

BOOK REVIEWS

Catastrophe: Risk and Response. By Richard A. Posner. Oxford: Oxford University Press, 2004.

RICHARD POSNER IS WIDELY described as a libertarian,¹ but as many of this journal's readers likely know, this is not true.² And the latest of his many books, *Catastrophe: Risk and Response*, may be his most statist work yet, for it wants nothing more than to scare you into accepting bigger, ever-more-powerful government. It is part of a stream of recent work from University of Chicago court intellectuals advocating bigger government and explicitly attacking those who warn against trading liberty for security.³

The book looks at several interesting-but-unlikely catastrophic scenarios in which millions of humans could be killed. And its proposal for avoiding each one is more power for the state. All the while, however, Posner overlooks the critical fact that the state poses the greatest danger of all to human life—and is responsible for many of the catastrophic risks he analyzes.

CATASTROPHE!

In his first chapter, Judge Posner describes a number of scenarios under which a catastrophe could kill many, most, or all of us. This is the best part of the book, because some of these disasters are so outrageously unlikely and unfathomable, and Posner so clearly enjoys describing them in graphic detail. Indeed, not since *The Hitchhiker's Guide to the Galaxy* has an author appeared to have so much fun wiping out humanity. Four catastrophes in particular get extensive attention: asteroid collisions, scientific accidents, global warming, and bioterrorism.

The first disaster discussed is an asteroid collision, described as follows:

¹He has even called himself one (Kurtz 2001).

²See, e.g., Block (1996).

³See, e.g., Vermeule (2005) and Posner and Yoo (2003).

You wouldn't see the asteroid, even though it was several miles in diameter, because it would be hurtling toward you at 15 to 25 miles a second. . . . When the asteroid struck, it would penetrate deep into the ground and explode, creating an enormous crater and ejecting burning rocks and dense clouds of soot into the atmosphere that would raise surface temperatures by as much as 100 degrees Fahrenheit and shut down photosynthesis for years. . . . A quarter of the earth's human population might be dead within 24 hours of the strike, and the rest soon after. (Posner 2004a, p. 3)

Judge Posner then provides a helpful chart showing different asteroid sizes, how often an asteroid of each size hits the Earth, and how much damage each size would cause. It turns out that an asteroid such as the one described in the quote above only comes along every 10 million years or so, but there are plenty of lesser asteroids that could make life unpleasant for you or someone you know much sooner.

Of course, almost everyone already knows about the danger posed by asteroid collisions from movies about them. Almost no one, however, has ever heard of the next group of disasters Posner describes—those caused by “scientific accidents.” Judge Posner is especially interested in the risk posed by the Relativistic Heavy Ion Collider (RHIC) at the Brookhaven National Laboratory on Long Island. This particle accelerator could, he reports, “produce a shower of quarks” that would reassemble themselves into something called a “strangelet,” which could, in turn, “transform the entire planet Earth into an inert hyperdense sphere about one hundred meters across” (p. 30). This scenario is, scientists assure us, “exceedingly unlikely,” but everyone agrees that its probability of occurring is, though perhaps infinitesimal, nonetheless greater than zero. And some scientists even believe particle accelerators could precipitate a “phase transition” that could destroy “all the atoms in the entire universe” (p. 31). A newer model, RHIC II, will be up and running soon, and may pose an even greater risk.

Global warming receives a lengthy treatment, because Posner believes it is occurring and relatively likely to lead to catastrophe. In this discussion, shortly before prescribing unprecedented worldwide government intervention, he writes, “I am not a scientist and have no authority to make judgments on disputed scientific questions” (p. 55). But on he goes.

Bioterrorism is another of his primary concerns, and he runs through the usual doomsday scenarios everyone heard about in the days following September 11, 2001, but which, of course, have yet to materialize.

