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UNIVERSITY OF CALIFORNIA,
IRVINE

Cosmopolitan Intergenerational Justice and Climate Change

DISSERTATION

submitted in partial satisfaction of the requirements for the degree of

DOCTOR OF PHILOSOPHY

in Political Science

by

James M. Nguyen

Dissertation Committee:
Professor Simone Chambers, Chair
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2021

DEDICATION

To

Theresa and Hannah

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It has been a long five years, and it is finally time to return home to Canada!

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ABSTRACT

Cosmopolitan Intergenerational Justice and Climate Change

by

James M. Nguyen

Doctor of Philosophy in Political Science

University of California, Irvine, 2021

Professor Simone Chambers, Chair

This dissertation examines the moral and political responsibilities that are generated because of climate change. What are our moral and political responsibilities vis-à-vis pollution levels caused by past generations? What are our moral and political responsibilities vis-à-vis the environment today? What are our obligations to future generations? To answer these questions, I employ content analysis from philosophical texts, academic works and international environmental agreements and law in global justice, intergenerational justice, environmental ethics, and cosmopolitanism. I argue that current domestic and international environmental policies ought to consider past pollution levels and the injustices as well as harms rendered to do justice to those today who are most affected by climate change and pollution. Next, I show that our current formulation of environmental protection in the form of domestic and international environmental law is falling short by way of protecting the environment today, and that more aggressive and stringent environmental policies in the form of climate adaptation and mitigation policies are needed. Third, I assert that we have a clear duty and responsibility to engage in environmental protection to ensure that future generations can enjoy a stable climate from which they can realize their interests and rights. To connect all these arguments together, I argue for a cosmopolitan vision of intergenerational justice to promote the rights and interests of present and

future generations. This dissertation aims to contribute to environmental ethics and global justice, offering an account of intergenerational justice and cosmopolitanism, grounded in the problem of climate change. My goal for doing so is to hopefully shed some light on how we can better respond to the spatial and temporal dilemmas generated because of climate change, by having concrete, substantial and stronger moral and political responsibilities to other human beings both across and within generations.

INTRODUCTION

A large body of scientific research reveals that climate change has always been a part of the environmental history of the earth, but the modern era has brought new forces to bear on this natural phenomenon. Long-term changes in temperature and precipitation patterns have grown dramatically since the Industrial Revolution, indicating that humanity has a clear role to play on affecting the earth's climate. Anthropogenic action, specifically in the form of emissions of greenhouse gasses like carbon dioxide and methane, have led to higher concentrations of these gasses in our atmosphere, which in turn contribute to global warming, as these greenhouse gasses are trapping additional energy within the atmosphere. Global warming has devastating implications for nature and human beings, resulting in severe droughts, floods, weather events, sea-level rise, fire threats, species extinction, a global food shortage, melting glaciers, shifting precipitation patterns, and changing ecosystems. Since climate change is substantially caused by human beings and affects people disproportionately, it raises important moral and political questions that need to be answered. This dissertation focuses on the moral and political question of responsibility. What are our moral and political responsibilities vis-à-vis pollution levels caused by previous generations? What are our moral and political responsibilities vis-à-vis the environment today? What are our obligations to future generations?

Climate change has serious, perhaps devastating effects at both the local and global level. While scientific research has proven that climate change is anthropogenic, specifically from the industrial period onwards, discussions of how to address climate change through climate politics at all levels, from the local to the global, have been controversial and tumultuous at best. Today, the predominant policy approach taken to address environmental degradation is economic, namely, determining who should pay for the costs of pollution and how much ought to be paid to

offset climate change. This policy approach is typically framed according to one of three main principles of economic redress which include: the polluter pays principle, ability to pay principle and the beneficiary pays principle. In short, the polluter pay principle asserts that if an agent pollutes, they are directly responsible to bear the financial burden or costs of polluting. The ability to pay principle claims that if an agent has the ability to pay, regardless of whether they polluted, they ought to pay as long as it does not significantly reduce their quality of life. Lastly, the beneficiary pays principle details that if an agent stands to benefit from polluting, that they should pay for being the beneficiary of pollution. The goal of such a policy approach is to develop some semblance of environmental accountability, to identify who the polluter is and how much they ought to pay, and to deter or reduce polluting behaviour. This approach is often framed as a carbon or emissions tax. My claim in this dissertation is that this economic approach has proven and will continue to prove to be ineffective at truly resolving climate change as it fails to instill a sense of moral or political responsibility for the environment and fails to address just distribution questions arising between global actors. This dissertation focuses on the problem of climate change from the perspective of rethinking the moral and political responsibilities we have to protect the environment and how best to protect human beings from the effects of climate change. The core intuition here is that we need to think of responsibility not in terms of liability, blame, or cause but rather in terms of obligation to act on behalf of humanity. Thus, I defend the need for a cosmopolitan perspective on our responsibilities or and to the environment.

Climate change emerged as a political issue in the 1970's, where social movements began to arise, advocating for more effective political action on global warming, and governments began to take stock of the looming environmental crisis. In 1972, the first international discussion of the global environment took place in Stockholm with the UN Conference on the

Environment, which identified the need for states to collectively work together to solve environmental issues at the global level. Since then, the UN has hosted conferences on the environment in Rio in 1992 and 2012, New York in 1997, 2000, 2005, 2008, 2010, 2013 and 2015, and Johannesburg in 2002 with the intention of bringing nations together to collectively work together to accelerate climate action and assist countries in limiting climate change.

Alongside these conferences, two international bodies were created, namely the Intergovernmental Panel on Climate Change (IPCC) in 1988 at the UN General Assembly and the United Nations Framework Convention on Climate Change (UNFCCC) in 1992 at the UN Conference of the Environment hosted at Rio de Janeiro, Brazil. The IPCC was formed as an international institution with the goal of widely disseminating the latest scientific knowledge on climate change and to motivate state representatives to take urgent action to fight against climate change. The UNFCCC is an international environmental treaty addressing climate change which, as of 2020, has 197 signatory parties. Under the UNFCCC, two international treaties have been signed, which include the 1997 Kyoto Protocol, designed to reduce greenhouse gas emissions, and the 2015 Paris Agreement, designed to limit global warming to well below 2 degrees Celsius, compared to pre-industrial levels. Both international treaties represent the first two attempts that the international community has made to mount a collective response to climate change at the level of international environmental law and policy. To date, both treaties have been heavily criticized for their lack of efficacy. In particular, the Kyoto Protocol is criticized for exempting developing nations from having to lower their emissions and for offering grandfathering benefits to developed countries in the form of additional emissions permits under the emissions trading scheme. Alternatively, the Paris Agreement calls for all signatory parties to set emissions targets to limit global warming. While the targets may be ambitious, the Paris

Agreement has no enforcement mechanism and so is strictly speaking non-binding. Nations can fail to meet their targets or simply withdraw from the agreement, as did the United States in 2020 under President Trump.

Concurrent to this time-period where international institutions were being created from 1988 until present day, social movements have formed all around the world to focus on the looming climate crisis. All of this is to show three things. People around the world show some level of concern for climate change, leaders of nations recognize climate change as a significant international issue, and scientists have proven that much of the climate change phenomenon that we are experiencing today is largely due to human action on the environment from the industrial revolution onwards. Given this widespread recognition of climate change, the natural course of action would be to collectively take on responsibility to limit climate change and protect the environment, but today, we still follow a business-as-usual response. Global emissions levels continue to rise, fossil fuels continue to be used for energy, greenhouse gas emissions in the atmosphere continue to increase, sea levels have risen, and the earth's climate is still gradually warming. Citizens living around the world are disproportionately affected by climate change, but all agree that it is a significant issue. Governments agree on the science behind climate change but diverge substantially on who is most responsible and what emissions reductions goals are feasible for developed and developing nations. Scientists project that the Paris Agreement, on its own, will not be enough to prevent the global average temperature from rising 1.5 degrees Celsius. Given the disconnect between the public sentiment on climate change and the policy action on climate change, this area is where this dissertation focuses on, primarily on the problem of collective responsibility towards past, present, and future pollution as well as present and future generations, and why our response to climate change has been, and still is suspect.

Thus far, research in environmental politics has coalesced around two focal points. First, political scientists that examine environmental issues tend to do so at the level of domestic or national politics, and most argue that nations could create more ambitious policies or have a stronger response to climate change at the domestic level. Second, political scientists also examine environmental politics from the perspective of international relations, and nearly all political scientists agree that much more could be done by way of instilling greater collective action on climate change at the international level. Some suggest that institutions like the UNFCCC and IPCC are effective at promoting stronger international environmental policies, while others argue for reforming these institutions to be more representative or to create new institutions that can better deal with climate change and pollution.

In thinking through environmental issues at both the domestic and international level, there is a growing body of literature and research emerging out of environmental political theory in terms of how best to engage with these issues from a theoretical and philosophical standpoint alongside empirical social science research. Research in environmental political theory examines democratic challenges to climate change as well as questions of justice and fairness vis-à-vis the environment. Political cycles of leadership in democratic nations tend to impede responses to climate change due to election turnovers, and many environmental political theorists advance the claim that the pathway to resolving climate change is through more democracy, not less. How, then, do we realize more democracy to resolve climate change? What can be done to increase democratic participation and to arrive at a social and political consensus about what actions to take on climate change? Alternatively, another branch of research in environmental political theory looks at questions of justice and fairness in relation to the environment. Such questions of justice and fairness emerge when considering that pollution is emitted by the minority of the

human population, but most of the human population is detrimentally affected by pollution. Furthermore, questions of intergenerational justice emerge, as pollution tends to have temporally delayed effects which are felt far into the future, meaning that future generations are likely going to inherit a world that is marred by present and past pollution. What, then, is to be done about this with an eye to justice? To address some of these questions and concerns, this dissertation examines the moral and political responsibilities that are generated because of climate change and its implications.

The contribution that this dissertation seeks to make to the debate on environmental justice is to look at it from the perspective of responsibility by way of intergenerational justice and cosmopolitan theory. Environmental issues like pollution and climate change carry both disproportionate spatial and temporal harms that our current institutions are ill-equipped to resolve. While we have taken steps at both the level of domestic governments and international institutions to attempt to resolve climate change and to limit pollution, we are still falling short of our global commitments to reduce global warming and preventing environmental damages from occurring. The perspective that this dissertation offers is to examine the duties and responsibilities that we have for past pollution, ongoing pollution, and present generations as well as the obligations we have to future generations in terms of protecting the environment. I review the most common frameworks and theories put forward to understand our responsibilities in these three areas. Although I conclude that there is much merit in contemporary philosophical thinking on the subject, there is still a fundamental missing link. That missing link is a shift in the way we think about obligation beyond our borders. The most ambitious policy proposals will not be sustained or followed through, I argue without a dramatic shift in individuals and by extension elected governments attitudes to responsibility.

Thinking through questions of responsibility are especially important when considering that the actions we take today to protect the environment, or fail to take, will have direct implications on the existential conditions of future generations. We have inherited an environmentally damaged world and are paying the price for the profligacy of past generations, but we can act today to protect the environment for future generations and to leave those generations with a planet that is habitable, safe, and sustainable. Here, questions of responsibility within the context of intergenerational climate justice can guide us in terms of elucidating what sort of duties and obligations we ought to have today. Our conventional understanding of responsibility as liability is unable to truly respond to issues of climate change and pollution, especially when these issues span across different geographic areas and time periods. Since we cannot causally hold past polluters liable for pollution in the atmosphere today, we ought to think about what institutions and policies we can develop to take on greater responsibility for past and present pollution levels, and what implications this might have on future generations. I pose that we ought to think through responsibilities in terms of obligations that we have both to people and to humanity as a whole. I suggest extending responsibilities in terms of obligations to contain a cosmopolitan perspective as we need to take both individual and collective responsibility for pollution regardless of who caused pollution or is found liable for it. Doing so would allow us to develop policies and institutions that consider past environmental injustices, ongoing environmental harms and to better protect future generations from climate change. In sum, this dissertation will advance the claim that to better address climate change as an issue of intergenerational justice, we ought to rethink responsibility with a cosmopolitan perspective to better realize individual and collective responsibility for environmental protection.

The core feature of cosmopolitanism is the extension of social and political obligations beyond borders, based on a universal moral obligation to promote equal moral worth among all human beings as citizens of the world. While all moral theories, in some sense, can carry universal import, cosmopolitanism is distinct as it incorporates a social and political dimension to its theory of universal moral obligations. This is especially important as we currently live in a world that is delineated by borders, nationalities and territories which tend to limit our social and political obligations to other human beings. At worst, we may choose not to act to aid other people or nations when they are in a position of need, and at best, we may choose to act out of charity or in defense of human rights to aid nations, but often, this is not enough. Alternatively, cosmopolitanism focuses on reconceptualizing the way in which we organize ourselves with the hope of broadening our social and political obligations to humanity. While the ideal of pursuing a world government and global citizenship in the spirit of cosmopolitanism is noble and ought to be undertaken, we are currently not able to realize such an endeavour. Rather, this dissertation will explore how cosmopolitanism as a perspective can be helpful in resolving some problems of collective action on climate change, or why climate policy has been unable to adequately respond to the threats that our planet faces.

Chapter 1 examines the moral and political responsibilities that we have to pollution levels caused by previous generations. The chapter does three things. First, it provides an overview to the literature on climate ethics and intergenerational justice. Second, the chapter examines international policy approaches that attribute economic responsibility for past pollution levels to address both economic inequality and environmental injustice, which I argue is an ultimately ineffective response to resolving climate change. Lastly, I offer three ways of attributing moral and political responsibilities for past pollution which can supplement existing

environmental policies. The general argument that I advance in this chapter is that an economic solution to climate change can only really address economic harms, and that greater environmental responsibility is needed to ensure that states can be held accountable for their environmental impacts. This culminates in the claim that present generations have a greater burden to bear to resolve climate change to protect the environment for both present and future generations.

Chapter 2 looks at the moral and political responsibilities that we have to the environment today. To do so, it examines three prevailing approaches to responsibility for present pollution levels which consists of a do-nothing approach or a business-as-usual approach, a history-sensitive approach, and a future-oriented approach. I essentially argue that the do-nothing approach and business-as-usual approach are indefensible as it discards causal, moral responsibility and does not solve the problem of present pollution levels affecting future generations. The history-sensitive approach is appealing from a moral point of view as it factors in historic injustices generated because of pollution and environmental degradation, but on its own, it fails to sufficiently offer a course of action for how best to protect the environment for future generations. Lastly, the future-oriented approach examines how environmental policies can balance the rights and interests of present generations with future generations. I conclude that the best course of action is a combination of both the history-sensitive approach and future-oriented approach as it focuses on what can be done to protect future generations while simultaneously keeping in mind that our course of action ought to do justice to past environmental harms and are fair.

Chapter 3 pays attention to the obligations that present generations have to future generations in terms of the environment. I examine two philosophical arguments offered by

Parfit and Dunn and argue that neither are persuasive at denying responsibilities to future generations as present generations are aware of the intergenerational environmental harms of pollution and climate change, failing to act to protect the environment constitutes a failure to protect the rights and interests of future generations. I suggest that a stronger proactive response to climate change is needed to protect future generations. I offer three arguments for present generations to realize their moral duties to future generations. First, present generations are aware of the intergenerational of harms of climate change and protecting the environment would result in protecting the moral human rights of future generations. Second, present generations have a moral duty to protect the moral rights of future generations to do justice to the universal idea of human rights. Third, we need to create institutions that can effectively create laws or policies that can recognize the agency of future generations and protect their rights, as our current institutions fall short; therefore, institutional innovations are needed to protect the moral rights and interests of future generations.

Lastly, this brings us to chapter 4 which examines the prospects of cosmopolitanism as a moral theory of universal community and its implications for intergenerational climate justice. This chapter does three things. First, it introduces cosmopolitanism and its rich historical tradition and show why it is a persuasive theory that can help us address climate change. Second, I argue that cosmopolitanism is compelling as it allows us to rethink ourselves as citizens of the world that can individually take environmental responsibility in our day to day lives, and collectively push governments from the bottom-up to pursue environmental policies for the interests of all. I suggest that one avenue to resolving climate change is with global citizen assemblies as a cosmopolitical global institution that can develop just environmental policies at the international level, for the interests of all, to effectively address climate change.

