

Poverty and Pollution

Reviewed by S. Fred Singer

THE REAL ENVIRONMENTAL CRISIS: Why Poverty, not Affluence, Is the Environment's Number One Enemy

By Jack M. Hollander

251 pp., Berkeley, Calif.: University of California Press, 2003

In his new book *The Real Environmental Crisis*, University of California, Berkeley professor Jack Hollander charts a path to a better and sustainable environment for the world's population. Eminently readable, the book makes the argument that poverty leads to pollution and stands in the way of its control. That is not a new argument, but it has seldom been presented so well before.

Hollander's chapters cover the adequacy of food supply, water and air pollution, and offer a balanced discussion of the global-warming issue. There is a very sensible discussion of energy sources from fossil fuels to solar and nuclear. All in all, it is a book that sticks to facts and avoids hype.

The facts presented and arguments advanced are very much in the spirit of Julian Simon and others. The important difference is that Hollander is an active scientist (rather than a statistician), author or coauthor of over 100 research publications, and editor of 20 books. In the mid-1970s he served as the director of the first (and only) national energy study carried out by the National Academy of Sciences. He therefore brings great credibility to the debate between technological optimists and anti-technology doomsday prophets whose voices have been amplified by the media.

S. Fred Singer is professor emeritus of environmental sciences at the University of Virginia and president of the non-profit Science & Environmental Policy Project in Arlington, Va. He is author and coauthor of numerous research publications and books on geophysics, atmospheric science, and energy, including *Hot Talk*, *Cold Science: Global Warming's Unfinished Debate* (Oakland, Calif.: The Independent Institute, 1999). He can be contacted by e-mail at singer@sepp.org.

Fighting the orthodoxy The book makes the point that a global transition sparked by economic growth is essential in bringing about an environmentally sustainable world. It runs counter to the conventional claim first enunciated by Malthus, and resurrected in 1972 by the Club of Rome's *Limits to Growth*, that the world cannot sustain an increasing standard of living for a growing population. The book, written for the non-expert public by an author who is a recognized expert, argues that this extreme pessimism is not justified by science, economics, demography, or history.

Environmental orthodoxy holds that an affluent society is a polluting society. But Hollander argues that affluence, while not guaranteeing a better environment, is a key ingredient — a necessary but not sufficient condition, if you will. He traces the rise of environmentalism and how it turned from conservation into an anti-technology movement with distrust of the government, oil companies, and the nuclear industry. It was spurred by disparate factors: advances in analytic chemistry that could detect minute amounts of chemicals, the Vietnam War, Rachel Carson's seminal book *Silent Spring*. He cites as examples the unscientific ban on DDT and the anti-nuclear energy movement — spurred by reaction to nuclear weapons but transferred to an unreasonable fear of even minute amounts of radiation. I would have also included the opposition to the supersonic transport aircraft that spawned concern about the stratospheric ozone layer and led to the adoption of the Montreal Protocol, the first international agreement to ban certain chemicals.

Problems of poverty The book follows a logical course. It starts by describing the environmental problems of the poor, who are unable to deal with pollution

until they acquire enough affluence to meet their basic needs for survival. His story reminds me of the troubling documentary *Against Nature*, which graphically describes certain affluent Western environmentalists' fear that helping the poor will increase their consumption and make the world less sustainable. Those elitists argue that the poor should maintain their "traditional way of life":

agriculture powered by draft animals or humans rather than tractors, and energy based on cow dung rather than oil.

This leads into Hollander's discussion of population growth, which he views optimistically. With falling fertility rates everywhere, "it should no longer be looked upon as a serious long-term global problem."

Similarly, the food problem is illusory; the existing surplus will increase in the Second Green Revolution thanks to advances in biotech. Hollander also describes the anti-biotech opposition that is based on the "Precautionary Principle." (See "The Paralyzing Principle," by Cass Sunstein, Winter 2002.)

