De Ethica

A Journal of Philosophical, Theological and Applied Ethics

The Climate Change, Sustainability
and an Ethics of an Open Future

D E E T H I C A

A JOURNAL OF PHILOSOPHICAL, THEOLOGICAL AND APPLIED ETHICS

De Ethica seeks to publish scholarly works in philosophical, theological and applied ethics. It is a fully peer-reviewed, open-access publication hosted by Linköping University Electronic Press. We are committed to making papers of high academic quality accessible to a wide audience.

De Ethica is published in cooperation with *Societas Ethica, the European Society for Research in Ethics*. *Societas Ethica* was founded in Basel, Switzerland in 1964; today it has more than 200 members from more than 20 countries, representing a variety of theological and philosophical traditions. The annual conferences of *Societas Ethica* draw speakers from across the globe and provide a lively forum for intellectual exchange. Like *Societas Ethica*, *De Ethica* aims to create dialogue across national, political, and religious boundaries.

We welcome contributions from all philosophical and theological traditions. While we do welcome historically and empirically oriented work, our focus is on normative ethical questions. We have a special interest in papers that contribute to ongoing public debates, e.g., about global justice and environmental ethics, the secular state and the role of religion, and international migration and human rights.

It is our aim to facilitate intellectual exchange across disciplinary and geographical boundaries and across the gaps between different philosophical and theological traditions. Thus we seek to publish papers that advance a clear and concise argument, avoid jargon, and are accessible to a non-specialized academic audience. In addition to original research articles of high quality, we will also publish book reviews, discussion notes, and survey articles.

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From the Editors

De Ethica.

A Journal of Philosophical, Theological and Applied Ethics

Welcome to the first issue of *De Ethica.* It is our hope that *De Ethica* will find a special niche for itself as a European-initiated project treating a diversity of ethical issues and open to contributions from authors in all parts of the world. We hope this focus will have wide appeal but we take nothing for granted. At an early stage in the evolution of the project, we asked the important question: Is there room for another ethics journal? As work proceeded on the development of the idea of a journal with a triple focus, it became clear that, as far as *De Ethica* is concerned, the answer to that question is 'yes'. There are a number of reasons for this but the first of these must be its close connection to Societas Ethica with its 50-year history as a Society for Ethical Research with a multi-national and multilingual membership. This connection brings with it a distinctive approach and tradition which *De Ethica* will be proud to follow: a broad tolerance and understanding of the variety of philosophical and religious traditions reflected in that membership. As for its distinctively triple focus, there are few, if any, journals explicitly dedicated to philosophical, theological, and applied ethics and this in itself should attract some fresh and interesting submissions.

But the journal has other distinctive features of a more direct and practical kind. *De Ethica* will be an Open Access journal operating on a non-profit-making basis. Its contributors will also have the assurance that their article will be vigorously peer-reviewed and that, while we had to recognize with regret that it would not be feasible to adopt the Societas tradition of a bilingual or multilingual approach, we will seek to adopt a sympathetic approach to submissions from those whose first language is not English. Finally, *De Ethica* will, from its foundation, have a special interest in what is now called practical or applied ethics – the analysis and discussion of issues for decision in the real world, from human relationships to environmental ethics and climate change.

So we can answer that original question 'Is there room for *De Ethica*?' with a firm yes. *De Ethica* is indeed a journal capable of filling an important gap and we would like to thank those who have shown their support for the project including, in particular, the Swedish Research Council and Linköping University Electronic Press.

In setting out our aspirations for the new journal we would like to make it clear that, while we welcome submissions from all philosophical and theological traditions, we will seek to encourage work that advances an original thesis and a clear and concise argument. While this is important for all three areas, we regard this element as fundamental, not only from the point of view of philosophy, both theoretical and applied,

but also in the discussion of religious topics. The inclusion of religious perspectives on ethics implied by the journal's title is especially important at the present time in that philosophy and religion are currently often seen as rivals in universities in the English-speaking world. Indeed, it is fashionable at the moment for leading philosophers to loudly advertise their atheism or secularism. Nevertheless, most ordinary people continue to see these two areas of human thought as close.

If we were to ask when philosophy and theology were last in philosophical harmony with each other, we might need to look back to the mid-twentieth century and the kind of practical philosophy favoured by philosophers such as the Scottish philosopher John Macmurray or the Danish philosopher Knud Løgstrup, author of *The Ethical Demand* (1956). Although sometimes described as Christian Socialism, this tendency is better not seen in political or even religious terms, but rather as pioneering the late twentieth century move to applied ethics.

As this implies, there is every reason to regard applied ethics as a continuing tradition with a much longer pre-history than it is usually given credit for. But there can be little doubt that, as we understand it today, applied ethics, especially bioethics, has made a special and distinctive contribution to the landscape of philosophical thinking in the twentieth century, and that it, together with the broader conception, applied philosophy, has changed public perceptions of the task of philosophy in the twenty-first. The latter part of the twentieth century brought a mindset more sympathetic to philosophical engagement with practical problems. It also saw a marked retreat from abstruse metaphysical philosophy and a wish to see complex ideas put forward in language that can be readily understood. On the negative side, however, it has become associated in some minds with forms of postmodernism that have created new versions of abstruse philosophy and an invasion of political correctness that has brought with it a new threat of enforced conformism.

Perhaps pressures like these are inevitable when practical issues are increasingly occupying the philosophical stage. Today's world is plagued by many of the age-old problems of crime and violence but it also faces new threats and new weapons of mass destruction. At the same time, the moral consensus on which we could in the past rely is rapidly eroding. Of course, for some of the problems confronting us, such as the planetary and environmental concerns that provide the focus of the first issue of *De Ethica,* we may hope that science and technology may be able to provide some solutions. But technology is not enough. We need normative as well as practical expertise, combined with the defining feature of true philosophy – a willingness to follow an argument where it leads. And for this we need scope for thoughtful discussion – something beyond the brief and fragmented opportunities offered by articles in the national press and other media outlets.

In launching this journal, then, we hope to provide a platform for philosophically reflective articles that address the problems of the day. We hope that, while publication has become a necessary end in itself for academics, the unique combination of its European and international status will attract submissions for *De Ethica* from people whose goals are broader than this, who do genuinely have something to say, and who are capable of ignoring outside pressures and giving their time and energy only to what they believe is truly important and worthwhile.

Applied philosophy is faced by a particular challenge because it requires people to struggle with new and untried issues – often areas where technology has moved ahead of human experience and in which there is no history to draw on. We hope that we will

find authors who recognise this and tread carefully in areas where mistakes in reasoning can have unprecedented practical impact. The background assumption for those who venture to tread in these difficult areas must be that despite the inevitability of change and the unavoidably shifting concerns of the present day, we still need to ask those traditional questions: What makes a good life? And what kind of society is most likely to make that good life possible?

Brenda Almond, Editor in Chief

From the Editors

De Ethica.

A Journal of Philosophical, Theological and Applied Ethics

Willkommen zu der ersten Ausgabe von „De Ethica". Es ist unsere Hoffnung, dass De Ethica einen besonderen Platz als ein europäisch initiiertes Projekt findet, das eine Vielzahl von verschiedenen ethischen Themen verhandelt und offen ist für Beiträge von Autoren aus aller Welt. Wir hoffen dass dieser Fokus einen weitreichenden Anreiz bietet, bleiben aber in gespannter Erwartung, ob dies sich bewahrheitet. Zu einem frühen Zeitpunkt während der Entwicklung des Projekts haben wir die wichtige Frage gestellt: Gibt es einen Platz für eine weitere Zeitschrift für Ethik? Im Verlauf der weiteren Entwicklung der Idee für eine Zeitschrift mit einer dreifachen Ausrichtung wurde klar, dass die Antwort in Bezug auf De Ethica „ja" lautet. Es gibt dafür eine Reihe von Gründen. Der wichtigste Grund dafür muss jedoch die enge Verbindung mit der Societas Ethica in ihrer fünfzigjährigen Geschichte ethischer Forschung und ihrer multi-nationalen und vielsprachigen Mitgliedschaft sein. Diese Verbindung bringt einen besonderen, unverwechselbaren Zugang und eine besondere Tradition mit sich, der die Zeitschrift De Ethica überzeugt folgen will: eine breite Toleranz und ein breites Verständnis gegenüber der Vielfalt philosophischer und religiöser Traditionen wie sie sich in der Mitgliedschaft der Societas Ethica widerspiegelt. Was diese unverwechselbare dreifache Ausrichtung betrifft so gibt es, wenn überhaupt, nur sehr wenige Zeitschriften, die ausdrücklich zugleich der philosophischen, theologischen und der angewandten Ethik gewidmet sind. Dies sollte selbst schon manche neue und interessante Beiträge anlocken.

Die Zeitschrift hat aber weitere besondere, eher direkt wirksame und praktische Kennzeichen. De Ethica will eine Zeitschrift mit offenem Zugang sein und daher ohne Gewinn arbeiten. Die Autoren können sicher sein, dass ihre Artikel gründlich und professionell begutachtet werden (peer-reviewed) und dass wir uns – weil wir bedauerlicherweise feststellen mussten, dass es nicht realisierbar ist, die Tradition der Zwei- oder Mehrsprachigkeit der Societas Ethica zu übernehmen – um die wohlwollende Unterstützung und Zustimmung derer bemühen werden, deren erste Sprache nicht Englisch ist. Und – ein letztes Kennzeichen - De Ethica hat von ihrer Gründung an ein besonderes Interesse an dem, was man jetzt „praktische" oder „angewandte Ethik" nennt - die Analyse und Diskussion von Fragen, die in der Realität der Welt zu entscheiden sind, das heißt Fragen zum sozialen und politischen Zusammenleben bis hin zur Umweltethik und Problemen des Klimawandels.

So können wir die Ausgangsfrage „Gibt es einen Platz für De Ethica?" mit einem deutlichen „ja" beantworten. De Ethica ist in der Tat eine Zeitschrift, die in der Lage ist, eine wichtige Lücke zu füllen. Wir möchten denen danken, die diesem Projekt ihre Unterstützung zugesichert haben, besonders dem Schwedischen Forschungsrat und der Linköping University Electronic Press.

In Bezug auf unsere Erwartungen für das neue Journal, die wir hier beschreiben, möchten wir deutlich machen, dass uns Beiträge aus allen philosophischen und theologischen Traditionen willkommen sind und dass wir zu solchen Arbeiten ermutigen wollen, die eine eigenständige These und klare und schlüssige Argumentationen voranbringen. Weil dies für alle drei Forschungsgebiete von Bedeutung ist, betrachten wir dieses Element als grundlegend, nicht nur aus philosophischer Perspektive, sowohl der theoretischen wie der angewandten philosophischen Ethik, sondern auch für die Diskussion von Themen im Bereich der Religion.

Die Einbeziehung von religiösen Perspektiven zur Ethik, wie sie der Titel der Zeitschrift anzeigt, ist besonders gegenwärtig wichtig, in einer Zeit, in der Philosophie und Religion in der englisch-sprachigen Welt oft als Rivalen gesehen werden. Tatsächlich ist es gegenwärtig üblich, dass führende Philosophen ihren Atheismus oder Säkularismus laut anzeigen. Dennoch sehen die meisten Menschen weiterhin die beiden Gebiete des menschlichen Geistes eng verbunden. Wenn wir uns fragen, wann Philosophie und Theologie zuletzt in philosophischer Harmonie miteinander verbunden waren, müssen wir in die Mitte des zwanzigsten Jahrhunderts zurückblicken und auf die Art von praktischer Philosophie, wie sie durch Philosophen wie den schottischen Philosophen John Macmurray oder den dänischen Philosophen Knud Loegstrup, Autor von „Die ethische Forderung" (1956) entfaltet worden ist. Obwohl diese Richtung manchmal als „Christlicher Sozialismus" bezeichnet wurde, ist sie besser nicht in politischen oder gar religiösen Begriffen zu fassen, sondern als Wegebereitung für die Hinwendung zur angewandten Ethik am Ende des zwanzigsten Jahrhunderts.

Dies impliziert, dass es allenthalben Grund gibt, angewandte Ethik als eine kontinuierliche Tradition mit einer viel längeren Vorgeschichte zu sehen als dies üblicherweise zugestanden wird. Aber es kann kaum daran gezweifelt werden, dass unserem heutigen Verständnis zufolge, angewandte Ethik, besonders Bioethik, einen unverwechselbaren Beitrag zur Landschaft philosophischen Denkens im zwanzigsten Jahrhundert geleistet hat, und dass sie zusammen mit einem weiter gefassten Verständnis von angewandter Philosophie die öffentliche Auffassung von der Aufgabe der Philosophie im 21. Jahrhundert verändert hat. Der letzte Teil des zwanzigsten Jahrhunderts hat eine wohlwollendere Einstellung zum philosophischen Engagement in praktischen Problemstellungen mit sich gebracht. In dieser Zeit geschah auch der Rückzug von einer schwer verständlichen metaphysischen Philosophie und es trat der Wunsch hervor, komplexe Ideen in einer Sprache voranzubringen, die einfach zu verstehen ist. In negativer Hinsicht jedoch ist zu vermerken, dass dies von einigen Geistern mit Formen des Postmodernismus assoziiert wurde, der neue Varianten einer schwer verständlichen Philosophie geschaffen hat, ebenso wie eine Verbreitung von politischer Korrektheit, die eine neue Gefahr eines erzwungenen Konformismus mit sich gebracht hat.

Vielleicht sind solche Zwänge unvermeidlich wenn praktische Fragen zunehmend die philosophische Bühne besetzen. Die heutige Welt ist von vielen uralten Problemen von Kriminalität und Gewalt heimgesucht, aber sie ist auch mit neuen Bedrohungen und neuen Massenvernichtungswaffen konfrontiert. Zugleich ist der

moralische Konsens, auf den wir uns in der Vergangenheit beziehen konnten, dabei. sich rapide aufzulösen.

Selbstverständlich hoffen wir, dass in Bezug auf einige der Probleme, mit denen wir konfrontiert sind, wie die Besorgnis um globale Umweltprobleme, die den Schwerpunkt für das erste Heft von De Ethica bilden, Wissenschaften und Technologie in der Lage sind, Lösungen zu bieten. Aber Technologie ist nicht genug. Wir brauchen auch normative und praktische Expertise, verbunden mit der Leitungskraft wirklicher Philosophie – d. h. der Bereitschaft einem Argument dorthin zu folgen, wohin es führt. Und dafür brauchen wir Raum für nachdenkliche Diskussion – jenseits der kurzen und fragmentarischen Angebote durch Artikel in der Presse und anderen Medien.

Indem wir diese Zeitschrift auf den Weg bringen, hoffen wir so eine Plattform für philosophisch reflektierte Artikel bereitzustellen, die die aktuellen Probleme unserer Tage verhandeln. Wir hoffen, auch wenn Publikation für Akademiker ein notwendiges Ziel in sich selbst geworden ist, dass die einzigartige Verbindung der europäischen und internationalen Ausrichtung unserer Zeitschrift Beiträge von den Menschen an sich zieht, deren Ziele weiter reichen als dies, die auf eigene Weise etwas zu sagen haben, die fähig sind, äußere Zwänge zu ignorieren, und die ihre Zeit und Kraft nur dem widmen, von dem sie glauben, dass es wirklich bedeutend und lohnend ist.

Angewandte Philosophie ist mit einer besonderen Herausforderung konfrontiert, weil sie Menschen braucht, die sich mit neuen und nicht erprobten Themen auseinandersetzen – oft mit Bereichen, in denen sich die Technologie sich von menschlicher Erfahrung entfernt hat und für die es keine Geschichte gibt, an die anzuschließen wäre. Ich hoffe, dass wir Autoren finden, die dies erkennen und die in aller Vorsicht und Umsicht die Bereiche betreten, auf die Fehler im Denken und Argumentieren eine bisher nicht gekannte praktische Auswirkung haben können. Die Hintergrundannahme für diejenigen, die es riskieren, sich auf diese schwierigen Bereiche einzulassen, muss sein, dass es trotz der Unabwendbarkeit von Veränderung und der Unvermeidbarkeit von Verschiebungen in den Problemstellungen, nötig ist, diese traditionellen Fragen zu stellen: Was macht ein gutes Leben aus? Und welche Art von Gesellschaft kann am wahrscheinlichsten dieses gute Leben möglich machen?

Brenda Almond, Editor in Chief

(Translated by Hans G. Ulrich)

Introducing the Climate Change Debate

Climate Change and Responsibility to Future Generations: Reflections on the Normative Questions

Robert Heeger

Climate change raises in an important way the problem of moral responsibility. It forces us to recognise that we have a responsibility to future generations, and to ask what this responsibility implies. Here I identify four key normative questions: (1) How should we respond to uncertainty? Should we apply cost-benefit analysis in order to cope with uncertainty? (2) How should we evaluate the emission of greenhouse gases? Given that the effects of emissions will be bad, should we judge that we as emitters harm the receivers and by that do them an injustice? (3) How should we compare present costs and future benefits? Should we give little or much weight to the benefits and well-being of people in the further future? (4) How should we take heed of human rights? Should we try to avoid the adverse outcomes of a cost-benefit approach by adopting a human rights approach that specifies minimum thresholds to which all human beings are entitled?

The Problem

Our attitude to climate change is not one of indifference. Our motto is not 'Nach uns die Sintflut!', meaning that it does not matter what happens after we have gone. One thing that militates against this indifference is the belief that we have a responsibility to future generations. If we share this belief we will have to think out what responsibility to future generations implies in view of climate change. I believe that if we want to deal with this problem and if we are to determine what responsibility to future generations implies, we need to consider what normative questions we should ask about climate change and what our response to them should be.

How Should We Respond to Uncertainty?

Let me start by sketching the problem of uncertainty. According to some climate scientists, the Earth's climate has developed a progressive warming of the atmosphere, and they explain this warming as being caused by humanity's emissions of greenhouse gases, starting with the Industrial Revolution. The theory merits a high degree of credibility as compared with alternative explanations and it allows certain predictions about the future climate. Its broad predictions such as, for instance that the world will continue to warm and that the sea level will continue to rise, are widely supported. But when it comes to more detailed predictions of the future impacts of greenhouse gases, we are faced with a great deal of uncertainty. There are two reasons for this. First, the climate system is so huge and complex that its behaviour can only be predicted by making many assumptions and approximations. Second, the future progress of climate change will be influenced by many external factors, for instance by how much the human population grows and how technology develops. Uncertainty with regard to more detailed predictions is a great problem when we think about how we should act in response to climate change. For we are unsure what the effects of climate change will be, and we are equally unsure what will be the effects of our action in response to it.

How should we cope with this uncertainty? One important theory recommends that we should use cost-benefit analysis with the aim of maximizing expected value. Let me briefly explain this recommendation. It means, essentially, that what we should try to maximize is expected value - our expectation of the goodness of the world. So in a situation of uncertainty, we will need to calculate expected value. We can do this by applying cost-benefit analysis. In principle, the expected value of an action can be calculated in the following way. We first identify the different results the action might have and we then judge the value and the probability of each of the possible results. For each result, we calculate the arithmetical product of its value and its probability. Then we add up all these products. The sum of this calculation gives us the expected value of the action.

However, in practice, this reasoning confronts us with a problem. To calculate the expected value, we need to know both the value and probability of each of the possible results, but in practice, we do not have that knowledge. The question is what we should do, and the answer can only be that we must try to estimate values and probabilities as well as we can.[1] Let me take probabilities first. What probability we should assign to a possible result is a matter of rationality. We should ask how much credence we rationally should give to the possibility that the result will occur. The answer must depend on the evidence we have. The more evidence we can muster, the more tightly the evidence will determine the probability. When it comes to estimating the value of each possible result, we have to weigh good features against bad ones, that is to say, we have to apply cost-benefit analysis to each of the possibilities separately. Each possibility will lead to the world's developing in some particular way. For instance, people's well-being will improve or diminish in a particular way. We have to set a value on this development.

What does this approach imply with regard to climate change? Its main implication is this. In order to calculate the expected value of our actions in response to

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[1] See, for example, John Broome, *Climate Matters: Ethics in a Warming World* (New York/London: W.W. Norton, 2012), p. 187.

climate change, we need to estimate their results. Our actions - including doing nothing - can have bad results, therefore described as 'costs', or they can have good results, called 'benefits'. We have to weigh the costs against the benefits and we have to take account of costs and benefits both to the present generation and to future generations. In short, using cost-benefit analysis implies comparing the costs of an undiminished progress of climate change with the costs and benefits of combating climate change. Such weighing up is needed for making out which course of action would be best on balance.[2]

Should we adopt the cost-benefit approach? If we reflect on this question, we should take into account that there is disagreement about the application of cost-benefit analysis to the issue of climate change. On the one hand, cost-benefit analysis has been taken to offer a tenable response to uncertainty about how to cope with climate change. On the other hand, it has been criticized for being inappropriate for assessing the problem of climate change. Critics have argued as follows. Cost-benefit analysis is tied to a conventional economic framework and can within that framework be useful for evaluating competing projects by directly assessing their costs and benefits. But the problem of climate change has a long-term nature and goes beyond the conventional economic framework. Therefore, it is inappropriate to apply conventional cost-benefit analysis to it. This criticism can be illustrated by two instances. First, critics argue that conventional cost-benefit analysis is overly simplistic in talking about costs and benefits accruing to people in the far future. It neglects the problem that projecting costs and benefits in the long-term future is a difficult, if not impossible task, because we do not know precisely what the global economy will look like in the further future, what technological and social changes will occur, and what the specific negative effects of climate change will be.[3] A second criticism is that conventional cost-benefit analysis undervalues the costs and benefits accruing to future people. In conventional calculations, these costs and benefits are subject to a positive discount rate. This means that they count as less than current costs and benefits and that over very long time periods they disappear or become minimal. But such results seem absurd. To illustrate the absurdity of a substantial discount rate, Stephen Gardiner offers this example: 'At the standard 5% discount rate, the present value of the earth's aggregate output discounted 200 years from now is a few hundred thousand dollars.'[4]

In face of the disagreement about the application of cost-benefit analysis to the issue of climate change, the question of whether we should adopt this approach at all requires considerable thought. It may, for example, lead us to ask whether we might be able to reach a tenable response to uncertainty by modifying the approach, for instance by focusing on the basic conditions of the life of future people?

How Should We Evaluate the Emission of Greenhouse Gases?

The broad predictions of climate science give rise to the value judgement that the effects of the emissions on human beings will be bad. For example, farming in the tropics will be

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[2] *Ibid.*, p. 101.
[3] See, for example, Stephen M. Gardiner, *A Perfect Moral Storm: The Ethical Tragedy of Climate Change* (Oxford: Oxford University Press, 2011), p. 237.
[4] *Ibid.*, p. 268.

damaged by a rise in temperature; drought will be severe, particularly in Africa; coastal areas will be subject to flooding and erosion as the sea level rises; many people's health will be damaged and many people will be killed. Should this evaluation of effects lead us to the further evaluation that the emitters of greenhouse gases harm the receivers and by that do them an injustice?

This question is about what we are doing when we emit greenhouse gases. It concerns our morality as private persons. Its background is the moral claim that we have duties of justice, and it calls upon us to judge whether, by emitting greenhouse gases, we are breaching a duty of justice. Let me start by sketching the background. That we have duties of justice is part of our common-sense morality and of many moral theories. Duties of justice are owed by one person to another particular person, or to other particular people. If we breach a duty of justice, we are doing an injustice, and there is always some particular person to whom it is an injustice. In our social and cultural context, one important example of a duty of justice is the duty not to harm other people.

