think that it is the state, or even the dictators, who have a property right over the oil and gas. Consider Saudi Arabia, for example. Nili's interlocutor could point out that the legal owner of all oil reserves is not the people, but the Kingdom of Saudi Arabia. Nili may respond that the true owners of all state property are always the people. But this would require a separate argument that Nili does not offer. Importantly, the argument must be strategic: it must show how people's true ownership follows from the best version of Nili's interlocutor's own premises.

One possible path for Nili would be to recall that his book is not addressed to any person who supports the indefensible policies he considered. Nili only sets out to persuade people whose beliefs do not contradict the demands of universal human equality (Nili 2023, 20). Nili could then argue that the belief that the Saudi people are not the true owners of oil and gas contradicts the demands of universal human morality. This is a plausible claim, but it requires substantial argumentation.

Let us now consider if reasons grounded in property rights are really decisive reasons to stop importing stolen oil and gas. Nili's interlocutor accepts that property rights have priority over other people's welfare concerns. This means that the mere welfare costs of switching to renewable energy have no weight against property rights. However, property rights over oil and gas may be in competition with other *rights*. These rights may, jointly or in isolation, outweigh the property rights in question.

One example is children's right to special parental concern. Parents have a duty to care especially about their children and improve their welfare. Children have a right to be treated differentially by their parents: parents should care about their welfare more than about other people's welfare. Again, the duty to give special concern to one's children is acknowledged in every human society (Curry, Mullins, and Whitehouse 2019; Kurland and Gaulin 2015). Plausibly, this duty is correlative to moral rights, and it is certainly recognized as a legal right today in all societies.

Transitioning to renewable energy can have costs for children. Parents that bear the costs of investing in renewable energy will have less available resources for investing in their children's welfare. Parents therefore face a conflict between respecting the rights of oil and gas owners, and respecting their children's rights to special concern. The conflict is certainly not serious once we note that investments in renewable energy reduce risks of climate harm for those children, so many children are likely to be better off in the long run if their parents collectively invest in renewables. This path to deny the conflict, however, is not open to Nili's strategic argument because his interlocutors deny that climate change poses serious threats.

Another potential rights conflict involves people's right to be treated with special concern by other members of the group. Humans and many other primates that form groups expect individuals in their group to care more about their welfare than about the welfare of outsiders (Bissonnette et al. 2015). In humans, the type of group that can trigger such expectations can take many shapes, from a group of schoolmates to a group of compatriots. These expectations are often understood as obligations, often correlative to rights. One common example is citizen's rights that their public officials promote the national interest rather than other nations' interests.

Public officials therefore face a conflict between respecting the rights of oil and gas owners, and respecting their citizens' right to promote the national interest. If public officials decide to ban stolen oil and gas imports, this can have significant costs to their citizens, and they will fail their duty to promote the national interest. Many have plausibly argued that the right to have public officials promote one's national interest does not outweigh key rights of people abroad, and this understanding is reflected in international legal limits to military aggression, and obligations to repay international debt. Similarly, people's right against complicity with theft may well outweigh people's right to have one's public officials promote the national interest. Nili does need a separate argument for this conclusion, though. His starting premise that rights trump welfare considerations is not enough, because we are dealing with a conflict between two rights. Moreover, as before, Nili's argument would have to work from within the best version of his interlocutors' own premises.

3 Assumptions about Renewable Energy

Let us now consider what follows from accepting Nili's favored argument. If his interlocutor agrees to stop buying fossil fuels from dictators, would the interlocutor favor replacing those fuels with renewable alternatives?

One hypothesis that Nili puts forward is that his interlocutor would favor renewable alternatives because these would be much cheaper than fossil fuel alternatives (Nili 2023, 186). Indeed, the cost of some kinds of renewable energy are already cheaper than fossil fuel energy. Energy production costs are often compared in terms of the 'levelized cost of energy' (LCOE), which is calculated by adding up all the costs of building and running a plant, and dividing it by the amount of electricity generated throughout the plant's lifetime. In terms of 2022 world averages, the fossil fuel LCOE ranged between 72 and 169 USD/MWh, whereas the solar photovoltaic LCOE was 49 u$d/MWh and the onshore wind LCOE was 33 u$d/MWh (IRENA 2023).

Of course, transitioning from a currently largely fossil-fuel energy matrix to a renewable one would require significant costs for a country. The transition would require not just stopping building fossil fuel plants, but stranding already-built fossil fuel plants. Nili claims that if fossil fuel supply from dictators is forbidden in a country, demand for fossil fuels from 'legitimate' producers would go up – and thus their price would go up steeply and enduringly. The transition costs would therefore look attractive, given that renewable energy would be comparatively even cheaper (Nili 2023, 189–90).

Nili's hypothesis is plausible, but I see three potential challenges. First, the price of oil and gas may not go up as steeply as Nili assumes. Many countries already import a large share of oil and gas from non-dictatorial countries. In the US – Nili's focus – 99 % of imported gas and 52 % of imported oil come from Canada – and only 10 % of imported oil comes from Persian Gulf countries (EIA 2024a, 2024b). Before the Ukraine war Europe did import around 40 % of its gas from Russia, but today it is less than 15 %, and over 55 % comes from Norway, the US, and the UK (EU Council 2024).

Secondly, even if the global price of legitimate oil and gas does go up steeply, this may not be enduring. Suppose the US bans stolen fuel imports. Plausibly, there will be many other countries that will not follow suit. Many of these other countries, moreover, import a mix of stolen and legitimate fuel. When the US bans stolen fuel imports, demand for stolen fuel goes down, and their price may go down too. Given the price signal, the other countries may reduce their legitimate fuel imports and increase their stolen fuel imports. This could eventually drive legitimate fuel prices down.