CHAPTER I: INTERGENERATIONAL JUSTICE AND RESPONSIBILITY FOR PAST EMISSIONS

“The virtue of justice consists in moderation, as regulated by wisdom” – Aristotle, Nicomachean Ethics

“The Parties to this Convention, noting that the largest share of historical and current global emissions of greenhouse gases has originated in developed countries, that per capita emissions in developing countries are still relatively low and that the share of global emissions originating in developing countries grow to meet their social and development needs, have agreed as follows... on the United Nations Framework Convention on Climate Change” – United Nations Framework Convention on Climate Change, 1992

1.1 Introduction/Road Map for Chapter

Aristotle makes the claim that the virtue of justice consists in moderation; by moderation he means the willful restraint of one’s behaviour aimed at avoiding excess or extremes, as determined by one’s faculty of wisdom. If we examine the world we live in today, we are surrounded by excess and extremes, and our wellbeing is determined by circumstances beyond our control, forged by past generations. We are unable to reach into the past to shape the forces that determine our present and our future. While current generations are beneficiaries of the actions of past generations, we also inherit the negative consequences of those actions. Current generations enjoy a more connected, industrialized and technologically developed world, but this comes at a great cost, namely climate change, environmental degradation, and pollution. Our ability to enjoy technologically advanced goods and global society comes at the cost of our environment.

This chapter examines how we might assign responsibility for past emissions. By responsibility I do not mean simple causal responsibility in terms of moral responsibility, which is to say, who is responsible for addressing and taking care of the downstream consequences of

past pollution. I argue that to have a better understanding of responsibility for pollution, we need to move towards a cosmopolitan view of attributing responsibility for harms. There are several preliminary issues to address before I lay out the full cosmopolitan argument, however. This chapter aims to do three things. First, I claim that economic models employed in international environmental policy today fail to adequately address the problem of past emissions. I begin first with an exposition of the problem of past pollution as having delayed effects that negatively impact present as well as future generations and that individuals living in poor states are more negatively impacted than individuals living in affluent states. I then turn to a critique of economic approaches that are employed at the level of international law and policy that address responsibilities for past emissions. I claim that economic approaches, on their own, fail to correct the economic inequality experienced between developing and developed states and cannot address environmental injustices. Second, I examine the prospects of attributing moral and political responsibility for past emissions to address historic climate injustices. Here, I frame moral and political responsibilities in three ways which include: relationships of reciprocity, human rights, and intergenerational equity within and between generations. Finally, in the process of laying out the two arguments described above, this chapter contains a literature review of the major contributors to the debate about the appropriate theoretical frameworks through which to address climate change.

1.2 Economic Models of Redress for Past Pollution

In this section, I argue that economic models employed in international environmental policy fail to sufficiently address the problem of past pollution. I begin by outlining the problem of past pollution and the effects it has had on past generations, does have on present generations, and will have on future generations. I frame issues of past pollution as a two-part problem. First,

pollution has temporally delayed effects such that polluters may not directly experience the negative effects of their pollution, but rather their descendants are likely to experience the negative consequences of pollution. Second, pollution disproportionately affects the poor compared to the rich as individuals residing in poor states may not have the capability to adapt to the effects of pollution. Next, I examine two salient problems with economic approaches to address past emissions which include their inability to redress for economic inequalities and environmental injustices even though such approaches tend to attribute greater financial responsibility to developed states since developed states are more environmentally responsible for pollution levels found in the atmosphere as compared to developing states. Examples of financial responsibility include carbon taxation and emissions trading systems. Alternatively, environmental responsibility entails the duties that nations have to their domestic and international environments which include conservation and preservation of resources and emissions reduction policies. In other words, economic responsibility determines who pays for retroactive pollution while environmental responsibility focuses on accountability for who polluted in the past. However, economic approaches have yet to truly reflect a model or system that holds developed states to be more accountable for their historic contributions of pollution in the atmosphere, and do not sufficiently address retroactive pollution levels. Furthermore, economic approaches are highly ineffective in resolving environmental injustices, especially in cases where environmental damages cannot be reversed. After examining the economic approaches deployed to allocate responsibility for past pollution, I turn to a discussion of moral and political approaches to attributing responsibility for past pollution in order to supplement economic approaches.

1.2.1 The Problem of Past Pollution

The problem of pollution, simply put, is that it has detrimental effects on the environment and that these effects are temporally delayed. These detrimental effects range from increasing global temperatures, rising sea levels, loss of freshwater sources, loss of cultivatable land for agriculture, species extinction and so on. The Intergovernmental Panel on Climate Change (IPCC) has established that human activities have caused approximately 1.0°C/1.8°F of global warming above pre-industrial levels, and a conservative estimate is that global warming is likely to reach 1.5°C/2.7°F between 2030 and 2052 if states continue to pollute at their current rates.¹ While pollution, in the form of carbon emissions, has delayed effects and remains in the atmosphere for a long period of time spanning generations, the IPCC claims that some of the effects of pollution may include sea level rise, but past pollution levels alone are unlikely to cause global increase in temperature of 1.5°C/2.7°F and above.² Rather, present and future pollution levels further compound the issue of global warming and unless states change their pollution behaviour, it is very likely that there will be a global increase in temperature of 1.5°C/2.7°F or greater. In particular, the IPCC projects that by the year 2100, the global mean sea level rise will be approximately 0.1 meters with global warming and that the sea level will continue to rise well beyond 2100.³ Furthermore, on land, global warming is projected to have significant adverse effects on biodiversity and ecosystems, including species loss and extinction, and a conservative estimate of a temperature increase of 1.5°C/2.7°F will result in the extinction of approximately 6% of insects, 8% of plants, and 4% of vertebrates, while a more realistic temperature increase of 2°C/3.6°F will result in the extinction of approximately 18% of insects,

¹ Intergovernmental Panel on Climate Change. Global Warming of 1.5°C: Special Edition: Summary for Policymakers. 2018. p. 6.

² Ibid., p. 7.

³ Ibid., p. 9.

16% of plants and 8% of vertebrates.⁴ On a human level, pollution has risks to health, livelihood, food security, water supply, human security as well as economic growth and these risks are projected to increase with a global warming of 1.5°C/2.7°F and will increase further with 2°C/3.6°F. Thus, the effects of past pollution are felt today and the effects of our pollution today can be felt in the future. While climate models differ greatly in their projections of the rate of temperature increases found in global warming as caused by pollution, the unanimous understanding is that pollution has contributed to global warming, and continued pollution will eventually result in global increases in temperature. While many political theorists and policy makers have attempted to devise a framework to determine how states ought to respond to retroactive pollution, this endeavor has been met with numerous difficulties, some theoretical and others more practical. This is because responsibility is generally framed in terms of direct causal responsibility for environmental damages by the harming party, and responsibility is also framed in terms of economic recompense, to repair for retroactive environmental damages. The problem with direct causal responsibility is that it is ineffective at attributing damages or harms in situations where the original polluter may no longer be present, and economic responsibility might not be able to sufficiently repair for environmental damages. Next, I begin with the theoretical issues of conceptualizing a framework for addressing past pollution, followed by some practical issues of enforcement and representation.

Theoretically, there are three primary ways to attribute economic responsibility for pollution. These include the polluter pays, ability to pay, and beneficiary pays principle. Simon Caney makes the argument that the polluter pays principle, a principle that assigns direct causal responsibility on the polluter for polluting, is appealing and intuitive in cases where we can

⁴ Ibid., p. 10.

ascertain with a high degree of certainty who the polluter is and how much they may have polluted.⁵ However, in cases of retroactive pollution, the original polluter may no longer be alive, and it would be unjust, according to the polluter pays principle, to assign the responsibility of polluting to another entity.⁶ In such cases, the polluter pays principle is generally supplemented with other principles of economic environmental redress, such as the ability to pay principle or the beneficiary pays principle; the former aims to allocate responsibility based on one's economic capacity to pay, the latter on one's enjoyment of benefits made possible by the polluting activity.

Carl Knight claims that under the ability to pay principle, the wealthy ought to pay for pollution, regardless of whether they polluted. Knight claims that wealth generated as a result of pollution and wealth generated independent of pollution ought to be distinguished from each other to provide a more comprehensive approach to economic redress for pollution.⁷ This argument carries some normative appeal in that wealthy nations that owe their wealth to pollution ought to have a greater responsibility to pay for emissions as compared than wealthy nations that did not pollute. However, the weakness in this argument is that economic responsibility is being attributed primarily because of wealth, and secondarily because of pollution, and this alters the calculus of moral responsibilities for past pollution levels. This is primarily because now the burden is being borne by rich states that owe their wealth to pollution, followed by rich states that are wealthy independent of pollution, then poor states that heavily

⁵ Caney, Simon. *Climate Change and Duties of the Advantaged*. Critical Review of International Social and Political Philosophy. Vol. 13, No. 1. 2010. p. 204.

⁶ Ibid., p. 211.

⁷ Knight, Carl. *Climate Change and the duties of the disadvantaged: Reply to Caney*. Critical Review of International Social and Political Philosophy. 2011. p.533.

pollute, and finally poor states that do not pollute. In other words, the criteria for assigning responsibility for past emissions shifts from polluting behaviour to economic capacity and capability. Such an approach moves away from a discussion of purely environmental responsibility and determining who polluted and how much to a discussion of economic responsibility of how to apportion financial burdens for past pollution. This position intuitively makes sense as states that have developed economies because of pollution are consistently apportioned economic responsibility for their past pollution levels. However, this position can be problematic with respect to developed states that hold strong economies independent from pollution or developing nations that have high pollution levels today, like China or India. The argument to shift responsibility from polluting behaviour to wealthy nations is favourable because it addresses how rich states have benefitted from pollution and ought to be held financially responsible. However, this argument is weakened by two criticisms. First, it is not clear how shifting the criteria for assigning responsibility for past pollution to rich states as opposed to focusing on polluting behaviour will deter rich states from polluting further, especially if they can bear the costs to do so. Second, shifting the criteria from polluting behaviour to economic capacity incentivizes poor states to pollute to economically develop.

Finally, Fabian Schuppert states that the beneficiary pays principle claims that if states benefit from pollution, they are responsible for paying for a proportional level of pollution corresponding directly with their respective benefits.⁸ While the polluter pays principle ties responsibility to a direct causal outcome which is to say to a specific polluter and their respective level of pollution, the ability to pay and beneficiary pays principles attribute responsibility based

⁸ Schuppert, Fabian. *Climate Change Mitigation and Intergenerational Justice*. Environmental Politics. Vol. 20, No. 3. 2011. p.306.

on whether a state has the financial means to pay or if states have benefitted from pollution in the past. In other words, the ability to pay principle argues that if a state has the financial capability to pay for pollution, they ought to do so, irrespective of whether they were historically responsible for pollution, and the beneficiary pays principle claims that if a state benefits from pollution, they ought to pay. However, climate justice cannot simply be reduced to a policy discussion of burden sharing through economic as well as environmental redress. This is because the framing of climate justice in economic terms results in the deployment of rational choice theory and a cost benefit analysis to determine whether the benefits of pollution outweigh its costs.⁹ David Pearce examines the use of cost-benefit analysis in British environmental policy and argues that the early application of cost-benefit analysis has tended to ignore environmental impacts and has had detrimental effects on the creation of environmental policy. The later impacts of cost-benefit analysis have revealed that there are significant conflicts regarding the nature of economic values and the relationship between economics and self-interest, but cost-benefit analysis appears to have a growing influence in the policy making process. Put another way, the use of economic policy to constrain behaviour becomes ineffective in cases where it would be in a nation's interest to pollute if it results in a greater economic net benefit than not polluting which would result in a greater environmental net benefit. This is a key limitation of cost-benefit analysis which tends to have a short to medium term focus driven primarily by economic gain and conflicts with questions of economic and environmental responsibility. Cost-benefit analysis premised on economic gain is incompatible with economic responsibility for environmental damages for two reasons. First, we still see a general prioritization of economic gain over environmental protection. Second, for most nations it is more economically profitable

⁹ Pearce, David. *Cost-Benefit Analysis and Environmental Policy*. Oxford Review of Economic Policy. Vol. 14, No. 4. 1998. p. 86

in the short to medium term to continue polluting than it would be to expend fiscal resources to reform economic, environmental or energy systems to better protect the environment. Even if states were to agree that the international community ought to shift their focus towards environmental protection and away from economic gain, there would be difficulty in agreeing on the terms of apportioning different levels of economic responsibility. Furthermore, employing any of the three aforementioned principles of economic responsibility for pollution in international environmental law involves a discussion of enforcement and representation. This means determining how international environmental laws can be enforced if states are not compliant, and how international environmental laws ought to be equally representative of all nations. In the next section, I turn to the problems of enforcement and representation when translating the interests of states into international laws or policies.

1.2.2 Problems of Enforcement and Representation

Practically, there are two problems generally surrounding international environmental law and policy. The first is the problem of enforcement, and the second is the problem of representation. To examine the problem of enforcement, I look at the 2005 Kyoto Protocol, and to examine the problem of representation, I focus on the *Principle of Common but Differentiated Responsibilities* found in the 1992 Rio Declaration. The Kyoto Protocol is an international treaty that extends the 1992 United Nations Framework Convention on Climate Change (UNFCCC) which commits states to reduce greenhouse gas emissions on the scientific grounds that global warming is occurring, and that anthropogenic pollution is the primary cause of global warming.¹⁰ The Kyoto Protocol was adopted in 1997 and entered into force in 2005. The purpose of the

¹⁰ Kyoto Protocol to the United Nations Framework Convention on Climate Change. Kyoto, 11, December 1997.

protocol implemented the UNFCCC objective of reducing the future effects of global warming by reducing anthropogenic pollution in the atmosphere.¹¹ Furthermore, the protocol aimed to implement the 1992 Rio Declaration's *Principle of Common but Differentiated Responsibilities*. This involved acknowledging that countries have made varying historical contributions to global pollution levels, varying economic capabilities to address climate change, and that developed states are obligated to reduce their current emissions levels on the grounds that they are most historically responsible for the current level of greenhouse gases in the atmosphere.¹² Developed nations owe their economic development to high levels of pollution and are able to better adapt to the negative effects of climate change, compared to developing nations which have historically polluted far less and as a result have weaker economies and are less able to adapt to climate change. The initial stated goal for the Kyoto Protocol was for industrialized countries to stabilize their emissions at 1990 levels by the year 2000, and developing countries were not subject to emission reduction commitments until the final agreement, which included the Clean Development Mechanism.¹³ The Clean Development Mechanism was designed to limit emissions in developing countries but developing countries would not have to bear the financial costs for limiting their emissions. The Clean Development Mechanism sparked controversy among developed nations, especially among Canada and the United States.

The problem of enforcement is well illustrated by Canada's changing policy position vis-a-vis the Kyoto Protocol. Canada was an active nation in the negotiations that lead to the Kyoto Protocol, which was signed in 1997, but in 2006, Prime Minister Stephen Harper took office and was strongly opposed to the Kyoto Protocol. Harper, during the course of his first tenure as

¹¹ Hayward, Tim. *Climate Change and Ethics*. Nature Climate Change. Vol 2. 2012. p. 1.

¹² Dimento, Joseph. *The Global Environmental and International Law*. University of Texas Press, 2003. p. 130.

¹³ Weiss, Edith Brown. *The Evolution of International Environmental Law*. Japanese Yearbook of International Law. Vol. 54. 2011. p. 25.

Prime Minister, denounced the Kyoto Protocol as a social scheme designed to suck money out of wealthy developed states and opposed the imposition of binding targets, resulting in the eventual withdrawal of the Kyoto Protocol in 2011 as Canada was far exceeding the Kyoto Protocol emissions targets.¹⁴ When Canada withdrew from the Kyoto Protocol, there were no significant drawbacks or ramifications for doing so; thus, drawing into question the relevance and significance of international agreements.¹⁵ This leads to the question of whether international agreements can truly be effective if there is no recourse when a country decides to withdraw from an international agreement.¹⁶ Furthermore, if states are not compliant with a particular agreement, like Canada was in the case of emissions and the Kyoto Protocol, if there is no effective enforcement mechanism, what is to stop nations from merely exiting an international agreement in order to prevent fines or sanctions from being levied?

Alternatively, the United States signed the Kyoto Protocol in 1998, under Bill Clinton's presidency. However, the Kyoto Protocol failed to be ratified by the Senate on the grounds of the Byrd-Hagel Resolution which was passed on July 25, 1997, stating that the United States government should not pass legislation that would be detrimental to the American economy, and that they it should not sign onto a climate treaty that would require Annex I parties to limit their emissions unless developing nations were also required to limit their emissions within the same

¹⁴ Oreskes, Naomi. *The Scientific Consensus on Climate Change: How do we know we're not wrong?* In *Climate Change – What it Means for Us, Our Children and Our Grandchildren*, edited by Joseph DiMento and Pamela Doughman. 2nd edition. MIT Press, 2014. p. 164.

¹⁵ Renkin, Andrew. *Climate Change as News: Challenges in Communicating Environmental Science*. In *Climate Change – What it Means for Us, Our Children and Our Grandchildren*, edited by Joseph DiMento and Pamela Doughman. 2nd edition. MIT Press, 2014. p. 263.