The outlook is not quite so sanguine for world fisheries; nearly a quarter are badly overfished or completely depleted. The answer has to be sought in better institutional arrangements that assign property rights. But that is difficult to do for the poor in coastal regions who depend on fish for survival. Again, technology can help in the form of aquaculture.

Clean enough? The book describes the remarkable progress in water and air quality in affluent nations where only a century ago drinking water was generally not safe, and where 50 years ago killer smogs were common. But once those basic health goals are achieved, it becomes important to decide just "how clean is clean enough." In principle, cost-benefit analysis can address such questions but faces problems of both data and politics. Hollander does not delve into what really drives the poli-



tics, especially of air pollution, acid rain, and stratospheric ozone depletion. Those often are driven by ideology rather than science or economics.

When turning to energy sources in the last part of the book, Hollander correctly notes that there was never an oil crisis in 1973 — and certainly no world shortage. In opposition to those who believe oil production will peak before 2010 (see Andrew Kleit's review of Kenneth Deffeyes' *Hubbert's Peak*, Fall 2002), Hollander sees no problems in the foreseeable future. I think he is right in that there are vast resources of heavy oil and tar sands still to be exploited — albeit at higher cost. For oil as a transportation fuel, the efficiency of automobiles is of prime importance. He presents a realistic appraisal of the hybrid-electric car and the eventual fuel-cell car. He shows coal consumption growing steadily. In fact, it currently supplies 80 percent of U.S. domestic energy fuel production and generates more than half of our electric power. Coal makes up more than 85 percent of fossil-fuel reserves in the United States, with an estimated supply of 250 years based on current usage rates.

When it comes to renewables, solar energy is certainly “free but not cheap.” It is increasing slowly, thanks to an array of generous government subsidies that have been depicted in such works as Howard Hayden's *The Solar Fraud*. But as Hollander argues, nuclear fission energy based on uranium is quasi-renewable. (In my view, breeder reactors and fuel reprocessing would make easily accessible resources last for millennia; India currently is planning on breeders to exploit its plentiful deposits of thorium.) Opposition to nuclear energy is largely emotional, based on irrational fears of low-level nuclear radiation and the conventional adoption of the “linear no-threshold” hypothesis of biological damage, for which there is no empirical support.

Global warming Hollander gives a most expert discussion of climate change in the chapter titled “Is the Earth Warming?” With the ongoing increase in atmospheric greenhouse gases, one would expect some warming to occur. But it is difficult to discern a small human contribution in the presence of

large natural temperature variations. He mentions the difficult-to-explain cooling observed between 1940 and 1975 and the apparent lack of atmospheric warming in the last 20 years as judged from satellite data. Hollander thus reaches the inescapable conclusion that the human contribution is much weaker than expected from a simple theory that does not incorporate all of the complexity of the real atmosphere. He cites climate experts who emphasize the great existing uncertainties in accounting for all-important atmospheric processes.

The consequences of a possible warming are not necessarily bad. Even the much-feared sea-level rise is likely to be an ongoing process that has shown little if any dependence on human activities. In any case, the remedies suggested by the Kyoto Protocol would force the United States to reduce fossil-fuel use by about 30 percent within a decade, achieving negligible results at a huge cost. Informed estimates put the cost to the U.S. economy at \$2.3 trillion over the next decades, about twice the cost to all other nations combined.

I have left Hollander's discussion of climate change to last even though it appears earlier in the book. At first glance, the issue does not seem to fit his paradigm: The problem — if indeed there is one — would not disappear if world poverty were to be cured. A person could even argue that affluence would make it worse — and this seems to be the secret belief of the environmental elite.

But that is an illusion. The “problem” of climate change — whether warming or cooling, whether natural or manmade — can best be met by adjustment. And adjustment becomes easier with affluence and more difficult with poverty. Witness the impact of floods, droughts, hurricanes, earthquakes, or any other disaster on less-developed nations. Note also that the remedies against greenhouse warming that enviros peddle, the energy-rationing schemes of the Kyoto Protocol, and the even-more-stringent measures to follow after 2012 would merely serve to destroy economic growth and make us as poor as the rest of the world. Instead, we should be making them wealthy.