Thirdly, the mere fact that renewable energy generation is cheaper is not enough for investors to favor it over fossil fuels. Investment in renewable energy is still below investments in fossil energy (IEA 2024). One plausible explanation is that renewable energy's average return on investment is between 5 and 7 %, whereas fossil fuels average a 15 % return on investment (Christophers 2024). Fossil fuel prices have to go up significantly in order to make renewables more profitable, which – as mentioned above – may not happen because stolen fuels are a relatively small fraction of fuel imports. Investment in renewables can be made more profitable if a state subsidizes it. This kind of subsidy, however, may fit well with Nili's interlocutor's priority for private property. Subsidies are typically paid for via taxation, a policy that is plausibly inconsistent with strong property rights (Nili 2023, 178).

Finally, there is room to question whether choosing renewable energy over fossil fuels would fare better in terms of respect for property rights. A lot of renewable energy supplies are stolen, too. China is by far the largest solar and wind components supplier, accounting for around 80 % and 70 % of global supply chains respectively (Bojek 2023; IEA 2022). The Chinese state has spent vast amounts of tax revenue in subsidies and low-interest loans to renewable energy companies (Rechenberg 2024). Now, the Chinese state is dictatorial (Nili 2023, 165–6). Nili's claims about stolen fossil fuels in dictatorial states apply, by analogy, to Chinese renewable supplies. When the Chinese government collects tax and spends it subsidizing manufacture of these components, rather than spending it the way the people actually choose, they are stealing that tax revenue. When Americans buy renewable supplies from China at a lower price than they would pay if they were not subsidized, they are complicit with violations of property rights.

There is another, more serious way, in which buying renewable supplies from China can make a country complicit with property rights violations. The wafers in most photovoltaic solar panels are made with polysilicon. China produces over 90 % of the world's wafers. 54 % of the polysilicon in those wafers comes from the Xinjiang Uyghur Autonomous Region, where Uyghurs are regularly subject to forced labor in the polysilicon and other industries (DOL 2024). It is extremely difficult to trace where the polysilicon in a wafer comes from, so for any solar panel that was partly produced in China there is a substantial probability that it was made using forced labor. Components that are made with forced labor are largely stolen from their true owners: the forced laborers. Importing solar panels that are made with these components makes people complicit with theft – and with forced labor, an even more serious rights violation.

4 The Contribution Argument

According to the contribution argument, burning fossil fuels infringes property rights because the resulting emissions contribute to climate change, which destroys property. There are many ways in which climate change causes property destruction, such as when the resulting sea level rise destroys coastal land, or when more frequent and intense extreme weather events destroy buildings, crops, and many other kinds of physical property (Horton et al. 2016). These extreme events also cause harm to property over one's own body: the events kill people (Vicedo-Cabrera et al. 2021). Whenever a person's emissions causally contribute to property destruction in these ways, may be violating someone's property rights.

Nili claims that many of his interlocutors would reject the contribution argument because they believe that climate change poses temporally distant threats of harm. If distant threats affect future generations, the threats cannot really violate their property rights, because future generations are merely possible people. Possible people have no real rights (Nili 2023, 176–82).

The contribution argument is stronger than Nili allows. People who think that climate change is a distant threat may still be persuaded that their emissions destroy the property of actual, not merely possible, people. This is good news for Nili, as it means that more strategic arguments are available to persuade his interlocutors.

People who think that climate change is a distant threat probably have different time horizons in mind. Some people probably think that a distant threat means 10 years into the future, others that it means 100 years or more. Many people may not have a specific time horizon in mind. However, it is likely that many of Nili's interlocutors would place the time horizon for climate threats within the 21st century, at least towards the end.

Many people who are alive today will be alive by the end of the century. In the US, for example, life expectancy at birth is 77.5 years (in 2022, the last available data; see CDC 2024). Many people who are already born will therefore be exposed to climate threats in their lifetime – even according to those who see climate change as posing temporally distant threats. These victims are not merely possible people, but actual people with actual property rights. Burning fossil fuels today can violate these rights.

One common objection to the contribution argument is that there is no way to attribute particular climate-related property destruction to any particular act that produced greenhouse gasses in the past (Sinnott-Armstrong 2005, 299). Tracing climate-related property destruction to the particular humans that have caused them is not currently feasible, and it is likely to remain infeasible forever. However, this does not mean that people who contribute to climate change today do not violate property rights – it just means we do not know who violates them. Moreover,

the strong priority of rights against harm plausibly implies a commitment to rights against the imposition of *risk* of harm – or at least against the imposition of high risk of harm (Thomson 1990). If burning fossil fuels imposes a high risk of climate harms to property of people who have already been born today, Nili's interlocutor may have to agree that burning fossil fuels violates property rights.

5 Concluding Remarks on Climate Strategic Theorizing

Strategic theorizing is a promising strategy for polarized policy issues, such as climate mitigation. Intuitively, when we argue from our interlocutors' own worldview, we are not only more likely to persuade them, but we are also displaying respect for our fellow citizens (Nili 2023, 17–9).

Regarding its intuitive persuasive power, however, strategic theorizing should ideally be supplemented by empirical testing. For each proposed strategic argument it is important to empirically study if interlocutors in fact tend to be persuaded by it, or tend instead to be alienated or left indifferent. When it comes to climate mitigation policy, the fields of climate communication, climate psychology, and climate political science have empirically tested a number of arguments for their power to garner support for several mitigation policies (e.g. Bain et al. 2016; Goldberg et al. 2021; Pereira et al. 2024). Nili's strategic argument for transitioning to renewable energy has to my knowledge not been tested. Scientists should definitely consider including a version of this argument in their surveys.

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