¹⁶ Inigo Gonzales-Ricoy and Axel Gosseries. *Designing Institutions for Future Generations: Introduction*. In *Institutions for Future Generations*, edited by Inigo Gonzales-Ricoy and Axel Gosseries. Oxford University Press, 2016. p. 9.

compliance period.¹⁷ Furthermore, when George Bush became president in 2000, the Bush administration's position on climate change was that it was a serious issue, but the Kyoto Protocol exempts primarily developing countries, allowing them to emit freely, and this would have detrimental effects on the American economy.¹⁸

In the Canadian and American case, both governments acknowledged the problem of climate change and pollution and were part of the negotiation process of the Kyoto Protocol. However, Canada left the agreement because it was not compliant with the protocol's emissions reduction requirements, and to this day, has not been penalized for their departure from the Kyoto Protocol. Alternatively, America failed to sign the agreement on the grounds that it would harm the US economy. Though the Kyoto Protocol aimed to action the *Principle of Common but Differentiated Responsibilities*, developed nations like Canada and the United States failed to take greater responsibility at the international level on the issue of climate change and pollution.¹⁹ Furthermore, Canada and the United States demonstrate that the Kyoto Protocol suffers from a problem of enforcement, that is that if parties are not compliant with its regulations or choose to represent their own interests over the interests of others, they can simply withdraw from the agreement and not suffer consequences for doing so. Next, I turn to the problem of representation in international environmental law and policy.

Representation in international environmental law and policy largely has to do with agenda setting and which state's interests get represented at the international level. Examples of

¹⁷ Congress. S. Res. 98 – A resolution expressing the sense of the Senate regarding the conditions for the United States becoming a signatory to any international agreement on greenhouse gas emissions under the United Nations Framework Convention on Climate Change. 105th Congress. 1997-1998.

¹⁸ DiMento, Joseph and Pamela Doughman. *Climate Change: How the World is Responding?* In *Climate Change – What it Means for Us, Our Children and Our Grandchildren*, edited by Joseph DiMento and Pamela Doughman. 2nd edition. MIT Press, 2014. p. 177.

¹⁹ Mollendorf, Darrell. *Climate Change and Global Justice*. WIRE Climate Change. Vol 3, 2012. p. 134.

international institutions and agreements that set the global agenda and represent state interests include: the United Nations Environment Programme (UNEP) and the Intergovernmental Panel on Climate Change (IPCC) which are intergovernmental bodies of the United Nations, and international environmental treaties like the UNFCCC. The UNEP is a programme of the UN that coordinates the organization's environmental activities and assists developing countries in implementing environmentally sound policies and best practices.²⁰ The IPCC is an intergovernmental body of the UN that is dedicated to providing the world with objective, scientific information that is relevant to understanding some of the risks of anthropogenic climate change, its effects, and some possible responses we can take to address climate change.²¹ The UNFCCC is an international environmental treaty that was adopted in May 9, 1992 and its objective is to stabilize greenhouse gas emissions in the atmosphere at a level that would prevent dangerous human-induced interference in the climate system.²² In principle, the UN aims to maintain international peace and security while developing friendly relations between nations, achieving international cooperation and harmonizing the actions of nations. Though there have been many international summits discussing how best to respond to pollution and climate change, there has yet to be a universally accepted law, policy or treaty governing the polluting actions of states.²³ However, on the international stage, there are countries that hold more power in setting the agenda for global issues like climate change than other players. I will briefly talk about the UN Security Council and the problem of the representation of interests, and how these

²⁰ Vanderheiden, Steve. *Climate Change, Environment Rights and Emission Shares* in *Political Theory and Global Climate Change*, edited by Steve Vanderheiden, foreword by John Barry, MIT Press, 2018. p. 69.

²¹ Gardiner, Stephen. *The Ethical Tragedy of Climate Change: A Perfect Moral Storm*. Oxford University Press, 2011. p. 186.

²² Dimento, Joseph and Pamela Doughman. *Climate Change: How is the World Responding?* In *Climate Change: What it Means for Us, Our Children and Our Grandchildren*, by Joseph DiMento and Pamela Doughman, MIT Press, 2nd edition, 2014. p. 153.

²³ Hiskes, Richard. *The Human Right to a Green Future – Environmental Rights and Intergenerational Justice*. Cambridge University Press, 2009. p. 92.

interests intersect with the 1992 Rio Declaration's *Principle of Common but Differentiated Responsibilities*. The reason for doing so is to demonstrate how the interests of states are not equally represented at the international level, and that it is generally developed nations that have their agendas and interests realized at the expense of developing nations.

The UN Security Council is one of the main organizations of the United Nations, charged with ensuring international peace and security. The UN Security Council is comprised of five permanent members which include China, France, Russia, the United Kingdom and the United States.²⁴ Comparing the UN Security Council to other more democratically representative international bodies like the UN General Assembly, the UN Security Council is very unrepresentative of nations and peoples around the world.²⁵ This often leads to the criticism that the UN Security Council only addresses strategic and political interests of its permanent members. More specifically, this can be seen in the veto powers that are granted to the UN Security Council states whereby a veto from any of the permanent members can halt any possible action that the UN Security Council might take.²⁶

Tying this back to our discussion of international climate policy and the division of economic responsibilities between states with regard to pollution, developing states like China assert that developed states like the United States ought to reduce their emissions to allow for developing nations to modernize their economies and have fair access to the global economy.²⁷ Alternatively, the United States' position on emissions is that they are in principle able and willing to reduce emissions, but demands that developing states ought to regulate their pollution

²⁴ Spain, Anna. *The U.N. Security Council's Duty to Decide*. Harvard National Security Journal. 2013. p.325.

²⁵ Thakur, Ramesh. *United Nations Security Council Reform*. African Security Studies. Vol. 13, No. 3. p. 68.

²⁶ Spain, Anna. *The U.N. Security Council's Duty to Decide*. Harvard National Security Journal. 2013. p.328.

²⁷ Harris, Paul G. and Johnathan Symons. *Justice in Adaptation to Climate Change: Cosmopolitan Implications for International Institutions*. Environmental Politics. Vol. 19, No. 4. 2010. p. 633.

levels.²⁸ This tension between two veto powers of the Security Council forms an international political gridlock in that it is difficult for there to be multilateral climate policies that can be applicable to all when there is substantial disagreement between both parties. While all parties of the UN Security Council have publicly acknowledged the problem that climate change poses for all human beings on the planet, there has yet to be an acceptable solution for all parties involved. While the UN Security Council has historically congregated special powers to a select few states to resolve global issues, I turn to the 1992 Rio Declaration as an alternate example of attempting to allocate common but differentiated responsibilities to all states to protect the global environment.

The 1992 Rio Declaration asserts that states have contributed in varying degrees to global environmental degradation, and because of this variation, states have common but differentiated responsibilities. Within the *Principle of Common but Differentiated Responsibilities* there are two key elements to consider. The first focuses on the common responsibility of all states to protect the environment at all levels, ranging from the local, national, regional to global levels.²⁹ The idea of common responsibility describes the shared obligations that all states have towards the protection of the environment. Common responsibility applies in cases where a particular natural resource is shared between people, like that of water and air, and these shared natural resources are coined as resources for the ‘common heritage of mankind’ or of ‘common concern’.³⁰ The second focuses on assessing each states specific contribution to climate change and its respective ability to adapt to climate change and reduce emissions. This requires a

²⁸ Adamian, Martin J. *Environmental (In)justice in Climate Change* in *Political Theory and Global Climate Change*, edited by Steve Vanderheiden and foreword by John Barry. MIT Press, 2008. p. 71.

²⁹ Okereke, Chukwumerije. *Global Justice and Neoliberal Environmental Governance*. Routledge, 2008. p. 147.

³⁰ Szabo, Marcel. *A Common Heritage Fund for Future Generations*. In *Institutions for Future Generations*, edited by Inigo Gonzales-Ricoy and Axel Gosseries. Oxford University Press, 2016. p. 211.

differentiation of environmental standards based on a range of factors which include special needs and circumstances, future economic development of countries, and a risk analysis of whether an environmental issue may arise. At the 1992 Rio Declaration, states agreed that environmental objectives, priorities and standards should be context specific to a particular nation, and that developing nations, specifically those determined to be least developed and most environmentally vulnerable, would be given proportionally alleviated responsibilities. The purpose of differentiated responsibilities is to promote substantive economic and environmental equality between developing and developed states within an international climate regime and to ensure that developing countries can eventually become compliant with international climate policies over time.

However, though there have been attempts to implement the *Principle of Common but Differentiated Responsibilities*, like the Kyoto Protocol, it has been subject to the problem of unequal representation. This is to say that developed states typically tend to have their interests better or more forcefully represented at the international level, through international institutions than developing states. While the *Principle of Common but Differentiated Responsibilities* certainly brings a degree of recognition of the harms of pollution and the nature of disproportional development between developed and developing nations, crafting an international law and policy that fairly acts on these terms has been tumultuous at best.

In this section, I examined the problems of retroactive pollution and some of its theoretical and practical implications. Theoretically, attributing economic responsibility for past pollution is made on the grounds of one of three principles, the polluter pays, ability to pay or beneficiary pays principle. However, I argued that climate justice for retroactive pollution cannot simply be addressed through economic redistribution, as it would enable states to engage in

economic self-interest and to conduct cost-benefit analyses to determine if it would be in their economic or environmental interests to pollute or not pollute. The problem with doing so is that cost-benefit analysis tends to have a short to medium term focus as opposed to a long-term focus, and that it is typically framed in terms of economic gains as opposed to environmental protection. Economic approaches effectively reduce climate change to a cost-benefit analysis question, where states weigh the value of economics against the environment, and tend to prioritize the economy over the environment because economic returns through environmental degradation provides a consistent return, whereas protecting the environment does not generate a consistent return because it relies on the collective action of all states. Furthermore, if states were to collectively take varying levels of economic responsibility to protect the environment and to prioritize it over economic gains, we are still faced with an international system that suffers from problems of enforcement and equal representation. While the idea of common but differentiated responsibilities is a step in the right direction, the problem is that today, developed nations do not take enough economic responsibility for past pollution, and developing nations are trying to hold developed nations more accountable for past pollution, but do not have the ability to implement this at the international level. Practically, retroactive pollution faces two issues which include enforcement and representation. The issue of enforcement clearly illustrated in the case of the Kyoto Protocol, failed to address non-compliant withdrawing parties, in the case of Canada, and failed to address cases of states representing the interests of their own citizens over the interests of all, in the case of the United States. The issue of representation can be seen in the structure of the UN Security Council and the 1992 Rio Declaration. The UN Security Council tends to represent a small echelon of states of which permanent member states have veto powers that can be exercised to halt international action. Alternatively, the 1992 Rio Declaration brought

recognition of climate change and pollution as a salient international policy issue area but has failed to sufficiently represent the interests of developing states in an actionable and meaningful way. Furthermore, questions of representation also ask about the inclusion of indigenous peoples in the policy-making process, as well as other minority groups that are traditionally not part of the predominant national voice. The problem of representation also needs to be broadened and deepened to include both underrepresented domestic and international actors. Next, I turn to the problems surrounding economic redress and why economic redress is insufficient at addressing historic levels of economic inequality between states.

1.2.3 Economic Redress and Historic Levels of Economic Inequality

Here, I demonstrate how economic redress fails to sufficiently address economic inequalities that exist between states. By economic redress, I mean economic redistribution or payment for past damages. International environmental policies have attempted to address economic inequalities generated by past pollution. In this section, I plan to do two things. First, I look at the problem of disproportional development leading to economic inequality between states, which explains how developed states tend to be affluent, high polluting states, while developing states tend to be poor, low polluting states. Next, I examine current approaches taken in international environmental policy and law to address historic levels of economic inequality. The current approaches in international environmental policy and law do an excellent job outlining the problems of climate change and economic inequality experienced between states as a result of pollution, but do not offer solutions that are acceptable to all states, and specifically developing nations.

Disproportional development hinges on the claim that developed, richer nations have greater resources and can adapt to climate change more effectively than developing, poor nations

that have less resources to adapt to climate change. The term disproportional development refers to the unequal developmental trajectories experienced by developed and developing states. Disproportional development is tied to two salient points which include the legacies and histories of colonialism, and the history of modernization and development. Colonialism has and will continue to have significant effects on the developmental trajectories of nations around the world.³¹ Colonizing powers have typically benefitted from colonised countries by subjugating them and having control over the colonised country. The broad concept of colonialism, as defined by Margaret Kohn, is the project of European domination from the 16th to 20th century, that ended with the national liberation movements of the 1960's, where colonial states began to engage in a process of decolonization in order to become independent.³² Colonialism involved the notion that colonizers were more advanced, dominant and superior, and that the colonized parties were primitive, uncivilized and inferior.³³ This problematic perception gave rise to the justification that colonial powers were “modernizing” savages and elevating their quality of life to eventually mirror that of the colonizer. Shiraz Dossa claims that the perception of superiority enabled the West to develop, become hegemonic and to prioritize their interests over that of non-Western colonial states. Dossa argues that development is a neocolonial creed that asserts that development will end violence and poverty in the developing world. A more critical view is that “development as usual” is a dangerous policy concerned primarily with accumulation, expansion and growth, all of which are destructive and harm the well-being of humans.³⁴ The central shared justification for colonialism and development is that both share in the assumption that there are

³¹ Bhargava, Rajeev. *Overcoming the Epistemic Injustice of Colonialism*. Global Policy. Vol. 4, No. 4. 2013. p. 414.

³² Kohn, Margaret. *Postcolonialism and global justice*. Journal of Global Ethics Vol. 9, No.2. 2013. p. 190.

³³ Dossa, Shiraz. *Slicing Up Development: Colonialism, Political Theory, Ethics*. Third World Quarterly. Vol. 28, No. 5. 2007. p. 889.

³⁴ *Ibid.*, p. 891.

superior and inferior states and that it is in the interest of colonial powers and modern states to assist those who they consider to be inferior or underdeveloped. Dossa maintains that the colonial project is a vehicle to advance Western development and hegemony, and that the interest of the colonizer and the developed was never to enhance the quality of life of its colonies or developing states, but rather to gain colonial mastery to enhance their own quality of life. Immanuel Wallerstein develops an account of this process in his world-systems theory where he claims that the rise of capitalism can be attributed to European states that employed their advantages and gained control over the global economy through development and industrialization, resulting in unequal development between states.³⁵ In particular, Wallerstein asserts that there is a tripartite division of labour between core, semi-periphery, and periphery states which can be broken down into relations of domination. Core states are typically understood to be free countries, semi-periphery states are understood to dominate over periphery states but are dominated by core states, and periphery states are dominated by both core and semi-periphery states. Core states are typically understood as developed nations, semi-periphery states tend to straddle the distinction of developed and developing nations, and periphery states are usually developing nations.³⁶

Tying the colonial and developmental perspectives back to climate justice, nations that are developed and have stronger economies are better able to weather the effects of climate change and adapt accordingly. One example of this can be found in comparing the agricultural industry between developing and developed nations. Many developing nations have naturally warmer climates compared to developed nations, and developing nations tend to rely more on

³⁵ Wallerstein, Immanuel. *The Modern World-System I: Capitalist Agriculture and the Origins of the European World-Economy in the Sixteenth Century*. University of California Press. 2011. p. 75.

³⁶ *Ibid.*, p. 89.

climate sensitive industries like agriculture. As temperatures rise due to global warming, crop yields decline and negatively affect domestic consumption and production for residents in developing nations, while developed nations are better positioned to adapt to rising temperatures by increasing their domestic agricultural production or trading with new partners.³⁷ Furthermore, while colonialism typically focuses on the subjugation of peoples in order to advance particular interests, little has been said on whether or not a relationship exists between colonialism and climate change.³⁸ However, social scientists and climate scientists have established that industrialization is one of the greatest contributors to pollution, and that the effects of industrialization starting in 1760 until 1840 can still be felt today.³⁹ Therefore, disproportional development, through examining the effects of colonialism and industrial development, can explain why developing nations tend to have a more difficult time adapting to climate change and this can range from having a weak economy, lack of institutions of social structures, and being dependent on foreign aid to survive.

In this section, I addressed the problem of historic economic inequalities generated because of environmental pollution. To do so, I began by examining the problem of historical disproportional development which explains how developed states today tend to be affluent, high polluting states, while developing states tend to be poor, low polluting states. The key claim I advanced is that the effects of disproportional development today can be attributed to colonialism and industrial development.

³⁷ Smit, Barry and Mark Skinner. *Adaptation Options in Agriculture to Climate Change: A Typology*. Mitigation and Adaptation Strategies for Global Change. Vol. 7, No. 1. 2002. p. 86.