While those four topics receive the most attention, especially in the public-policy discussion, I also should note that Judge Posner believes we should be seriously concerned about “omnivorous nanomachines” that would consume every living thing on Earth, covering its surface with “gray goo” (p. 36). He also is disturbed by the prospect of “superintelligent robots,” that might “kill us, put us in zoos, or enslave us, using mind-control technologies to extinguish any possibility of revolt, as in the movie *The Matrix*” (p. 39).⁴

THE GREATEST CATASTROPHE—THE STATE

For each of the four main catastrophes described above, Judge Posner offers a statist solution. To defend against asteroids, we must give NASA more taxpayer money. To avoid scientific accidents—or rather, to determine whether it is worth exposing the world to the risk of such an accident—we must have a federal agency perform a cost-benefit analysis of each project. To avert a global-warming disaster, we must establish an “international EPA,” impose a heavy tax on emissions, and subsidize cleaner technology. To fight bioterrorism—and terrorism generally—we must trade liberty for security.

Posner arrives at these solutions through the usual Chicago/neoclassical “cost-benefit analysis,” which of course involves attaching dollar values to things whose value certainly cannot be so quantified. For example—in perhaps the greatest unintentional *reductio ad absurdum* of Chicago law-and-economics analysis to date—he estimates “the cost of extinction of the human race” (p. 141) at \$600 trillion.

More importantly, Posner ignores that the state created many of these problems in the first place. The answer is not more statism, with all of the infringements upon liberty and potential for further abuse of power that it entails. The answer is repealing state intervention to eliminate or reduce the risk.

Consider RHIC, the particle accelerator that could reduce the Earth to a tiny ball. It is owned by the United States Department of Energy. And Posner admits that private parties would have little incentive to build such a thing, because such “basic research” seeking to uncover the mysteries of the universe has no readily apparent commercial value or practical application.⁵ No government money,

⁴*The Matrix*, incidentally, gets considerable attention here, and has become Judge Posner’s favorite movie, replacing *Eight Heads in a Duffel Bag* (Posner 2004b).

⁵Such research can lead to practical applications—it led to the invention of PET scans, for example. But that does not mean the research is economically justified, even from Posner’s approach.

no risk that the Earth suddenly turns into a tiny ball—it's that simple.

Posner, however, dismisses privatization as “politically unrealistic.” That seems questionable—are scientists really such a powerful interest group? Certainly, eliminating federal funding will remain politically unrealistic as long as everyone continues to say it is. And surely RHIC's abolition would become more realistic if the foremost judge of the United States Court of Appeals were to call for it forcefully. But he does not do that. Instead, he uses his clout to recommend establishing a team of bureaucrats to perform cost-benefit analysis. Never mind, of course, the impossibility of such analysis outside the market, and never mind that the analysis will surely be corrupted by politics.

What about terrorism? Posner admits we have no idea how likely a catastrophic terrorist attack is, but given that it is possible, he is ready to seriously curtail civil liberties. “The set of rights we call ‘civil liberties’ is,” he writes, “the point of balance between security and liberty, with neither entitled to priority” (p. 228). He suggests that comprehensive, 1984-style surveillance is something we just might have to “learn to live with” (p. 89). He points out that the law already suppresses a lot of speech—so what, he asks, is so bad about suppressing some more? He also suggests “extreme police measures” should not be off the table. What might those include? There's torture, of course, but also “collective punishment”—for example, punishing terrorists' families. Though we may find the idea of collective punishment initially shocking, Posner says it really should not bother us, because, after all, “[t]he economic sanctions that we imposed on Iraq . . . were a form of collective punishment and caused many innocent people to die, as did our bombing of German and Japanese cities in World War II” (p. 235).

This thinking leads in only one direction: the total state, to protect us from ever-more-dangerous hypothetical evildoers and technologies. And Posner ignores entirely the fact that few, if any terrorists, would be anxious to unleash a plague upon the United States but for its foreign intervention. Instead, he envisions “mad scientists” of science fiction,⁶ and fanatics who wish destruction for its

⁶Posner references science fiction throughout the book—citations include *Armageddon*, *Deep Impact*, *The Matrix*, *Oryx and Crake*, *Outbreak*, and *Terminator 3: Rise of the Machines*. He blames sci-fi for making people think catastrophes are “the stuff of science fiction,” yet it fuels his own imagination.

own sake—the same “madmen” Bush and other power-mongering presidents have long wanted us to fear.