Given this background, how should we judge our emissions of greenhouse gases? Are there sufficient reasons for stating that, by emitting greenhouse gases we are harming other people and thus doing them an injustice? Let me mention some important reasons in favour of that view that have been presented in the literature.[5] (i) The harm caused by our emissions is a result of what we do, for instance heating flats, driving cars, rearing cattle. (ii) The harm we do is not trivial but serious. (iii) This harm is not accidental since it is often the predicted result of deliberate acts of ours. (iv) We do not compensate the victims of our harm. These victims are huge numbers of people scattered all over the world. (v) We normally create our greenhouse gas emissions for our own benefit. We benefit, for example, from the comfort of our homes, the travelling we do, or the consumer goods we buy. (vi) The harms done by the emissions of the rich are only to a small degree balanced by the emissions of the poor. (vii) If we are not among the very poor who have to burn fuel to survive, we could easily reduce our emissions.

For all these reasons it can be concluded that when we as rich people emit greenhouse gases without compensating the people who are harmed, we act unjustly. This conclusion leaves us with a problem. Each of us is under a duty of justice not to emit greenhouse gases without compensating the people who are harmed as a result. If it is impossible for us to make this restitution, then our carbon footprint ought to be zero. But how could we satisfy this requirement? Looking for a solution, we might consider the following proposal. Since it is the case that we cannot entirely avoid causing emissions even if we take steps to reduce them, we should try to cancel or offset these emissions. We could do this by taking preventive measures to ensure that less greenhouse gas gets into the atmosphere. Many organizations use our money to finance projects that diminish emissions somewhere in the world, to create sources of renewable energy, or to promote the efficient use of energy. To the extent that we are able to offset all our emissions in these ways, we would cause no greenhouse gas to be added to the atmosphere, and we would do no harm to anyone through emissions.[6]

These aspirations cannot be expected to provide a short-term solution. Hence, the next question I want to raise here concerns the very long timescale concerned.

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[5] See Broome, pp. 55-59.
[6] *Ibid.*, pp. 79 and 87.

How Should We Compare Present Costs and Future Benefits?

The changed climate will persist for a very long time. The emissions of greenhouse gas cause a progressive warming, and if that gas is carbon dioxide, the warming is spread across centuries, because some of the gas will stay in the air that long. The warming of the atmosphere harms many presently living people, but most of the bad effects will not be suffered for many decades from now, or indeed for more than a century from now. They will be suffered mostly by people who are not yet living. Their lives will be much worse than they would have been if we had controlled our emissions. Likewise, efforts to control climate change will only slowly become effective. For example, the reduction of greenhouse gas emissions will result in benefits within a few decades, but most benefits will come only after a very long time.

Measures to reduce emissions of greenhouse gas are costly. The costs of such measures will be borne at present or in the near future. Therefore, the question arises how we should weigh up costs borne by present people against future people's benefits. The answer seems in the first place to depend on what value we should set on future people's benefits compared with our own.

In climate economics, this issue appears under the heading of 'discount rate'. Two prominent studies may illustrate this. The Stern Review uses a low discount rate (1.4 percent per annum). It discounts future benefits to a low degree, which means that it gives much weight to the interests of future people and asks the present generation to make urgent sacrifices for the sake of future people.[7] Nordhaus' study 'A Question of Balance' uses a high discount rate (5.5 per cent per annum). It discounts future benefits to a high degree, which means that it gives little weight to the future. It concludes that only a modest response now is demanded and strong action can be delayed for decades. [8] According to another commentator, the discount rates of Stern and Nordhaus make a sixty-fold difference to the value we assign to commodities a century from now.[9]

What value we should set on future people's benefits is not just an economic question but also a moral question, because it determines more than anything else what sacrifices the present generation should make for the sake of the future. How should we answer this question? Perhaps the following proposal is worth considering. Suppose we do not reject all discounting of future benefits. We may, for example, discount future commodities because of their diminishing marginal benefit. That is to say, we may share some of the economists' optimistic assumptions: The world's economic growth will continue, despite climate change and the present crisis; people in general will therefore be richer in the future than they are now; they will possess more commodities; since they already have a lot, extra commodities will bring them less well-being than extra commodities received by someone who has few. But discounting future commodities does not imply discounting future well-being, because well-being is not a commodity. 'Well-being' stands for people's lives going well, their possessing whatever is good for them as individuals (pleasure, satisfaction of their preferences, knowledge, or some other good).[10] What value we should set on the well-being of persons depends on our basic

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[7] Nicholas Stern, *The Economics of Climate Change* (Cambridge: Cambridge University Press, 2007).

[8] William Nordhaus, *A Question of Balance* (New Haven: Yale University Press, 2009).

[9] See Broome, p. 139.

[10] *Ibid.*, pp. 113 and 129.

moral view. According to Broome, someone's well-being has the same value whenever it occurs, and whoever's well-being it is.[11] If we take this view, well-being should not be discounted. Commodities, that is the material goods people buy and the services they use, can be regarded as sources of well-being. They are benefits if they increase the well-being of persons. This implies that the discount rate for evaluating these benefits should be low.

How Should We Take Heed Of Human Rights?

The arguments advanced so far are not the only objections to a cost-benefit approach to climate change. It can also be criticized for its aggregative nature. This criticism is as follows. A cost-benefit approach is concerned with the aggregate level of expected value, the total wealth of current and future generations, and it neglects the plight of the very seriously disadvantaged if their plight is outweighed by the benefit of others. A cost-benefit approach fails to protect the basic interests and entitlements of the most vulnerable, and this is an important omission.

How should we try to avoid this adverse outcome? Should we agree with the important proposal recently advanced by Simon Caney and others that we should consider the impact of climate change on the fundamental human rights of people?[12] According to this view, anthropogenic climate change jeopardizes three key human rights: first, the human right to life: all persons have a human right not to be arbitrarily deprived of their life; second, the human right to health: all persons have a human right that other people do not act so as to create serious threats to their health; third, the human right to subsistence: all persons have a human right that other people do not act so as to deprive them of the means of subsistence.[13]

In underlining the status of these rights in this way, Caney draws attention to four properties of human rights.[14] First, human rights refer to those rights that persons have qua human beings. Second, human rights represent moral thresholds below which people should not fall, the most basic moral standards to which persons are entitled. Third, human rights represent the entitlements of each and every individual to certain minimum standards of treatment, and they generate obligations on all persons to respect these basic minimum standards. Fourth, human rights generally take priority over such moral values as increasing efficiency or promoting happiness. So, human rights specify minimum moral thresholds to which all individuals are entitled, simply by virtue of their humanity, and which override all other moral values.

This plea for human rights as thresholds is important in the debate over climate change. It may induce us to adopt a human rights approach to climate change. If so, we ought to consider how our approach can be brought to bear in public decision-making. If so, we might want to consider whether taking heed of human rights could, after all, go

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[11] *Ibid.*, p. 146.

[12] Simon Caney, 'Climate change, human rights and moral thresholds', in *Human Rights and Climate Change*, edited by Stephen Humphreys (Cambridge: Cambridge University Press, 2010), pp. 69-90.

[13] *Ibid.*, pp. 75-82.

[14] *Ibid.*, pp. 71-73.

together with some cost-benefit analysis, even though a human rights approach is normally seen as an alternative to a cost-benefit approach.

As an example to support the view that some cost-benefit analysis can be combined with taking heed of human rights, consider the emissions control system known as 'cap and trade'. This system is drawn up in cost-benefit terms. It attaches a price to emissions. The 'cap' is the maximum amount of greenhouse gas a country is allowed to emit. Each country divides its cap among its economic agents by allocating emission permits. The 'trade' is the buying and selling of permits. It occurs among the economic agents in an emission market. The cap is reduced from one period (often several years) to the next, thereby reducing total emissions over time. When the cap is tight, the emissions price will be pushed up and economic agents will find it profitable to economize on their emissions rather than buying lots of permits. Two recent evaluations of this emissions control system appreciate its virtue. They judge it to be 'almost the only deliberate climate-change policy to actually reduce emissions to any significant degree so far,'[15] and to be 'an effective means' to cut back carbon emissions sharply and aggressively 'by placing a price on carbon emissions'.[16] But they combine their appreciation of cap-and-trade with a human rights approach. They criticize the way the system treats the least advantaged. One evaluation criticizes the unequal distribution of wealth the system exacerbates, arguing that controlling greenhouse gas emissions leads to an increase in the cost of emission and that the impacts are worse for poorer households than for richer households. To avoid these impacts, it is suggested that, where emissions allowances are sold to firms, a portion of the revenues should be directed to providing compensation to poorer households.[17] A second evaluation focuses on the global poor. More than two billion human beings suffer from energy poverty. Their subsistence rights are not fulfilled. They need to be provided with access to energy, especially electricity. Cap-and-trade alone would simply make life worse for the poorest by driving up the price of fossil fuels. A plan is needed that could tackle energy poverty directly by driving down the price of renewable energy to a level that the poorest can afford.[18] In these evaluations of the cap-and-trade system, cost-benefit thinking is combined with taking heed of human rights.

Conclusion

I have argued here that if we want to clarify what responsibility to future generations implies in view of climate change, there are certain key normative questions that we will need to address about climate change and about our response to it. I have discussed four such questions: How should we respond to uncertainty? How should we evaluate the emission of greenhouse gases? How should we compare present costs and future benefits? How should we take heed of human rights? There are many more questions to

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[15] Simon Caney and Cameron Hepburn, 'Carbon Trading: Unethical, Unjust and Ineffective?', *Royal Institute of Philosophy Supplement* 69 (2011), p. 227.
[16] Henry Shue, 'Climate Hope: Implementing the Exit Strategy', *Chicago Journal of International Law* 13:2 (2013), p. 398.
[17] Caney and Hepburn, p. 223.
[18] Shue, pp. 391, 396, 398.

be asked, but I hope the four questions I have discussed have provided a background for the debate addressed in this first issue of the journal *De Ethica*.

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An Ethics of Sustainability and Jewish Law?

Jann Reinhardt

*This article addresses the issue of why it is important to ask for ethical responses to questions of sustainability and an ethics of an open future, and why the technocratic approach as practiced in most Western countries might not be sustainable. Second, it examines what a religious perspective has to offer for the discourse. In particular, this is the perspective of Jewish Law (*halakhah*); today a mere niche subject, a law system without territory and primarily based on the tradition of a religious minority. It is argued that despite these facts the Jewish legal system should be taken into account, as it offers a rich and unique tradition of more than 3,000 years of discussion and thought that still provides revealing insights. Two Jewish legal principles,* bal tashchit *and* migrash *exemplify this claim, before an outlook on possible contributions is given.*

This article revolves around two connected sets of questions: First, why should we ask for ethical responses to questions of sustainability? Is the technocratic approach as practiced in most Western countries not sufficient? Subsequently and second, what has a religious perspective to offer for the discourse? Especially, what can be gained by taking the perspective of Jewish Law, a mere niche subject, a law system without territory and primarily based on the tradition of a religious group that makes up less than 0.2 per cent of the world's population?[1] Why should we look there to find an ethics for a more sustainable world?

Ethics and Sustainability?

The answers to these questions are manifold. We might ask for ethical responses to questions of sustainability because we are not satisfied with the answers the economy, politics, society, and science are offering. Many human beings seem to feel a lack of confidence in their motivation to adapt to a more sustainable way of living, and to convince others to follow their example. Perhaps they long for the feeling of being part of something bigger, at least a community, or a movement. In the relatively individualised

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[1] In countries like Israel and Morocco religious groups are free to elect to be governed by religious law in certain fields of law (*e.g.* marriage and family law). Still these countries do not count as countries of Jewish law *sensu stricto*, as secular state law is obviously predominant.

Western world oftentimes the only remaining communities are families, the company one works for, or the local sports club. Politics all too often seems far away, *e.g.* in the case of the European Union (EU). While the EU is continuously gaining political power, people feel increasingly unconnected. So where do places remain that, on the one hand, allow people to share thoughts and discuss visions and feelings, and on the other hand to put them into action, to become a voice in the social as well as in the political discourse? Although we live in the age of communication, in the eyes of the public actual communication about the shape of the future seems to diminish.[2] As a matter of fact subsequent individual as well as collective action seems to decrease too. It is an apparent problem in Western democracies that the average citizen is relatively powerless with a single vote or voice, compared to the lobbies and associations of an industry that not always, but quite often, is primarily concerned with the maximisation of its profits. Ethics allow us to take a critical perspective on these circumstances.

If we take a look at what effects the practical implementation of the idea of sustainability may have on us, our everyday life, and our political and economic institutions, we have to distinguish between two major approaches to seeking to increase sustainability. The first and most common approach in the Western hemisphere is a technocratic one; the second a more ethical or psychological one. The technocratic approach has at its core engineering, *i.e.* the development of green or more efficient technologies replacing our current more polluting ones. In the short run, the effects of this approach can be noticed in rising costs for the public. For instance, the energy turn in Germany led to higher prices for electricity and energy consumption in general, as it required major investments in research and infrastructure projects.[3] But soon prices will decrease again as technology advances.[4] As a result people will not have to refrain from – and especially not have to question – their standard of use of energy in the long run.[5] In contrast, the second, more neglected ethical approach aims at changing not the material circumstances but something more fundamental: their underlying thinking and values. According to this approach people are supposed to adopt sustainable action because of inner conviction. Thus, ethics can help to substantiate the current efforts, and by this strengthen them. If people are convinced in their innermost thinking, the success of the development of a more sustainable world is a much more realistic prospect. Still, at the

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[2] For example, when being compared to the times of rising socialist movements during the first half of the 20th century.

[3] In Germany the rising prices are not the result of efficient technologies being intrinsically more expensive, or of the premature displacement of inefficient capital equipment alone, but foremost of political decisions. In particular, political decisions regarding the specific design of incentives to foster the production of renewable energy (*e.g.* the promotion of solar energy by a relatively high statutory feed-in compensation) on the one hand, and the heavy subsidisation of fossil and nuclear fuels in the past as well as in the future (*e.g.* disposal, dealing with the consequences of pollution) on the other hand.

[4] Or – as discussed in Germany right now – by passing on parts of the costs of the energy turn to future generations by drawing on credits to lower the high energy prices in the present.

[5] This even bears the risk of a rebound effect, *i.e.* the reduction of marginal costs when replacing inefficient equipment by more efficient equipment. For example, it is cheaper to heat a well-insulated house, so the thermostat setting might be increased.

moment ethics is more a satellite to than an essential part of the debate.[6] While certainly both approaches have their pros and cons, a combination of both would, as will be shown below, be preferable.

Theological Ethics and Sustainability?

While religious responses focus on the second approach,[7] one still has to ask: why theological ethics? One answer is that it is worth (re-)considering theological ethics because religion has been a lasting and highly influential part of the daily political discourse in the Western world, fundamentally shaping it. Despite some dark chapters in its history, religion represented and continues to represent certain values. That is an attractive feature that people might look for again. And in asking themselves what they can do for the environment and future generations they might feel the urge to take a look at what our forefathers thought about these issues. Judaism and thus Jewish law are well suited for this endeavour: Jewish law is the world's oldest continuous legal system with a rich tradition spanning more than 3,000 years. It offers a unique documentation of thoughts and discussions, as well as a vast collection of principles developed from these discussions.[8] Though not only, but especially due to World War II, the position of Judaism and Jewish law has often been forgotten, overseen and therefore neglected in large parts of Western Europe in the past decades. For instance, in Germany, this can be contrasted with the beginning of the 20th century when Jewish positions had a notable impact on parliamentary discussions concerning criminal law, land law, and much more.[9] Today, although the parts of the population that are Jewish (or even consider themselves as observant Jews) might be small in most countries – aside from Israel (75 per cent) and the US (1.7 per cent) –, the ideas of this tradition are still inspiring, and interest in Judaism has seen a consistent growth in recent years.

Because the theological, and especially the Jewish approach has been neglected for so long and yet has not been able to reach its full impact, it is worth taking a deeper look at its motivations to discover forgotten or even new ways to create a more sustainable world based on ethical values. Jewish law is particularly suited to function as an ethical foundation and for developing not only a Jewish, but a more general ethics for an open future. In its tradition ethics have always played an important role: Jewish law aims to make the people observing it morally and above all ethically 'better' – according to the divine will and values. When working with Jewish law nowadays, dealing with ethical questions is pretty much unavoidable as there is no strict separation between

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[6] Although there are a few examples where ethics play a role in politics: in Germany the chancellor Angela Merkel appointed an ethics commission on the secure supply of energy after the 2011 nuclear incidents in Fukushima.

[7] Lawrence Troster, *From Apologetics to New Spirituality: Trends in Jewish Environmental Theology*, November 2004, online at
http://www.coejl.org/_old/www.coejl.org/scholarship/jetheology.pdf (accessed 2013-11-11).

[8] For an overview, see Elliot N. Dorff and Arthur I. Rosett, *A Living Tree: The Roots and Growth of Jewish Law* (Albany, NY: State University of New York Press, 1988), and Louis Jacob, *Jewish Law* (New York: Behrman House, 1968).

[9] Access to the respective material has been simplified by large digitalization projects in recent years, such as the compact memory project: http://www.compactmemory.de/.

ethics and law. This separation is a rather recent phenomenon of secularism.[10] Especially due to its historic non-territoriality (the diaspora), Jewish law was able – maybe compelled – to develop primarily as a system of ethics. Neither physical force nor state pressure was available to keep the system alive and working. Therefore Jewish legal commandments needed another basis. As for many Jews a simple reference to divine origin and authority proved to be intellectually unsatisfactory, this situation finally resulted in the emergence of a sophisticated rationalistic or philosophical interpretation of the sacred writings, preventing the possible demise of Jewish law. In particular, the advancement of science led to an increasing questioning of the literally meaning and authority of substantial parts of the classic Jewish texts and interpretations.[11] This ethical and more rationally derived basis developed through lengthy rabbinical debates. These debates lie at the core of many of the major post-Talmudic documents of Jewish Law. Yet, due to the relevance of tradition and authority there is a deep connection to the founding documents of Judaism. Working with Jewish legal material always includes the duty to respect, cite and thus come back to the original sources, therefore also to the themes and topics discussed. The tradition requires a dialogue between basically all periods which also includes the respect for dissenting and minority opinions. These are passed on over generations and not simply replaced by the majority opinion. This has led to a unique intergenerational and interperiodical dialogue. Furthermore, due to its dialogical character, Jewish law was conceived in a long term perspective: one of the key aspects of sustainability. It is characteristic for this dialogue that the *telos* of older sources is applied to analogous modern circumstances by certain exegetical rules. Because the respective *telos* of the religious commandments has to be continuously revealed and flexibly applied, it has frequently been reduced to its rational or abstract core,[12] thus even secularists or atheists can take the results of this revelation which is mostly free from mere religious rituals, and use it in their reflection on topics like climate change, sustainability and an ethics of an open future. In this wider adaptation process it is not about the specific obligations of Jewish law that may be copied, integrated, or adapted to secular law systems: it is about the *telos*, the principles. In Jewish law there are many principles that have the potential to contribute to the discourse on sustainability. Later in this article two of them will be presented: one is the famous principle *bal tashchit* (the prohibition of wanton destruction) which – due to its extensive interpretation – has become somewhat difficult to grasp. The second one is the urban planning principle *migrash*.

These principles are commonly based on ethical considerations which are discussed openly in the texts of Jewish law. In Western secular legal systems the

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[10] Alan Mittleman, *A Short History of Jewish Ethics: Conduct and Character in the Context of Covenant* (Malden: Wiley-Blackwell, 2012), p. 5.

[11] Particularly when informed by Aristotelian philosophy as it happened during the Middle Ages. This period of time marked the second significant shift from a purely religious/theological reading and understanding to a more scientific, philosophical, and secular comprehension of the *halakhah*; the interpretation and claiming of authority by the rabbis by arguing that God's direct contribution to law ended with giving the *Torah* to Moses being the first shift.

[12] One of the best-known figures of this – within Judaism not undisputed – movement is Moses Maimonides (1135-1204). While still respecting the canonical material and its authority at the core of the system, he approached the classical sources more scientifically and philosophically, trying to harmonize religion and his belief in God with science and philosophy.

intermingling of ethics and law has become somewhat uncommon as the concept of freedom generally recognizes ethics as being a matter for the individual, not for the collective or legal realm. Thus it is important to bring back ethics to the public and secular debate, not necessarily incorporating them as positive law, but at least discussing them. Relying on a purely technocratic or instrumental approach and language might work, but to have a 'sustainable' shift to more sustainability, people – politicians as well as citizens – have to be convinced that what they are doing is ethically right.[13]

What Is Jewish Law?

Before turning to specific Jewish legal principles and comparing them to secular laws, a brief overview of the basics of Jewish law will make understanding easier.

The Basics of Jewish Law
Unsurprisingly, Jewish law is the religious legal system of the Jews.[14] It is also known under the term *halakhah*, which is derived from the Hebrew word *halakh* (to go, to walk). A more literal translation of *halakhah* would be 'the path to walk'. This already says much about the character of the Jewish legal system: it is conceived as a moral framework and offers its observants an ethical guide on how to act and live their lives according to the divine will. Furthermore, it is important to notice that the area of application of law in Judaism is much wider compared to modern secular systems. The *halakhah* embraces almost every aspect of life, such as diet and rituals. In contrast to the legal part of Judaism, there is the *aggadah* which is basically any part of rabbinic literature which does not deal with law. Besides narratives the *aggadah* includes theology, ethics, and morality and to a certain extent also mysticism. It will not be further examined in this article however.

To better understand Jewish law it is necessary to comprehend its structures:[15] At first, one has to differentiate between primary and secondary legal sources. According to the tradition, within the primary sources one again has to distinguish between originally written and oral law, while the secondary sources are all extensions of the oral tradition.

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[13] See Yehuda L. Klein and Jonathan Weiser, 'Jewish Environmental Ethics', in *The Oxford Handbook of Judaism and Economics*, edited by Aaron Levine (New York: Oxford University Press, 2010), Ch. 20. They argue that a theocentrically orientated perspective on the environmental discourse would reduce tensions between the anthropocentric and the ecocentric approach by allowing a dialogue between them. This dialogue specifically could be based on the linear conception of the Hebrew Bible. The linear conception starts with creation and leads to a specific end according to God's will and laws. It could function as a corrective framework to both the focusing on the present needs by the anthropocentric view and the negligence of the fact of development by the ecocentric approach. Furthermore a predestined subordination of any need would be avoided as all needs principally are of equal value to God in the first place.
[14] In this article, I will not differentiate between the various movements of Judaism (orthodox, conservative, reform etc.). For an introduction to Jewish law, see Jacob; Walter Homolka, 'Das Jüdische Recht: Eigenart und Entwicklung in der Geschichte', *Humboldt Forum Recht* 17 (2009), pp. 251-282; Moris Lehner, 'Alttestamentarisches und talmudisches Recht: Eine Einführung in das jüdische Recht', *JURA* 1 (1999), pp. 26-31.
[15] Homolka, pp. 251-282.