The Imperial Bench

Reviewed by George C. Leef

DEMOCRACY BY DECREE: What Happens When Courts Run Government

By Ross Sandler and David Schoenbrod

274 pp., New Haven, Conn.: Yale University Press, 2003

In the American political system, the three branches of government have their distinctive roles. The legislative branch is supposed to enact the law, the executive to enforce the law, and the judicial branch to adjudicate disputes and remedy violations. But what if one branch oversteps its authority? Consider the following instance:

The public schools of Kansas City, Mo., were quite pathetic in the early 1980s. Facilities were generally decrepit. Most white families had fled to the suburbs, leaving the schools “segregated.” Student test scores were abysmally low. Civil rights activists thought they saw the path to improvement — file a lawsuit alleging a violation of the students' right to a good education.

The case was heard by federal district judge Russell Clark. He agreed that the plaintiffs' rights had been violated, but because the Supreme Court had already ruled that judges could not arbitrarily combine city and suburban school districts, Judge Clark had to find another remedy. He ordered a vast program designed to turn the Kansas City schools into model institutions with every imaginable amenity. Doing that might lure white families back into the city school district, but even if it did not, at least the black students would benefit from having greatly improved learning facilities.

Money, however, was a problem. State and local elected officials did not want to spend the sums that the Clark Plan required. So, by judicial order, Judge Clark doubled the Kansas City property tax and mandated that the state of Missouri provide all necessary additional funds. More than \$3 billion was spent to create public

George C. Leef is director of the Pope Center for Higher Education Policy, and also is book review editor for *Ideas on Liberty*. He can be contacted by e-mail at georgeleef@aol.com.

school Taj Mahals in Kansas City. With nine percent of the public school students in Missouri, Kansas City was getting 44 percent of the state's education spending. But 15 years after the advent of Judge Clark's program, student test scores in Kansas City had not budged.

Judge-policymakers Kansas City's story offers much to learn about the connection (or lack thereof) between education spending and results. There is also an important lesson on the trouble that arises when judges take over the legislative and executive roles under the guise of "protecting rights." The notion that a judge has the power to impose taxes and direct expenditures would have caused the drafters of the Constitution utter amazement. Nevertheless, in the early twenty-first century, we find that such judicial usurpation is widespread.

The Kansas City case is far from unique. In *Democracy by Decree*, law professors Ross Sandler and David Schoenbrod show that we are experiencing a plague of judicial policymaking as courts deign to assume legislative and executive functions. Wherever legislators have created what the authors accurately label as "aspirational rights" — for example, the right of the disabled to "access" or the right of prisoners to "decent conditions" — lawyers eager to vindicate those rights have perfected techniques that usually result in court-enforced consent decrees. Those decrees have the effect of putting judges in charge of government institutions, rather than elected officials.

Both Sandler and Schoenbrod learned how to work the democracy-by-decree game as young lawyers, and they provide a wealth of insight and detail on its operation. Most importantly, they have come to see the terrible costs of the system. "When judges impose such decrees," they write, "it is the voters who lose. They lose the ability to hold elected officials accountable for the performance of government institutions" (p.9).

The black hole of school spending in Kansas City is a bad enough case, but consider this "prisoners' rights" case

from Philadelphia: In 1982, lawyers representing convicts in Philadelphia's Holmesburg Prison filed suit, charging that Mayor Wilson Goode and other city officials had violated their clients' rights by permitting overcrowded conditions. Mayor Goode then entered into negotiations with the attorneys. (The authors explain that elected officials frequently find that negotiating a deal with the plaintiffs' lawyers is an easy way of disposing — temporarily — of a politically embarrassing problem.) When the district attorney learned that Mayor Goode was about to agree to a cap on the number of prisoners who could be housed in Philadelphia jails, he foresaw disaster. With the jails already full, arrestees would have to be released before trial, never to be seen again — unless they commit more crimes.