³⁸ While much of the literature focuses on the relationship between colonialism and unequal economic development, as seen by John Broom and Duncan Foley's chapter on *A World Climate Bank* In *Institutions for Future Generations*, edited by Inigo Gonzales-Ricoy and Axel Gosseries. Oxford University Press, 2016. p. 160; Much less has been written on the relationship between colonialism and climate change.

³⁹ Kwiatkowska, Teresa. *Let Earth Forever Remain: Putting Environmental Ethics to Work*. in *Environmental Ethics and International Policy* edited by Henk A.M.J and ten Haye. UNESCO. 2006. p. 165.

1.2.4 International Approaches Today on the Environment and Economic Inequality

Today, current approaches in international environmental policy and law taken to address historic economic inequality have been largely ineffective. However, Henry Shue makes the argument that there are three common sense principles we can employ in order to better understand how to address economic inequality. First, we ought to acknowledge and accept that there is an important relationship between poor states and rich states. Second, we ought to pursue equitable cooperation and equality between poor and rich states. Third, any agreements we pursue ought to be fair and need to set acceptable thresholds of economic inequality.⁴⁰ These three common sense principles can be translated into three justifications for allocating burdens and responsibilities for climate change which we see in international environmental policy today. The first justification is that because there is a largely unequal relationship between poor and rich states, there ought to be an unequal burden to reduce this existing inequality. This is seen in the *Principle of Common but Differentiated Responsibilities*, which aims to assign differentiated responsibilities to states in order to tackle the problem of climate change and pollution. The second justification is that in order to pursue equitable co-operation and equality between states, there needs to be an unequal burden to prevent inequalities from worsening. This, too, is also seen in the *Principle of Common but Differentiated Responsibilities*, but also in the concept of sustainable development in the Brundtland Report. The concept of sustainable development in the Brundtland Report is defined as:

“Sustainable development requires meeting the basic needs of all and extending to all the opportunity to satisfy their aspirations for a better life. Living standards that go beyond the basic minimum are sustainable only if consumption standards everywhere have regard for long-term sustainability. Yet many of us live beyond the world’s ecological means, for instance in our patterns of energy use.....sustainable development requires the promotion of values that

⁴⁰ Shue, Henry. *Climate Justice*. Oxford University Press, 2014. p. 87

encourage consumption standards that are within the bounds of the ecological possible and to which all can reasonably aspire.” – Our Common Future, Brundtland Commission, 1987.⁴¹

What the concept of sustainable development advocates for is that individuals need to consume enough to meet their own individual basic needs so that others can meet their basic needs. The concept of sustainable development points to the fact that many individuals living in affluent states tend to live beyond their ecological means and ought to reduce their respective ecological footprints. Shue makes the case that we can distinguish between different types of emissions, which include survival emissions, pollution that is necessary in order to survive, and luxury emissions, pollution that is in excess of survival emissions and not required for survival.⁴² Thus, pursuing economic equality between states necessarily involves a reduction in consumption from rich, developed states, and allowing developing states to further their economies. The third justification is that international environmental policies ought to be fair and permit an acceptable level of inequality, and in order to do so, it justifies the creation of a guaranteed minimum in order to promote a level of economic equality.⁴³ At the level of international environmental law, I argue that the first and second principles and their justifications are partially present, albeit ineffective, and the third principle and justification is non-existent.

Scholars working in international environmental policy and law recognize that there is a relationship between the poor and the rich, and that these policies and laws aim to pursue equitable co-operation and equality based the division of developing and developed states. We can see this through the various international institutions and laws that have been developed in order to respond to climate change and economic inequalities caused as a result of pollution. This

⁴¹ Our Common Future, Brundtland Report. Chapter 1, Part 3: Sustainable Development, Article 27.

⁴² Shue, Henry. *Chapter 11: Subsistence Emissions and Luxury Emissions* in Gardiner, Stephen et al. *Climate Justice: Essential Readings*. Oxford University Press, 2010. p. 200.

⁴³ Shue, Henry. *Chapter 6: Global Environment and International Inequality* in Gardiner, Stephen et al. *Climate Justice: Essential Readings*. Oxford University Press, 2010. p. 102.

can range from as early as the 1972 Stockholm Declaration outlining that human beings have the right to a healthy environment⁴⁴ to the 1992 Rio Declaration on the *Principle of Common but Differentiated Responsibilities*⁴⁵ to the 2005 Kyoto Protocol that attempted to operationalize the salient issue areas identified in the Rio Declaration. No one can deny that each of these major events have brought more recognition and visibility to the problem of climate change and pollution. However, recent developments in international environmental policy have been inadequate in addressing the problem of historic economic inequality generated from environmental degradation. While most states agree that developed nations have polluted substantially in the past, enabling them to develop far more rapidly than developing states, they have been largely silent in implementing equitable treatment at the international level to allow developing states a fair opportunity to develop.⁴⁶ This is not to say that developed nations like Canada and the United States are absent from the processes of constructing more equitable policies to address economic inequalities and environmental injustices. Today, developed nations set the international agenda on climate change, but fail to follow through on their commitments to greater economic equality and global environmental protection. This problem becomes further compounded if we add a spatial element to the equation, as pollution tends to impact individuals living in poor states more than individuals living in rich states. Simply put, the inability of developed nations to follow through on economic and environmentally equitable policies has significant detrimental economic and environmental impacts for present and future generations and discounts the history of how these economic inequalities came to be. While climate change

⁴⁴ Hayden, Patrick. *Cosmopolitanism and Global Politics – Ethics and Global Politics*. Ashgate Publishing, 2005. p. 122.

⁴⁵ Zahar, Alexander. *The Polluter Pays Principle in International Climate Change Law*. Working Paper 2018. p. 7.

⁴⁶ Vanderheiden, Steve. *Climate Change, Environment Rights and Emissions Shares in Political Theory and Global Climate Change* edited by Steve Vanderheiden and foreword by John Barry. MIT Press, 2008. p. 47.

and pollution are well represented policy issue areas at the international level, more work needs to be done to ensure equitable action to reduce economic inequalities between states as well as to prevent these inequalities from worsening. This is because poor states are more vulnerable to climate change than rich states and rich states can better adapt to the effects of climate change than poor states. Furthermore, climate change worsens economic inequality as poor states will expend more of their resources to adapt to climate change than rich states which would in turn broaden economic inequality experienced between states. Thus, pollution has yielded economic benefits at the expense of the environment, and affluent states ought to bear greater responsibility in correcting economic inequalities generated from environmental damages.

There is, however, one area where international environmental policy and law could improve. This is the setting of fair policies which promote a minimum basic standard of rights and freedoms. Theoretically, this is understood as a sufficientarian approach which maintains that all human beings ought to be able to have the right to realize a minimum standard of living, independent of the livelihoods of other people.⁴⁷ This approach can be further subdivided into two categories: weak and strong sufficientarianism. Weak sufficientarianism claims that reaching a minimum standard of living matters more, the worse off someone is, and that once individuals meet the threshold of a minimum standard of living, inequalities do not matter.⁴⁸ Strong sufficientarianism asserts that laws ought to prioritize the improvement of individual's standard of living the worse off they are, and that we should aim to elevate more people's standard of living if possible.⁴⁹ Much of international environmental policy and law is focused on the present

⁴⁷ Brousalis, Nicholas. *Chapter 3: Intergenerational Justice: A Primer*. In *Institutions for Future Generations* by Inigo Gonzales-Ricoy and Axel Gosseries. Oxford University Press, 2016. p. 50.

⁴⁸ Meyer, Lukas and Dominic Roser. *Chapter 8: Enough for the Future*. In *Institutions for Future Generations* by Inigo Gonzales-Ricoy and Axel Gosseries. Oxford University Press, 2016. p. 222.

⁴⁹ *Ibid.*, p. 224.

and the future, in terms of creating actionable policies that primarily protect the environment for present and future generations, and secondarily enable development for present and future generations. However, there has yet to be an effective policy approach at the international level for promoting baseline economic equality between people across different states. Rather, economic equality tends to be viewed insularly at the state level, leaving it up to individual states to promote social welfare or economic redistribution policies in order to address economic inequality within states. This is to say while domestic policy can be effective at addressing economic inequality between individuals within states, international policy has largely been silent on the issue of addressing economic inequality caused by pollution which enabled different developmental trajectories experienced by developed and developing states.

In this section, I evaluated current approaches taken in international environmental policy to address economic inequality caused by pollution. While there has been some headway made in terms of addressing economic inequality through international environmental policies, like the 1992 Rio Declaration and the 2005 Kyoto Protocol, I argued that these policies have been insufficient in addressing economic inequality. Rather, international environmental policies and laws do an excellent job at bringing exposure and representation to the problems of climate change and economic inequality experienced between states as a result of pollution, their solutions have tended to not be acceptable by all states, and more work needs to be done in order to ensure a more equitable treatment for developing nations. In the next section, I turn to the problem of economic redress and environmental inequality.

1.2.5 Economic Redress and Environmental Inequality

In this section, I outline how international policies premised on economic redress do very little to address environmental inequality. This claim is made on the assumption that there is a

global emissions ceiling, and that many pollutants that are in the atmosphere originate primarily from developed states, leaving less room for developing states to pollute in order to develop. The global emissions ceiling is defined as the total stock of greenhouse gasses and pollutants that the earth's atmosphere can withstand without triggering dangerous climate change. The global emissions ceiling is framed as a tragedy of the commons dilemma as the atmosphere is a shared resource for all to use and benefit from, but developed nations have polluted substantially and are polluting according to their own self-interest which in turn depletes the available space for developing nations to pollute to develop. Furthermore, economic redress does very little to address historical levels of pollution, the effects of which may be irreversible. I examine the global emissions cap through the Paris Agreement and the problem of hazardous waste dumping in developing nations which gave rise to the Basel Convention. Both the Paris Agreement and Basel Convention are international treaties that aim to protect the environment, but I suggest that they have been largely ineffective in resolving environmental injustices.

In 2016, the Paris Agreement was signed by 195 countries, specifically to deal with greenhouse gas emissions adaptation, mitigation and finance. Countries pledged to keep global temperatures below 2 degrees Celsius above pre-industrial levels, and to pursue efforts to limit the temperature increase to 1.5 degrees Celsius.⁵⁰ To achieve this goal, countries are required to limit their respective carbon emissions. There are three salient problems with the Paris Agreement and the global emissions cap. First, the Paris Agreement is criticized as being ineffective as no developed countries have implemented the necessary environmental policies domestically to meet their pledged emissions targets.⁵¹ Furthermore, even if developed countries

⁵⁰ United Nations Framework for Climate Change 2020. *The Paris Agreement: Essential Elements*. 2015. p. 3.

⁵¹ Cléménçon, Raymond. *The Two Sides of the Paris Climate Agreement: Dismal Failure or Historic Breakthrough?* The Journal of Environment & Development. Vol. 25, No. 1. 2016. p. 5.

were compliant with their emissions targets, policymakers and scientists have determined that it is very unlikely that the global temperature rise would be held below 2 degrees Celsius.⁵² Second, like the Kyoto Protocol, the Paris Agreement suffers from a lack of a binding enforcement mechanism. An example of this can be seen in the United States withdrawal from the Paris Agreement in 2017 under the Trump administration. President Trump claimed that the Paris Agreement would harm the U.S. economy and would put them at an economic disadvantage compared to other nations.⁵³ This rhetoric is similar to why the Kyoto Protocol was not passed through the U.S. Senate in that the Kyoto Protocol would be detrimental to the interests of American citizens. Third, developed countries account for roughly two-thirds of the world's total global emissions. The United States in particular is responsible for one quarter of the two-thirds of the world's total global emissions.⁵⁴ The problem with the emissions ceiling is that the majority of pollution that exists in the atmosphere is primarily due to developed nations.⁵⁵ This means that the remainder of the space left for pollution is less and is competed for by developed and developing nations alike. International climate policies have been largely ineffective in granting developing nations economic justice, that is a fair chance at development, and environmental justice, to protect developing nations from climate harms caused by pollution from previous generations. Next, I turn to the Basel Convention as an example of being unable to sufficiently repair environmental damages and harms that have occurred from hazardous waste.

The Basel Convention is an international treaty that was designed to reduce the movement of hazardous waste between nations, and to prevent the transfer of hazardous waste

⁵² Falkner, Robert. *The Paris Agreement and the New Logic of International Climate Politics*. International Affairs. Vol. 92, No. 5. 2016. p. 1110.

⁵³ Selby, Jan. *The Trump Presidency, Climate Change, and the Prospect of Disorderly Energy Transition*. Review of International Studies. Vol. 45, No. 3. 2019. p. 475.

⁵⁴ International Energy Agency. *IEA Energy Atlas: CO2 Emissions from Fuel Combustion*. 2017.

⁵⁵ Mollendorf, Darrell. *Climate Change and Global Justice*. WIRE Climate Change. Vol. 3. 2012. p. 137.

from developed to developing countries. The Basel Convention entered into force in May 1992, and as of 2002, there are 150 signatory parties. The Basel Convention regulates the transport and disposal of waste as a matter of public record, with the goal of protecting human health. To do so, the convention outlines that wherever waste is created is where it should be disposed of, and nations have the right to ban the entry of foreign waste.⁵⁶ The incident that led to the creation of the Basel Convention was the 1988 Koko, Nigeria case where Italian businessmen illegally dumped over 2000 drums, sacks, and containers full of hazardous waste in a small fishing village in Southern Nigeria. The waste that was dumped was allegedly claimed by the Italian businessmen as fertilizer that would assist poor farmers and aid agricultural development. However, these containers filled with waste started leaking, causing substantial harm to local citizens residing in Koko, Nigeria. Eventually, the area around where the waste was dumped was considered uninhabitable, and its residents were evacuated.⁵⁷ Cases where entities from rich states dump waste in poor states has been called “toxic colonialism”.⁵⁸ Toxic colonialism is defined as the practice of exporting hazardous waste from developed countries to developing countries for disposal. Traditionally, colonial and imperial states extracted resources from foreign lands and did so to elevate their standard of living. However, as the 1988 Koko, Nigeria case shows, developed states can exploit developing states in different ways, moving away from resource extraction and towards dumping industrial waste in developing nations.⁵⁹ The Basel Convention regulates the transboundary movements of hazardous wastes and obliges its

⁵⁶ Dimento, Joseph. *The Global Environmental and International Law*. University of Texas Press, 2003. p. 111.

⁵⁷ Peluola, Akinola. *Investigation of the Implementation and Effectiveness of Electronic Waste Management in Nigeria*. *Review Article*. *Modeling Earth Systems and Environment*. Vol. 2. 2016. p.4.

⁵⁸ Pratt, Laura A. *Decreasing Dirty Dumping? A Reevaluation of Toxic Waste Colonialism and the Global Management of Transboundary Hazardous Waste*. *William and Mary Environmental Law and Policy Review*. Vol. 35, No. 2. Article 5. 2011. p. 586.

⁵⁹ Agbor, Avitus A. *The Ineffectiveness and Inadequacies of International Instruments in Combatting and Ending the Transboundary Movement of Hazardous Wastes and Environmental Degradation in Africa*. *African Journal of Legal Studies*. Vol. 9, No. 4. 2016. p. 245.

signatory parties to ensure that their waste is managed and disposed of in an environmentally safe manner. Furthermore, signatory parties are obligated to minimize the quantity of hazardous wastes exported and to dispose of their own waste as well as to minimize creating waste. While the Basel Convention was created to protect developing nations from the exploitative practices of waste dumping from developed states, it does not adequately respond to the environmental damages that have been done. The Basel Convention was created to protect developing nations from the environmental injustices of waste dumping, but it does not offer a sufficient economic or environmental remedy for developing states that have been harmed by the effects of hazardous waste.

In this section, I have outlined how the Paris Agreement and Basel Convention have been ineffective in addressing environmental injustices. First, I began with the Paris Agreement and the problem of the global emissions ceiling. While the Paris Agreement requires all signatory parties to reduce their emissions levels to meet the goals of the agreement, it does not address or correct for historical environmental injustices, specifically those affecting developing states. The main contributors to pollutants in the atmosphere are developed nations, and this creates restrictions on developing states being able to pollute to develop. While developing states are not restricted from emitting for development, they are limited in their capacity to pollute if they are sensitive to the environment, and they are in tension with developed nations that are committing to more stringent emissions standards. Next, the Basel Convention focused on historical injustices surrounding the dumping of hazardous waste from developed states to developing states, and while the convention is history-sensitive by considering historical events of developed states dumping hazardous waste onto the lands of developing nations, it does very little to address environmental harms caused after the fact. Both the Paris Agreement and Basel

Convention are forward-looking international treaties that aim to prevent future increases in global temperatures and the illegal dumping of waste. Furthermore, both are context sensitive and consider the tenuous histories of developing and developed states, but neither agreements correct retroactive environmental harms caused by previous generations. The overall architecture of my argument so far is that economic principles are not effective because they are motivated by economic gains and this is prioritized over environmental protection. While economic principles are a good start to addressing economic inequalities generated by environmental degradation, they fall short in correcting for environmental damages, especially when these damages are permanent. Thus, economic responsibility can only really resolve economic harms, and environmental responsibility needs to be better supplemented with moral and political responsibilities which focus on the duties and obligations that we have to our environment. Next, I turn to the moral and political responsibilities that we have for past emissions to supplement economic approaches that try to correct economic and environmental inequality.