At the top of the Jewish legal system is the *Torah* as the primary written source of law, or the 'constitution of Jewish law'.[16] The *Torah* is the law Moses received from God at Mt. Sinai.[17] It is legal text and narrative at the same time; this blending of different types of texts might feel unfamiliar and thus might be confusing for readers used to Western legal codes or case law collections. According to rabbinic tradition the *Torah* originally contains 613 commandments, the so-called *mitzvot*.[18] Due to the change of circumstances and the emergence of new problems these *mitzvot* needed adaptation which foremost happened through interpretation. As a result a strong oral tradition evolved. Out of this tradition further legal texts resulted, *inter alia*: the *midrash halakhah* which is basically a line-by-line commentary on the *Torah*, and the *Mishnah* which is the textualisation of the further oral tradition of the Jews around 220 CE and basically also the founding document of rabbinic Judaism.[19] Though for a long time the most important legal document practically was the *Talmud*. In the *Talmud* rabbis and scholars (the *Gemarah*) commented on the *Mishnah*; hence the text of the *Mishnah* is reprinted in the *Talmud*, and defines its structure. There are two versions, the *Jerusalem* and the *Babylonian Talmud*, which have been compiled around 400-500 CE with the *Babylonian Talmud* being the more authoritative one. As secondary sources the *Responsa* (legally binding answers of rabbinic authorities), commentaries, and especially codifications ought to be mentioned (like Moses Maimonides' *Mishneh Torah*, the *Tur* by Jacob ben Asher (1269-1343), or the most relevant legal code in Judaism, the *Shulkhan Arukh* by Yosef Karo (1488-1575)). Also important in order to understand the *halakhah* is the periodization system, *i.e.* the Jewish legal tradition can be divided chronologically into periods. So far there are at least six different periods which in the end always relate to major legal documents of Judaism (basically the above mentioned).[20] Certainly every primary source of Jewish law could build a legal system of its own; being that Biblical, *Mishnaic* or *Talmudic* law. Still, the closer a period is to the *Torah* the more authority it has, emphasizing once more the relevance of tradition. The challenge is to conceptualize the fragments to a coherent system. This still has to happen in terms of ecological or sustainability issues where there has all too often been a quite selective reading. Single *mitzvot* have been simply picked out of their systematic or historic context to support the intentions of the author. Surely, developing a coherent system of obligations of sustainability within Jewish law is a task requiring great diligence. But the Jewish legal history has a tradition of concerning itself with such tasks.

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[16] Justus von Daniels, *Religiöses Recht als Referenz. Jüdisches Recht im rechtswissenschaftlichen Vergleich* (Tübingen: Mohr Siebeck, 2009), p. 21.

[17] The *Torah* is also known as the Old Testament (from a Christian perspective), or Five Books of Moses, or *Pentateuch* (von Daniels, p. 21); The *Torah* again is part of the *Tanakh* or Hebrew Bible that contains, besides the *Torah*, the *Nevi'im* ('Prophets') and *Ketuvim* ('Writings').

[18] These were further divided into 365 negative and 248 positive commandments.

[19] Tsvi Blanchard, 'Can Judaism Make Environmental Policy? Sacred and Secular Language in Jewish Ecological Discourse', in *Judaism and Ecology: Created World and Revealed Word*, edited by Hava Tirosh Samuelson (Cambridge, Mass.: Harvard University Press for the Center for the Study of World Religions, 2002), pp. 423–448, at p. 428.

[20] These periods being *Tannaim*, *Amoraim*, *Savoraim*, *Geonim*, *Rishonim* and *Acharonim*.

Maybe this could be one of the major contributions of the current period of the *Acharonim* (1563 until present).[21]

A further significant characteristic of the *halakhah* is its conception as an obligation, and not a rights-based legal system.[22] In this the Jewish legal system theoretically differs from most contemporary Western legal systems and their philosophical justifications. Those generally emphasize the concept of natural, human or basic rights and the protection of individual freedom which is to be guaranteed by the legal manifestation of these rights. Of course, in most cases rights regularly correspond to obligations or duties, and *vice versa*. Hence the covenantal obligations of humans to God most of the time practically result in corresponding rights of other human beings or living creatures, *i.e.* the *halakhah* knows rights and claims as well and thus there are less practical differences as one would expect. But still the mind-set is a different one. And – as mentioned before – this does matter as the mind-set will decide about how successful the idea of sustainability will be in the long run.

Rights versus Obligations?
As will be shown the obligational character is of highest relevance to the functioning of the *halakhah*. Next to social pressure, the self-perception of being the obligated party of a covenant with God plays a major role for compliance, not only individually but also collectively. In contrast, in the secular Western world legal objectives are almost entirely gained by claims in rights-based systems. The emergence of rights as we know them today in the Western world is closely linked to liberalism and the respective state theories: These are mostly based on social contract theories of philosophers like Thomas Hobbes (1588-1679) or John Locke (1632-1704). The following section is thus dedicated to the relationship of rights (in a modern liberal sense) and obligations, and their application on sustainability issues. As sustainability is by definition an assessment of present actions and their future impact, there is a strong (secular) debate on the protection of the assumed interests of future generations as well as of animate and inanimate nature. On the hypothesis that there is an agreement on the relevance of this issue and on the need of active protection, the subsequent question would be how this protection can be realized most efficiently. In the field of law there are basically two theoretical concepts: The first concept focuses on rights attributed to future generations and nature.[23] Whereas the second and also *halakhic* approach focuses on obligations of current to future generations without granting the latter specific 'rights' in the classical sense.

In the context of this article there are basically two levels where these two different approaches might clash. The first level is the basic level of conceptions of human

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[21] There are some notably contributions to a wider view though: Lawrence Troster, 'Judaism', in *Berkshire Encyclopedia of Sustainability. The Spirit of Sustainability*, vol. 1, edited by Willis Jenkins and Whitney Bauman (Great Barrington: Berkshire, 2010), pp. 254–257.

[22] See Robert M. Cover, 'Obligations: A Jewish Jurisprudence of the Social Order', *Journal of Law and Religion* 5:1 (1987), pp. 65–74.

[23] For instance, see Klaus Bosselmann, Christian Calliess, Michael Schröter and Prue Taylor, *Ökologische Grundrechte: Zum Verhältnis zwischen individueller Freiheit und Natur* (Baden-Baden: Nomos, 1998); Jörg Tremmel, 'Institutionelle Verankerung der Rechte nachrückender Generationen', *Zeitschrift für Rechtspolitik* 37:2 (2004), pp. 44–46; for an extensive discussion, see Herwig Unnerstall, *Rechte zukünftiger Generationen* (Würzburg: Königshausen & Neumann, 1999).

nature or of the respective legal system. Either one sees humans as endowed with (natural) rights and thus also with the possibility of directly or indirectly asserting claims. Or one follows the other approach and takes obligations as the theoretical foundation for constructing a coherent system; in the case of Judaism this foundation is represented by the covenant with God. This first level addresses the 'why' of becoming active in the interest of someone else: because a claim is filed, or an obligation exists. On the second level, which builds on the theoretical fundaments of the first level, it has to be determined how and when these rights or obligations can be realized most effectively. Within the second level one has to further distinguish between present and future situations. Therefore, when for example addressing the question of intergenerational justice – involving a future situation – one might come to a different result compared to questions of justice between present generations.

Focusing on the second level, ascribing rights to future generations – which is the most obvious reaction from a Western secular legal perspective – appeared to have some flaws in regard to practice, especially to the question of standing, *i.e.* determining who has the legal authority to bring a cause of action on behalf of future generations.[24] Therefore contemporary legal scholars are looking for new ways to get out of this dilemma and to better protect future generations. This increasingly often results in the insight that obligations are pretty much inevitable for this purpose. Surely, rights do have advantages, for instance when it comes to restraining the state. But these advantages mainly relate to present, not future citizens. If one takes a closer look at contemporary legal norms dealing with sustainability, it shows that even when formulated as rights, in our Western legal cultures these norms are *de facto* already closer to duties than to rights. This is only logical as future generations and nature cannot claim their rights on their own and are basically dependent on the good will and the self-imposed rules; the obligations of the present generation.

This obligation orientation offers a connecting factor between secular and Jewish law. While Jewish law for the major part of its history did not have to deal with protecting citizens against the abuse of state power, and thus is not particularly elaborated in terms of rights, it has much to offer when it comes to obligations. Due to its long tradition and deep knowledge of how to formulate and establish a system of obligations in a legal context, the current secular legal implementation of ideas and concepts of sustainability could benefit from this considerably. Besides being less dependent on possible representatives or political interests, obligations do have further advantages. One is clarity: it is in the nature of obligations that they generally have to be more specific and concrete than rights when being established. Of course, rights can be extremely specific as well, and obligations also have to be filled with content. But obligations start from a more detailed level. For example, when Moses received the *Torah* at Mt. Sinai it was clear who was addressed, and by the commandments' directive form the addressees had a sense of what they owed to God and to each other right away. Certainly, later adjustments and explanations were necessary. Most noticeably this took place in the *Mishnah* and the *Talmud*.

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[24] Different approaches based on representation have been developed; see Tremmel, p. 46; for a critical perspective on the concept of rights of future generations see: Oliver Marc Hartwich, 'The Rights of the Future?', *Policy Magazine* 25:3 (2009), pp. 3-8.

One might argue that obligations are more restrictive of (individual) freedom – which in a way they are. An obligation-based legal system might significantly and more drastically affect our individual freedoms and basic or human rights, and secular Westerners in general are very sensitive when these are restricted in any way. Thus a compromise has to be sought. In my opinion, a combination of both approaches, *i.e.* strengthening the role of obligations in the secular legal systems of the West, is the only, but at the same time the most preferable, option to improve the protection of future generations and nature.

Jewish Law and Ecology/Sustainability

Before taking a closer look at specific *halakhic* laws and their suitability for secular implementation, it should be examined how and when Jewish law started concerning itself with ecological issues.

The Critique on the Worldview of Genesis 1:28
This trend can be traced back to the late 1960's when the article *The Roots of Our Ecological Crisis* by the US American historian Lynn White Jr. was published in the journal *Science*.[25] In his article White accuses the Judeo-Christian worldview and its anthropocentrism of being responsible for the contemporary ecological crisis. To substantiate his allegation he refers to Genesis 1:28 in particular, where God is said to have given man dominion over nature.[26] Others joined White's position; one example being the British historian Arnold Toynbee who wrote an article suggestively titled 'The Genesis of Pollution', published in 1973.[27] Since then Jewish scholars have tried to find responses to these allegations as well as to the question how Jews should behave in regard to the ecological crisis.[28] Parallel to Christian authors they developed the so-called 'stewardship model', based on Genesis 2:15 and which sees humans as caretakers obligated to conserve God's creation. Thus, already in the chapter immediately following upon Genesis 1 there is a concept that contradicts or at least limits the extensive interpretation of White *et al*. To oppose White's accusations, this Biblical understanding of the role of humans as stewards was extended in the theological context even to such an extent that a re-sacralisation of nature was claimed, bringing the position somewhat close to a pagan view. This position is often connected to a critique on the secular language of Enlightenment as being too scientifically, too 'disenchanting'.[29] Seen in a wider context of sustainability which

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[25] Lynn White Jr., 'The Historical Roots of Our Ecological Crisis', *Science* 155 (1967), pp. 1203–1207.
[26] However, White mainly addresses Christianity in its Western medieval form. Moreover, and interestingly, White never mentions or cites Genesis 1:28 explicitly in his article. He does write, however that 'God planned all of this explicitly for man's benefit and rule: no item in the physical creation had any purpose save to serve man's purposes.' (White, p 1205)
[27] Arnold J. Toynbee, 'The Genesis of Pollution', *Horizon* 15:3 (1973), pp. 4-9; an excerpt of which was published in the *New York Times*, 16 September 1973; Saul Berman, 'Jewish Environmental Values. The Dynamic Tensions between Nature and Human Needs', Jewish Virtual Library, online at http://www.jewishvirtuallibrary.org/jsource/Environment/berman.html (accessed 2014-02-06).
[28] For instance, see David Vogel, 'How Green Is Judaism? Exploring Jewish Environmental Ethics', *Business Ethics Quarterly* 11:2 (2001), pp. 349–363, at p. 349.
[29] Blanchard, pp. 424-425.

exceeds its ecological roots there is in fact some important vocabulary not much pronounced in Enlightenment language; examples of which are 'sacrifice', 'solidarity', and 'community'.

The Development of a Jewish Position
Nevertheless it took some time until one could speak of a unique 'Jewish position'. At first most Jewish authors reacted with sheer defence. They selectively picked (especially Biblical) passages and verses and used almost every *mitzvah* dealing with plants or nature as an argument for the ecological orientation of the Bible, thus warping *mitzvot* and detaching them from their context as well as their underlying concepts. In this way the role of environmentalism within traditional Judaism was clearly exaggerated.[30] Traditional Biblical laws did not deal with global ecological problems, but rather addressed local issues. That is, first, why there is a problem of historical context. Because:

> although traditional Jewish texts provide important conceptions of the natural world and of the human relationship to it, they were never meant as a response to the world-threatening ecological problems we face today. We simply do not find a sense of ecological crisis in traditional Jewish texts.[31]

Therefore a new and openly communicated exegesis and philosophical re-reading was necessary. Slowly, a still on-going process of such re-interpreting of the sources started, at first referring mostly to the Bible, but then taking a turn to focus more on rabbinic texts. This is consistent for a Jewish position because this literature has been so influential and still dominates the understanding of the *Torah*. More recently even *aggadic* sources are used.[32]

Disregarding the inaccuracy in speaking of *one* Jewish position, a practical anthropocentrism based on a theoretical theocentrism developed; some may call it a 'weak anthropocentrism'. The respective *mitzvot* were no longer solely seen as ecological norms, but as more complex commandments in a wider context. Although originally, Jewish law of course does not know the term sustainability. But if we take the contemporary understanding of this term and try to connect it to Jewish laws and principles, or interpret them from a perspective of sustainability, it becomes clear that Jewish law addresses almost every aspect of this field; *e.g.* environmental protection (water, soil, air), urban planning, noise control, waste management, intergenerational justice, warfare, budget management, animal protection and ethics, diet, and consumption in general. Jewish laws can be applied to problems relevant from a modern perspective of sustainability. This perspective is the mixture of ecological, social and economic interests: the three columns of the most popular contemporary definition of sustainability (also known as 'triple bottom line'). Still it has to be stated that the impetus

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[30] In fact, most often Jewish law puts necessary human needs before the protection of the environment, *e.g.* in regard to animal experimentation or (temporarily) permitting the consumption of meat. Another major example of such misinterpretation is the *bal tashchit* principle (see below). For further examples, see Ruth N. Sandberg, *Development and Discontinuity in Jewish Law* (Lanham: University Press of America, 2001), p. 243, n92.

[31] Blanchard, p. 424.

[32] Lawrence Troster, 'The Book of Black Fire. An Eco-Theology of Revelation', *Conservative Judaism* 62:1 (2010), pp. 134–136.

to this re-reading from a perspective of sustainability came from the 'outside', *i.e.* the secular society in form of the ecological movement. But now society could profit from Jewish law in return.

Legal Comparison

In the following paragraph a brief and exemplary legal comparison of how sustainability issues are handled in German Basic Law on the one hand, and Jewish law on the other hand will give an idea of the practical implications of the theoretical foundations discussed above.

Western Legal Culture as Exemplified by German Basic Law Article 20a (GG)
Generally, the central aspect of German basic rights is human dignity which is guaranteed in Article 1 (1) of the Basic Law/Grundgesetz (GG). It is the duty of all state authority to respect and protect this good. This duty is followed by the statement in paragraph two that human rights are to be acknowledged 'as the basis of every community, of peace and of justice in the world.' Whether future generations are included as legal entities in the scope of Article 1 GG is disputed however.[33] Until the relatively recent Article 20a GG future generations, the environment, or even the idea sustainability are not mentioned explicitly in the beginning of the German Basic Law. Thus it is appropriate to refer to Article 20a GG for an exemplary comparison of how German Basic Law and Jewish law are dealing with issues of sustainability in a broader sense. By Article 20a of the Basic Law sustainability issues are addressed as follows:

> Mindful also of its responsibility toward future generations, the state shall protect the natural foundations of life and animals by legislation and, in accordance with law and justice, by executive and judicial action, all within the framework of the constitutional order.

Although Article 20a GG is part of the Basic Law, it is not part of the basic rights. It is a *Staatszielbestimmung* (state objective) that was introduced in 1994 (for environmental protection) and 2002 (for animal protection).[34] Still it is of importance for the interpretation of legal norms and the weighing of interests. It also includes a mandate for action of the state. However, the specific content and extent of the duty to protect the above mentioned foundations are left open. [35] But as Article 2 (1) GG is already construed to guarantee an ecological subsistence level, Article 20a GG has to require more than this.

Today Article 20a GG is interpreted in a way so that the German Basic Law not only demands to implement the idea of protecting the environment and animals by specific laws, but also via educational measures.[36] Furthermore the duty of the German state to foster a more sustainable behaviour is not to end at its borders. Thus an extraterritorial responsibility is also placed on the state: indirectly by the duty of taking

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[33] For example, see Unnerstall.
[34] Stefan Huster and Johannes Rux, 'Art. 20a', in *Beck'scher Online-Kommentar GG*, edited by Volker Epping and Christian Hillgruber (München: C. H. Beck, 18th edition, 15 May 2013), para. 1.
[35] *Ibid.*, para. 28.
[36] Umweltinformationsgesetz (UIG); see Huster and Rux, 'Art. 20a', para. 34.

account of the development of more efficient technologies and slowing down population growth; directly by the mandate to development (aid) policy.[37]

The mentioning of 'in accordance with law and justice' means that environmental and animal protection do not *per se* overrule other objectives of the constitution.[38] The weighing in regard to other *Staatszielbestimmungen* in German law is conceptually quite similar to the balancing of interests in Jewish law. But explicitly taking into account ecological matters is rather recent in Western law (although it *de facto* took place earlier than 1994). As a result nowadays it is always a consideration of social, economic and ecological aspects – as it already can be seen in classical Jewish law too.[39]

The German federal law obliges the state (foremost the legislator, but also the executive and judicative) as the democratic representative of its people to take action and develop a more sustainable environment. But the duty itself is formulated quite 'open' and needs to be filled with content; also legally it is a somewhat weak directory provision. In Jewish law one will hardly find such a generalist *mitzvah*. This openness of Article 20a GG certainly bears a risk of abuse of legal flexibility. Furthermore it does not address the German people directly. This might lead to (unconscious) delegation of responsibility as many might think that it is the duty of the state – not theirs – to ensure a more sustainable world.

Environmental and Sustainability Principles in Jewish Law

After having presented the structural as well as conceptual basis of Jewish law, and given an example of Western secular law dealing with sustainability issues in the form of Article 20a GG, in the following paragraph there will be two examples of Jewish legal principles that in their contemporary interpretation focus on current problems of sustainability.

Jewish law provides many examples of principles that address issues of ecology and/or sustainability, but here only two will be discussed briefly: *bal tashchit* (the prohibition of wanton destruction, Deuteronomy 20:19-20), and *migrash* (green belt or urban planning principle, Numbers 35:1-15, Leviticus 25:34).

Bal Tashchit, Deuteronomy 20:19-20

The first example to be introduced was originally a Biblical law of warfare. It prohibits the cutting down of fruit trees while besieging a city in times of war. The complete passage, in the King James Version, reads:

> 19 When thou shalt besiege a city a long time, in making war against it to take it, thou shalt not destroy the trees thereof by forcing an axe against them: for thou mayest eat of them, and thou shalt not cut them down (for the tree of the field is man' life) to employ them in the siege:

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[37] See Huster and Rux, para. 38.

[38] *Ibid.*, para. 1.

[39] Because of this balancing some commentators of the German Basic Law speak of an eco-social market economy as the modern German state model; see for example: Huster and Rux, para. 41; Rupert Scholz, 'Art. 20a', *Grundgesetz-Kommentar*, edited by Theodor Maunz and Günter Dürig (München: C. H. Beck, 69th supplement 2013), para.16.

20 Only the trees which thou knowest that they be not trees for meat, thou shalt destroy and cut them down; and thou shalt build bulwarks against the city that maketh war with thee, until it be subdued.

Through rabbinic interpretation the field of application of this *mitzvah* was extended and it was eventually developed into the rabbinic legal principle *bal tashchit*, the (general) prohibition of wanton destruction. The most cited classic rabbinic authorities and interpreters of *bal tashchit* in contemporary Jewish environmental literature are Rashi (1040-1105), Moses Maimonides, and Samson Raphael Hirsch (1808-1888). The *bal tashchit* principle became one of, if not the most popular ecological principle in contemporary Jewish environmental ethics. Especially after the accusations of White, when Jewish authors sometimes desperately searched for seemingly ecological precepts to invalidate criticisms. At that time, one of the first direct respondents from a Jewish background was Eric G. Freudenstein. In 1970 his article 'Ecology and the Jewish Tradition' was published.[40] The article starts with the mentioning of Deuteronomy 20:19-20,[41] and Freudenstein then attempts to disprove the arguments of White and others. For this purpose, he wants to show the ecological concern of *Torah* and *Talmud* in particular, and also the reasons why ecological aspects seem to have been forgotten in Judaism. For the first aim he cites *bal tashchit* and other principles. The forgetting of ecological concerns he then ascribes to the *diaspora*, thus the divorce from land, and to the historic context; *i.e.* during Biblical and *Talmudic* times there was no threat of an ecological crisis. Rather, nature actually was a threat to human survival. But Freudenstein makes selective use of his sources and by naming Deuteronomy 20:19 'the general prohibition against destroying the environment' his argument remains too superficial.[42]

Without any doubt, one has to consider how Jewish legal texts work in their wider context. In general, extending the area of application of a specific law and deriving a general principle from it is an acceptable and common method. And Jewish legal tradition is particularly famous for this. As Freudenstein explains:

> According to Hirsch, the *Torah* will select a particular law for inclusion in its code in order to demonstrate the validity of a fundamental principle by showing how that principle must apply even under extraordinary conditions.[43]

He then recurs to the point that *bal tashchit* was meant to emphasize the importance of the protection of the environment.[44] However, the context, especially the *Talmudic* sources, provides a very different picture. *Bal tashchit* is in fact much more a utilitarian law,

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[40] Eric G. Freudenstein, 'Ecology and the Jewish Tradition' [1970], in *Judaism and Human Rights*, edited by Milton R. Konvitz (New Brunswick, NJ: Transaction Publishers, 2001), pp. 265–274; on page 273 he refers directly to the critique.

[41] Although methodically dubiously only the 19th verse is quoted, not the 20th; *Ibid*., p. 265.

[42] Just as White was criticized for focusing too much on the first chapter of Genesis, Freudenstein got criticized for his selective citing with good reason, for instance by David Nir, 'A Critical Examination of the Jewish Environmental Law of Bal Tashchit – "Do Not Destroy"', *Georgetown International Environmental Law Review* 18:2 (2005), pp. 335–354, at p. 354.

[43] Freudenstein, p. 266.

[44] *Ibid*.

allowing the cutting down of a tree for all kinds of constructive purposes:[45] It is rather a prohibition of wasting things that can be useful to humans (later extended to garments, or even the human body).[46] It tries to warn of focusing only on short-term goals. Furthermore, the rabbinic environmental policy dealt primarily with more local issues, such as fairness and risk management, and not with global protection of nature.[47] This has to be kept in mind as a warning of too enthusiastically 'over-interpreting' the area of application and content of this and other *mitzvot*.