The judge in the case refused to allow the district attorney to intervene and present evidence that the result of the proposed consent decree would be more no-shows at trial and more crime. Years of litigation followed, but the appellate courts also refused to allow the district attorney to intervene. The consent decree finally went into effect, and the results were terrible. Sandler and Schoenbrod write, "The effect was worse than ... the district attorney had predicted. It was a chilling crime wave. The number of fugitives nearly tripled, from 18,000 to 50,000. In an eighteen-month period from January 1, 1993 through June 30, 1994, Philadelphia police rearrested 9,732 defendants released because of the consent decree. These defendants were charged with 79 murders, 959 robberies, 2,215 drug dealing crimes, 701 burglaries, 2,748 thefts, 90 rapes, 14 kidnappings, 1,113 assaults, 264 gun-law violations, and 127 drunk driving incidents" (p.186). Even after all that, the judge refused the new mayor's request for an end to the prisoner cap, and fined the city \$100,000 for contempt.

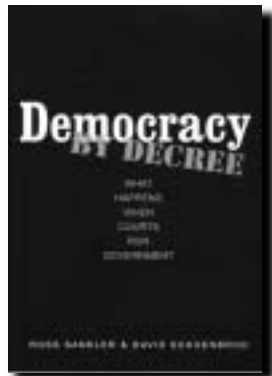
Regulation of government institutions is often poor even when done by elected officials, but at least they are subject to periodic elections and may pay the price of being voted out if their blunders

impose serious costs on the populace. *Democracy by Decree* makes the telling point that judges do not bear the cost of being wrong and are free to ignore the constraints of limited resources that tend to prevent elected officials from indulging in flights of utopian fantasy.

The controlling group Key to "success" in these cases is what the authors call "the controlling group," composed of lawyers and activist organizations. Using the leverage created by many federal statutes that provide for private enforcement of congressionally created aspirational rights such as "clean water" or "freedom from discrimination," the controlling group usually finds it fairly easy to browbeat state and local officials into consent decrees. One factor working in their favor is the eagerness of many judges to assume the mantle of "reformer." A bit of forum shopping can pay off with a judge sympathetic to the goals of the controlling group. Furthermore, the defendant officials often have little incentive to oppose the controlling group because they can offload an annoying problem — such as the demand for curb ramps by disability advocates — onto the electorally unaccountable courts.

Furthermore, parties that would have reason to oppose the controlling group are often kept out of the negotiation process. Parents of children who are not disabled, for example, do not get to speak against a decision that ladles scarce funds into education for the disabled and leaves much less for their children. Taxpayers who would prefer to see potholes filled in faster have no standing in a case involving the very costly right to universal curb ramps. Adversely affected parties often do not even know about consent decree negotiations until an agreement has been finalized and implemented.

In short, the deck is stacked heavily in favor of the sort of utopian solutions that appeal to zealous issue advocates. Lawyers are lured in by idealism and/or the lucrative fees that they usually are guaranteed for winning the case, even if the consent decree is contrary to the interests of some of those they purport to represent. Long-run costs, resource trade-offs, and society-wide concerns



are largely ignored. A worse decision-making procedure is hard to imagine.

Solutions Having identified a significant but little-recognized problem, what do the authors propose? The Philadelphia prisoner cap disaster did have one silver lining — Congress passed the Prison Litigation Reform Act, which became law in 1996. That law corrected the most glaring imbalances in prisoners' rights cases. Under it, for example, all elected officials with criminal justice responsibility are given the right to intervene. It also reined in judges eager to try their hands at prison reform by denying them authority to go beyond the minimum steps necessary to remedy violations of federal law.