1.3 Moral and Political Responsibility for Past Emissions

In the previous section, I showed how economic approaches for addressing past pollution are unable to resolve environmental injustices. In order to better supplement these economic approaches, I turn to moral and political theory to see if the tools they offer can be more effective at answering the normative question of who ought to be economically or environmentally responsible for past pollution and its deleterious effects. This section examines the prospects of employing moral and political theories of responsibility to better address historical climate injustices. Moral and political responsibilities in the literature on environmental ethics are typically made on three key grounds which include: relationships of reciprocity, human rights, and intergenerational equity within and between generations. In the following three subsections,

I outline these grounds for attributing responsibility, but will briefly introduce them here.

Relationships of reciprocity in intergenerational justice establish that we live in an intergenerational society where past generations can impact future generations in both positive and negative ways, and that we owe it to future generations to take on additional responsibility for past and present pollution levels to ensure that future generations are less burdened by the detrimental effects of climate change. Claims of human rights are made on the grounds that all human beings ought to be afforded basic rights by virtue of their humanity, but there are certain groups that may not be able to realize their rights which include past and future peoples, and poor individuals are unable to lay claim to human rights. Human rights offer an approach to attributing responsibility for past pollution to ensure that present and future generations can realize basic human rights, and these responsibilities fall on economically or environmentally privileged nations. Intergenerational equity examines how burdens and duties for climate change are to be attributed between generations. The ideal approach for intergenerational equity is that each generation is to bear similar duties and responsibilities to each other, but the compounding effects of pollution result in disproportional duties and responsibilities borne by different generations. Thus, present generations are more obligated than past or future generations to bear additional duties and responsibilities to address past pollution levels because they are presently able to, and failing to act would be detrimental to future generations. I first turn to a discussion of the relationships of reciprocity and how to attribute responsibility for past emissions.

1.3.1 Relationships of Reciprocity and Responsibility for Past Emissions

Moral and political responsibility for past emissions can be outlined in relationships of reciprocity that are shared between different generations. Janna Thompson asserts that politics and society are inherently intergenerational as citizens are born into pre-existing societies, and

the nation-state is a transgenerational polity that embodies relationships of obligations and entitlements both spatially and temporally.⁶⁰ Richard Hiskes makes the claim that we can think of climate change as an intergenerational problem that has both spatial and temporal consequences. Hiskes argues that we engage in intergenerational relationships of reciprocity in the claims we make for the interest of present and future members of civil society.⁶¹ Furthermore, intergenerational justice is typically viewed as being one-directional and linear. Intergenerational relationships are one-directional since past generations can affect future generations, but future generations cannot directly impact past or present generations.⁶² Intergenerational relationships are linear as one generation leads to the next, and generations can be linked to each other chronologically. While past generations have engaged in acts that yield future outcomes that may affect future generations, future generations do not have a way to impact the actions of past generations. The salient idea is that present generations inherit both the benefits and negative consequences of the actions of past generations, and that we have a moral duty to pass along benefits to future generations and to limit passing along negative consequences. However, different thinkers attribute different threshold levels of how many benefits we ought to confer to future generations, which is usually framed as passing along equal benefits, less benefits, or greater benefits. This can be best illustrated in reference to Clark Wolfe's critique of Rawls' just savings principle as an example of passing along equal benefits, Stephen Gardiner's idea of intergenerational buck passing, and the idea of front-loaded as well as back-loaded good as passing along less or greater benefits, respectively.

⁶⁰ Thompson, Janna. *Chapter 1: Identity and Obligation in a Transgenerational Polity* in *Intergenerational Justice* edited by Axel Gosseries and Lukas H. Meyer. Oxford University Press. 2009. p. 25.

⁶¹ Hiskes, Richard. *The Human Right to a Green Future: Environmental Rights and Intergenerational Justice*. Cambridge University Press, 2009. p. 9.

⁶² Gardiner, Stephen. *The Ethical Tragedy of Climate Change: A Perfect Moral Storm*. Oxford University Press, 2011. p. 145.

Rawls' just savings principle examines the responsibilities that current generations have towards future generations. Rawls claims that the main duty that current generations have to future generations is to have enough resources to maintain just institutions over time so that future generations will benefit from these institutions⁶³ This is Rawls' just savings principle as a form of intergenerational sufficientarianism, where present generations need to accumulate enough so that they can create the conditions needed to establish and preserve just institutions over time.⁶⁴ For Rawls, the just savings principle can be divided into two stages. The first stage is the accumulation period, where present generations focus on the accumulation of resources to create just institutions that can exist through time.⁶⁵ The second stage is the steady period, where present generations are no longer required to acquire more resources or to save for future generations.⁶⁶ Rawls makes the case that in the second stage, present generations ought to leave their descendants equal to what they received from previous generations. Clark Wolf objects to Rawls' just savings principle on two grounds: the assumption of a stagnant population, and the problem of scarcity. Wolfe argues that the two stages of the just savings principle assumes that population sizes will be similar between generations, and thus further accumulation beyond what is needed to create just institutions, in the first stage, or accumulation to preserve just institutions, in the second stage, is unnecessary.⁶⁷ The problem with Rawls' just savings principle is that it does not account for population growth, which would in turn place additional strain on the resources needed to enable the creation or maintenance of just institutions. Next, Wolfe objects

⁶³ Rawls, John. *A Theory of Justice: Revised Edition*. Cambridge: Harvard University Press, 1999. p. 251.

⁶⁴ Rawls, John. *Justice as Fairness*, Cambridge, MA: Harvard University Press, 2001. p. 159

⁶⁵ Gaspart, Frédéric and Axel Gosseries. *Are Generational Savings Unjust?* *Politics, Philosophy & Economics*. Vol. 6, No. 2. p. 199.

⁶⁶ *Ibid.*, p. 203.

⁶⁷ Wolf, Clark. *Chapter 13: Intergenerational Justice, Human Needs and Climate Policy* in *Institutions for Future Generations* by Inigo Gonzales-Ricoy and Axel Gosseries. Oxford University Press, 2016. p. 350.

to Rawls' just savings principle on the grounds of scarce resources. Wolfe asserts that intergenerational savings and distributive justice needs to make a distinction between how scarce resources are, and he claims that resources generally can be: plentiful, in abundance; sufficient, as having enough to subsist; or scarce, as lacking enough resources to subsist. However, Rawls' just savings principle, does not specify the potential problem of the scarcity of resources, which would have significant impact on the accumulation or maintenance of just institutions between generations.⁶⁸ Therefore, the Rawlsian argument for the just savings principle claims that generations ought to pass along equal benefits to what they have inherited from past generations, but Wolfe's critique problematizes the just savings principle as being unable to address population growth or scarce resources. The takeaway here is that the just savings principle of conferring equal benefits to future generations may not be plausible when considering intergenerational problems, like climate change which is likely to worsen from generation to generation due to population growth and resource scarcity. Next, I turn to Gardiner's idea of intergenerational buck passing as demonstrating how present generations might confer greater or lesser benefits to future generations as an alternative to Rawls' just savings principle.

Intergenerational buck passing is a moral problem where later generations bear the compounded costs of earlier generation's actions. These costs can be framed in terms of front or back loaded goods. Front-loaded goods are goods that yield benefits in the present, but have costs that are borne in the future, and back-loaded goods are goods that yield costs in the present, but have benefits to be reaped in the future.⁶⁹ The intergenerational buck passing problem with climate change is that past generations have obtained front-loaded goods where they were able to

⁶⁸ Ibid., p. 355.

⁶⁹ Gardiner, Stephen. *The Ethical Tragedy of Climate Change: A Perfect Moral Storm*. Oxford University Press, 2011. p. 150.

realize the benefits of development and modernization, and the costs of doing so, namely climate change and pollution, are borne by future generations. Gardiner argues that we should pursue back-loaded goods, like green energy, and bear these costs so that future generations can benefit from our choices. However, the temporal aspect of the problem of intergenerational justice creates a problem of collective action between generations. This is to say that one generation has no viable way to cooperate or communicate with another generation, and that it would be individually rational for a given generation to pursue front-loaded goods in their own interests, as opposed to pursuing back-loaded goods in the event that future generations choose to pursue front-loaded goods.⁷⁰ However, it is collectively rational for generations to cooperate since the cooperating outcome of pursuing back-loaded goods will benefit future generations to come at the expense of present generations.⁷¹ Therefore, Gardiner makes the case that it is in the interest of future generations that we pursue back-loaded goods in order to benefit future generations, and that we pass onto future generations more than what we inherited from previous generations.

Looking at environmental politics, present generations have suffered from political inertia and are unable to adequately find a way to take responsibility for past generations polluting or to sufficiently address the delayed effects of pollution that affect people today. This can be attributed to a disconnect between the sentiment that developed states ought to take greater responsibility because of their heightened contributions to global warming, and that developed states cannot find an acceptable way of taking responsibility for past pollution that does not negatively affect their environment, economies or standards of living.⁷² For this reason, it comes as no surprise that the landscape of international environmental law and policy is

⁷⁰ Ibid., p. 153.

⁷¹ Ibid., p. 155.

⁷² Giddens, Anthony. *The Politics of Climate Change*. Polity, 2009. p. 9

history-sensitive in that it incorporates historical context into its respective laws and policies, but the laws and policies created tend to be forward thinking in terms of addressing future harms.⁷³ However, international environmental laws and policies need to consider the possibility of engaging in redistributive or restorative justice to address the climate harms that past generations in developed nations have inflicted onto present generations in developing nations. While I agree that present generations ought to pass along more benefits to future generations than they have received from past generations, far less attention has been paid to what present developing states are owed because of the polluting actions of past generations, specifically in developed states.

In this section, I have outlined the relationships of reciprocity that generations share with each other, with respect to past pollution. The relationships of reciprocity between past, present and future generations is a linear relationship, where past generations impact future generations in both positive and negative ways. While it is not possible for present generations to impact past generations, I agree with Gardiner that present generations ought to pass along greater benefits to future generations, even though we may not be certain that future generations will pay it forward, especially when climate change is likely to worsen over time unless we substantially change how we interact with our environment. However, one key issue with relationships of reciprocity and climate change is that it is largely silent in terms of addressing climate harms that impact developing nations today, based on the retroactive anthropogenic pollution of developed states. The takeaway for this section is that intergenerational justice on climate change shows us that past generations have polluted and negatively affected our environment today, and that we owe it to future generations to better protect the environment, but our institutions today are ill suited to

⁷³ Barry, Brian. *Sustainability and Intergenerational Justice* in *Fairness and Futurity* edited by Andrew Dobson. Oxford University Press. 1999. p. 98.

correcting climate harms that present generations face, specifically in developing nations, and how we might better resolve these harms. To address climate harms better, I turn to the second way of attributing moral and historical responsibility for past pollution through human rights.

1.3.2 Human Rights and the Responsibility for Past Emissions

Human rights arguments offer a perspective from which to determine the moral and political responsibility for past emissions. In what follows, I review some of the most important contributions to the debate about the relationship between human rights and environmental degradation. Human rights arguments generally make the claim that all people matter and ought to be afforded basic rights. These basic rights, as outlined by the Universal Declaration of Human Rights, include the right to life, liberty, and a standard of living including food, clothing, housing, health care and social services.⁷⁴ These basic rights can be understood as being moral and legal. Moral rights are understood to be rights determined by a moral system, through religion, philosophy, culture, or a personal moral code. Alternatively, legal rights are declared by a legal body and are codified into a rule of law. While human rights can be moral and/or legal, they typically focus on the rights that all human beings ought to have. However, when considering intergenerational justice and human rights, there is a problem of the transitivity of rights between generations. This is to ask the question of how past or present generations may violate the rights of future generations either intentionally or unintentionally. While it is possible to think about past generations as having rights retroactively being recognized in the present, past and present generations can harm future generations and violate their rights through the choices they make, like polluting. Currently, we can retroactively and proactively evaluate

⁷⁴ United Nations General Assembly. The Universal Declaration of Human Rights. 1948. Articles 1-3 and 25.

human rights claims for past and future peoples. However, we are currently unable to fully ensure that those rights are respected, but we can create structures that make it more likely for future generations to have their rights both protected and respected. Alongside considering the problem of transitivity of rights between generations, intragenerationally there are vulnerable people residing in developing nations today that do not have their human rights upheld, at both the domestic and international level, and this is a problem of implementation for human rights in areas where human rights may not yet be practiced. Thus, the problem of human rights in the context of responsibility for past emissions is both an intergenerational and intragenerational problem.

The Mary Robinson Foundation, a centre that promotes advocacy, education and leadership on global justice for those most affected by climate change, notes that Article 3 of the UNFCCC indicates that climate change is an intergenerational problem and that the international community ought to pursue intergenerational equity between generations since everyone uses the earth to survive.⁷⁵ However, human rights tend to fall short when it comes to the world's most vulnerable. Consequently, Richard Hiskes claims that we need to have environmental human rights in conjunction with basic human rights and the conventional understanding is that environmental human rights tend to be secondary to basic human rights.⁷⁶ Hiskes argues for emergent environmental rights in situations where human relationships can harm other people or the environment. Shari Collins-Chobanian echoes this sentiment and claims that environmental rights include the right to air, soil and water, and that these rights are more fundamental than regular human rights because without environmental rights, human rights cannot be adequately

⁷⁵ Mary Robinson Foundation for Climate Justice. *Climate Justice: An Intergenerational Approach*. 2013. p. 3.

⁷⁶ Hiskes, Richard. *The Right to a Green Future, Environmentalism and Intergenerational Justice*. Human Rights Quarterly. Vol. 27, No. 4. 2005. p. 1348.

realized.⁷⁷ This view is critiqued by Maurice Cranston who argues that the expansion of human rights to include environmental rights ultimately waters down the concept of rights.⁷⁸ Regardless of whether environmental rights are to be considered distinct from human rights or as part of human rights, Charles Beitz claims that the purpose of human rights is to protect individual interests against predictable dangers, and human rights are a matter of international concern.⁷⁹ Simon Caney builds on Beitz's assertion and argues that climate change jeopardizes human rights which leads to security dilemmas, and states typically respond to climate change by evoking economic or security policy solutions which are ineffective.⁸⁰ From here, the most comprehensive approach to environmental human rights is made by Henry Shue. Shue claims that environmental human rights consist of the right to subsist, the right to be free, and the right to security. These basic rights are grounded in three duties which include the duty to avoid depriving others of basic rights, to protect people from having their basic rights deprived, and to aid individuals that have their basic rights deprived.⁸¹ The takeaway for Shue is that we have a duty to not harm other people when it comes to climate change. Here, I extend Shue's environmental human rights to intergenerational justice and develop a position on how present generations, through human rights, can take greater responsibility for the injustices that arise from past pollution.

⁷⁷ Collins-Chobanian, Shari. *Beyond Sax and Welfare Interests: A Case for Environmental Rights*. Environmental Ethics. Vol. 22. p. 139.

⁷⁸ Cranston, Maurice. *Human Rights, Real and Supposed* in Political Theory and the Rights of Man. Edited by D.D. Raphael. 1967. p. 46; H.L.A. Hart also critiques the view of expanding human rights to encompass more specific rights like human rights as this expansion waters down the notion of human rights.

⁷⁹ Beitz, Charles. *The Idea of Human Rights*. Oxford University Press, 2011. p. 167.

⁸⁰ Caney, Simon. *Chapter 9: Climate Change, Human Rights, Moral Thresholds* in Climate Justice: Essential Readings by Stephen Gardiner et al. Oxford University Press, 2010. p. 163.

⁸¹ Shue, Henry. *Basic Rights: Subsistence, Affluence and U.S. Foreign Policy*. Princeton University Press, 1996. p. 22.