Migrash, Leviticus 25:34, Numbers 35:1-15
The Biblical principle of *migrash* differs fundamentally from *bal tashchit* in terms of content, structure and development.[48] As mentioned in the beginning of this article it is primarily a principle of urban planning or land law. Thus it belongs to a field of law of major importance in regard to sustainability, as our legal relationship to land is a classic example for dealing with ecological, social, and economic interests at the same time. The *migrash* principle is based on several Biblical passages, primarily on Leviticus 25:34 or Numbers 35:1-15. Originally the law was applied on Levitical cities only, but later it was extended to all Jewish cities (again by famous commentators like Rashi, Maimonides and Nahmanides (1194-1270)).[49]

In regard to its content the principle of *migrash* states that a city has to be designed from its inside to its outside in the following way: inner city, commons, and fields and vineyards.[50] Furthermore it embraces different prohibitions that sometimes are closely intertwined. There are basically three of them at the core of the *migrash* principle: a prohibition of changes in size,[51] a prohibition of changes in use, and a prohibition of selling.[52] Samson Raphael Hirsch adds that 'all future times have equal claim to it, and in the same condition that it has been received from the past is it to be handed on to the future.'[53]

Despite these prohibitions there are other aspects which represent a more psychological or physical (health) level. According to Hirsch's commentary on the Pentateuch, the *migrash* had to serve the psychological well-being of the inhabitants of the city as it was supposed to establish a connection of sophisticated urban dwellers to nature – for him this was the ideal city. Physical recreation was furthermore a fact

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[45] For specific examples of such constructive purposes, see Moshe Gartenberg and Shmuel Gluck, 'Destruction of Fruit-Bearing Trees', *Journal of Halacha and Contemporary Society* 36 (1998), pp. 86–99.

[46] For instance, see David Vogel, 'How Green Is Judaism? Exploring Jewish Environmental Ethics', *Business Ethics Quarterly* 11:2 (2001), pp. 349–363, at p. 359.

[47] Blanchard, p. 424.

[48] First of all the translation of the term *migrash* bears some difficulties. It has, for example, been translated as pasturelands, open land, green belt, or commons. There are lengthy discussions on what might be the proper English term for it; see James Barr, 'Migras in the Old Testament', *Journal of Semitic Studies* XXIX (1) (1984), p. 15.

[49] For more on the process of 'extension' of Jewish laws, see Ruth N. Sandberg, *Development and Discontinuity in Jewish Law* (Lanham: University Press of America, 2001).

[50] Freudenstein, p. 268.

[51] There are specific measurements, for instance in Numbers 35, although it is argued that these have to be understood relatively as the city would be rather small if the Biblical measurements would be applied literally.

[52] Leviticus 25:34.

[53] Freudenstein, p. 268.

already mentioned by Rashi, who in his commentary on Numbers 35:2 refers to aesthetical reasons, *i.e.* that the *migrash* should serve to beautify the city. Moreover, the *migrash* served simple practical purposes as it was to be used for animal keeping and laundry (Numbers 35:3, and Babylonian *Talmud Nedarim* 81a).[54] Finally, disease prevention played a role as cemeteries had to be situated outside of the *migrash* area.

Astonishingly, it is even possible to draw a line from the Hebrew Bible and the *migrash* principle to land law concepts like Henry George's (1839-1897) single tax,[55] over to early 20th century land reform movements in Germany, to works like Garett Hardin's *The Tragedy of the Commons* (1968), and even to current urban planning. For example, urban planners in Seoul refer to the so-called *Garden City Movement* in their plans to create a green belt. Without any doubt the *migrash* principle inspired this movement that became popular around the turn of the 19th century. For example, Frederic Osborn (1885-1978) – besides Ebenezer Howard (1850-1928) one of its most influential representatives – directly referred to the respective Biblical passages in his work.[56] As all this development can be traced back to this Biblical (legal) source and concept, this might serve as another argument why to ask for theological responses and religious perspectives. These – as the example of *migrash* shows – can still have a relevant impact and be a force for change. Especially as our present land law needs to be questioned and should not be seen as 'given'. Because despite of its positives effects (stabilisation *etc.*) it all too often leads to social, ecological, and economic injustice at the same time. Of course, the Biblical rules cannot be adopted literally, but their *teloi* can. They still have the meaning and substance to suit and to inspire us. That is why we should take a look at how Jewish law and ethics can be used to develop criteria of provision that can be applied in the secular Western world. Furthermore it might open a platform for inter-religious discourse that is not as emotionally charged as other, more theological topics.

Conclusion

Where a 'new' German Basic Law like Article 20a GG in the beginning is quite general due to its conceptualisation, Jewish law is *per se* much more specific. And it is this specificity of obligations that is needed to accelerate actions in regard to climate change, sustainability, and intergenerational justice, as the environmental clock is ticking.

But how can the insights gained, *i.e.* the concept of obligations but also the weighing of interests, be implemented practically? To tackle this task, we should distinguish between three levels: (i) the intra-religious, (ii) the interreligious, and (iii) the secular level. In the case of (iii) many observant Jews might face what one could call a 'dilemma of double commitment', as they feel committed to their sacred texts, rituals, and language, and, for instance, to actively engage in environmental protection on a secular level at the same time. Therefore a compromise is needed to get both

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[54] The principle is further discussed in the *Babylonian Talmud* (for instance, *Arakhin* 33b).

[55] Henry George, *Progress and Poverty: An Inquiry into the Cause of Industrial Depressions and of Increase of Want with Increase of Wealth: the Remedy* (Cambridge: Cambridge University Press, 2009 [1881]).

[56] For instance, see Frederic J. Osborn, *Green-Belt Cities* (New York: Schocken Books, 1969), pp. 167-170.

commitments together and to find a single non-religious voice to speak in as the environmental protection discourse is noticeably secular.[57]

Due to these circumstances Judaism has to respect the dominant secular language and thinking as well as the technical-rational argumentation to become part of the debate. Although the *halakhic* concepts have to be made adaptable and comprehensible in a secular environment,[58] it does not entail the erosion of their content however, as Jewish legal history has already proven. A common language is one of the key factors. Therefore a more technical principle like *migrash* may prove useful to begin with when examining classical Jewish texts in the light of the current ecological crisis and bringing the results to secular discourse.[59] If this language dilemma is considered thoroughly and principles are put into their historical, systematic, and teleological context, Judaism can make influential environmental policy, like it has influenced policies in the past.

Coming back to the three above mentioned levels where action needs to be taken: On the intra-religious level (i) Jewish law on sustainability urgently needs systematisation and especially so since the next step has to be to move onward from writings and articles on ecological issues to broader and more complex questions of sustainability. Ecology is an important, but still just one part of the idea of sustainability, next to social and economic components. An increased awareness has to be created in communities and schools and other public domains. Environmental organizations need further idealistic and especially monetary support as the financial crisis has led to severe cuts in their budgets. On the interreligious level (ii), there has to be a discourse encompassing different religions to develop a perceptible religious voice, including a critical elaboration of similarities and differences.[60] Finally, on the secular level (iii) – besides solving the language dilemma – religious groups should be encouraged to contribute their concepts to the secular discourse more actively, for instance by publications presenting Jewish positions at interdisciplinary conferences, and looking for a dialogue with potential partners like politicians or NGOs.

In addition, two further types of action should be taken, which are promising in relation to Judaism in particular: education and stories. Education is foremost in offering an opportunity to realize the objectives of a more sustainable world.[61] Religion can be a major educational multiplier. It can educate in its communities and spread ideas; therefore it is crucial to carefully carve out religious values and principles, and in the case of Jewish law to re-read and re-interpret the Biblical, *Mishnaic*, and *Talmudic* sources from a perspective of sustainability within the communities. Education is central to the Jewish religion: the imperative of education is a central aspect of Jewish law, and has had a great

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[57] Blanchard, p. 426.

[58] *Ibid*. Blanchard sees three basic difficulties for this operation: (1) the classic Jewish texts were crafted in a time when an ecological crisis was not foreseeable (historic context), (2) classic Jewish texts were designed for a limited number of addressees (the Jews), and (3) the language used is religious or theological. In regard to difficulty (3), Blanchard speaks of three possible models to deal with it. His favoured model employs both religious and secular language at the same time, but does this explicitly. Linking, but not merging the different languages, is suggested as the preferred approach.

[59] *Ibid*., p. 425.

[60] Of course, the 'religions of the book' already have a common ground to start from in regard to tradition, sources, and language.

[61] For example, see Berman.

impact on the development of Jewish ethics, as well as on the people and the character of the religion itself.[62] This can and has to be used for sustainability issues too, since education can be considered as the most important step on the journey to a more sustainable world.

Furthermore, in addition to the more rational contribution of education, we need inspiring, shining examples, or stories that move us. If ideas of sustainability are carefully connected to famous religious figures and narratives, these can serve as models and guides for observant as well as non-observant people. Judaism offers a very rich and unique tradition of stories to be referred to.

The argument of this article is that a *halakhic* contribution, and thus an ethical response to questions of sustainability, is possible on various levels. On a more technical level of legal methodology (obligations) and content (specific concepts, such as *migrash*), the *halakhah* has much to offer as a productive social, political, and ethical discourse on sustainability issues.

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[62] Maristella Botticini and Zvi Eckstein, 'From Farmer to Merchants, Conversions and Diaspora. Human Capital and Jewish History', *Journal of the European Economic Association* 5:5 (2007), pp. 885–926.

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Climate Change, Human Rights and the Problem of Motivation

Michel Bourban

In this paper, I discuss some of the human rights that are threatened by the impact of global warming and the problem of motivation to comply with the duties of climate justice. I explain in what sense human rights can be violated by climate change and try to show that there are not only moral reasons to address this problem, but also more prudential motives, which I refer to as quasi-moral and non-moral reasons. I also assess some implications of potentially catastrophic impacts driven by this ecological issue. My aim is to locate, by outlining a normative perspective based on sound empirical findings, urgent climate injustices, and explain why well-off citizens in developed countries have strong reasons to avert the potentially massive violation of the rights of present and future victims of climate change.

Climate change is one of the most challenging environmental problems of our time. Here I try to develop a strong case for addressing prominent climate injustices by dealing with important ethical questions about human rights and by bringing considerations of justice and feasibility together. To do so, I discuss moral reasons to mitigate the harmful impacts of global warming, alongside quasi-moral and non-moral reasons to combat climate change. The overall objective is to explore the human rights approach to climate change by highlighting its strengths and coping with some of its weaknesses. The main challenge ahead is to reconcile fairness with feasibility: to respect the constraint of feasibility, an approach of climate justice should be realistic and address the problem of motivation.

I begin by explaining why an approach of climate justice based on universally accepted human rights is normatively convincing as well as politically realistic. Next, I show how the impacts of global warming violate specific human rights of members of present and future generations. I then turn to some recent and challenging objections to this kind of approach. Last, I explain how to deal with the problem of partial compliance with the duties of climate justice.[1]

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[1] I stress that my position is only one normative approach to climate change among many others: for instance, it could be equally convincing to justify the existence and develop the content of duties of climate justice by referring to the notion of common ownership of the Earth. For instance, see Mathias Risse, *On Global Justice* (Princeton: Princeton University Press, 2012), Ch. 10.

Human Rights and Climate Change

While controversy surrounds the climate change debate, this paper follows the views of most scientists working in the field that climate change is real, man-made and harmful: the average global temperature is rising mostly because of anthropogenic emissions of greenhouse gases and the effects of this warming on the climate are overwhelmingly harmful for most forms of life on Earth, in particular for humans. A striking fact of climate change is that those who are the least responsible for it are those who suffer the most from it. If the Intergovernmental Panel on Climate Change (IPCC) has scientifically established this double inequality in responsibility for and vulnerability to climate change, a normative approach helping us to explain why these global inequalities are unjust is also needed. Human rights represent a convincing moral approach. Human rights, especially basic ones, are indeed the common denominator between the multiple positions that we can find in the highly complex field of global justice: most political theorists agree that fundamental individual rights represent the minimum standard that has to be guaranteed universally if the most urgent global injustices are to be addressed[2]. This is the main reason why I think that this approach is normatively sound.

To make this position politically realistic as well, I focus exclusively on human rights that already exist in international law, rather than on new environmental human rights; I also refer only to negative rights, because they are less controversial than positive rights. The reason for this is that while negative rights seem to generate mere duties not to perform certain kinds of actions, positive rights also require corresponding duty-bearers (be it individuals, corporations, states or global institutions) to perform certain actions. Basic human rights represent 'the internationally recognized minimal standard of our age':[3] by showing how climate change threatens negative human rights, one can find a fairly uncontroversial position. The idea is not to develop a theory of justice, but rather to present an approach of climate justice based on human rights: I do not attempt to ground pure principles of justice, but only to locate specific climate injustices and to explain how they could be prevented.[4]

There are very different – and competing – theories of human rights, such as legal, political and moral approaches. Like Simon Caney and Derek Bell,[5] I advocate here a moral position, where human rights are characterized by four main elements:

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[2] Even a minimalist such as David Miller acknowledges that basic human rights generate compelling duties towards distant strangers: see David Miller, *National Responsibility and Global Justice* (Oxford: Oxford University Press, 2007), Ch. 7.

[3] Thomas Pogge, *World Poverty and Human Rights: Cosmopolitan Responsibilities and Reforms*, second edition (Cambridge: Polity Press, 2008), p. 25.

[4] *Ibid.*: '[h]uman rights thus furnish a necessary, not a sufficient, condition of social justice: that some institutional design realizes human rights insofar as is reasonably possible may not guarantee that it is just. Only the converse is asserted: an institutional design is unjust if it fails to realize human rights insofar as is reasonably possible.'

[5] Simon Caney, 'Climate Change, Human Rights and Moral Thresholds', in *Human Rights and Climate Change*, edited by Stephen Humphreys (Cambridge: Cambridge University Press, 2010), pp. 69-90, and Derek Bell, 'Does anthropogenic climate change violate human rights?', *Critical Review of International Social and Political Philosophy* 14:2 (2011), pp. 99–124.

- They are based on our common humanity and are therefore independent of the country in which people are born, the place where they live or the actions they have performed;
- They represent a moral threshold below which no one should fall, the most basic moral standards to which persons are entitled;
- They generate obligations on all persons to respect these basic minimum standards: everyone has a duty not to violate or contribute to the violation of human rights;
- They generally take priority over other moral values, such as promoting happiness.[6]

In short, 'human rights specify [a] minimum moral threshold to which all individuals are entitled, simply by virtue of their humanity, and which override all other moral values.'[7] If duties without rights make sense, rights by their nature impose demands and constraints on others' action.

Human Rights under Threat
One good starting point to explain why human rights are jeopardized by climate change is the 2007-2008 Human Development Report, which reads: '[c]limate change is already starting to affect some of the poorest and most vulnerable communities around the world.' According to the United Nations Development Program (UNDP), if global greenhouse gas emissions keep on increasing, 'climate change will undermine international efforts to combat poverty', for instance by 'hampering efforts to deliver the [Millennium Development Goals] promise.' For this reason, our contribution to this environmental problem represents 'a systematic violation of the human rights of the world's poor and future generations and a step back from universal values'. In other words, '[t]he real choice facing political leaders and people today is between universal human values, on the one side, and participating in the widespread and systematic violation of human rights on the other.'[8]

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[6] As one of the anonymous reviewers pointed out, a serial killer's right to freedom could be overridden by other moral considerations. My response is that here we face a clash between two human rights: the right of the (potential) victims to physical integrity; and the right of the criminal to freedom. The right that has to be overridden is the one of the criminal, for the reason that his action violates the third requirement: everyone has a duty not to violate or contribute to the violation of human rights. The aim of the fourth requirement is to guarantee that human rights constraint the pursuit of other moral goals. If, say, promoting welfare in a given society requires the violation of a minority's or even a person's fundamental rights, then these rights should take priority.

[7] Caney, 'Climate Change', p. 73. As Caney emphasises in a former paper on the topic, his approach is inspired by Pogge's political philosophy (Simon Caney, 'Human Rights, Responsibilities and Climate Change', in *Global Basic Rights*, edited by Charles Beitz and Robert Goodin (Oxford: Oxford University Press, 2009), pp. 227-247, at p. 229 n12).

[8] UNDP, *Human Development Report 2007/2008: Fighting Climate Change: Human Solidarity in a Divided World* (New York: United Nations Development Programme Publications, 2008), pp. 3, 7, 10, online at: http://hdr.undp.org/sites/default/files/hdr_20072008_summary_english.pdf (accessed 2013-07-19).

Although there is evidence that climate change is already undermining and will increasingly undermine a plurality of human rights,[9] I focus here only on two of the most accepted rights, both from a philosophical and from a political point of view: the rights to subsistence and to health. These rights are usually considered to be positive rights. In line with the minimalist approach I have introduced above, I will instead consider them as negative rights. I assess how climate change threatens them by using mainly the 2007 IPCC Report,[10] the most authoritative scientific source for multidisciplinary debates on the topic.

Beginning with the right to subsistence, it can be minimally defined as the right not to be deprived of one's means of subsistence by other people's actions. Two consequences of global warming that will hit agriculture badly are sea-level rise and extreme meteorological events. Because of such (and many other) effects, the IPCC estimates that by 2020, in some African countries, agricultural production may be diminished up to 50 per cent, thereby exacerbating poverty in the most disadvantaged region of the world; by 2050, crop yields could decrease up to 30 per cent in central and south Asia; and finally, by 2100, mean yields for some crops in northern India could be reduced by up to 70 per cent.

One country in which massive violations of this right will occur if political inertia remains is Bangladesh: some lands will be lost to the sea, some will be flooded when there are storms, and even lands that remain dry will be damaged. All of this will cripple agricultural output, increase hunger and starvation, and push the country further into poverty. Rising sea will flood large tracts of land, interfering with existing infrastructure and food production, 'possibly creating the largest humanitarian crisis the world has ever faced.'[11] But small island nations such as the Maldives face an even worse fate: they may entirely disappear beneath the waves, which would cause massive migration, with entire populations becoming not only climate migrants, but also climate exiles.[12]

A second internationally recognized human right threatened by climate change is the one to health. It can be defined as the right not to have one's health seriously reduced or threatened by other people's actions. Climate change is likely to affect the health status of millions of people in the near future by aggravating the problem of malnutrition which in turn may lead to social unrest; by increasing disease and injury due to heat waves, floods, storms, fires and droughts; by increasing the frequency of cardio-respiratory diseases; and by altering the spatial distribution of some infectious diseases.

[9] As Stephen Humphreys asserts, 'climate change will undermine – indeed, is already undermining – the realization of a broad range of internationally protected human rights: rights to health and even life; rights to food, water, shelter and property; rights associated with livelihood and culture; with migration and resettlement; and with personal security in the event of a conflict.' (Stephen Humphreys, 'Introduction: human rights and climate change', in *Human Rights and Climate Change*, edited by Humphreys, pp. 1-33, at p. 1)

[10] IPCC 2007, 'Summary for Policymakers', in *Climate Change 2007: Impacts, Adaptation and Vulnerability. Contribution of Working Group II to the Fourth Assessment Report of the Intergovernmental Panel on Climate Change*, edited by M. L. Parry *et al.* (Cambridge: Cambridge University Press, 2007), pp. 7-22.

[11] Andrew Guzman, *Overheated: The Human Cost of Climate Change* (Oxford: Oxford University Press, 2013), p. 12.

[12] Sujatha Byravan and Sudhir C. Rajan, 'The Ethical Implications of Sea-Level Rise Due to Climate Change', *Ethics & Public Affairs* 24:3 (2010), pp. 239-260.

Let us take two existing diseases: malaria and dengue fever. If global temperatures increase by 2 to 3°C, malaria will present a risk to an additional 3 to 5% of the world's population, that is, up to 200 million *additional* people. Concerning dengue fever, if the temperatures increase by 2.5°C, then 2.5 *billion* additional people may be at risk. Climate change also increases the risk of a global health crisis by pushing more people into cities and refugee camps with unsanitary spaces, precisely the conditions facilitating the outbreak of serious and potentially global epidemics.[13] Therefore, climate change reinforces and amplifies current as well as future socio-economic disparities, leaving the disadvantaged with greater health burdens, exacerbating global health inequities among current generations and establishing profound intergenerational inequities.[14] A prominent reason why such inequities are unjust is because they force present and future persons to live under the minimal threshold set by human rights.

These different drivers of human rights violation do not operate in isolation: most of them are interrelated. For example, heat and droughts are often linked, along with fires and water shortages. Floods precipitate disease outbreaks such as cholera and other diarrheal disease, damage infrastructures and disrupt food and water security. Many regions will be exposed to multiple impacts and thus multiple human rights violations. More generally, the impacts of climate change 'will interact with wider social, economic and ecological processes that shape opportunities for human development.'[15] Climate change thus magnifies existing risks by exacerbating world poverty, the most important cause of human rights violation.

Who Is Responsible?

At this point, an important question of definition arises: in what sense can we say that specific human rights of present and future persons are *violated* by the impacts of global warming? It is very difficult to assess who is responsible for and who is suffering from the harms resulting from the effects of global warming. Indeed, it is complex to know who, between individuals, corporations, states and global institutions, carries the main responsible for historic and current emissions as well as who is a victim of a harmful consequence of climate change rather than of another social or environmental problem. As Dale Jamieson puts it, 'climate change is not a matter of a clearly identifiable individual acting intentionally so as to inflict an identifiable harm on another identifiable individual, closely related in time and space.'[16]

For this reason, *individual* responsibility for the harms that will likely result from global warming is very hard to track down – even if it may not be impossible.[17] However, there is a *collective* responsibility for climate change-induced human rights violations. Even if each isolated agent's actions are not harmful, they are part of a causal chain that predictably causes climate change. Limiting our conception of human rights violations to

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[13] Guzman, Ch. 6. Here, Guzman mostly draws on the IPCC 2007.

[14] Elizabeth G. Hanna, 'Health hazards', in *The Oxford Handbook of Climate Change and Society*, edited by John S. Dryzek, Richard B. Norgaard, and David Schlosberg (Oxford: Oxford University Press, 2011), pp. 217-231.

[15] UNDP, p. 19.

[16] Dale Jamieson, 'The Nature of the Problem', in *The Oxford Handbook of Climate Change and Society*, edited by John S. Dryzek, Richard B. Norgaard, and David Schlosberg, pp. 38-54, at p. 44.

[17] See for instance Anne Schwenkenbecher, 'Is there an obligation to reduce one's individual carbon footprint?', *Critical Review of International Social and Political Philosophy* 17: 2 (2014), pp.168-188.

discrete actions that in isolation inflict a severe harm on a specific victim would be a mistake. If the cumulative result of the behaviour of multiple agents is likely to seriously harm other persons, and if the harm is foreseeable, then these agents are collectively responsible for this outcome.[18]

How should we conceive the responsibility for the harms generated by global warming? Climate change can be referred to as a 'new harm'.[19] Our ordinary habits, our everyday activities, contribute to the harming of other people near and far, now and in the future. The classic conception of the harm principle – discrete, individual actions with observable and measurable impacts on particular persons – no longer suffices to explain the multiple ways our conduct may violate the rights of other people. No individual's action is the sole cause of harm; yet it does make a causal contribution to an overall harmful effect. Climate change is an aggregative harm generating systematic human rights violations. Consumers and producers share a responsibility in this new harm, less as individuals (there is arguably nothing intrinsically wrong in burning fossil fuels) than as members of a collective (where the multiple effects of people's actions are joined together and create harms).

