

## **Mancilla, Alejandra: *The Right of Necessity: Moral Cosmopolitanism and Global Poverty***

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In ‘The Right of Necessity’, Alejandra Mancilla argues that those suffering from extreme poverty have a moral right to appropriate the resources of the better-off to meet their basic needs. The book aims to update an ancient line of thinking about poverty that stretches back to medieval jurists and later theorists of natural law who argued that any system of private property has inbuilt moral limitations set by the poor’s right to subsistence. This is a useful, tightly-focused work. Its attention to the moral agency of the poor marks a welcome change from some of the more paternalistic contributions to the global justice literature. Still, I worry that the framework of ‘necessity’ runs the risk of depoliticising the issue of resistance to an unjust economic system and some of the implications of affirming such a right could have been fruitfully addressed in more depth.

For Mancilla, the right of necessity is a moral right an individual has to ‘take, use and/or occupy the material resources required to guarantee her self-preservation, or the means necessary to obtain the latter’ even if this means encroaching onto the property of others (p. 4). It is, she argues, an ‘expression’ of the basic human right to subsistence in the manner that the right to self-defence is an expression of the right to physical security (p. 65). In cases of extreme need, it may licence stealing food or squatting land or housing as well as the appropriation of resources such as money that will indirectly secure one’s survival.

In Part 1, Mancilla details how medieval Christian jurists developed the doctrine that the earth had originally been held in common, allowing each person to make use of it for their own needs. Since the property system was established by social convention in order to guarantee sustenance, it follows that it should provide each person with enough to live on. It was not a sin for the poor to steal if the wealthy had not provided for those in need. In the seventeenth century, Hugo Grotius developed a secular version of the right of necessity from the original

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ideal of 'natural equity'. Samuel von Pufendorf took the argument further, presenting the right as a claim that could be forcibly enacted by the poor without the consent of the authorities.

In Part 2, Mancilla builds on these historical arguments to formulate her own account of the nature and scope of the right of necessity. A key difference is that she sees the exercise of the right as a legitimate response to ongoing, human-made structures of injustice, rather than being a one-off response to some natural disaster. There are nonetheless conditions that must be met for its legitimate exercise. Specifically: i) the need in question must be basic; ii) the action must be a 'last resort' and iii) it should not violate other 'equally important moral interests' (which entails that the property of those equally deprived should not be targeted) (p. 85). The right of necessity is understood as a combination of a Hohfeldian 'privilege' and a 'claim-right'. Thus, not only do those who are chronically deprived do nothing wrong when they appropriate property for their survival, they also have claims against third parties not to coercively interfere and even to make their property readily accessible to those in need. The land-owner, for instance, is under a moral obligation not to tell the police about the homeless squatters on his land and he may also be required to leave the gate unlocked to facilitate their entry.

Mancilla is at pains to point out that that the right of necessity is not an ultimate 'solution' to the problem of global poverty (p. 66). In an ideal world, in which basic needs were met, the right of necessity would only be exercised in one-off 'hiker in the storm' scenarios. However, in the current context where nearly one billion people lack access to adequate food, water and shelter worldwide, she argues that it is an important immediate-term solution to meeting basic needs. In normative debates on global poverty, there is too often an implicit categorisation at work, with 'we' - the well-off citizens of prosperous states - treated as political agents, and 'they', the global poor, featuring in the background as passive, suffering recipients. To this kind of approach, Mancilla's argument offers a welcome corrective.

However, I worry that the focus on 'necessity' - with its emphasis on self-preservation by analogy with natural disasters - seems to lose the more political dimension of activities such as squatting, border-crossing and the violation of intellectual property rights. The right of necessity does not involve collective action and it may be exercised by individuals acting entirely in isolation without any intention for social and political change. Making resources available locally for the poor in your area meanwhile is an act of charity, rather than political solidarity. Mancilla notes that the right of necessity may eventually give rise to political efforts, noting how multiple disconnected violations of property rights can eventually consolidate into social movements for change. It may be a mistake however not to see such acts as political to begin with.

The anthropologist James Scott discusses the unauthorised appropriation of goods from the rich throughout history as a form of social rebellion that signals contempt for existing hierarchies and the system of economic exploitation. In recent normative debates, Luis Cabrera has argued that those who 'illegally' cross borders in response to economic deprivation are performing a form of civil disobedience and a nascent form of 'global citizenship'. Meanwhile, authors such as Simon Caney and Gwilym Blunt have proposed arguments for a 'right to resistance' against global injustice. While Mancilla does not contradict these approaches, it would have been interesting to see the more explicitly political dynamics of anti-poverty actions discussed.

The necessity argument would seem to be most relevant as a legal defence, but Mancilla does not discuss the legal implications of her argument in any depth. There is also a somewhat brief discussion of violence, which is discounted as not being part of the 'solution' to global poverty, thus side-stepping the fact it may be necessary in certain circumstances (e.g. to resist

border guards or fight eviction from one's dwelling) (p. 87). In general, the book is clearly written, though the prose is also a little formal in parts and would have been enlivened with more discussion of real-life examples. Nonetheless, the overall argument is interesting and original within the context of contemporary debates and I would have little hesitation in recommending this book to those interested in normative issues of economic rights, anti-poverty activism and global justice.