As mentioned earlier, one of the pitfalls of human rights is the problem of representing past and future peoples. Here, I focus expressly on past individuals and how their polluting acts compromise the practice of human rights today. In a later chapter, I focus on future individuals and how our actions today may compromise or protect their human rights. Although we might think that from a moral point of view that all human beings in the past, present, and future possess inalienable human rights, from a historical point of view most past generations did not have those rights recognized let alone respected and legally enforced. However, the temporal tension of human rights emerges when thinking about the effects that past generations have on future generations, specifically in the problem of pollution and climate change. This is to say that present generations are disproportionately harmed by the polluting acts of past generations, and so disadvantaged individuals in the present may have their rights compromised. In this sense, environmental human rights tend to focus on the present and the future, and this is seen in Shue's three environmental human rights and three duties. Each of these rights and duties is focused on how present and future peoples could ensure minimum basic rights and protections for all. Perhaps this is most clearly found in his third duty, which is the duty that we must aid people that have their basic rights to subsistence, freedom and security compromised. It is in this third duty where there is a more active discussion of how present people might be able to address economic or environmental inequalities caused by previous generations that compromise the ability for vulnerable populations to realize their basic rights and duties. Caney builds on this argument by claiming that present advantaged peoples can cut back emissions to alleviate some of the burdens that vulnerable populations face today.⁸² While this claim is complementary with Shue's vision of ensuring basic rights and duties to all, there exists a dilemma of allocating fair burdens. This is

⁸² Caney, Simon. *Cosmopolitan Justice, Responsibility and Global Climate Change* in *Climate Justice: Essential Readings* by Stephen Gardiner et al. Oxford University Press, 2010. p. 124.

to ask the question, who ought to bear the burdens of these added responsibilities to cut back emissions and assist in the adaptation or mitigation of pollution today? While much of the environmental ethics and international environmental law literature asserts that developed nations ought to take more responsibility to address some of the environmental injustices that have occurred in the past, Simon Caney provides a roadmap for how developed nations can take on greater responsibility in the fight against climate change.

Caney claims that there are four potential measures for developed nations to take on greater responsibility for climate adaptation and mitigation. One approach is that all nations are under a duty to not pollute over an established quota.⁸³ While this is a potential solution to the problem of pollution and climate change in the present and the future, it does not sufficiently address historical climate injustices as pollution quotas take into account pre-existing pollution in the atmosphere, but do not offer meaningful economic or environmental redress for past injustices. The second approach he offers is that those that exceed their respective needs are under an obligation to compensate others.⁸⁴ Here, one might adopt a Rawlsian framework of redistribution in the form of the difference principle whereby the most advantaged are to redistribute their goods or resources to the least advantaged in society. While redistribution may be sufficient in cases of historical economic injustice, that is that pollution and environmental degradation enabled states to disproportionately develop, redistribution along a Rawlsian framework cannot address compounding or retroactive permanent environmental harms.

Caney's third approach is that the most advantaged have an obligation to reduce climate harms through climate mitigation or to address the effects of climate change through climate

⁸³ Ibid., p. 136.

⁸⁴ Ibid., p. 136.

adaptation.⁸⁵ I think this third approach offers a potential solution to the problem of attributing responsibility for past emissions, specifically with ensuring human rights for people most vulnerable to the effects of climate change. This is because both climate adaptation and mitigation examine historical trajectories of development and pollution to develop policy relevant tools to combat climate change. Climate mitigation examines how we might be able to reduce pollution levels to decrease the compounding effects of climate change, and climate adaptation focuses on how best to protect people most vulnerable to climate change around the world. This approach enables us to adequately conceptualize environmental human rights in terms of both adaptation and mitigation. Climate mitigation approaches focus on the reduction of pollution in order to reduce climate harms, which satisfies Shue's three environmental human rights and duties as proactively reducing pollution levels reduces climate harms; thus, enabling people to be able to realize their rights and duties.⁸⁶ One example of a climate mitigation policy is in the idea of an emissions quota, limiting the amount that states can pollute which in turn would lessen climate harms over an extended period of time. Climate mitigation is understood to be a proactive approach to climate change. Climate adaptation approaches offer a less clear avenue of how we might be able to realize environmental human rights. Climate adaptation focuses on how we can address the effects of climate change in order to make the world more habitable.⁸⁷ The problem with climate adaptation policies is that they may not interact with the cause of climate change, namely pollution. Rather, climate adaptation focuses on how we can interact with our environment after pollution has been found in the atmosphere. One example of climate adaptation are policies that regulate the use of scarce resources in order to ensure that we

⁸⁵ Ibid., p. 137.

⁸⁶ Roser, Dominic and Christian Seidel. *Climate Justice: An Introduction*. Routledge, 2017. p. 46.

⁸⁷ Maltais, Aaron. *Global Warming and the Cosmopolitan Conception of Justice*. *Environmental Politics*. Vol. 17, No. 4. 2008. p. 601.

can minimize the adverse effects of climate change. Climate adaptation is understood to be a proactive response to climate change. Furthermore, climate adaptation is reacting to the climate harms caused by insufficient or inadequate climate mitigation strategies or policies.

Finally, Caney's fourth suggestion is that affluent nations ought to engage in a discourse about how to deal with cases of non-compliance.⁸⁸ This suggestion is compatible with Stephen Gardiner's framing of climate change as being a perfect moral storm as it combines spatial, temporal and theoretical problems into one. For Gardiner, one of the problems of climate change is that it is subject to an intergenerational prisoners dilemma and that there needs to be a mechanism of accountability in order to ensure that states are compliant with international laws and doctrines that promote the protection of the environment.⁸⁹ Martin Adamian argues that effective accountability at the international level could be met under three conditions: with a legitimate law-making body, that this law-making body is able to enforce its laws, and that there is an adjudication process for cases. Within international environmental law, laws are certainly created at the international level, but they tend to represent particular interests, and they are inconsistently applied or enforced.⁹⁰ Thus, international environmental laws have fallen short of ensuring compliance, and adjudication processes only "name and shame" parties that do not comply with international laws. One way to better attribute responsibility for past pollution is through human rights, and both climate adaptation and mitigation policies led by developed nations can best address past and present climate injustices. However, more work needs to be

⁸⁸ Caney, Simon. *Cosmopolitan Justice, Responsibility and Global Climate Change* in *Climate Justice: Essential Readings* by Stephen Gardiner et al. Oxford University Press, 2010. p. 137.

⁸⁹ Gardiner, Stephen. *The Ethical Tragedy of Climate Change: A Perfect Moral Storm*. Oxford University Press, 2011. p. 160.

⁹⁰ Bernauer, Thomas. *Climate Change Politics*. *Annual Review of Political Science*. Vol. 16. 2013. p. 428.

done at the level of international law to ensure greater accountability in the form of compliance and enforcement mechanisms.

In this section, I began with a brief exposition of the problem of past emissions and how we might be able to attribute moral and political responsibility through human rights. When examining past pollution, it is both an intergenerational and intragenerational problem. It is an intergenerational problem because past and future peoples may be unable to realize their human rights as they may no longer exist and do not yet exist, respectively. Furthermore, while we can retroactively and proactively evaluate human rights claims for past and future people, our current human rights regimes are unable to fully ensure that these rights are respected, and this remains to be an area to be improved upon to protect future generations. The problem of human rights and past emissions is also an intragenerational problem because of the disproportionate impacts that pollution can have between people within a given generation which affects their ability to realize their basic rights and duties. Shue's environmental human rights and duties approach offers an argument that addresses past pollution, while providing a roadmap for how we might be able to protect these rights and duties for present and future generations. Caney develops this argument and offers four main avenues to do so. I claimed that climate adaptation and mitigation approaches offer the best avenue for us to address past emissions, specifically through a human rights approach. However, a shortcoming in this dual approach is the problem of attribution and compliance. My argument thus far has led to the claim that it falls on developed nations to take greater responsibility for climate burdens as developed nations have longer histories of pollution as well as greater volumes of pollution as compared to developing nations. While we can identify that developed nations are more responsible for past pollution than developing nations, we need stronger enforcement mechanisms at the international level in order to ensure that international

environmental laws and policies are adhered to in order to protect human rights for present and future peoples in a way that addresses retroactive emissions. In the next section, I turn to notions of intergenerational equity as a third way to attribute moral and political responsibility for past emissions.

1.3.3 Intergenerational Equity and Responsibility for Past Emissions

Intergenerational equity offers a way for present generations to take responsibility for pollution, specifically for past pollution. Intergenerational equity claims that generations ought to be relatively equal to each other. While this idea holds strong moral appeal, it can be unwound when talking about intergenerational transfers of harms. Failing to act on climate change today will result in the costs and damages of climate change growing over time, and these burdens are borne by future generations.⁹¹ This is to be contrasted with intragenerational equity which examines the prospects of fostering greater equality between people within generations. However, in this section, I focus on intergenerational equity as enabling present generations to take greater responsibility for past emissions to ensure that future generations are better protected from the effects of pollution, and to promote greater economic as well as environmental equality between generations. I begin first with a discussion of the Principle of Equality in the climate ethics literature and how it has been considered in international environmental policy. While the Principle of Equality maintains that we ought to not violate intergenerational or intragenerational equality when assigning burdens and responsibilities for climate change, I argue that present generations hold greater responsibilities than past or future generations for past emissions because they presently exist and have the ability to shape the present and the future. I make this

⁹¹ Gardiner, Stephen. *The Ethical Tragedy of Climate Change: A Perfect Moral Storm*. Oxford University Press, 2001. p. 143.

argument in relation to Edith Brown Weiss' framework of intergenerational equity as justifying why present generations have a greater responsibility to bear in regards to retroactive pollution and our own respective levels of pollution.

The Principle of Equality in the climate ethics literature claims that all generations bear similar weight for the burdens of climate change, and that all generations are obligated to not violate intergenerational or intragenerational equality.⁹² This is to say that one generation should not bear substantially greater burdens or responsibilities for climate change compared to other generations, and that individuals and groups within generations ought to bear comparable burdens and responsibilities to each other. The Principle of Equality does not make the claim that each generation should have the same amount of resources or that people within a generation ought to have the same amount of resources.⁹³ Furthermore, this principle is typically employed alongside other distributive principles like the polluter pays principle, ability to pay principle or beneficiary pays principle in order to establish that once a generation has established a specific course of action regarding economic or environmental redress, that their course of action is to be weighed equally with the interests of other generations.

However, the Principle of Equality applied to intergenerational justice on climate change can be problematized for two reasons. The first reason is the first-mover advantage which grants an inherent advantage to the party that acts first as compared to subsequent parties.⁹⁴ This becomes pertinent in discussions of climate justice and the development of environmental

⁹² Schuppert, Fabian. *Climate Change Mitigation and Intergenerational Justice*. Environmental Politics. Vol 20, No. 3. 2011. p. 307.

⁹³ Meyer, Lucas and Dominic Roser. *Distributive Justice and Climate Change: Allocation of Emission Rights*. Analyse and Kritik. 2006. p.247.

⁹⁴ Karkatsoulis, Panagiotis et al. *First-mover advantages of the European Union's Climate Change Mitigation Strategy*. International Journal of Energy Research. Vol. 40, No. 6. 2016. p. 820.

policies at the domestic and international level. The first mover advantage establishes a standard by which subsequent discussions or policies flow from and thus has an impact on how agendas on climate change are set. Initial parties that adopt a particular law or policy have a tendency to gain an asymmetrical advantage compared to subsequent parties that may amend or create a particular law or policy.⁹⁵ For example, the EU is seen to be a party that benefits from the first mover advantage on climate change mitigation policies. The EU has been a leading actor in the global effort to mitigate climate change and has set ambitious policies: targeting a 20% reduction in greenhouse gas emissions by 2020, 40% by 2030 relative to its 1990 levels, and creating the EU Emissions Trading System.⁹⁶ In contrast, climate policies adopted by major carbon-emitting countries like the USA and India have not been ambitious enough in their climate policies to limit the global temperature increase to 2 degrees Celsius. The argument that Karkatsoulis et al. advance is that asymmetrical climate action by different regional areas enables asymmetrical innovation and manufacturing of clean energy technologies which grant a clear advantage to the EU as a first mover in climate change mitigation as compared to the United States, China or India.⁹⁷ This means that if the United States, China or India were to increase their commitments to reduce their emissions to limit the global temperature increase, it would be likely that they would adhere to a model akin to one found in the EU to be more successful, and would likely have to invest in energy innovation regimes and clean energy technologies.

When examining the prospects of the first mover advantage applied to intergenerational justice, earlier generations can impose various costs and benefits to later generations, and future

⁹⁵ Lieberman, Marvin B. and David B. Montgomery. *First-Mover Advantages*. Strategic Management Journal. Vol. 9. 1988. p. 44.

⁹⁶ Karkatsoulis, Panagiotis et al. First Mover Advantages of the European Union's Climate Change Mitigation Strategy. International Journal of Energy Research. Vol. 40, No. 6. 2016. p. 816.

⁹⁷ Ibid., p. 818.

generations do not have a way to impact the choices or decisions that past generations make, which results in an asymmetrical intergenerational relationship. This asymmetrical intergenerational relationship gives rise to a significant moral dilemma as different generations have made varying levels of contribution to the problem of climate change but present generations are required to take on greater responsibility in order to reduce the harms of climate change for present and future generations. Thus, the first mover advantage grants an inherent advantage as the generation that pollutes first gets to realize the benefits of polluting, and is least likely to experience the negative effects of pollution, most of which will be felt by the world's poorest in subsequent generations. The negative effects of pollution are being born by present generations today and retroactive pollution needs to be addressed to prevent further environmental degradation which would be detrimental to the interests of present and future generations. Therefore, the first-mover advantage grants a significant advantage to the initial polluter in that they reap the benefits of pollution without bearing the costs of pollution, and the first-mover advantage grants a significant advantage to the generation that responds to climate change in the form of agenda setting, but are forced to bear the costs of doing so.

Next, the second reason for why the Principle of Equality applied to intergenerational justice on climate change can be problematized is that the principle maintains that one generation ought not to bear a substantially greater burden compared to another, and that within generations, burdens ought to be relatively equal. However, this principle is counterintuitive in terms of the allocation of responsibility because climate change and pollution have disproportionate spatial and temporal impacts between and within generations. We have established that past generations have polluted substantially, and present generations inherit the negative consequences of the polluting acts of past generations. On this claim, the allocation of moral and political

responsibility should be attributed to past polluters, but because this is not feasible, it falls on the present generation to take responsibility for the acts of previous generations to protect present and future generations from the effects of climate change. While the Principle of Equality asserts that generations bear similar weight for the burdens and responsibilities of climate change, it does so against a backdrop of intergenerational and intragenerational inequalities that alter the moral calculus of how we should attribute these burdens and responsibilities in an equitable manner. Put differently, present generations need to bear a greater duty and burden compared to past or future generations to reduce the compounding effects of environmental degradation which will be to the benefit of present and future generations, and strictly adhering to the Principle of Equality does not effectively provide a plausible solution to attributing moral or political responsibility for retroactive emissions.

At the level of international environmental law, Edith Brown Weiss refers to the Villach Article in her 1989 book *In Fairness to Future Generations* where she does three things. Weiss outlines a theory of intergenerational equity, proposes three principles of intergenerational equity and establishes what rights and obligations we have to future generations with respect to the earth and its natural resources.⁹⁸ The 1985 Villach Article proposes a global strategy for climate change and focuses on principles of intergenerational equity and offers a declaration on intergenerational equity as a first step to doing so.⁹⁹ Here, I focus on Weiss' theory of

⁹⁸ Weiss, Edith Brown. *Climate Change, Intergenerational Equity and International Law*. Vermont Journal of Environmental Law, 2008. p. 616.

⁹⁹ The 1985 Villach Conference was held in Villach, Austria from October 9 to 15, 1985 and was the result of continuing global efforts to understand the issues related to ozone depletion and climate change. The working group was a collaborative effort of the UNEP, WMO and ICSU to assess carbon dioxide and ozone depletion as threats to our environment in the present and future. The consensus reached was that there would be a global mean temperature rise in the first half of the 21st century, and that this increase in temperature would be higher than any rise in the record of the planet's history. To address this, the participants of the Villach Conference employed technical and scientific research to establish emission limits.

intergenerational equity and three principles that she makes in reference to the 1985 Villach Article. Weiss claims that all generations interact with the earth, and on this claim, every generation needs to pass the Earth and its resources on in at least as good a condition or a better condition than it was received. From here, Weiss argues for three principles of intergenerational equity which can be summarized as: options, quality and access. The first principle of options establishes that present generations ought to conserve the diversity of natural resources so that future generations can utilize them to satisfy their needs.¹⁰⁰ The second principle of quality focuses on ensuring that the quality of the environment should be comparable between generations.¹⁰¹ The third principle of access outlines that generations should have similar access to the earth and its resources.¹⁰² These principles offer an initial framework for how to think through intergenerational equity and determining responsibility for past emissions, especially the second and third principles.

The second principle establishes that the quality of the environment should be comparable between generations; however, scientists claim that the environment is deteriorating at an exponential rate as time goes on. Some examples include: rising sea levels, increasing temperatures, extinction of species, and so on. Unless present generations act today to address the environment, it is likely that the condition of our environment will worsen over time, which violates Weiss' second principle. Therefore, while we cannot directly interact with past generations and their respective acts of pollution, we can act today to address retroactive pollution in the atmosphere and our own respective levels of pollution. However, to do so would mean that present generations will have to take on additional moral and political responsibility

¹⁰⁰ Weiss, Edith Brown. *Climate Change, Intergenerational Equity and International Law*. Vermont Journal of Environmental Law, 2008. p. 616.