Nation-states are the best candidates to represent such collectives. Determining all responsible nation-states would take us too far from the scope of this paper: suffice it to say that we cannot measure this responsibility only by statistics such as national or *per capita* emissions and national or *per capita* incomes; we must also take into account how nations differ with regard to the kind of political institutions or political regime they possess. Members of democratic nations can be held collectively responsible for their emissions because they all enjoy fair opportunities to participate in deciding the legal and political framework that structures individual decisions: since they persist in the pursuit of policies detrimental to the climate, members of democratic nations are collectively responsible for their emissions and the corresponding harms. By contrast, in authoritarian political regimes, citizens have no say in government, no fair opportunity to vote and elect representatives: they cannot be held collectively responsible. As David Miller writes, 'the more open and democratic a political community is, the more justified we are in holding its members responsible for the decisions they make and the policies they follow.'[20]

Therefore, when I write that 'we' are collectively responsible for the human rights violations caused by climate change and that 'we' have a compelling moral duty to develop and implement strong climate policies that lessen these injustices, I mean mostly the well-off citizens of developed countries. Developed countries are the most (even if not the only) responsible for the violation of human rights, and as members of such collectives we must comply with duties of climate justice and prevent as many climate change-induced human rights violations as possible.[21]

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[18] For instance, see Elizabeth Ashford, 'Severe Poverty as a Systematic Human Rights Violation', in *Cosmopolitanism Versus Non-Cosmopolitanism: Critiques, Defenses, Reconceptualizations*, edited by Gillian Brock (Oxford: Oxford University Press, 2013), pp. 129-155.

[19] Judith Lichtenberg, *Distant Strangers: Ethics, Psychology, and Global Poverty* (Cambridge: Cambridge University Press, 2014), Ch. 4.

[20] Miller, p. 130. See also Ludvig Beckman, 'Democracy, national responsibility and climate change justice', *Democratization* 19:5 (2012), pp. 843-864.

[21] There is an extremely rich literature on the problem of responsibility for climate change that I cannot take into account here; but almost all philosophers working on this topic agree that

The Limits of a Human Rights Approach to Climate Change

So far, I have tried to highlight the strengths of a human rights approach to climate change; now I will try to defend it against important objections.

A Response To Gardiner's Objections
According to Stephen Gardiner, a human rights approach 'offers only a partial ethical framing of the climate problem.' Indeed, 'the widespread undermining of human rights is only one of the ethical dimensions of climate change', and does not explain, for instance, why 'our species' infliction of catastrophic damages on non-human animals and the rest of nature' is wrong.[22] I agree with Gardiner's remarks, but I do not think that they question the approach: they only emphasise a limit that I already mentioned above by referring to additional ways to ground duties of climate justice. These different philosophical strategies (human rights, common ownership of the Earth, and so on) are complementary rather than mutually exclusive, as long as they do not exceed their own limits. Therefore, Gardiner is right to say that even if we manage to anticipate human rights violations likely to result from climate change, full climate justice would still be out of our reach. Again, this approach only locates some of the most important climate injustices, not all of them.

There is nevertheless an important problem with Gardiner's objection. Climate justice is only concerned with human activities whose consequences harm other human beings, especially the most disadvantaged, who are the main victims of climate injustices. If climate change may also violate the rights of nonhuman beings, it is not the role of an approach of justice to cope with this problem; it is rather the task of another field of climate ethics. For this reason, when Gardiner writes in a former paper that 'climate change raises issues of justice in relation to nature' or when he mentions the possibility to speak in terms of 'ecological injustice' or 'injustice between species', I think he is mistaking.[23] I do not deny that humans may have duties to nonhuman beings, such as an obligation to prevent unnecessary animal suffering. All I say is that justice focuses on the relationship between human beings, and therefore does not take into consideration such issues, that must be left for other fields of philosophical research such as nonhuman ethics.

Another worry of Gardiner's is that this kind of approach is too much victim-centred and does not say much about who the duty-holders are and how far their

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developed countries should bear most of the burdens of climate change. I do not deny that well-off citizens in non-democratic nation-states such as China also have duties of climate justice: certainly, 'new consumers' in emerging countries are also partly responsible for global warming and its consequences. Given my purpose in this paper, it is nevertheless sufficient to focus on those who are the most responsible for the causes and the effects of the problem; but that does not mean that they are the only ones. Some papers on this topic can be found in Stephen M. Gardiner, Simon Caney, Dale Jamieson, and Henry Shue (eds.), *Climate Ethics: Essential Readings* (Oxford: Oxford University Press, 2010).

[22] Stephen M. Gardiner, 'Human Rights in a Hostile Climate', in *Human Rights: The hard Questions*, edited by Cindy Holder and David Reidy (Cambridge: Cambridge University Press, 2013), pp. 211-230, at pp. 220-221.

[23] Stephen M. Gardiner, 'Climate Justice', in *The Oxford Handbook of Climate Change and Society*, edited by John S. Dryzek, Richard B. Norgaard, and David Schlosberg, pp. 309-322, at p. 311.

responsibility extend.[24] Even after explaining how to determine who the duty-bearers are, the question of the extent of their collective responsibility remains open. Gardiner's general concern is that it is unclear whether controversial conceptions of human rights can be successfully ruled out. One reason for this is that some supporters of this approach call for new environmental rights:[25] I avoided this problem by using only existing human rights. Still, one must admit that a basic human rights approach to climate change may imply more ambitious conclusions than it seems at first sight. The reason, not mentioned by Gardiner, is that negative rights do not only generate negative duties, but also positive ones. In order to guarantee the rights to subsistence and to health, refraining from harming is not enough; we also have to perform certain kinds of action. We have to make sure that vulnerable populations can adapt to the severe impacts of climate change, for instance by helping them to build sea-walls and better irrigation systems. We must compensate the victims of climate change, for instance by distributing immigration rights to climate migrants and exiles. We also have to reform existing institutions in order to ensure that a catastrophic climate change is avoided, for instance by improving existing cap-and-trade systems. Such duties are quite demanding, which shows that a human rights approach to climate justice is indeed more ambitious than it may seem at first glance.

That being said, I think that Gardiner exaggerates when he writes that 'a human rights approach faces philosophical difficulties that provide a *convenient distraction* for those wishing to take advantage of a perfect moral storm.'[26] For him, a human rights approach only names the problem, without telling us how to address it. But this is not accurate: this position clearly grounds a duty to promote effective institutions for the protection of basic human rights against the threats posed by greenhouse gas emissions – be it in terms of mitigation, adaptation or compensation. The harms generated by climate change are produced by the operations of social institutions that structure the behaviour of millions of agents; therefore, reforming those institutions is the best way to lessen these harms. Climate change results from institutional factors and the collective behaviour of individuals, and thus needs to be addressed in a concerted fashion. As Derek Bell puts it, '[a]nthropogenic climate change violates human rights because it is the consequence of our collective failure to fulfil our duty to promote effective institutions for controlling greenhouse gas emissions.'[27] If such a positive duty is more demanding than mere negative duties, it is justified by a minimalist account of human rights accepted by most of political theorists writing on global justice: for this reason, I believe that Gardiner's objection is incorrect.

An additional reason why Gardiner believes that a human rights approach is a convenient distraction is that it cannot respond to classical objections made to theories of intergenerational justice, such as the non-identity problem or the impossibility for future persons to have rights. These objections are indeed challenging; nevertheless, Simon

[24] Gardiner, 'Human Rights', p. 224.
[25] See, for instance, Tim Hayward, *Constitutional Environmental Rights* (Oxford: Oxford University Press, 2005). Caney himself, as Gardiner rightly points out, also sometimes endorses this kind of position, for instance when he mentions the 'right not to suffer from the ill-effects associated with global climate change', in Simon Caney, 'Cosmopolitan Justice, Rights and Global Climate Change', *Canadian Journal of Law and jurisprudence* 19:2 (2006), pp. 255-278, at p. 263.
[26] Gardiner, 'Human Rights', p. 227. Emphasis in original.
[27] Bell, p. 112.

Caney, Gardiner's friendly target in this paper, has developed very convincing responses to these objections that he fails to take into account. Here again I can only refer to these complex debates.[28]

For these reasons and the ones I have developed above, and despite the concessions that should be made to Gardiner's interesting objections, I cannot agree with his conclusion: '*even within a human rights approach there is a high risk of moral corruption.*'[29] I think that this approach remains a powerful moral and political approach in spite of Gardiner's reservations.

The Problem of Motivation

I now move to a more serious objection that can be made against a human rights approach to climate change, and indeed against any deontological approach: the problem of motivation to comply with moral duties.

Citizens and politicians, and consumers and producers, tend to worry about the short and (at best) middle term consequences of the actions they perform. This fact represents one of the best explanations of the deplorable state of climate policies. Moral considerations matter; but to make sure that they matter enough, they must somehow be connected to people's interests. This statement refers to the metaethical problem of motivation: there is a psychological gap between the acceptance of a rule and acting in accordance with it. Moral norms cannot by themselves compel conformity: all they do is prescribe a certain course of action. In order to make someone act accordingly, they often have to rely on further factors. According to Dieter Birnbacher, 'having moral reasons for an action and being motivated to carry it out are distinct items, so that a psychological mechanism independent of the acceptance of the moral rule is needed to explain action in conformity with it.'[30] Furthermore, we usually feel concerned when the effects of our actions are near and visible, but not so when they are dispersed through space and time: when we harm distant strangers, we tend not to feel any responsibility, which represents one more impediment to action.

For these reasons, referring exclusively to moral motives to combat climate change is not enough: a human rights approach to climate change is insufficient to trigger the fulfilment of corresponding duties. If the acceptance of moral duties is insufficient to motivate action in conformity with these duties when competing motivations exist, other psychological factors need to be integrated. 'Moral motives are usually too weak to effect appropriate action unless supported by quasi-moral and non-moral motives pointing in the same direction':[31] if moral motives refer to acts performed from a moral conscience or simply in virtue of the fact that they are duties, quasi-moral motivations are altruistic motives such as love, compassion, solidarity or generosity, while non-moral motives refer to the desire for self-respect, social recognition and personal interest promotion. To motivate those who are collectively responsible for climate change to take action, we

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[28] Caney, 'Cosmopolitan Justice', pp. 264-270, and Caney, 'Human Rights', pp. 234-237. See also Bell, pp. 104-110.

[29] Gardiner, 'Human Rights', p. 228. Emphasis in original.

[30] Dieter Birnbacher, 'What Motivates Us to Care for the (Distant) Future?', in *Intergenerational Justice*, edited by Axel Gosseries and Lukas H. Meyer (Oxford: Oxford University Press, 2009), pp. 273-300, at pp. 273-274.

[31] *Ibid.*, p. 282.

must therefore show whether, and in what sense, specific quasi-moral and non-moral motives point in the same direction than moral duties.

Potentially Catastrophic Consequences

One way to achieve this objective is to assess the effects of an abrupt warming. If the 2007 IPCC Report uses a gradual model of climate change, more and more scientists emphasise the possibility of an abrupt increase in global temperatures due to positive feedbacks in the climate cycle. For instance, once certain tipping points are crossed in the earth's climate system, the terrestrial and the oceanic systems may be transformed from carbon sinks to sources of greenhouse gases.[32] Catastrophic scenarios are so influent in climate sciences that even the 2012 IPCC Special Report mentions them:

> Low-probability, high-impact changes associated with the crossing of poorly understood climate thresholds cannot be excluded, given the transient and complex nature of the climate system. Assigning 'low confidence' for projections of a specific extreme neither implies nor excludes the possibility of changes in this extreme.[33]

If such a catastrophe happens in the future, it will not only affect the distant poor, it will also hit very affluent people and their children and grandchildren, wherever they live. Well-off citizens of developed countries will no doubt be concerned because of their interests in economic growth, health security and political stability; even their own fundamental interests in subsistence and life may be jeopardized. In that sense, they have non-moral reasons, based on their personal interests, to combat global warming. But they also have quasi-moral reasons to do so, since their descendants may be forced to live in an even more dangerous world: as long as present people care for their children, they have strong motives to tackle climate change, even if their short-term selfish interests point in the other direction.

Some catastrophic events could happen only in several centuries; but some may already take place before the end of the 21st century. According to Andrew Guzman, *if* global emissions go unchecked, 'within my lifetime, or, if we are lucky, within the lifetime of my children, there will be acute water shortages affecting hundreds of millions, or perhaps billions, people.'[34] Likewise, according to James Hansen, *if* political inertia remains, 'the best estimate I can make of when large sea level change will begin is during the lifetime of my grandchildren – or perhaps your children.'[35]

The reason why I have stressed the 'ifs' in the two last sentences is that it is crucial to insist on the fact that catastrophic consequences are only possibilities, whose probability depends on our course of action in the coming decades. Catastrophic scenarios must be used carefully: if they are presented as something else than mere

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[32] A good reference on this topic is David Archer, *The Long Thaw: How Humans are Changing the next 100,000 Years of Earth's Climate* (Princeton: Princeton University Press, 2009).

[33] IPCC 2012, 'Summary for Policymakers', in *Managing the Risks of Extreme Events and Disasters to Advance Climate Change Adaptation. A Special Report of Working Groups I and II of the Intergovernmental Panel on Climate Change*, edited by C. B. Field *et al.* (Cambridge/New York: Cambridge University Press, 2012), pp. 3-22, at pp. 11-13.

[34] Guzman, p. 131.

[35] James E. Hansen, *Storms of my Grandchildren: The Truth about the Coming Climate Catastrophe and our Last Chance to Save Humanity* (London: Bloomsbury, 2009), p. 256.

projections, then they can have perverse effects. If people believe that a catastrophic climate change is inescapable, then they will have no reason to reduce their emissions. If the battle against climate change is already lost, as Dale Jamieson claims,[36] if the end is nigh, there is no reason to fight for our common future. This is why it cannot be too much emphasised that catastrophic impacts are only probabilities that can be reduced by existing generations' decisions. It is up to us to ensure that future generations will enjoy an open future rather than suffer from the severe impacts of an abrupt climate change, including massive human rights violations.

Much more can be said about catastrophic scenarios, but the point is that they represent a powerful driver of political action: they are scientifically based and deal with the non-moral and quasi-moral motivations of well-off citizens living in developed countries. They are not less realistic than the gradual model if global emissions keep on increasing; they are just, as the IPCC stresses, 'poorly understood', but it neither means that they are unlikely, nor that they will only happen in the distant future. As Henry Shue emphasises, '[t]hat something is uncertain in the technical sense, that is, has no calculable probability, in no way suggests that its objective probability, if known, would be small.'[37] And even if we discover later that the probability of a catastrophic climate change is low, then strong action to mitigate climate change remains crucial. Indeed, what is most likely to happen is not necessarily the most important consideration in making a choice: an unlikely possibility may be more important if its results will be extremely bad. A dangerous anthropogenic interference with the climate cycle would be so bad that, even multiplied by a small probability, its expected badness is more important than the harms that would be caused by its more likely results.[38]

Additional Reasons to Take Immediate Action

To motivate existing generations to act, it is not even necessary to rely on pessimistic projections. If global emissions keep on growing in the coming decades, then even the most conservative scenarios project severe impacts. I illustrated this point above by using the projections of the IPCC and explaining how climate change threatens the rights to subsistence and to health of the global poor; but we can also anticipate what the effects of a warming of 2°C and more can look like in developed countries. Many of our interests are at risk: for instance, our economic security is threatened, with diminished importations, exportations and international financial transactions as the economy of other countries collapse under the severe impacts of climate change. Likewise, our health security can be seriously jeopardized by the creation and the spread of a global epidemic.

[36] See his quite pessimistic 'Climate Change, Consequentialism, and the Road Ahead', *Chicago Journal of International Law* 13:2 (2013), pp. 439-468. The title of his forthcoming book is also quite bleak: *Reason in a Dark Time: Why the Struggle Against Climate Change Failed – and What It Means for Our Future* (Oxford: Oxford University Press, forthcoming).

[37] Henry Shue, 'Deadly Delays, Saving Opportunities: Creating a More Dangerous World?', in *Climate Ethics: Essential Readings*, edited by Stephen M. Gardiner, Simon Caney, Dale Jamieson, and Henry Shue, pp. 163-177, at p. 148.

[38] See John Broome, *Climate Matters: Ethics in a Warming World* (New York/London: W. W. Norton, 2012), pp. 120-132.

In a globalized world, no country is protected from the impacts of climate change.[39]

To take a concrete example: a striking fact with US leaders is that they recognise themselves that their interests are not any longer exclusively national, but also global. If so far they have rather used this fact to try to legitimize preventive wars, they are also forced to admit that this interconnectedness represents a strong motive to implement strong climate policies. To be coherent, US representatives must acknowledge that, since their national security depends on global factors, they have compelling interests to combat climate change. Take for instance two statements from members of the George W. Bush administration: '[t]oday the distinction between domestic and foreign affairs is diminishing. In a globalized world, events beyond America's boarders have a greater impact inside them'; and

> The United States has interests, responsibilities, and commitments that span the world. As a global power with an open society, the United States is affected by trends, events and influences that originate form beyond its boarders.[40]

Barack Obama himself declared in a speech to the UK Parliament that '[n]o country can hide from the dangers of carbon pollution.'[41] US leaders must therefore stop using this observation only when it suits them; they should also recognise that their political inertia is inconsistent with their national security, especially when their leadership represents humanity's best hope to avoid a catastrophic climate change.

One final point before concluding. If we move from an intragenerational to an intergenerational point of view and ask what could motivate us to care for the future, the answer lies in our 'life-transcending interests.'[42] The scope of individuals' interests is not confined to concerns of a lifetime: most of us have a conception of the good intimately bound up with our hopes for our descendants; we have projects and things we value that we want to pass on to our successors; we care about their heritage and what will happen to it; and we want our ideals to flourish in future generations. These interests, central to our lives and constitutive of our identities, can also motivate us to act in accordance with our duties not to violate the global poor's and future generations' rights by adopting strong climate policies. According to Guzman, 'the most important barrier to a sensible and determined response to climate change is a lack of public understanding about the ways in which our lives and the lives of children will be affected.'[43] Or, as Hansen writes, '[c]itizens with a special interest – in their loved ones – need to become familiar with the science, exercise their democratic rights, and pay attention to politicians' decisions.'[44]

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[39] For instance, see Jody Freeman and Andrew Guzman, 'Climate change and U.S. Interests', *Environmental Law Reporter* 41:8 (2011), pp. 10695-10711.

[40] Quoted in Neta C. Crawford, 'The False Promise of Preventive War: The "New Security Consensus" and a More Insecure World', in *Preemption: Military Action and Moral* Justification, edited by Henry Shue and David Rodin (Oxford: Oxford University Press, 2007), pp. 89-125, at p. 95.

[41] Quoted in Elizabeth Cripps, *Climate Change and the Moral Agent: Individual Duties in an Interdependent World* (Oxford: Oxford University Press, 2013), p. 27.

[42] Janna Thompson, 'Identity and Obligation in a Transgenerational Polity', in *Intergenerational Justice*, edited by Gosseries and Meyer, pp. 25-49.

[43] Guzman, p. 2.

[44] Hansen, p. xi.

Conclusion

Climate change is not just a problem for the future: it is already affecting humanity and the environment. It is too late to hold back global warming, but the longer we wait to respond to it the more difficult it will be to limit its most adverse impacts, and the more costly it will be to adapt. While the IPCC projected that many of the adverse effects of global warming would occur much later in the century, recent science tells us that they will occur much sooner – and in many cases may be happening already – and will likely be substantially more severe than the IPCC anticipated. If we want to avoid the most dramatic impacts of climate change, then action is needed now.[45]

Contrary to what Gardiner claims, a human rights-based approach could guide this action. Identifying likely transgressions of human rights by the impacts of global warming could refocus attention on the human priorities that ought to drive policy: building human rights assessments into mitigation and adaptation scenarios would refine and improve policies, and provide criteria for their adoption or rejection.[46]

I have explained in what sense specific human rights are violated by climate change, and what could at least partially motivate those who are collectively responsible for these violations to stop them. But global warming causes many other forms of harms, and to combat them we must deal with many other practical problems, in particular by finding politically realistic and environmentally efficient institutional reforms.

To ensure that existing and future people won't live in a dangerous world where systematic violations of human rights by climate change become unavoidable, strong climate policies must be adopted in the coming decades. To do so, developing moral reasons for action is an important task; but we also need to develop quasi-moral and non-moral reasons to guarantee that policymakers of the developed world will be motivated to sign and respect a binding climate treaty, and that consumers and producers will change their habits.[47]

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[45] For instance, see Paul G. Harris, *What's Wrong with Climate Politics and how to Fix It* (Cambridge: Polity Press, 2013), pp. 3-16.

[46] See, for example, Stephen Humphreys, 'Conceiving justice: articulating common causes in distinct regimes', in *Human Rights and Climate Change*, edited by Humphreys, pp. 299-319, at p. 315.

[47] An earlier version of this article was presented at the Societas Ethica's 2013 Annual Conference held in Soesterberg on the theme 'Climate Change, Sustainability, and an Ethics of an Open Future' (22-25 August 2013): I am grateful to those present for their questions. I would also like to thank three anonymous reviewers and my thesis supervisor, Simone Zurbuchen, for their very helpful comments, objections and suggested improvements. Finally, I am also grateful to the Executive Editor, Marcus Agnafors, and the Editor in Chief, Brenda Almond, for their instructive suggestions on how to improve this article.

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Understanding Climate Change as an Existential Threat: Confronting Climate Denial as a Challenge to Climate Ethics

Tim Christion Myers

Climate change cannot be managed by experts and politicians alone. Consequently, climate ethics must take up the challenge of inviting public responsibility on this issue. New sociological research on climate denial by Kari Norgaard, however, suggests that most citizens of industrialized countries are ill-prepared to cope with the ethical significance of climate change. I draw upon Martin Heidegger to offer a new reading of climate denial that suggests viable responses to this problem. I argue that the implications of climate change are largely received as an 'existential threat' to the extent that they endanger the integrity of everyday existence. In other words, the implications of climate change for everyday life unsettle what phenomenologists call the 'lifeworld'. Should basic lifeworld assumptions, which cultures rely on to makes sense of the world and their purposes in it, come under serious question, anxieties surface that most people are profoundly motivated to avoid. Hence, the ethical obligations entailed by climate change are 'denied' in the form of protecting lifeworld integrity for the sake of containing anxieties that would otherwise overwhelm people. Finally, I submit that existential approaches to climate denial can empower a confrontation with 'climate anxiety' in ways that open up ethical reflection.

Introduction: Climate Ethics from the Bottom Up

In 1992, the year the United Nations introduced the Framework Convention on Climate Change that laid the groundwork for the Kyoto Protocol, Dale Jamieson made a seminal case for climate ethics.[1] He argued that scientific knowledge, although indispensable, doesn't translate into appropriate action. Moreover, climate change cannot be managed as a technical problem by experts and politicians. Instead, Jamieson argued, this issue

[1] Dale Jamieson, 'Ethics, Public Policy, and Global Warming' [1992], in *Climate Ethics: Essential Readings*, edited by Stephan M. Gardiner, Simon Caney, Dale Jamieson, and Henry Shue (New York: Oxford University Press, 2010), pp. 77-86.

confronts us with questions about how we relate to each other and to nature, as well as questions about who we are and how we ought to live. Hence, climate change is fundamentally an ethical issue.