Sandler and Schoenbrod, however, do not pin their hopes on Congress, fearing that it would go "too far" and tip the scales in favor of state and local officials who are not overly concerned about constitutional and statutory rights. Instead, they set forth principles that they think judges should follow in handling such cases. For example, they argue that "in enforcing rights, judges should to the greatest extent practicable, leave policymaking to the elected policymakers" (p.197).

The authors' principles, if followed, would certainly ameliorate the terrible situation that has developed, but one must wonder why judges with the reformer mindset would restrain themselves just because two law professors have pointed out that in the past we have had some bad results from excessive judicial involvement in policymaking. Telling people that they should not do what they want to do rarely does much good. My own view is that a better approach to closing this Pandora's Box would be for Congress to pull the plug on the numerous aspirational rights it has created.

The virtue of *Democracy by Decree* lies in its clear exposition of the problem of courts running government. Before we can find the solution, we must first understand that something needs to be solved. The authors have done a commendable job in showing that the United States is suffering from judicial usurpation of legislative and executive functions and their book deserves a wide reading. **R**

Calming News on Minerals

Reviewed by Andrew N. Kleit

ON BORROWED TIME? Assessing the Threat of Mineral Depletion

by John E. Tilton

160 pp., Washington, D.C.: RFF Press, 2003

John Tilton's excellent short work *On Borrowed Time* outlines the distinguished professor's views, as refined over his career, on the question of resource depletion. As Professor Tilton notes, the gap between what economics has to say on the subject and what most observers believe is quite large. Tilton's goal is to explain the basic economics of mineral depletion to a non-economics audience. In other words, the book's purpose is to convince the lay audience that the sky is not about to fall.

That message begins in the second chapter, where Tilton presents an historical review of the conservation movement. He offers a brief introduction — about three pages — of the basic Ricardo-Hotelling model, which asserts that resource availability is more an issue of current value vs. future value than a question of using up all of a resource. Unfortunately, this theory is never really put forth in any systematic way; the author notes that it is important and has many extensions and limitations, but he never really describes them. While presenting the Ricardian theory to a lay audience would be difficult, I believe it is important to try. Facts without theory are useless; thus, the relevant theory needs to be presented as fully as possible.

The next chapter takes up the mantle of reviewing the basic measure of depletable resources. That measurement is often done without consideration of economic factors. But what is the use, really, of data on reserves, resources, and the resource base if those data are highly speculative and constantly shift-

ing in the wake of both geological and technological discoveries? Tilton makes a powerful argument that the most useful information on resource availability comes from economics, not geology.

Chapter Four reviews the historical record. Despite the pessimists' proclamations, the evidence is clear: Minerals are not growing scarcer in the economy. Indeed, thanks to technological progress, the cost of minerals to society is decreasing, not increasing. There is no need to panic, at least not right now. Unfortunately, this chapter, by focusing on trends in scarcity, is a little more confusing than it has to be. The work on trends is sufficiently ambiguous so that not much emphasis (or text) should be placed on it.



The future The following chapter lays out the heart of the matter — does the empirical evidence suggest that we will be running out of minerals soon? The evidence seems clear that society will be fine for the next 50 years. But after that, Tilton is not so certain. He is careful to point

out that the nature of that uncertainty is such that society really should not plan to address this potential problem today. Given positive discount rates, it is a question for another time.

In the final chapter, which deals with environmental issues, the text becomes a bit murky. In the end, what comes out is that the problems associated with resource extraction are simply environmental tools to be dealt with through appropriate economic incentives.

There is a definite need for this book. But this reviewer wonders if the people who would benefit the most from reading it will choose to do so. While the writing is most readable for such difficult economic material, it is still a little stilted for the average human being. Hopefully, Tilton and publisher Resources for the Future will follow on this book with an outreach program to try to affect those who think about resource issues. **R**

Andrew N. Kleit is a professor of energy and environmental economics at The Pennsylvania State University. He can be contacted by e-mail at ank1@psu.edu.