What about global warming? Whether it is occurring at all, and whether it poses a serious disaster threat, are seriously disputed questions. In any event, much of the pollution blamed for it is the state’s fault. Government, after all, stands in the way of clean nuclear power.⁷ Posner recognizes that nuclear power would help, but again cites political infeasibility as an insurmountable obstacle. True, superstitious ignorance makes nuclear power politically problematic. But are voters—and politically powerful automobile, energy, and oil producers—likely to respond any more favorably to Posner’s recommended taxes? Given two politically difficult options, why endorse the one that gives the state more power—power that would be difficult to ever take back?

Automobile emissions pose a more complex problem for libertarians.⁸ Still, before we attack the automobile and disrupt the entire economy, would it not be wise to just wait until more scientific evidence comes in on global warming?⁹ Given the evil and destruction the state has wrought in the past century, shouldn’t those who urge major intervention from a highly centralized government at least bear a heavy burden of proof? Apparently not, in Judge Posner’s court.

As for asteroid collisions, this job is simply too important to entrust to government as Posner recommends. Government cannot protect us from ordinary criminals or terrorist attacks, nor can it even in a timely manner warn tsunami victims. So why should we assume it capable of deflecting asteroids if only we give it enough money? And government meddling would forestall potentially effective private solutions, as government grants would direct research toward the type of collision-prevention techniques that the state thinks best. Scientists would stop focusing on how best to prevent asteroid collisions, and start focusing on how to carry out the government’s specific ideas about collision prevention. When the asteroid came, if the government solution wasn’t ready or didn’t work—which seems likely,

⁷On the environmental superiority of nuclear power, see, e.g., Beckmann (1976).

⁸Even Murray Rothbard could only suggest that private road owners could be held liable for auto emissions in a libertarian society (1982, pp. 90–91). We, of course, do not live in a libertarian society. Whether the status quo, under which no one is liable for auto emissions, represents a second-best world is debatable.

⁹See Gordon (2003).

given NASA's record of failure—humanity would be out of luck. And if the asteroid never came, then the United States government would just have that many more weapons of mass destruction on hand to use for something else.

True, it may be hard to think about how private resources would come together to prevent an asteroid collision. But given humans' shared desire to avoid obliteration by an asteroid, is it so hard to imagine that they would, one way or another, especially once concerned scientists begin making the public, and private foundations, aware of the problem? Isn't it much more difficult to imagine government undertaking the project without making a bad situation worse, as usual? Apparently, Richard Posner's imagination does not work that way.

SOME INTERESTING QUESTIONS

Despite its deplorable advocacy for ever-increasing federal and world government, the book does pose some interesting questions for libertarians. What if, say, Bill Gates wanted to privately build and operate a particle accelerator like RHIC? Should no one ever be allowed to subject the Earth to, say, a 1 in 100 billion chance of obliteration, regardless of the potential benefits?¹⁰ And what if scientists convincingly argued that a global warming catastrophe is, in fact, imminent unless we all stop driving cars?

Those are fun points to ponder, but we are not faced with those sci-fi scenarios. In the real world, we are faced instead with an ever-more-intrusive federal government, armed with countless weapons of mass destruction. And Judge Posner, rather than recognize this and the threat it poses to life and liberty, instead mongers fear and urges us to cede more power to government over highly speculative possibilities, all the while dismissing civil libertarians as ignorant.

Governments killed at least 170 million of their own people in the twentieth century, and countless more through war.¹¹ That was a catastrophe for humanity. It will be again if we follow the path Richard Posner has laid out for us.

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¹⁰Probably not—there would be no way to confine the harm from a such a disaster to consenting individuals. And consider Rothbard's (2003) arguments against the very existence of nuclear weapons.

¹¹See Rummel (1994).

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