In the past two decades, experts, politicians, and an increasingly professionalized environmental movement have taken on climate change only to prove Jamieson right. Despite over two decades of overwhelming scientific consensus regarding the enormity of climate change, and several ambitious international conventions attempting to address it, emissions have dramatically increased during this time, not decreased. Arguably, the Kyoto Protocol and market-based solutions like the European Union's venture into cap-and-trade have failed. Economist Nicolas Stern famously proclaimed climate change 'the greatest market failure the world has ever seen,'[2] and some notables like James Gustave Speth are having serious doubts about capitalism's ability to address this problem at all.[3] Faith in green technologies is also problematic. Energy-efficiency improvements have been met with higher emissions because lower utility costs have translated into warmer buildings and bigger refrigerators, while better fuel economy has been outpaced by more cars on the road, longer commuting distances, and a sports utility vehicle fad. In *Green Illusions*, Ozzie Zehner deconstructs the techno-optimism behind solar, wind, biofuels, and other hopefuls to conclude that we don't have an energy crisis: we have a consumption crisis.[4]

My point isn't simply that large-scale solutions are useless. Indeed, one could scarcely imagine mitigating global emissions without them. However, political realism demands that policies and basic institutional reforms commensurate with the magnitude of this issue be met with widespread public support and involvement. In fact, given the global track record of the past two decades, it's become clear that such changes have to be instigated and enforced by a politically organized populous willing to keep powerful interests in check. The totalizing nature of climate change necessitates empowered and clear-sighted democracies like never before, and this in turn requires the kind of moral force that underlies all mass movements later generations recognize as historical in scope. Unfortunately, ethical responses to climate change by the public have proven equally discouraging. Growing awareness over the past two decades has not translated into the widespread normative changes demanded by this issue.

What accounts for this? Climate ethicists offer a range of ideas that include conceptual clarity, political inertia, worldviews, character vices, and other barriers to action. It's important to note in this regard that the way one understands the major barrier(s) to normativity has a strong influence on one's theoretical approach to climate ethics. If the problem of normativity boils down to muddled concepts, clarity will bring home the ethical implications of climate change to compel appropriate action. If, instead, motivation to act is inhibited by worldview perceptions blind to the moral urgency of climate change, a paradigm shift is needed. Or perhaps ethical responses are obstructed by bad habits or ill-adapted character traits. If so, new virtues are called for.

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[2] Nicholas Stern, 'The Economics of Climate Change' [2008], in *Climate Ethics: Essential Readings*, edited by Stephan M. Gardiner, Simon Caney, Dale Jamieson, and Henry Shue (New York: Oxford University Press, 2010), pp. 39-76, at p. 39.

[3] James Gustave Speth, *The Bridge at the Edge of the World: Capitalism, the Environment, and Crossing from Crisis to Sustainability* (New Haven: Yale University Press, 2008).

[4] Ozzie Zehner, *Green Illusions: The Dirty Secrets of Clean Energy and the Future of Environmentalism* (Lincoln/London: University of Nebraska Press, 2012).

These and other approaches to the problem of normativity are found throughout the climate ethics literature. New ethnographic research on climate denial by sociologist Kari Norgaard, however, complicates these views. Her observations suggest that climate denial is a defensive reaction to emotional disturbances triggered by the unsettling implications of climate change. Moreover, denial of this sort is intersubjective, meaning that it has to be understood in terms of collective socio-cultural experience. Ultimately, she argues, what is often denied in climate change is not the reality or even the seriousness of this issue, but precisely its *normative* significance for everyday life. This makes her work centrally relevant to climate ethics. And as I argue in this paper, Norgaard's research lends itself to an existentialist way of understanding the normativity problem at the center of climate ethics, and in the process provides a new perspective from which to approach the field.

Even if Norgaard's ethnographic findings accurately capture the phenomenon of climate denial, however, it still leaves the ethicist wondering how to philosophically address this central barrier to normativity. My own approach draws on Martin Heidegger to thematize climate denial more comprehensively and in ways that suggest viable ethical avenues. Specifically, I argue that climate change is received primarily as an existential threat that shuts down ethical reflection, and that the emotional disturbances observed by Norgaard are largely secondary to this more basic condition. By existential threat, I don't mean a physical danger. I mean a threat to the structures of meaning that constitute community or intersubjective identity.[5] By calling into question our most basic assumptions about how we ought to live, how we ought to relate to others and to nature going into the future, the *continuity of social existence* is threatened at a collective level. In other words, the ethical implications of climate change pose an existential threat insofar as they call into question the intersubjective structures of what phenomenologists call the lifeworld. The sign of such a threat is a creeping anxiety that compels us to engage in the forms of denial analyzed by Norgaard. Hence, a Heideggerian interpretation of this research would understand climate denial as an anxious attempt to work with others in order to keep the ethical significance of climate change at a safe remove.

If climate change is indeed received as an existential threat, those interested in empowering public responsibility might want to consider an existentialist approach to climate ethics. To this end, I conclude that *some* measure of anxiety is appropriate as a signal that basic existential changes are needed, as long as bottom-up ways of responding to anxiety are put forward that truly open people up to this daunting issue.

The Existential Problem

In a recent interview, Bill McKibben remarked that addressing climate change is like building a movement against ourselves—as if the abolition movement depended on slave owners.[6] Although we can draw powerful examples of collective mobilization from

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[5] By 'community' or 'intersubjective identity' I mean traditions (religious, political, professional, etc.) that connote common ways of thinking, speaking, feeling, perceiving, and being.

[6] Bill McKibben, 'Global Warming's Terrifying New Math', *Rolling Stones Magazine,* July 19 (2012), online at http://www.rollingstone.com/politics/news/global-warmings-terrifying-new-math-20120719 (accessed 2013-11-11).

history, as with World War II, what most of them have in common is a felt need to react against an external threat like fascism. Climate change, however, complicates this line between external and internal. Of course, McKibben doesn't believe that 'external enemies' are absent. In a world marked by widening gaps of wealth and power, it's not the consumers that have been controlling the fate of climate policy over the past two decades. One must look instead to producers like Exxon Mobil. McKibben's point, however, is that most people in affluent societies tend to identify with the very industrial world order that Exxon Mobil represents. Social identity, after all, is constituted by socio-cultural experience, and the latter has long been infused with the ethos and mores of industrialization, including its scientific, technological, and economic power. There's a sense in which we *see ourselves*—our past and future—in the very world responsible for climate change, and so cannot easily imagine carbon-healthy alternatives to it. I call this the existential problem.

For Herbert Marcuse, we see ourselves in a world that is nevertheless alien to us—just as medieval Christians saw themselves in a supernatural God beyond their experience and power to influence. For him, however, the 'external world' most identify with today belongs, not to the supernatural, but rather to the material order that governs everyday existence. The result, for Marcuse, is a 'one-dimensional' *internalization* of the industrial order itself to the extent that it has become self-evident and beyond question. With the introduction of mass communications, social experience has become standardized to such an extent that our ability to think, speak, feel, perceive, and behave *beyond* the industrial order of immediate existence has been severely compromised. Thus, Marcuse explains, the genuine development of meaningful concepts to mediate self and world is precluded.

> The concepts which comprehend the facts and thereby transcend the facts are losing their authentic linguistic representation. Without these mediations, language tends to express and promote the immediate identification of reason and fact, truth and established truth, essence and existence, the thing and its function.[7]

If we add to this list the immediate identification of what *is* (reality) and what *ought to be* (possibility), mediating *ethical* concepts also seem unlikely to develop. Future possibilities are already encapsulated in present realities. Yet, for Marcuse, the function of a viable culture (or lifeworld) is to mediate existence by distinguishing real needs and problems from false ones in light of higher ideals. If the industrial order is received as self-evident, however, any basic problems intrinsic to it are concealed. Hence, the existential problem is born from the recognition that truly ethical responses to climate change require shifts in identity that are significantly distinct from the industrial order responsible for climate change.

Allen Thompson and Jeremy Bendik-Keymer come close to this problem in the climate ethics literature with their recent anthology *Ethical Adaptation to Climate Change*. Here, they attempt to broaden the focus from prescriptions to virtues in an effort to ground action in a new understanding of human excellence. A new vision of the good life is called for to facilitate new ways of being human in a world where adapting to climate

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[7] Herbert Marcuse, *One-Dimensional Man: Studies in the Ideology of Advanced Industrial Society* (Boston Mass.: Beacon Press, 1964), p. 85.

change will become the prime directive. '*Who we are* today' they explain, 'is not ready for this and *who we have been* got us into this mess.'[8] Thus, we are invited to transform ourselves in the context of 'well-worked-out relationships between our lives, our institutions, and the extrahuman world'.[9]

What remains to be seen, however, is whether or not communities are open to accepting this invitation to self-transform in the first place. If we do in fact internalize a world of social forces largely beyond our grasp and influence, self-transformation in the name of climate ethics must seem like pure fantasy—a request to create something *ex nihilo*.

The existential problem, however, runs deeper still. Insofar as self-identity is fundamentally implicated in the same world order of production and consumption causing climate change, asking for fundamental ethical changes that *conflict* with that world must seem tantamount to a kind of identity crisis. Reforming one's identity risks endangering the collective sense of order, stability, and continuity in life required to live with integrity and confidence. It is in this sense, I argue, that the ethical implications of climate change are received largely as an existential threat. What would happen, for example, if we were to fully take in the fact that carbon levels now exceed 400ppm—a level the biosphere hasn't been adapted to for countless millennia? And what happens when we begin to realize that climate change is inextricably bound to a plethora of other global dangers like ocean acidification and the sixth mass extinction in Earth's history? All things considered, the ethical implications of climate change suggest that we humans need to adapt to the nonhuman world, rather than forcing nature to adapt to us. But this points to a profound and disturbing reversal in the Western psyche that contradicts centuries of socio-cultural momentum. Indeed, if one accepts Lynn White Jr.'s thesis, the Western relationship to nature is religiously founded on an anthropocentric worldview dating back to *Genesis* that entitles human dominion over Creation.[10] Carolyn Merchant, furthermore, analyzes the Scientific Revolution to argue that the metaphor of a mechanistic universe synthesized modern science, technology, and capitalism by way of justifying a view of technical human control over nature.[11] Can news of climate change confront such cultural inertia? And should one go further to examine the systemic relationship between the anthropocentric institutions driving climate change and the systemic social injustices organized by these same institutions, how does one cope with such a totalizing condition?

Drawing on Norgaard, I argue that the signature of the existential problem inhibiting ethical normativity in the face of climate change has to be understood as a kind of denial in the face of such disturbing questions. In an effort to more fully grasp the existential problem, therefore, we turn now to her theory of climate denial.

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[8] Allen Thompson and Jeremy Bendik-Keymer, 'Introduction: Adapting Humanity', in *Ethical Adaptation to Climate Change: Human Virtues of the Future*, edited by Allen Thompson and Jeremy Bendik-Keymer (Cambridge, Mass./London: MIT Press, 2012), pp. 1-23, at p. 15.

[9] *Ibid.*, p. 2.

[10] Lynn White Jr., 'The Historical Roots of Our Ecological Crisis', *Science* 155:3767 (1967), pp. 1203-1207.

[11] Carolyn Merchant, *The Death of Nature: Women, Ecology, and the Scientific Revolution* (New York: HarperCollins, 1980).

Norgaard's Theory of Climate Denial

As Norgaard explains, climate denial takes multiple forms.[12] The most well-known in the United States is the 'literal denial' that dismisses the science of climate change. Even in the US, however, literal denial only accounts for a minority of the population. A more prevalent form is 'interpretive denial,' where climate change is accepted as factual, but the facts are interpreted in ways that dismiss it as a serious threat. For example, a faith in historical 'progress' can bring comfortable interpretations of climate change as a problem that will eventually be solved by the experts.

The third form of denial, however, is the most subtle and perhaps most widespread. In what is called 'implicatory denial', climate change is acknowledged as real and it's interpreted as a serious threat, but the moral implications of this issue are consistently minimized. As Norgaard puts it, implicatory denial reflects 'a failure to integrate…knowledge [of climate change] into everyday life or transform it into social action.'[13] Thus, this third form of denial has insidious consequences for climate ethics as a field of inquiry.

Norgaard's ethnographic research was conducted in Norway, a country she selected because of its largely educated and politically-involved citizenry with an impressive record of environmental action. Consequently, she believed, the more subtle aspects of climate denial could be investigated more clearly in this setting. In Norway, one can see that the dominant theories of climate denial (focusing on ignorance, ideology, apathy, or greed) miss the mark. Accounts of inaction that center on such phenomena tend to rely on problematic assumptions about human nature that stress either rational actor theories of behavior or see denial as a kind of passive impotence or indifference. The most widespread example of this is what is known as the 'information deficit model,' where the so-called failure to respond to climate change is understood in terms of ignorance or misinformation—assuming, as it does, that if people only 'knew' the science, they would take climate change seriously and act differently. The hope here is that educating the public or countering political ideologies and media reporting that cast doubt on climate change will be enough to motivate collective action. Other approaches assume that overcoming greed, apathy, and other vices will be sufficient to generate a response. Again, however, these conditions aren't especially salient in Norway.[14]

Her observations suggest, on the contrary, that climate denial is more indirect than is commonly believed. For one thing, climate denial is 'socially organized'— meaning that it is intersubjective before it's subjective. In her own words, implicatory denial is 'generated and maintained in response to social circumstances and carried out through a process of interaction.'[15] Unconsciously motivated by disturbing feelings prompted by the implications of climate change, such as fear, guilt, and powerlessness, denial occurs when people employ certain norms of conversation and other social behaviors as a way of keeping the troubling implications of this ominous problem from

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[12] See Stanley Cohen, *States of Denial: Knowing About Atrocities and Suffering* (Malden: Blackwell, 2001).

[13] Kari Marie Norgaard, *Living in Denial: Climate Change, Emotions, and Everyday Life* (Cambridge, Mass./London: MIT Press, 2011), p. 11.

[14] *Ibid.*, Ch. 1.

[15] *Ibid.*, p. 9.

surfacing. This involves any number of intersubjective strategies, most of which aim to micro-manage perception and ways of thinking in order to manage these feelings.

Hence, we work with others to protect ourselves by keeping climate change out of the sphere of everyday reality. Examples of this include pressures to remain optimistic, keeping conversations light (and changing topics or using humor when this is violated), sticking to the technical facts of the matter as opposed to its deeper meaning, and focusing on the past or the present rather than the future, or on local problems rather than global ones. Norgaard also noticed denial at work in the form of an appropriation of various narratives, metaphors, and other cultural resources to help communities avoid taking in the troubling implications of this daunting issue. These collective strategies—at work as long as climate change disturbs and unsettles—may seem insignificant when considered in isolation. But if Norgaard is right, the intentional, if unconscious, product is a collective safeguarding that helps people live with something that would otherwise overwhelm them.

> Questions about how people 'create distance' from information on climate change and 'hold information at arm's length' seem absurd if we take the everyday world at face value. But collectively constructing a sense of time and place, a sense of what is and is not appropriate to pay attention to or feel, is an important social and political process. In such constructions, we see the intersection of private emotions and the macrolevel reproduction of ideology and power.[16]

Again, implicatory climate denial is a collective accomplishment in response to concrete situations experienced in common, not just a psychological condition. We need to convince *each other*, not simply ourselves, that climate change doesn't personally implicate us in any meaningful way. Given the epistemological authority of science in Western societies, and the wide availability of information about climate change today, covering up the deeper implications of this issue takes work. And apparently, the threat of climate change is enough to motivate this kind of work. Of course, to the extent that even outspoken believers in the science of climate change successfully convince each other that they aren't *really* implicated in this issue, or that the experts will eventually solve it, the question of ethics never comes up.

An Existential Phenomenology of Climate Denial

Ultimately, Norgaard's work suggests that it is a mistake to understand climate denial as a lack of response. Denial is indeed a response—but of a certain kind. And until we get clear about how climate change is experienced as a public issue, grasping the full scope of climate denial will continue to elude us. Yet putting the matter in terms of 'experience' is also misleading. Because what has to be understood about climate change is that it doesn't speak to one's concrete experience of the world, but rather to the background *against which* one experiences things—what I referred to earlier as the lifeworld. This is what makes climate denial amenable to phenomenological analysis. Norgaard's ethnographic research, moreover, suggests that this issue is received as a disturbance to this background, and this is what recommends climate denial to the existentialist.

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[16] *Ibid.*, p. 97.

In an attempt to offer a phenomenology of the existential problem in light of Norgaard's work, it would be helpful to clarify what we mean by the lifeworld. The Husserlian term denotes the 'pre-given' world people perceive in common to the extent that they have a shared history. It is also the experiential context we share with others to help us make sense of things as properly situated. Ultimately, however, it is the 'horizon' of all possible experience, the shared medium informing a culture's basic relationship to the world of its experience. It is because of the lifeworld that things appear self-evident or obvious, as opposed to the products of interpretation. This, for Husserl, is what enables subjects to communicate and live together in a world of real things, but things that are meaningfully articulated according to historical institutions, present concerns, and future projects.

Lifeworlds make experience reliable by offering a coherence and continuity to our basic intuitions. Yet they are also heterogeneous and open to the material world beyond them, which allows them to constantly develop and change over time. As collective sensibilities develop in response to concrete problems, moreover, they both cohere and conflict with other ways of making sense of things at various levels of generality and specificity. *Specific* forms of meaning, for instance, enable a given culture to make sense of particular things of significance like chairs, magpies, edible plants, and Coke bottles, while the more *general* constellations of meaning embody answers to the existential questions in life that concern *all* cultures—those that articulate, for example, the basic relationship between self, society, and nature.

To the extent that specific and general forms of meaning cohere with one another as comprehensive gestalts and survive the test of time by enabling a society to successfully cope with life's challenges, they become institutionalized or backgrounded. Hence, the experiential world they contextualize is largely beyond question. A linear conception of time—and hence historical intuitions of progress *versus* decline—is probably a good example of a general lifeworld assumption in Western cultures that is difficult to question.

Lifeworlds cannot be understood in the abstract as, for example, inherently conservative or radical. A given lifeworld might privilege cultural identity or security, while another privileges transformation and creativity. It all depends on the meaning structures inherited from the past and the concrete problems confronting the community as it works to realize its future. But like ecosystems, rapid systemic changes to a people's lifeworld can make viable adjustments difficult, if not impossible. In enabling people to make sense of things in meaningful ways, their lifeworld affords them the identity and security necessary to live with purpose and confidence. Accordingly, we rely strongly on a shared background to give our lives continuity and integrity. For this reason, when the lifeworld we share with others is threatened at a general level, we are compelled to work with others to safely address this threat. This is precisely what Norgaard observed conducting her ethnographic research on climate denial.

Martin Heidegger's synthesis of Husserl's phenomenology and Søren Kierkegaard's existentialism in *Being and Time* explains this more concretely by carefully distinguishing secure from insecure ways of being in the world.[17] First, notice that when life's routines are running smoothly, people tend to take things for granted. Thanks to the

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[17] Martin Heidegger, *Being and Time*, translated by John MacQuarrie and Edward Robinson (New York: Harper and Row, 1962), Ch. 3.

skills, habits, and sensibilities integrated by the lifeworld, we know intuitively that what worked last time will probably work next time as well. Hence, there's no need to constantly notice things we're already familiar with and reflect on them. For this reason, unless we're dissatisfied with something or think we can improve it, we're often not conscious of the *particularities* of experience so long as everything is happening as expected. To take Heidegger's famous example, when hammering, the hammer itself isn't experienced as a thing of wood and metal. Rather, we simply take up the hammer unreflectively and relate to it almost as if it were an extension of our own bodies. Similarly, it's revealing that when we experience a fender-bender, we usually say '*I got hit*' — not 'my *car* got hit while I was in it'. If the car or hammer is an integral part of the lifeworld that makes us feel at home in the world, we naturally experience it as *part of us*.

As long as things make sense and our expectations in life are largely met, we usually identify with the world we belong to. So what distinguishes secure from insecure ways of being in the world? This can be discerned, among other ways, by how people cope with the unexpected in life. Consider first, Heidegger says, that it's often not until some disruption occurs that 'stands in the way of our concern', as when the hammer breaks, that we become fully conscious of it.[18] Usually, it's only when the flow of our projects get interrupted by something unexpected that we experience the hammer as indeed *separate* from us — as a thing of wood and metal, for instance, that needs repair. Yet, breakdowns occur at different levels in life and require different responses. And this is the point I want to drive home with regards to climate change. Just as we have to make a distinction between 'climate' as a background condition and 'weather' as a foreground expression of it, so too we need to make a distinction between the *general* structures of the lifeworld that order experience and the *particular* things that make sense to us against this larger background. For example, when particular things like hammers or cars break, we can simply fix them or get new ones. *Specific* problems at this foreground level can be *handled consciously by the individual*. But what happens when the hammer works fine, but using it to *add on to the house* becomes an issue because a larger house — requiring more energy to heat — will increase carbon emissions? This is a different problem, requiring a different kind of response. Or what happens when the car works but *the everyday act of driving* becomes an issue because it contributes to climate change? Connect enough dots and you will discover that these more general problems *cannot* be handled by individuals alone because here it is the *lifeworld practices we share with others* that are questionable — not the *particular* things that stand out against this larger background.

Because the normative implications of climate change challenge our most basic background assumptions, we cannot simply treat this deeply systemic issue as a problem to be handled consciously and deliberately, if only people had sufficient knowledge and will-power. Unlike broken hammers and cars, we don't simply become conscious of existential problems affecting the lifeworld in order to fix them. Instead, as Heidegger explains, we become insecure and anxious — often without knowing why or even noticing.

As Norgaard's ethnographic findings suggest, this is why we have to work together to deal with the disturbing implications of a comprehensive issue like climate change. If these implications do indeed threaten the continuity of life by disrupting lifeworld integrity, the anxiety that signals this existential insecurity isn't something we

[18] *Ibid.*, p. 103.

can cope with by ourselves. Precisely because the lifeworld is intersubjective, problems that affect it cannot be addressed in direct, unmediated ways.

Climate change is an intersubjective issue to the extent that it uproots existential assumptions shared in common. Consequently, any viable ethical responses to it must likewise be intersubjective. Bottom-up community dialogue, rather than the top-down monologue issued by experts and politicians, is the appropriate response to a problem like this. Dialogue is not a substitute for action. It's the wisest path to it.

Responding to Climate Anxiety

In comparison to other issues, the notion of climate change appears especially conducive to anxiety. What could be more all-encompassing, more God-like in nature, than the climate? Climate affects *the* most basic character of the places we live in, and the thought of an unstable climate seems to portend an uncanny or perhaps disorderly world that throws our future into doubt. Or perhaps climate change signifies for some a power of nature somehow *against* us with a mind of its own. In any case, what issue could make us feel smaller, more lost and more powerless? Mike Hulme makes this point quoting Lucian Boial:

> Indeed, throughout the human experience of realised climate and portended climates, there runs a thread of anxiety and fear. 'The history of humanity is characterised by an endemic anxiety…it is as if something or someone is remorselessly trying to sabotage the world's driving force—and particularly its climate.' The persistent use of visual icons of glaciers…as signifiers of climate danger reveals such anxiety.[19]

According to sociologist Anthony Giddens, moreover, anxiety is endemic today. The globalized, post-traditional institutions that constitute modern social existence, he explains, perpetually challenge our basic trust in the world we share with others, and this threatens 'ontological security'.