¹⁰¹ *Ibid.*, p. 616.

¹⁰² *Ibid.*, p. 617.

for both past and present pollution levels. Implementing Weiss' second principle in the form of climate policy would necessarily involve infringing upon the Principle of Equality for the purpose of ensuring that each generation's quality of environment is similar.

The third principle argues for equitable access to resources between generations. Following from the earlier scientific claim of environmental degradation, if we do not act to address climate change or pollution, resources over time will dwindle which will threaten the prospects of future generations having equitable access to resources as compared to present or past generations. Some examples of natural resources that may be jeopardized due to climate change and pollution include: land for agriculture or habitation and fresh water sources. Present generations have no way to interact with the resources consumed or expended by previous generations; we can only respond to the effects of historical resource consumption. Such a response typically involves conservation or protectionist policies to limit further consumption of a resource, especially if that resource is scarce. While present generations continue to exploit the earth for its resources at varying degrees, more attention needs to be paid to how we might be able to engage in a form of sustainable development as outlined in the Brundtland Report.¹⁰³ The authors argued there that we need to find ways to develop that are not detrimental to the interests and rights of future generations and detrimental to the environment. To do so would result in satisfying both Weiss' second and third principles, which would enable subsequent generations to have comparably similar quality of environment and equitable access to resources.

¹⁰³ The targets of the Brundtland Report were multilateralism in international environmental policies and to promote the interdependence of nations in order to discover a suitable path to sustainable development. The mandate established by the Brundtland Commission in 1987 was to: re-examine critical issues surrounding environmental degradation and economic development and to find new ways to deal with them; strengthen international cooperation on environment and development in order to promote new forms of cooperation; and to raise the level of understanding of anthropogenic impacts on the environment.

In this section, I began with a discussion of intergenerational equity and responsibility for past pollution. I started with a discussion of the Principle of Equality as found in the climate ethics literature which asserts that all generations ought to bear similar duties and responsibilities for climate change as well as not to violate intergenerational and intragenerational equity. I then offered two criticisms of the Principle of Equality which included the first-mover advantage and that having similar duties and responsibilities for climate change would further worsen the problem of pollution and climate change. Next, I turned to the international environmental law, and in particular the 1985 Villach Article and Edith Brown Weiss' interpretation of the article. Here, Weiss offers a definition of intergenerational equity and three supporting principles of intergenerational equity applied to environmental politics. I claimed that her second and third principles of intergenerational equity offer a way for us to rethink how we might be able to attribute moral and political responsibility for past pollution levels. The overall argument advanced here is that intergenerational equity and responsibility for past pollution necessarily involves an unequal distribution of responsibilities that the present generation ought to bear to protect future generations. This is because while past generations have wronged present and future generations through past pollution having negative effects on our environment, present generations need to take greater responsibility to protect the environment such that future generations can have access to a similar quality of environment and equitable access to resources. Thus, by focusing on climate mitigation and adaptation strategies today to reduce pollution levels and adapt to the effects of past pollution in the present and going into the future, we can sufficiently do justice to present and future generations on past pollution levels.

1.4 Conclusion

In this chapter, I introduced the problem of intergenerational justice and responsibilities for past pollution and how to best address them. In the process of this discussion I have also offered a literature review spanning the major theoretical approaches to attributing responsibility for effects of climate change. The problem of retroactive pollution is that it affects present generations disproportionately compared to past generations, and the effects of pollution impact people residing in poor states more than rich states. The main approach employed today in climate policy for addressing pollution and climate change has primarily been economic, but I advanced the claim that climate justice for retroactive pollution cannot be reduced to economic terms. Furthermore, our response to past emissions at the international level is problematized due to a lack of enforcement and representation. Next, I argued that economic approaches for attributing responsibility for past emissions tends to be ineffective for two reasons. First, economic models fail to redress for economic inequalities caused by past pollution. This is because economic models fail to sufficiently address the problem of disproportional development sparked as a result of colonialism and industrial development. International environmental policies that are grounded in economic terms have brought exposure to the problems of climate change and economic inequality, but more work needs to be done to address the economic injustices that affect developing nations today. Second, economic models are unable to correct environmental injustices that emerge because of pollution. Here, I discussed the Paris Agreement and the Basel Convention as two forward-looking treaties that aim to reduce the increase of global temperatures and the illegal dumping of waste, respectively. Both treaties are context specific and consider the fraught histories between developing and developed states. However, I showed that both agreements are unable to respond to retroactive environmental

harms caused by previous generations. After this, I turned to a discussion of moral and political responsibility to supplement economic approaches to past pollution. I discussed three main approaches to moral and political responsibility for past pollution which include: relationships of reciprocity, human rights and intergenerational equity. Relationships of reciprocity outline the linear temporal relationship that past generations share with present and future generations, and past generations can impact future generations in both positive and negative ways. I claimed we ought to pass along greater benefits to future generations. In examining intergenerational relationships of reciprocity between generations, the literature is largely silent on climate harms generated from past pollution from developed nations that impact developing nations today. To address this, I turned to human rights as a potential avenue to attributing moral and political responsibility for past pollution as an intergenerational and intragenerational issue.

Intergenerationally, human rights are subject to the problem of transitivity of rights over time, as past or present generations can violate the rights of future generations through the actions they take in regards to pollution and climate change. This tension becomes problematized if past generations were conscientious of their decision to pollute knowing that it would have detrimental effects on future generations, but if past generations polluted without knowing what effects it would have, it falls on present generations to take greater moral and political responsibility for the actions of their predecessors. Intragenerationally, climate change has disproportionate impacts that is detrimental to the worlds most poor and affects their ability to realize their basic rights and duties. Within the human rights literature, climate adaptation and mitigation policy approaches offer the best avenue to attributing moral and political responsibility for climate change, but both approaches suffer from the problem of compliance. To better attribute responsibility for past pollution, there needs to be stronger enforcement

mechanisms at the international level to ensure human rights for past and future peoples. Finally, I examined intergenerational equity to attribute moral and political responsibility for past pollution. I began with a discussion of the Principle of Equality, followed by two criticisms of the principle. I then examined the 1985 Villach Article and Weiss' three principles of intergenerational equity applied to environmental politics. I argued that her second and third principles offer a way for us to rethink how we might be able to attribute moral and political responsibility for past pollution levels.

In sum, this chapter accomplished three things. First, this chapter provided an overview to the literature on climate ethics and intergenerational justice. Second, this chapter examined international policy approaches that attribute economic responsibility for past pollution levels to address economic inequality and environmental injustice. Third, after establishing that economic approaches to attributing responsibility for past pollution levels are insufficient on their own, I offered three supplementary ways of attributing moral and political responsibility for past pollution levels. The argument I advanced in this chapter is that economic responsibility can only really address economic harms, and greater environmental responsibility is needed to ensure that states can be held accountable for their environmental impacts. If we accept human rights and the claim that climate change threatens the livelihood of the world's most vulnerable and future generations, then we have a duty to protect the environment so that people are not deprived of their human rights. To do so, by better understanding the intergenerational effects of climate change, we can better hone our actions to protect the environment in the present and the future. This culminates in the claim that present generations have a greater burden to bear to resolve climate change to protect the environment as a good for both present and future peoples to enjoy, and such an action involves a combination of both climate mitigation and adaptation strategies.

To realize such a strategy, I will show in a later chapter that a cosmopolitan approach is needed for citizens to take greater responsibility for their environment and to hold their respective governments accountable for their environmental actions. In the next chapter, I examine intergenerational justice and responsibility for present pollution levels, ultimately resulting in three trajectories: doing nothing, addressing historical emissions levels in order to equalize economic and environmental inequalities experienced by developing states, or creating ecofriendly, sustainable policies to reduce present emission levels.

Chapter II: INTERGENERATIONAL JUSTICE AND RESPONSIBILITY FOR PRESENT POLLUTION LEVELS

“There can often be wrongs of omission as well as commission” – Marcus Aurelius, Meditations XI.V.

2.1 Introduction/Road Map for Chapter

In Book 9, Chapter 5 of the Meditations, Marcus Aurelius writes that there are wrongs of omission, caused by a lack of action, and wrongs of commission, caused by action. In examining the environment today, both wrongs are surely present in issues of pollution and climate change. Developed states fail to take greater responsibility for past emissions, and developing states seek to hold developed nations more accountable for their past and present pollution levels. In the previous chapter, I focused on intergenerational justice and responsibility for past emissions and argued that economic policies may be able to resolve economic inequalities but are ill suited for resolving environmental damages and harms. The main takeaway from the last chapter is that models that tie responsibility to causal agents or perpetrators are not very helpful in questions of pollution and climate change because the harms are intergenerational and past polluters are not here to pay for and clean up the mess they made. We need a new framework to think about responsibility. It now falls on us today to be able to resolve retroactive pollution, in the present and going into the future.

This chapter focuses on the problem of present pollution, some of which we inherited and some of which we produce, and how we ought to apportion responsibility for it today. As of 2020, the world’s largest polluters are: China at 30% of the world’s pollution, the United States

at 15%, India at 7%, Russia at 5% and Japan at 4%.¹⁰⁴ In the previous chapter, I established that moral and political responsibilities offer an avenue to conceptualizing the duties and obligations that we have for pollution levels today. Such responsibilities include the duty to ensure that all human beings have basic rights which in turn means that we need to take greater collective responsibility for present pollution levels. But what would that involve? I argue that greater responsibility involves both a history-sensitive approach that can take questions of historical injustice into account as well as a future oriented approach that lays out why and to what measure we have obligations to future generations. Both these approaches can come together into a proactive approach to the current climate crisis.

What we are seeing, however, is that many contemporary responses to climate change adopt a “Do Nothing” approach. The “Do Nothing” approach does not mean that there are no policies and plans in place to address environmental issues; more often it means that the policies and plans in place are as good as doing nothing. This approach as a domestic and international response to climate change is both morally problematic as well as instrumentally short-sighted. In this chapter, I show that this option embraces a presentist perspective in which present generations live their lives as they see fit with minimal regard for the environmental damages that may occur from pollution.¹⁰⁵ The justification for this approach is grounded in a denial of responsibility for present pollution levels. This denial of responsibility is framed in one of two

¹⁰⁴ This data can be found on the World Bank’s CO2 Emissions Count Database, see: The World Bank, *CO2 Emissions (KT)*. Data Provided by the Carbon Dioxide Information Analysis Center, Environmental Sciences Division, Oak Ridge National Laboratory, Tennessee, United States.

¹⁰⁵ The “Do Nothing” Approach has been articulated at length in the literature as a potential argument and policy action. Summaries of the argument can be found here: Giddens, Anthony. *Politics of Climate Change*. Polity, 2009. p. 2; Shue, Henry. *Climate Justice*. Oxford University Press, 2014. p. 138; Heyd, David. *Climate Ethics, Affirmative Action and Unjust Environments* in *Climate Justice and Historical Emissions*, edited by Lukas Meyer and Pranay Sanklecha. Cambridge University Press, 2017. p. 26, and Butt, Daniel. *Historical Emissions and Does Ignorance Matter?* in *Climate Justice and Historical Emissions*, edited by Lukas Meyer and Pranay Sanklecha. Cambridge University Press, 2017. p. 64.

ways. First, denying the responsibility for present pollution levels involves the claim that present generations did not cause past pollution and therefore are not responsible for its harms. The second way that present generations can deny responsibility for their own present pollution levels is to simply not take any form of economic or environmental responsibility for present pollution levels. Both ways of denying responsibility for present pollution levels are extremely problematic. The first way results in a failure for present generations to internalize the costs of the pollution generated by past generations, and the second way is an exercise in present generations pursuing the short-term benefits of pollution as opposed to the long-term benefits of environmental protection.¹⁰⁶ The outcome of the “Do Nothing” approach is leaving future generations with a large climate burden to bear due to our lack of action.

The history-sensitive option employs a backwards looking approach and examines the effects that historical actions have had on climate change and pollution. By paying attention to histories of pollution, the history-sensitive option aims to correct climate injustices through a combination of distributive and reparative justice. The concern here is that in thinking about our present responsibilities to address climate change we must take into consideration not only who polluted in the past but also how global structural inequalities and injustices have played out in producing the climate situation that we find ourselves in today. In other words, the history-sensitive option employs corrective justice to address past climate injustices to set a precedent for present and future generations to avoid committing climate injustices like pollution.

A future-oriented option focuses on the long-term goal of climate mitigation to minimize the detrimental impacts of pollution to protect the environment. The general consensus for the

¹⁰⁶ Roser, Dominic and Christian Seidel. *Three Ways to Deny Duties to Climate Change* in *Climate Justice: An Introduction*, edited by Dominic Roser and Christian Seidel. Routledge, 2017.

future-oriented option is that present generations are in a unique position to be able to affect future generations, and while efforts are being made to mitigate pollution from previous generations, we have the ability to change our standard of living, and can influence how future generations will live. Some of these ecological duties include: ensuring that present generations protect limited resources like freshwater sources and cutting back on current emissions levels. While the consensus is that present generations are in a unique position to act to affect the present and future, the next step is how we might act through political institutions at both the domestic and international level, and this will be addressed in the next chapter on responsibilities to future generations.

2.2 Do Nothing Option

Under the “Do Nothing” option, I place policy that only minimally addresses, confronts, and mitigates against rising pollution levels. The justification for such an option is often hard to find in the scientific and philosophical literature. Although there are still some scientists who remain skeptical about how much of global warming is caused by human actions, the consensus of global warming being caused by anthropogenic action is strong. The current landscape of policy today recognizes that pollution is a salient issue area that needs to be addressed to promote environmental protection; however, the controversy is to determine how much of climate change is manmade, and to what extent should we do about it. The current scientific consensus is that the earth’s climate has warmed significantly since the late 1800’s, and that the primary causes of global warming are human activities, primarily in the generation of greenhouse gas emissions. Furthermore, continuing to pollute and release greenhouse gas emissions will increase the likelihood of global warming and climate harms. Since the primary cause of global warming is man-made pollution, there is the prospect of creating meaningful

policy responses to offset our emission levels and adapt to climate change. In what follows, I briefly review some of the literature that addresses policies that are doing nothing to reduce pollution or prevent climate change.

Stephen Gardiner argues that the “Do Nothing” approach is problematic as it leaves future generations with an enormous burden that could be mitigated if present generations shouldered more responsibility for their own pollution levels.¹⁰⁷ However, people in the present heavily benefit from the actions and consequences of previous generations, which establishes a trajectory of replicating structural injustice.¹⁰⁸ Alternatively, Daniel Butt claims that this approach cannot be justified because present generations would be shirking their responsibilities to future generations by enabling climate change to occur in failing to address present pollution levels.¹⁰⁹ The claim that Butt advances is that present generations are responsible for ignorant past actions, like that of past pollution levels, and frames this in reference to David Miller’s idea of remedial responsibility. Miller’s remedial responsibility is defined as a special responsibility that people must bear today for harms caused by past action.¹¹⁰ Engaging in remedial responsibility allows for present generations to take greater responsibility for the negative impacts of pollution generated by both past and present generations. Anthony Giddens claims that while many states acknowledge that climate change is an issue area, few sufficiently address it meaningfully to protect our environment.¹¹¹ Thus, the “Do Nothing” approach may be

¹⁰⁷ Gardiner, Stephen. *The Ethical Tragedy of Climate Change: A Perfect Moral Storm*. Oxford University Press, 2011. p. 148.

¹⁰⁸ This criticism is outlined in two sources: Broome, John and Duncan Foley. *A World Climate Bank* in *Institutions for Future Generations* edited by edited by Inigo Gonzales-Ricoy and Axel Gosseries. Oxford University Press, 2016. p. 160, and Kwiatkowska, Teresa. *Let Earth Forever Remain: Putting Environmental Ethics to Work*. in *Environmental Ethics and International Policy* edited by Henk A.M.J and ten Have. UNESCO. 2006. p. 165.

¹⁰⁹ Butt, Daniel. *Historical Emissions and Does Ignorance Matter?* in *Climate Justice and Historical Emissions*, edited by Lukas Meyer and Pranay Sanklecha. Cambridge University Press, 2017. p. 64.

¹¹⁰ Miller, David. *National Responsibility and Global Justice*. Oxford University Press, 2007. p. 84.

¹¹¹ Giddens, Anthony. *Politics of Climate Change*. Polity, 2009. p. 2

attractive in the short term, but comes at the cost of burdening future generations with a larger problem, namely that of compounding, cumulative pollution and climate change.