> To be ontologically secure is to possess…'answers' to fundamental existential questions which all human life in some way addresses…The prime existential question…concerns *existence itself*, the discovery of an ontological framework of 'external reality'.[20]

To the extent that traditional answers to existential questions are repeatedly undermined by rapid social change, however, the continuity of our existence—and hence our very identity—is in constant danger of destabilizing.

Citing psychological experiments in which subjects react in 'dramatic and immediate' fashion when deep social conventions are breached, Giddens explains how disturbances in our 'emotive-cognitive orientation towards others, the object-world, and

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[19] Mike Hulme, *Why We Disagree About Climate Change: Understanding Controversy, Inaction, and Opportunity* (Cambridge: Cambridge University Press, 2009), p. 13, quoting Boial, *The Weather in the Imagination*.

[20] Anthony Giddens, *Modernity and Self-Identity: Self and Society in the Late Modern Age* (Stanford: Stanford University Press, 1991), p. 47.

self-identity' produce anxieties that we're profoundly motivated to avoid.[21] As psychologist Helen Lynd put it:

> We experience anxiety in becoming aware that we cannot trust our answers to the questions, 'Who am I?' 'Where do I belong?'…with every recurrent violation of trust we become again children unsure of ourselves in an alien world.[22]

Anxiety can paralyze our ability to comport ourselves with integrity, think creatively and consistently, and act with purpose in anticipation of future possibilities. For psychologists Immo Fritsche and Katrin Häfner, perceived existential threats implicated in issues like climate change often compel people to reinforce their cultural worldview and even deny that humans are part of nature. 'This symbolically releases humans from the realm of mortal nature and may thus induce a sense of immortality and thereby buffer existential anxiety.'[23] Even in less extreme forms, anxiety seems a likely prompt for denial.

Despite all of this, however, some communities *do* seem empowered to address climate change ethically. The 'transition towns' movement is a particularly salient example of empowered, bottom-up change in the face of climate change.[24] The city of Freiburg, where Heidegger taught, is a prominent example, but there are hundreds of others emerging worldwide. Apparently, some communities have indeed learned to work through the disturbing implications of climate change. Understanding how, I suggest, points the way towards an existentialist climate ethics.

Here we return to the question of what distinguishes existential security from insecurity. For Heidegger, there are two ways of dealing with anxiety. The first can be described as *reactive*, the second as *responsive*. The reactive approach shows itself as a willful clinging to the social norms that brought lifeworld (ontological) security in the past. This defensive reaction is defined by its attempt to keep one's world intact by any means. This takes place in various ways depending on the community—including traditions that place all faith in some external power like God, the government, the free market, or Gaia to work out our biggest problems. Social privilege is also relevant. Psychologists Irina Feygina *et al* draw on 'system-justification theory' to explain climate denial as a defensive reaction against perceived threats to 'the very foundations of our socioeconomic system', which privileged groups tend to identify with as beneficiaries of the status quo.[25] As seen in Norgaard's analysis, all such tendencies offload ethical responsibility by abstracting problems like climate change in order to dissociate them from the moral fabric of everyday life.

But what do we do with our anxiety if we don't have an external source to cling to? For example, what happens to someone who identifies with a community that accepts

[21] *Ibid.*, p. 38.

[22] *Ibid.*, p. 66.

[23] Immo Fritsche and Katrin Häfner, 'The Malicious Effects of Existential Threat on Motivation to Protect the Natural Environment and the Role of Environmental Identity as Moderator', *Environment and Behavior* 44:4 (2012), pp. 570-590, at p. 572.

[24] See Isis Brook, 'Turning Up the Heat on Climate Change: Are Transition Towns an Answer?', *Environmental Values* 18:2 (2009), pp. 125-128.

[25] Irina Feygina, John T. Jost, and Rachel E. Goldsmith, 'System Justification, the Denial of Global Warming, and the Possibility of "System-Sanctioned Change"', *Personality and Social Psychology Bulletin* 36:3 (2010), pp. 326-338, at p. 327.

the science of climate change, and yet is distrustful of big corporations and big government to solve this problem? Or how might a community cope if they're already suspicious of the mechanistic logic and technological optimism defining mainstream climate discourses? In communities that hold to these lifeworld assumptions, the fundamentalisms that enable others to keep anxiety at bay may not be compelling options.

In any case, should we find ourselves without recourse to the easy comfort of traditional lifeworld norms and sensibilities, we have the opportunity to prepare for the *second* way of dealing with anxiety—what Heidegger calls the 'authentic' response. Once intuition tells us that the background assumptions we counted on in the past fail to serve us going into the future, the search for a new identity begins with the hope that more secure ways of being in the world can be developed.

Although authenticity as an ethical concept has rightly come under fire, it is nevertheless instructive in this context. For Heidegger, authenticity requires one to step back from the comforting world of social norms in order to see them for what they are— as expressing just one way of life amongst possible others. Once communities develop the ability to learn from their anxiety and ultimately *accept* it—rather than engage in strategies of denial to contain it—people can experience an empowering liberation from fear that allows them to, once again, take a stand in life. This time, however, they address a world that they have, in a sense, owned up to and earned with the insight that meaning is created rather than simply given. As previously invisible background assumptions become foregrounded, communities can begin to recognize general lifeworld structures for what they are—historical guidelines and nothing more. Although it takes vigilance, confronting anxiety by accepting it (i.e. working through it with others) allows one to resist the gravitational pull of falling into the traditional security of mainstream everydayness.

A good example of this is found in the climate activism of Tim DeChristopher. He was sentenced to two years in prison after disrupting an oil and gas lease auction by falsely bidding on 116 parcels of public land. But what is significant here is the existential crisis that brought DeChristopher to this decisive moment of action in the first place. In an interview with Terry Tempest Williams, he speaks of an anxious mourning-for-the-future period after talking at length with one of the lead authors of the fourth report of the Intergovernmental Panel on Climate Change. It's worth quoting at length.

> **TIM:** I said [to the scientist]: 'So, what am I missing? It seems like you guys are saying there's no way we can make it.' And she said, 'You're not missing anything. There are things we could have done in the '80s, there are some things we could have done in the '90s—but it's probably too late to avoid any of the worst-case scenarios that we're talking about.' And she literally put her hand on my shoulder and said, 'I'm sorry my generation failed yours.' That was shattering to me.
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> **TERRY:** When was this?
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> **TIM:** This was in March of 2008. And I said, 'You just gave a speech to four hundred people and you didn't say anything like that. Why aren't you telling people this?' And she said, 'Oh, I don't want to scare people into paralysis. I feel like if I told people the truth, people would just give up.' …But with me, it did the exact opposite. Once I realized that there was no hope in any sort of normal future, there's no hope for me to

have anything my parents or grandparents would have considered a normal future—of a career and a retirement and all that stuff—I realized that I have absolutely nothing to lose by fighting back. Because it was all going to be lost anyway.

TERRY: So, in other words, at that moment, it was like, 'I have no expectations.'

TIM: Yeah. And it did push me into this deep period of despair.

TERRY: And what did you do with it?

TIM: Nothing. I was rather paralyzed, and it really felt like a period of mourning. I really felt like I was grieving my own future, and grieving the futures of everyone I care about.

TERRY: Did you talk to your friends about this?

TIM: Yeah, I had friends who were coming to similar conclusions. And I was able to kind of work through it, and get to a point of action. But I think it's that period of grieving that's missing from the climate movement.

TERRY: I would say the environmental movement.

TIM: Yeah. That denies the severity of the situation, because that grieving process is really hard. I struggle with pushing people into that period of grieving. I mean, I find myself pulling back. I see people who still have that kind of buoyancy and hopefulness. And I don't want to shatter that, you know?

TERRY: But I think that what no one tells you is, if you go into that dark place, you do come out the other side, you know? If you can go into that darkest place, you can emerge with a sense of empathy and empowerment.[26]

As DeChristopher's story suggests, the difference between reacting to ontological insecurity and authentically responding to it is the difference between covering up anxiety via denial and accepting it as a signal that we need to seriously re-evaluate things. Just as pain teaches us what is physically harmful in the world, anxiety should teach us what is existentially harmful about our relationship to it. Should a community find itself with some meaningful purchase on the normative implications of climate change, it probably has a better chance of truly responding to anxiety than a community whose lifeworld is under-prepared to make sense of this problem for what it is.

We should be clear that the authentic response doesn't involve the 'authentic' freedom of Jean-Paul Sartre's egocentric brand of existentialism. Cultivating an authentic stance requires collective projects of meaning-making just as much as the forms of denial analyzed by Norgaard. On Hubert Dreyfus's reading, the moment of transformation from the anxious cover-up of denial to the resolve of authenticity does not involve a

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[26] Terry Tempest Williams, 'What Love Looks Like', *Orion Magazine*, January/February (2012), online at www.orionmagazine.org/index.php/articles/article/6598 (accessed 2013-11-11).

willful choice, but happens to one rather as if by a gestalt switch. Suddenly, new possibilities open up as structures of meaning instituted in the past (for the sake of realizing a certain future) lose their invisible grip.

> [One] must arrive at a way of dealing with things and people that incorporates the insights gained in anxiety that no possibilities [for us] have *intrinsic* meaning…yet makes that insight the basis for an active life. Precisely because [one] is clear that [one] can have no final meaning or settled identity, [one] is clear-sighted about what is actually possible.[27]

The existential clarity articulated here appears to parallel DeChristopher's emergence from shattered expectations. Learning to be at home in a world we have owned up to and earned, we become secure and hence receptive in the face of possibility, rather than willful in the face of alienation. If this reading of Heidegger is sound, the authentic response to anxiety should enable us to openly respond to the unique situation for what it is—as in the historically unique situation we call climate change.

Conclusion: Prolegomena to an Existential Climate Ethics

Does an existential rendering of Norgaard's research suggest new approaches to climate ethics? If anxious denial keeps us from recognizing the ways in which our everyday lives are implicated in climate change, we need ethical approaches that address this background condition for what it is.

Moreover, if the existential problem signaled by climate denial is indeed a fundamental barrier to action, we cannot simply reason our way to normativity. In this respect, perhaps we should take pains to avoid overly abstracting climate change if this means ignoring how it actually affects the public. For example, a de-historicized focus on ethical clarity in the form of universal principles risks leaving lifeworld conditions unquestioned and unattended to. Likewise, hopes of individual responsibility might fall flat if ethical reflections concerning climate change occur against the background of intersubjective sensibilities.

In contrast to rationalistic ethical traditions like consequentialism where normativity takes the form of calculating moral results in the external world, or those like deontology where normativity expresses the autonomous will within, the existential problem recommends that we tend to the intersubjective *relationship* people have to the world of their experience. In this respect, it has a common orientation with care ethics and the practical wisdom (*phronesis*) basic to virtue ethics, but fortified with phenomenological and existential insights. In these traditions, ethical decisions are driven by the contingent—and sometimes ambiguous—*situation* given past experience and goals worthy of realization. What existential phenomenology adds to this focus on relationality (and here Simone de Beauvoir and Maurice Merleau-Ponty are more edifying than Heidegger) is an ability to mediate micro-level situations involving individual agents and macro-level structures. The latter include historical sensibilities and tendencies, as well as institutional forms of power. Hence, 'the situation' calling for decisive ethical action can

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[27] Hubert L. Dreyfus, *Being-in-the-World: A Commentary on Heidegger's* Being and Time, *Division I* (Cambridge, Mass.: MIT Press, 1991), p. 320.

be interpersonal or it can be socio-cultural and historical in scope. Either way, the lifeworld structures constituting the background of experience play a significant role in the collective decision-making process. In this way, I submit, an existentialist approach can help us grasp the 'collective action' problem confounding climate ethicists. Ultimately, creative forms of collective meaning-making are needed in the context of the lifestyles and power structures perpetuating climate change and obstructing progress—forms of meaning that promise new answers to old existential questions in an effort to open communities up to an uncertain world.

An existential ethics of this kind, however, requires a receptivity to change that is in short supply today. Two opposing strategies seem available to address this, both of which have merit but remain problematic. The first seeks to motivate public responsibility by presenting the grave implications of climate change as 'hard medicine' that needs to be injected directly into the veins of a society that otherwise refuses to swallow it. Perhaps the case of Tim DeChristopher lends credibility to this approach. If one is ill-prepared to receive this news, however, this strategy risks threatening ontological security—thus inviting forms of denial bent on containing the anxiety that results. Those sensitive to this problem, therefore, typically opt for a 'positive vision' message to motivate action. Perhaps rhetorical frames, narratives, and symbols that make ethical change more palatable should be encouraged instead. Giddens, for example, agrees with Michael Shellenberger and Ted Norhaus who remind gloom-and-doom environmentalists that Martin Luther King Jr. inspired the American civil rights movement with an 'I have a dream' speech, not an 'I have a nightmare' speech.[28]

A full defense of the positive vision approach is found in climate scientist Mike Hulme. He argues that we need to find ways of mediating the *idea* of climate change to empower new ways forward. For one thing, we cannot successfully address climate change if we continue to approach it scientifically as a physical problem in need of policy solutions. Technical thinking that jumps from problems to solutions, he says, limits our imaginations by effectively hollowing out cultural forms of meaning that could help us confront this condition more comprehensively. At the same time, however, he also believes that using cultural symbols—the 'dominant trope [of which] has been one of climate change as a threat'—to motivate individuals by fear is equally unproductive.[29]

Common to both approaches, Hulme explains, is a dualism that ignores socio-cultural experience as the middle ground of ethical reflection. Hence, instead of relying on reason or fear as the lynchpins of social change by presenting this issue as an ominous threat to be averted, he suggests that we creatively mobilize the idea of climate change to redefine the human project itself by asking what climate change 'can do for us'. Such a reversal in logic, he maintains, would treat climate change as 'a stimulus *for* societal adaptation, a stimulus that—rather than threatening a civilization—can accelerate the development of new complex civil and social structures.'[30]

Despite important insights, Hulme's positive vision approach remains problematic from an existentialist perspective. By turning the implications of climate change around so that this issue 'works for us', the anxiety stage risks being comfortably

[28] Michael Shellenberger and Ted Nordhaus, *Break Through: From the Death of Environmentalism to the Politics of Possibility* (New York: Houghton Mifflin, 2007), p. 2.

[29] Hulme, p. 33.

[30] *Ibid.*, p. 31.

bypassed. To the extent that climate change is indeed a crisis that our culture is *not* prepared for, a certain measure of anxiety is appropriate as sign that we are indeed in a bad situation that calls for courageous change. We need this signal. So in contrast to those who encourage us to present climate change in a positive light, we might agree with Speth's hard medicine rejoinder to Shellenberger and Norhaus that sometimes we need to be 'reminded of the nightmare ahead'. As Speth remarks, African Americans during the civil rights movement were already living in a nightmare—they needed the dream to pull them forward. Many of us comfortable in denial, by contrast, are simply living a dream.

My own view is that adequate ethical reform for an issue like climate change requires a lifeworld shift in values and perception that will compel us to own up to the various mitigation and adaptation efforts demanded by this issue in authentic ways. If positive visions for the future end up softening the implications of climate change too much, they could undermine the need to reform lifeworld sensibilities and norms in more responsible directions. And yet it's also true that clear and compelling visions are needed to collectivize action towards lifeworld futures worthy of realization. The historic challenge of climate change, as inextricably bound to innumerable other pressing social and ecological issues today, calls for new narratives. This tension between the hard medicine and positive future approaches, it's worth adding, is precisely the kind of problem that demands practical wisdom and care over uniform prescriptions.

Ultimately, ethical discourses have to walk a tightrope in which background assumptions that preserve lifestyles inimical to a healthy climate are squarely challenged, yet without triggering an avalanche of anxiety impossible to cope with. Hence, the challenge of an existential climate ethics is to approach the 'the nightmare ahead', but without getting *stuck* in it as a paralyzing situation with no meaningful alternatives.[31] If done well, perhaps ethical discourses can invite communities to confront, work through, and ultimately accept the anxiety appropriate to the situation they find themselves in. What this largely comes down to is collectively cultivating the lifeworld wisdom needed to confidently *respond* to anxiety in ways that lead to consistently good decisions.

An ethical approach to climate change that took the existential problem seriously would commit itself to working through anxious reactions that shut us down in denial, while cultivating responsive relationships to anxiety that open us up to ethical horizons of possibility. The difference between the reactions we call denial and the responses we call responsibility is an existential one. If the big questions in life conjured up by the implications of climate change are answered defensively, ethical considerations will never surface. However, if meaningful relationships to the socio-ecological world are actively cultivated and earned by communities themselves, perhaps the ethical implications of an issue as totalizing as climate change can be taken up and responded to with purpose.

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[31] Speth, p. 234.

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An Interview with Professor Simon Caney

Eric Brandstedt

ERIC BRANDSTEDT: To begin with, could you say something about the trajectory of your career, the events, people or writings that have had a particular influence on the development of your interests?

SIMON CANEY: Maybe I could begin by talking about the writings and people. I think that there is a sort of unity that goes through my work, in that I have always worked on the basis of an egalitarian-liberal viewpoint, and have been very influenced by thinkers such as John Rawls, Ronald Dworkin, as well (perhaps less usually) as John Stuart Mill. I have worked in the analytical tradition, so thinkers like Jerry Cohen, who was my doctoral supervisor, were also incredibly influential.

I initially began working on egalitarian liberalism and its critics, and in that vein, worked on liberalism and perfectionism, liberalism and communitarianism, and liberalism and multiculturalism. Then my focus turned to applying egalitarian liberal ideals to issues in global politics – in particular the question of what principles of distributive justice apply at the global level. More recently I have worked on exploring the implications of egalitarian liberalism for intergenerational and environmental challenges. The underlying thread is still this idea of treating people as free and equal persons, respecting their choices and treating them fairly.

E.B. What influence did Cohen's thinking have on you?

S.C. I think that there are three kinds of indebtedness to Jerry Cohen. One is methodological in that his work is incredibly rigorous and lucidly argued. As such it provides a model of how to engage in political philosophy. Secondly, substantively, I find his ideas on equality and responsibility quite compelling, and his criticism of Rawls's treatment of the talented very persuasive. So methodologically and substantively I have been very indebted to him. Finally, he was my supervisor and I benefited enormously from his supervision and support.

E.B. Can you describe for those not previously familiar with it the essence of the moral and political problem that climate change gives rise to?

S.C. Climate change is a problem that has very great practical importance, but also raises a number of complex and important theoretical issues. Practically it is important because our activities have profound effects on the climate system, which impact on people's ability to enjoy their lives, and on their access to food, to water, and their ability to pursue their conceptions of the good. As such it raises paradigmatic questions of justice with

great practical relevance. What entitlements do people have? Who should shoulder which responsibilities? And who is responsible for upholding people's entitlements?

In addition to its practical implications, climate change presents hard theoretical challenges. It is a global problem so calls for principles of global justice. It is also an intergenerational problem and so calls for us to enquire both what kind of responsibilities we inherit on account of the emissions of those before us, but also what kind of obligations we have to those who have not yet come. In addition to this, addressing climate change requires us to have an account of how to deal with risk and uncertainty. It is also an inherently collective problem for it arises because of the combined actions of millions of people. In short, then, climate change is a problem that is global, intergenerational, characterised by risk and uncertainty, and the result of a process of collective causation. That combination really stirs up a lot of theoretical puzzles.

E.B. You favour a human rights-based approach to climate justice.[1] Can you explain the basics of this account?

S.C. I should begin by saying that I think that one should have two types of approach to problems like climate change. One is what I call one's maximum view: this specifies one's ideal. It depicts the vision that everyone should comply with. Secondly, though, I think it is important to generate a more minimal view. Why have a minimal view? The answer is that if we are talking to people who hold political office, or to NGOs (Non-governmental Organizations), if you present them with one's ideal then they might just dismiss it as unfeasible or reject it because they do not share that vision. Given this, if we are to make any progress, we need some account that specifies a moral minimum, and identifies what is most morally urgent. That is how I see human rights.

Then the question is: 'what kind of role would a human rights approach play?' I think that partly it gives us a way of thinking about the impacts of climate change. It helps us see why it is so important to prevent climate change. It also gives us guidance as to how to think about adaptation. On this approach, adaptation policies should be conceived of as those policies that enable people to live in a world characterised by climate change and still be able to enjoy their core human rights. Adaptation should prevent climatic impacts from undermining people's human rights. Thirdly, human rights are relevant not just when it comes to evaluating climatic impacts: they should also inform how we think about burden sharing. As, you know, there are many different proposals for sharing the burden associated with mitigating and adapting to climate change, and much disagreement about each. What then should we do? I have my own preferred maximal model. However, given that there is disagreement here, one strategy when seeking to persuade policy makers and those with political influence is to say that whichever of the competing accounts is right, one thing that is crucial is that - as a minimum – we make sure that burden sharing be done in a way that does not deprive people of their core rights. So human rights should influence what kind of policies we adopt to prevent climate change. Those are three ways in which human rights can play a role in thinking about climate change and policies.

[1] Simon Caney, 'Global Justice, Rights and Climate Change', *Canadian Journal of Law and Jurisprudence* XIX:2 (2006), pp. 255-278.

E.B. Can you give us an idea of why we should prefer a human rights-based approach to alternatives such as cost-benefit analysis?

S.C. I think one very appealing feature of the human rights approach is that it takes each person's life with utmost seriousness and gives it equal standing and protection. Going back to what I said about egalitarian liberalism, it says individuals matter and have equal status; their freedom matters, and therefore it does not condone making trade-offs which push people below a decent standard of living just to increase the benefits to others who are perhaps already better off. Cost-benefit approaches, on the other hand, are characteristically insensitive to those issues and aggregate burdens. They hold that if a policy produces more benefits than costs then we should do it even if it means that some people fall beneath the threshold that any human should have to put up with. My concern then is merely a familiar kind of concern that many have about utilitarianism.

E.B. So then, if this human rights-approach is a minimalist theory of justice, do you have a maximalist theory of justice as a complement to this?

S.C. Yes, and here I draw on my work on global justice where I have defended a more egalitarian viewpoint that says that each person is entitled to an equal opportunity to lead a good and fulfilling life. It does not matter if they are born in Malaysia, or in Britain, or in Sweden, or in Latin America. Someone's geographical location does not justify having worse life prospects than others. That goes much further than a minimal human rights point of view – because a human rights point of view would tolerate inequality. I can't see, however, any good reason why people should be penalised because of where they are born. This principle should, in my view, also apply intergenerationally, and this is even more contentious. My thought is: Why should the fact that someone is born in a certain period of time entitle him or her to better opportunities than others?

Sometimes there are cases where you might want to qualify an egalitarian approach – cases where achieving equality comes at such a high cost that we might prefer some other distribution. I am certainly open to that, but I think that the default assumption, the guiding idea, should be that everyone has an equal right to lead equally fulfilling lives.

E.B. You have criticised monist or purist views of climate justice (e.g. the 'contributor pays' principle and the 'equal per capita' view).[2] More recently the critique has been against atomist, positions and the use of a 'method of isolation' in addressing climate justice. Instead you have proposed and argued strongly in favour of a holistic and integrationist approach.[3] Can you elaborate on why you think that many existing approaches are amiss?

S.C. I will focus here on the relevance of the distinction between the 'method of isolation' and the 'method of integration'. As I use these terms, an isolationist approach seeks to distribute climatic responsibilities in isolation from a consideration of other normative concerns such as development or poverty. An integrationist approach, by contrast, insists

[2] *Ibid.*
[3] Simon Caney, 'Just Emissions', *Philosophy & Public Affairs* 40:4 (2012), pp. 255-300.

that we should examine climate change in conjunction with other issues, and in the context of an overarching account of justice. So your question then is: Why adopt an integrationist approach and not an Isolationist one?

I think that there are two kinds of reply to those questions. In some cases isolationist approaches are subject to substantive objections. I think, for example, that ascribing responsibilities simply by focusing on someone's contribution to the climate problem, and bracketing everything else out, is implausible because fails to take into account what opportunities people have to avoid engaging in harmful activities. So we should look differently on someone who has no choice but to emit high levels to survive and someone who could easily use other energy sources but chooses not to. Treating someone's pollution in isolation would, in this kind of case, result in an unjust outcome. To treat emitters fairly we need to take into account the broader perspective and examine what rights and responsibilities they have. Secondly, I have a broader more methodological concern, which relates to the first point. The methodological concern is that it is artificial to take climate change and, as it were, draw a circle around it, and say we must have principles which treat this on its own and bracket everything else out. A deep problem with this kind of isolationism is that it does not really recognise how integral climate change and the factors that cause climate change are to everything else, like trade, aid, health, migration and development. We could apply principles to climate change on its own if it were a discrete phenomenon, but it is not. If we have economic development then that will often increase emissions, so development and climate change are really related. If we do not prevent climate change then people will want to migrate, so we need to integrate it with an account of rights to migrate. If we come up with an alternative energy source, like biofuels, then that often has impacts on food security, land rights and labour rights. If we think we must not pursue biofuels we might think of using hydroelectric power, but then this might displace people from their land.

The key point I am trying to bring out here is that methodologically it is artificial to separate climate from all these other relationships and practices because they are so interconnected. It is better to have principles that apply to them as a whole.

E.B. Why do you think that the monist or purist principles have been so dominant in the debate up until now?

S.C. I think that there might be principled reasons and there might be pragmatic reasons. The pragmatic reason, which I am often presented with, says 'yes, you are right, these are all integrally interconnected, but it would make it extremely hard to do anything if you took this integrationist picture, so it is better just to set aside lots of these other problems and work on this on its own'. That is the practical reply. Then there are more principled replies. By calling the other practical I do not mean that there is not based on moral reasoning: it is, but it is essentially trying to take account of practical features of the world. The more principled reply is that there is something special about climate change and it should have its own principles for it. I do not think that either strategy works, but that would be my guess as to why people do this.

E.B. So, one alternative view holds that it is important to treat the climate case in isolation from other issues in order to avoid a situation in which progress on this urgent issue is held up because people are locked up in longstanding and controversial debates about

global justice.[4] Given this, is it not enough that more general rights and interests are weighed in after a principle of climate justice is implemented?

S.C. There are a lot of issues at stake here. One of the issues is: Is there really a sound basis for treating some of these topics in isolation? People often say we should treat the distribution of emissions in isolation from everything else, but then we could obviously ask why we should do that. Why is it appropriate to assume that emissions have their own special principle? If the reason we care about emissions is, as I and also other people have said, because they serve human interests, interests in energy or food or water, then there is no philosophical reason for isolating it at all. In fact to do so is a kind of fetishism as Amartya Sen would call it. I think we should focus on what really matters here. So at the level of moral and political theory, there is no case to treat emissions in isolation.

Second, however, and on a wholly pragmatic level, it makes a lot of sense to explore linkages with other goods. Suppose you have three children and you have two bits of cake. If you insist on a distributive principle of justice for cake, you are going to have a problem here. But if you have a principle of distributive justice to do with satisfying people's preferences, then you could offer them something else instead. This is what has happened in international negotiations for the Montreal Protocol on Substances that deplete the Ozone Layer. Progress was made when countries were willing to offer other goods instead, such as financial assistance and technological alternatives. So I say similarly: do not focus on emissions per se, both for principled reasons concerning what matters and also for practical reasons. The more substitutes we allow, the more flexibility; and the more flexibility, the more realistic it is. For both ideal and non-ideal reasons, then, what I call an integrationist approach has an advantage over isolationist approaches.

E.B. An essential part of this integrationist approach is a call for more cooperation between those working on global (or cosmopolitan) justice and those working on normative climate change politics (or climate ethics). Can you explain in what way you think that more communication between those two fields would benefit them?

S.C. I think that it would benefit the two debates in a number of ways. Firstly, climate change – as well as other environmental changes – has an enormous impact on the standard subject matter of global distributive justice. It clearly affects people's ability to have access to food and water, their rights of free movement, and their rights of cultural integrity. So, to talk about climate change is to talk about one of the key determinants of people's entitlements. In addition to this the causal arrow also goes the other way. People's enjoyment of rights of mobility or economic development have an impact on the climate. Since empirically they are so interconnected, it would be a mistake to keep the two apart. There is also a second way in which it would be useful to bring the two together, which is intellectually. There is good research done on both, and we can often make progress in one area by looking at theoretical innovations in another. For example, in both cases people talk about ideas of responsibility, including, for example, concepts of

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[4] See, for example, Eric A. Posner and David Weisbach, *Climate Change Justice* (Princeton: Princeton University Press, 2010).

collective responsibility. It would seem advisable, then, for researchers in both to see what others are doing and maybe we can learn a lot more from each other.

E.B. In relation to that, what differences in methodology, approach and underlying motivation have you perceived in working in these two fields?

S.C. I think that there are quite a lot of similarities. For example, people often share broadly similar methodological commitments to the tools of analytical political philosophy. Also, in both there is an interest in combining this with the relevant empirical literatures. So I do not think that there is a huge methodological gap between the approaches that we use.

E.B. Can you outline some of the main steps of the integrationist approach and methodology that you favour?

S.C. Let me give you a rough idea of the approach I put forward. It is actually very simple. It has five steps. The first step is as follows: let us start with our vision of what a just society would look like. Tell me what you think people should be entitled to do in terms of their access to food, water, health, education, physical integrity, and so on. Let us start from our vision of a just society. Then, step two of the argument tells us that we need to check whether the vision articulated in step one is actually achievable in this world given the natural resources we have. To take just one example, the protection of people's health requires using electricity and energy, and those have environmental impacts. We therefore need to check whether the vision is sustainable or whether we would be living beyond our means. If the ideal affirmed in step one is not sustainable, then we need to revise our vision of a just society. Suppose that it is sustainable. Then the third and fourth steps apply. For step three says that we can work back from our account of the just society how emissions should be distributed. For example, if our ideal is one in which everyone enjoys some core human rights and has access to some vital goods, then we need to work out what energy use is required to achieve this, and from this we can deduce how emissions should be distributed. What I then argue is that step three needs to be qualified. One cannot simply read off the fair share of emissions from what would best realize a fair society because there are other forms of energy and other ways of meeting agricultural needs which involve fewer emissions. Step four then reminds us that there are then quite different ways of meeting people's core needs; some might use fossil fuels and others might use solar energy, or hydroelectric sources, or geothermal energy. Its point is that there is more than one way of realising people's entitlements.

That is why – and this is step five - we need political institutions to have a deliberative process by which we can decide which energy mix is the best one for realising our entitlements. One way to understand this is to contrast it with what I think other people want to do, which is to say 'let us distribute emission rights in isolation and then separately figure out how to realise a just society', but I think you cannot just do that because the two are so integrally connected. My proposal then is that we should distribute emissions in light of our ideal of a just society.

E.B. Is this an approach that is essential to normative political theory in general; is it, for instance, meaningful to theorise about justice (and related concepts) today without considering a 'sustainability condition'?

S.C. I think the test for answering this is the following: When someone proposes that there should be certain rights or certain ideals, do these require the use of natural resources or the creation of waste? If they do, then they have to be included in this process because we have, as it were, a budget of natural resources, and the proposed rights or ideals are making claims on them. However, I do also think that there are probably policy areas which are neutral on this. Think of debates about multiculturalism and cultural identity, whether people can wear a veil or not, or consider language policy: it seems to me quite likely that whichever policy we choose probably will not have a major impact on that 'natural resources' budget. In cases like this – where resolving a normative issue does not impact on or depend on the natural world – then we do not need to go through that process. However, whenever proposed ideals or policies *do* have environmental impacts or require certain environmental preconditions, then I think it is irresponsible to ignore those relationships. That is not what someone would do if they had a good faith commitment to realizing those ideals.

E.B. Is this consideration included in most normative theorising today, or are people still being careless about it?

S.C. I think people who work on the environment, and people who worked on it long before I did, would complain that mainstream political philosophers have ignored the environment in ways that are unjustified. One can only speculate about why this has been so. Maybe people have assumed some cornucopia, where there are limitless resources; or maybe they have just been blind to the impacts of our activities on the natural world. There are all kinds of explanations one might have, but I think that historically it is true that many theories of justice have just been silent on the relationship between realizing justice and the natural world. I think that that neglect would be justified only if principles of justice did not have any environmental preconditions or environmental impacts, but they do. To give one illustration of this: when Rawls, the greatest political philosopher of our times, discusses intergenerational justice, he focuses not on preserving the natural world but on just savings. You cannot expect him to have dealt with every single problem, so this is not a criticism of him, but it is an illustration of the general neglect of the environment by theorists of justice.

E.B. But even if we accept your approach does that not still mean that we should focus on distributing 'emission rights'? If so, what is your response to those who argue that the very notion of emission rights is obsolete or irrelevant today?[5]

S.C. It is important to define 'emission rights' quite carefully. I think those who have concerns about this concept might sometimes be thinking that to affirm an 'emission right' implies an unlimited permission to emit. That would be clearly wrong. If anyone has a right to emit, it should be circumscribed: you have a right to emit a certain amount. That might be one source of antagonism or hostility to the idea of an emission right.
The other, I think crucial, point to make is that we have different kinds of rights. Joseph Raz distinguishes in the *Morality of Freedom* between 'core rights' and 'derivative rights'.[6]

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[5] See, for example, Tim Hayward, 'Human Rights versus Emissions Rights: Climate Justice and the Equitable Distribution of Ecological Space', *Ethics and International Affairs* 21 (2007), pp. 431-450.

I think of emission rights as being derivative of some more fundamental rights. This might mean in certain circumstances people have a right to emit greenhouse gases, but they have that in virtue of some more fundamental right. Other people may not have that emission right; they may not have it if they live in a country where they can use solar energy, or tidal energy, to a great extent, but the crucial thing is that it is still a right. It is a right in the sense used by Raz: it is an interest that is sufficient to impose obligations on others.[7] The people I am thinking of do have an interest that is sufficient to grant them an entitlement that others should respect. For example, people in developing countries who do not have access to other energy sources, I think, do have a right to emit, but it is predicated on some more fundamental rights.

E.B. You have proposed a hybrid account for the distribution of responsibility for addressing climate change.[8] Can you give us an idea of this proposal?

S.C. The core idea of the hybrid account I propose is that there are two intuitively appealing principles that should guide the allocations of burdens. On the one hand, there is the principle of responsibility, that people who engage in environmentally harmful action should be held responsible for their actions. That would justify an emphasis on a polluters pay principle. Then, the second principle is an ability to pay principle. The thought underlying this, again, goes back to core egalitarian liberal values: it is that there are some things that people should not be held responsible for, mainly perhaps adverse conditions in which they live when it is not their choice or fault that they live in them. As Rawls, Dworkin, and other egalitarian liberals say, we should give people a fair chance of opportunities. I think that an ability to pay principle preserves such a fair set of opportunities. Within that set people should be held responsible for their choices.

Just to focus on one and not the other would come up with very implausible outcomes. To focus just on a polluter pays principle would mean that we hold the poorest and most vulnerable people accountable for the emissions they need to survive. On the other hand, if you had an ability to pay approach, which paid no attention to the choices people make when they could have done otherwise is just to let them off the hook and not then hold them responsible for their choices. That is the broad underlying idea of the hybrid approach. There are complications which can added in, but that is the fundamental idea.

E.B. Can you say something about how the ability to pay principle is also circumscribed?

S.C. My treatment of the second principle I propose, the ability to pay principle, has taken different forms in my work. I defend a pure ability to pay, which says those who have better opportunities than others have a responsibility to contribute to attempts to deal with the climate change problem. But then people criticise this on the grounds that

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[6] Joseph Raz, *The Morality of Freedom* (Oxford: Clarendon, 1986), p. 168ff.

[7] *Ibid.*, p. 166.

[8] Simon Caney, 'Cosmopolitan Justice, Responsibility and Global Climate Change', *Leiden Journal of International Law* 18:4 (2005), pp. 747-775; Simon Caney, 'Climate Change and the Duties of the Advantaged', *Critical Review of International Social and Political Philosophy* 13:1 (2010), pp. 203-228.

an ability to pay principle ignores entirely the historical genesis of people's wealth. They ask, should people not be held liable because of past emissions?

Many of those who emitted in the past are now dead; we can't make them pay. Note, though, that the wealth of many of those who are currently affluent is based on the history of high emissions of other people in the past. This led me to think that a proponent of an ability to pay principle could draw on this. For if the affluent ask 'Why should I pay when I am not responsible for those past emissions?', one could reply to them that their wealth is in part built on this history of high emissions. So it strengthens, I think, the reasons we already have for appealing to them, and it removes one reason they give for resisting. They can't say that addressing climate change is not their responsibility if their affluence arose in climate endangering ways.

E.B. So it is compatible with a 'beneficiary pays' principle?

S.C. Yes, it can use the idea that people have benefited. However, we have to be very careful in defining benefiting. Some people say that you benefit if you are made better off than you would have otherwise have been, and I have argued that using that notion of benefiting is problematic in this context. My claim here is just that the historical process by which wealth comes about can be morally relevant and that those who are affluent whose wealth originates in climate-endangering activities cannot plausibly argue that this wealth is all legitimately theirs. I should stress that I think that the advantaged should pay anyway: it is just that the fact that their advantage stems from this harmful activity further undermines their claim that they should not pay.[9]

E.B. Does the ability to pay duty have a different status from the polluter pays duty? Is it, for instance, a duty of humanity or beneficence rather than a duty of justice?

S.C. No, not in my account. I think of them as being co-equal. They are both duties of justice and closely linked. The first principle says that people should be held responsible for emissions except when they are entitled to emit greenhouse gases (for example, they are severely poor and need to do so). The first principle thus includes exemptions to people's responsibilities based on their lack of wealth. That also explains why wealth comes into the second principle, which is that those with greater ability to bear the burden have a responsibility.

There is one difference that I should add, which is that the second principle has an element of non-ideal theory built into it. If we focus on the polluter pays principle, there are certain limits to that: I say that it ought not to apply to those who need to emit to secure their entitlements. That is one exemption. Another limitation in the polluter pays principle is that it can't cover the case where there is climatic change stemming from non-human activities Then there is a third exemption, namely the emissions of those who have died and also of those who have not complied in the past. So there are quite a lot of emissions that need to be accounted for. The ability to pay principle then does have a non-ideal element, that is, that the affluent should pick up some of the bill that results

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[9] Simon Caney, 'Environmental Degradation, Reparations, and the Moral Significance of History', *Journal of Social Philosophy* 37:3 (2006), pp. 464-482.

from some people not complying with their responsibilities. So there is that qualitative difference.

E.B. Your account relies on an interest-based theory of rights.[10] You have thoroughly and convincingly argued against the idea of discounting fundamental interests of future persons.[11] Does that mean that whenever a course of action potentially (however unlikely) threatens a fundamental human interest, we have a duty not to undertake that action, or are there some limits such that the duties imposed by such a precautionary approach could reasonably be thought of as too onerous in some cases? More generally, how do you deal with risk and uncertainty?

S.C. I do not have a general answer to that question. I think it is one of the hardest questions that a theory of justice has to deal with. It is hard often because one cannot even identify probabilities. But I have had a more modest ambition, which is to see what this means for climate change and there we are quite fortunate in that climate scientists and the climate models have said that there is a high probability of very harmful effects. That in itself does not, of course, necessarily justify a precautionary approach because the actions needed to avoid these harmful effects may also be terrible. But I think if we look at the relevant climate economic policies we can see that they are alternative policies that do not have probabilities of catastrophic or harmful effects. So my ambition has therefore been just to show that the problem of risk and uncertainty associated with climate change can be dealt with using an approach grounded in human rights. Put crudely, it says that we have a responsibility not to gamble with people's human rights when there are other options available. But that is not an approach that can cope with all problems. It could not cope with ones where the probabilities of harms are much lower or where the harms are of a lower magnitude, but I do not think that is necessary in the case of climate change.

E.B. How about the small probability of an ultimate catastrophe, say the extinction of the human race?

S.C. I think that the way to treat this is to treat it as a magnifying reason. I propose a couple of principles to guide the way we think about risk and uncertainty in the case of climate change. One of the conditions is that climate change poses a high probability of very severe harms to people's fundamental human rights, and a low probability of absolutely catastrophic results. In my argument the reference to severe climatic effects is therefore not really necessary to justify mitigation, I think, but it amplifies the risk. So, it is useful to bear this in mind. My approach here contrasts with that of John Broome and those who think, like him, that the question of the small probability of severely catastrophic outcomes is crucial. I do not think the case for aggressive policies to mitigate climate change depends on that assumption.

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[10] Raz, Ch. 7.

[11] Simon Caney, 'Climate Change, Human Rights and Discounting', *Environmental Politics* 17:4 (2008), pp. 536-555; Simon Caney, 'Climate Change and the Future: Time, Wealth and Risk', *Journal of Social Philosophy* 40:2 (2009), pp. 163-186.

E.B. A follow up question of more specificity: say that we are in a state of radical noncompliance and that there are no institutional frameworks for regulating climate change action in place (much like the present situation). Assume further that unilateral individual emission reductions are futile, for instance because of issues of overdetermination. Now, on your account, is it not the case that the ability to pay component in practice requires me to give up all but what is needed to meet my basic needs, and if so, is it not the case that accordingly it can be thought of as unduly demanding?

S.C. I do think that where there is noncompliance, those who do comply have reason to take on more than their fair share and maybe a great deal more. How much more would depend on several factors. One is, just how bad is the outcome if I do not take on the extra burden. There are cases, not to do with climate change, where you might think I should not do more than my fair share because it is bad if this outcome occurs but it is not terrible. However, climate change is really terrible. Then a second variable places limits on what you reasonably could expect of someone. How hard is it for someone to pick up some of the extra slack? In some cases it is not that hard: they may enjoy the cycling or the extra activity it involves. So, the second variable is how demanding it is for the person. A third variable is this: suppose I pick up some extra responsibilities, are there ways that I can pursue the non-compliers and get compensation from them? Because, if I do not do my bit and there is severe climatic change, there is nothing we can do for those who die because of it. But if I pick up the extra responsibility because someone does not do their bit, then I can reclaim it from them. I do not think there is any precise algorithm, but those are the three variables. There will be cases where you think that it will be just too much to ask of someone because it is unfair to ask them to make that degree of sacrifice. But I still think that quite a lot of demands on human beings to do these things are allowable.

It is also worth thinking through more concretely and practically what you should do under conditions of non-compliance. Suppose there are people who lack access to energy, but could take it illegally in ways that would not increase their emissions but would meet their needs. You might also think of a case where others are not supplying the clean energy they need: are they then entitled to violate someone else's property rights and steal, for instance, technologies that would reduce emissions? I think, if others have not complied with their responsibilities, then those who want to meet their own vital needs but also want not to increase the problems of dangerous climate change may also be permitted to engage in those kinds of behaviours. So it is not just about affluent people reducing their emissions, it is also about disadvantaged people possibly being empowered to do things which otherwise we think they should not be allowed to do.

E.B. In response to some standard criticisms against rights-based approaches to intergenerational ethics,[12] you have referred to Amartya Sen's notion of a 'goal rights

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[12] See, for example, Wilfred Beckerman and Joanna Pasek, *Justice, Posterity, and the Environment* (Oxford: Oxford University Press, 2001), and Derek Parfit, *Reasons and Persons* (Oxford: Oxford University Press, 1984).

system'.[13] Can you expand on this understanding of rights in the intergenerational setting and explain its relation to your interest-based theory of rights in general? Should this be understood as a defence of a broadly consequentialist and impersonal approach to human rights?

S.C. Let me answer that in two parts. I try to take two approaches to human rights when writing on climate change. One is grounded in the approach that I think is the most promising, which is Raz's interests-based theory of rights. I actually do not agree with his account of *human* rights, but I use his interests-based theory and I think that is the most compelling account of the notion of rights. But at the same time, I have also tried to argue that holders of non-deontological approaches should also accept that climate change jeopardises human rights. So, I have tried to take an ecumenical approach according to which both deontological theorists and teleological theorists should endorse my conclusions. That is one part of the answer, but you also ask whether my account of rights is generally more consequentialist. I do think there is a strong outcome-oriented element to it. I think we treat people as free and equal by respecting their core interests and their core entitlements. That means that not only is there a negative duty not to deprive people of them, but there might also be a positive duty to ensure that people can enjoy these goods. So I agree with Amartya Sen, not only in his endorsement of a goal rights system, but also in that he understands human rights in terms of people's abilities to enjoy capabilities, to function. I think this has several advantages. One is that in enabling each and every person to lead a rich and fulfilling life, it captures the best way of treating people with respect. But it also helps to avoid problems that afflict other accounts.

E.B. How does your view, then, relate to the role human rights when they are seen as safeguards against trade-offs and, more generally, contrasted with utility calculations?

S.C. I think the deep problem with many kinds of consequentialism is the distributive principle they embrace and their maximising approach. Being concerned with outcomes is in itself, not problematic. My approach, however, includes a threshold component that says: each and every human being is entitled to do this or, more ambitiously, that everyone should have an equal opportunity to lead rich and fulfilling lives. In this way, it disallows the troubling trade-off that afflicts maximising approaches, which would allow some to fall beneath that threshold. The key point here is that maximising approaches are problematic, but approaches concerned with people's ability to enjoy certain interests and rights in themselves are not necessarily problematic.

E.B. If we assume that something resembling your hybrid account is the correct approach to climate justice (in the sense of being most justifiable), what role or function do you imagine that it should play? Is it a blueprint for climate negotiations or more of a benchmark to strive towards?

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[13] Simon Caney, 'Global Justice, Rights and Climate Change', *Canadian Journal of Law and Jurisprudence* XIX:2 (2006), pp. 255-278; Cf., Amartya Sen, 'Rights and Agency', *Philosophy & Public Affairs* 11:1 (1982), pp. 3-39.

S.C. I think the answer to that is that it should serve both. What I try to do is to think about 'what is just?' and that means identifying what I earlier called maximal principles: what is the kind of world that people are entitled to live in? I think that political philosophy has two goals. One is action-guiding; the other is descriptive. The first goal should answer the questions 'is this a just world?' and 'what would a just world look like?'. The second goal is aimed at policy-makers, concerned citizens or influential public figures and is something that they could try to implement now. This is where we need a more minimal theory. My view is that the two goals mostly go hand-in-hand: we need to have some broader vision that should guide what you called a benchmark, but we also need something to guide us in the here and now.

E.B. One final question. In your work you include many references to empirical work. Is that something that you think is crucial in working with these kinds of questions?

S.C. I do think it is really important for political philosophers to be as well informed as possible about the empirical aspects of issues. It is important to know how much climate change stems from historical emissions and it is important to know just how harmful climate change will be. Otherwise the principles we come up with might really miss the point and not provide much guidance in our world.

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