The “Do Nothing” option can be subdivided into two categories, namely that we have some responsibility for pollution or that we have no responsibility for pollution. To argue why present generations have some responsibility for pollution, a strict reading of liability for pollution is necessary to justify why present generations are not responsible for past or future pollution, as present generations did not directly cause past or future pollution.¹¹² A strict reading of liability shows that present generations are causally responsible for their own respective level of pollution.¹¹³ To argue that present generations have no responsibility for pollution, such a claim relies on denying individual or collective responsibility for past, present or future emissions. When thinking through present responsibilities for current emission levels, it is problematic to say that we, in the present, are not responsible for the pollution we cause, because we can trace a clear relationship between our actions to our consequences. While this approach problematizes how we might determine responsibility for past or future emissions, it does not provide a strong argument for why present generations ought to do nothing to address present pollution levels. Rather, what this approach does is that it shifts the burden of responsibility for compounding pollution to future generations and enables us to live as we see fit. An example of the “Do Nothing” approach might be seen in contemporary democratic policy-making processes where government officials opt to select policy options that do very little, if anything, to reduce present pollution levels or resolve climate change for strategic or cynical purposes. Such a view

¹¹² Caney, Simon. *Climate Change and Duties of the Advantaged*. Critical Review of International Social and Political Philosophy. Vol. 13, No. 1. 2010. p. 203.

¹¹³ Baer, Paul. *Adaptation to Climate Change: Who Pays Whom?* in *Climate Justice: Essential Readings* by Stephen Gardiner et al. Oxford University Press, 2010. p. 250.

might involve one of two potential rationales. First, government officials might simply opt to strategically choose not to engage in environmental policy on the grounds that the economic or political costs to do so may be too high. The immediate cost of mitigating pollution or transitioning to greener energy is great, and it would be impractical for governments to immediately move away from traditional energy sources even though it would protect the environment and benefit future generations in the long run.¹¹⁴ Furthermore, because environmental policies focus on long-term benefits and goals, it burdens elected officials with political costs that may harm their chances of being re-elected.¹¹⁵ In other words, elected officials prefer creating policies that can have substantial impact in the short-term as opposed to the long-term since long-term policies are likely not to be realized over the term of their office, and pursuing short-term policies this would enable them to establish a track record which may result in successful re-election campaigns. Second, officials may be cynical of environmental regulations as these regulations are likely to be at odds with economic policies that promote development. Given that economic policies tend to be both short and long term, and that most politicians, their stakeholders and their constituents are focused on wealth accumulation, economic policies tend to take priority and dominate over discussions of environment protection.¹¹⁶ This is largely in part because environmental protection relies on reducing pollution which is a necessary component to economic development. However, in recent years we have seen greater developments in creating a greener economy as well as social movements that promote environmental protection, demonstrating that that economic development is one

¹¹⁴ Maltais, Aaron. *A Climate of Disorder. What to do About Obstacles to Effective Climate Politics?* In *Climate Justice in a Non-Ideal World*. Edited by Clare Hayward and Dominic Roser. Oxford University Press. 2016. p. 46.

¹¹⁵ Caney, Simon. *Political Institutions for the Future: A Fivefold Package*. In *Institutions for Future Generations*. Edited by Inigo Gonzales-Ricoy and Axel Gosseries. Oxford University Press. 2016. p. 137.

¹¹⁶ *Ibid.*, p. 138.

aspect to consider in the intersectional problems that arise because of a lack of environmental protection. This is to say that there are multiple dynamics in play when looking at environmental protection which include scientific developments in the green economy, the growing social movements on climate change, and the economic ramifications that environmental policies yield. Thus, environmental policies might be viewed with cynicism on the grounds that they do not promote economic gain, but rather stifle it for environmental protection. The alternative view to this is that present generations may be faced with immediate harms and needs that must be met by pollution or environmental degradation to survive. This view asserts that because present generations might be in situations where self-preservation is necessary to survive, that this offers a justification for why our current policy response to protect the environment for future generations ought to be discounted or minimized because present needs currently fail to be met, and the needs of present generations ought to be prioritized immediately as opposed to future generations. This creates a tension between prioritizing the immediate needs of the present with the distant needs of the future, and how best to allocate environmental resources to best balance the needs of the present with the future. To break down the “Do Nothing” approach further, I examine current policies on environmental protection, and show that these policies are the equivalent of doing nothing to substantially lower present pollution levels or address climate change.

Policies that combat pollution aim to allocate economic responsibility for present emissions. According to the polluter pays principle, we can identify polluting parties with their respective pollution levels and hold them accountable for their pollution.¹¹⁷ However, as was

¹¹⁷ Caney, Simon. *Climate Change and Duties of the Advantaged*. *Critical Review of International Social and Political Philosophy*. Vol. 13, No. 1. 2010. p. 204.

mentioned in the previous chapter, the major shortcomings of the polluter pays principle are in circumstances where the responsible agent cannot be determined or identified like in cases of past pollution or in figuring out precisely how much a particular agent polluted. Both shortcomings fall under the umbrella of a problem of identification, that is the problem of attributing responsibility to past generations or based on a given actors pollution contribution. Generally speaking, states are the main actor of interest in allocating environmental responsibility, and all states have some sort of environmental law or policy that address their respective treatment of the environment, but where they differ is in the scope of their policies, namely what the environment is, and what specifically is protected.¹¹⁸ For example, in Canada, the governing agency that protects the environment is Environment and Climate Change Canada and the governing document that protects the environment and regulates its usage is the Canadian Environmental Protection Act (CEPA). CEPA was signed into force in 1999 and is aimed at preventing pollution and protecting the environment and human health. The goal of CEPA is to contribute to sustainable development principles outlined in the 1987 Brundtland Report. The areas covered under CEPA include: making pollution prevention a national effort to reduce toxic substances in the environment, setting out processes to assess the risks to the environment and human health posed by pollutants in commerce, imposing timeframes for managing toxic substances, ensuring that harmful substances are phased out of use and not released into the environment, regulating vehicle emissions, strengthening enforcement of the CEPA, encouraging greater citizen input into decision-making surrounding the environment, and to allow for effective cooperation and partnership with other governments and Indigenous

¹¹⁸ Bontly, Thomas. *Climate Change, Intergenerational Justice and the Non-Identity Effect*. Intergenerational Justice Review. Vol. 5, No. 2. 2019. p. 58.

peoples.¹¹⁹ Alternatively, in the U.S., the governing department that protects the environment is the US Environmental Protection Agency (EPA), and there are various legal documents that protect different areas of the environment ranging from: the Clean Air Act of 1963, designed to control air pollution on a national level; the Clean Water Act of 1972, designed to protect American waters; and the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), designed to investigate and clean up waste and hazardous substances generated in the U.S.¹²⁰

These policies are clearly examples of policy actions designed to protect the environment and reduce pollution, but they fall under the “Do Nothing” approach as they do not substantially achieve their respective goals and “business as usual” is not really addressing the problem. The definition of this approach includes policies that are not substantially doing anything to protect the environment, reduce pollution or prevent climate change, even though the policies are in place.¹²¹ At the domestic level, these policies are the equivalent of doing nothing by way of lowering present pollution levels, nor are they sufficiently aiding in climate adaptation efforts. Domestically, governments may attempt to set forth a policy agenda to lower carbon emissions or to finance climate adaptation efforts; however, they are met with two central difficulties. The first difficulty is mediating the interests of politicians with their constituents. This is caricatured as a classic problem in representative democracies where representation becomes suspect in party politics or strategic policy-making processes. Within representative democracies, the will of the people becomes aggregated into representatives that, under ideal conditions, are supposed to accurately reflect the interest of his or her constituents. However, once nominees have been

¹¹⁹ Government of Canada. *Canadian Environmental Protection Act*. 1999.

¹²⁰ United States Environmental Protection Agency. *EPA Guidance Documents*. 2019.

¹²¹ Bontly, Thomas. *Climate Change, Intergenerational Justice and the Non-Identity Effect*. *Intergenerational Justice Review*. Vol. 5, No. 2. 2019. p. 58.

elected to office, the ability for constituents to affect the political process is significantly limited. This means that if a representative opts to pursue their own agenda or an agenda that does not accurately reflect his or her constituents, there is very little that citizens can do until the next election cycle. The second difficulty is creating environmental policies that do not have a significant impact on the economy. Environmental policies that detrimentally affect the economy are likely to be met with pushback from industry, as industry favours lower environmental regulations and greater economic benefits or incentives. Thus, perhaps the problem is not so much about the failure or unviability of environmental policy, but rather the policy-making process as reflecting a harmonization of the self-interest of politicians with the pressure of economic interests from industry as dissuading the pursuit of environmental policy.

At the international level, while states have some action or policy at the domestic and international level, these have largely been ineffective as outlined by the IPCC's most recent projections of the planet warming to approximately 3.7 degrees Celsius to 4.8 degrees Celsius which is far above the limits prescribed in the Paris Agreement, a limit of 2 degrees Celsius.¹²² At the international level, the stakes of the "Do Nothing" approach are higher, as the scope of international institutions and organizations is the world. Here, developed nations play the role of being the countries most culpable for pollution and ought to take greater responsibility on the fight against climate change. Currently, economies around the world are propped up by the fossil fuel industry and carbon emissions are necessary for economic productivity. To change our energy systems and economic mode of production requires significant time, effort, and most importantly money. Thus, while countries around the world understand the problem of pollution and climate change as being an issue of our time that is likely to impact generations to come, we

¹²² Ibid., p. 57.

are unable to generate the necessary political will needed to spark change that involves a high degree of up-front economic cost for the long-term benefit of environmental protection.

However, I will show in my final chapter that through a cosmopolitan approach to intergenerational justice and climate change, that such a political will might be able to be generated.

Therefore, the central justification for why a state might opt for the “Do Nothing” approach at the domestic and international level is either to discount past injustices and to claim that we ought to do nothing for them as they were beyond our control, or that they seek to take advantage of their current standing and pass along the burdens of pollution and climate change to future generations. How this currently plays out in domestic and foreign policy-making processes is creating policies that purport to lower present pollution levels or address climate change but ultimately do not substantially involve emissions reductions or climate adaptation strategies, resulting in doing nothing. Considering this approach, I examine some criticisms which show why it is not morally defensible.

To begin, the “Do Nothing” approach does not sufficiently acknowledge historical, economic, or environmental injustices, nor does it consider the prospects of future generations in how we pollute today. This approach is detrimental to present and future generations for two reasons. First, pollution has delayed effects that span across generations. Second, climate change is a compounding issue that gets worse over time, meaning that this option will inevitably harm future generations. Thus, we ought to have duties in the present to ensure that all human beings in the present and future are able to enjoy a safe environment and to leave the world in at least an equal, if not, better condition. This moral argument to ensure that both present and future generations should have access to a safe environment and livable world is made on the grounds

that both criteria are necessary to realizing basic rights and interests. In other words, if an environment is unsafe and unlivable, it affects the ability of people to have basic rights or to realize their interests. However, this moral argument can be contested on the grounds that present generations may assert the claim that they simply do not care about the rights and interests of future generations or that protecting the rights and interests of future generations may have an adverse impact on the rights and interests of present generations. To unpack the first claim, I argue that reasonable people that are presently alive generally have some interest in the future, and as such are likely to develop minimal plans or strategies to ensure that their short-term prospects remain intact. This might take the form of planning for future employment, relocating to a climate stable area, planning for children, and so on. For the second claim, policies need to balance the rights and interests of present generations fairly against the rights and interests of future generations. Policies that are created today need to carefully balance the livelihood of presently living people against the livelihood of future generations. The existing policy landscape for intergenerational environmental policy tends to heavily discount the interests of future generations since there are logistical difficulties in representing future generations that do not yet exist, and present generations tend to prioritize the interests of the currently living over future generations. This means that present generations need to consider the interests of future generations in their environmental policies in a way that does not adversely affect the rights and interests of present generations. Such a view has been framed as an argument for sustainable development, where present generations aim to maintain a good quality of life without harming the quality of life for future generations. The goal of sustainable development is to eradicate poverty and meet the basic needs of present and future generations. The central claim is that for

present generations, a reduction in consumption, pollution, and production does not have to carry a significant drawback to the livelihood of present generations.

Furthermore, while states have a domestic and foreign policy response to present pollution levels and climate change, their response is essentially the same as doing nothing as a “business as usual” approach fails to lower present pollution levels. If we adopt the “Do Nothing” approach, we are essentially subjecting future generations to our pollution, and this results in a clear injustice at an intergenerational level.¹²³ The justification to do so is made through a myopic vision of having short-term benefits at the expense of long-term costs. Failing to act in the present to address present pollution levels will be detrimental to future generations. While states have made various policies and laws to protect and regulate the environment, these policies and laws are not substantial enough to successfully mitigate climate change as indicated by the IPCC’s most recent climate projections. At the domestic level, environmental policies and laws are often compromised in favour of economic development or economic interests. Furthermore, environmental policies that would have large, positive impacts tend to not be passed as they are costly to implement, and minor environmental policies are then created to attempt to protect the environment, which tends to do very little, if anything, by way of environmental protection or emissions reductions. At the international level, states do not have any guarantee that participating in international environmental agreements will result in universal collective action on climate change, and as such, states are incentivized to pursue their own interests since they cannot be certain of the actions or behaviours of other states to come together to collectively protect the environment. Thus, we require more aggressive policies and

¹²³ Winter, Christine. *Does Time Colonize Intergenerational Environmental Justice Theory?* Environmental Politics. Vol. 29, No. 2. 2020. p. 280.

laws in place to protect and regulate the environment for present and future generations as our current response will likely result in environmental damages that will be experienced by the worst-off and future generations to come.

2.3 The History-Sensitive Option

The history-sensitive approach aims to do justice to past pollution levels and considers how to respond to present levels of pollution today. While present generations are responsible for their pollution levels, they are in a unique position to be able to respond to past pollution levels that currently exist in the atmosphere. One way to frame this is through Axel Gosseries' view of the history-sensitive approach as backwards responsibility, that is, responsibility for past actions. The general claim advanced by Gosseries is that we ought to assign added weight to backwards responsibility and that a history-sensitive approach to climate justice can determine whether present generations possess any form of remedial responsibility to set precedents for present and future generations on pollution. Alternatively, Janna Thompson's view of backwards responsibility is framed as being moral, outcome or causal. Briefly put, moral responsibility for past actions for present peoples takes place when present generations benefit from the actions of past generations. Outcome responsibility focuses on the capabilities of present people to address the effects of actions made by previous generations. Finally, causal responsibility evaluates the strength of the relationship between the agent that caused a particular outcome and the agent that experiences the effects of that outcome.¹²⁴ A comprehensive approach to climate justice on present pollution levels requires an acknowledgement of the injustices that present generations are faced with that have been generated by past pollution from previous generations.

¹²⁴ Thompson, Janna. *Chapter 2 – Historical Responsibility and Climate Change* in *Climate Justice and Historical Emissions*, edited by Lukas Meyer and Pranay Sanklecha – Cambridge University Press, 2017. p. 63.

Such a comprehensive approach to environmental injustice is framed in terms of distributive justice and/or reparative justice. The concept of distributive justice is understood as the moral assessment of distributions, that is rightness or wrongness of a distribution of a particular good, or as the assessment of decisions that impact how a particular good is distributed.¹²⁵ There are four areas to consider when discussing distributive justice. First, a subject needs to be identified. This might be in the form of individuals or groups whose goods have been unequally distributed and require redistribution to achieve a more equitable outcome. Second, a baseline needs to be identified, that is to establish what an initial distribution of goods is, and then a redistributive effort is exercised to modify the distribution of goods. Third, a social mechanism needs to be deployed to ensure the redistribution of goods, typically in the form of laws or policies. Fourth, the goods are then effectively redistributed. Alternatively, reparative justice seeks to repair the harm done to victims due to human rights violations that were committed against them.¹²⁶ Reparative justice must be responsive to the context of the injustice that occurred and the reality that victims of injustice are living through. The general sentiment behind reparative justice is to acknowledge victims of injustice, repair the harms they have suffered and to affirm that victims are rights bearers. Reparations can include material and moral losses suffered by victims within and between generations.¹²⁷ In the next part, I explore how distributive justice is invoked in climate policies today that seek to do justice regarding harms generated from past pollution and how this can inform how we might address our pollution levels today.

¹²⁵ Hickey, Colin and Ingrid Robeyns. *Planetary Justice: What Can We Learn From Ethics and Political Philosophy*. Earth Systems Governance. 2020. p. 5.

¹²⁶ Hiskes, Richard. *The Human Right to a Green Future: Environmental Rights and Intergenerational Justice*. Cambridge University Press, 2009. p. 180.

¹²⁷ Muddell, Kelli and Sibley Hawkins. *Gender and Transitional Justice*. International Center for Transitional Justice at the United Nations Entity for Gender Equality and Empowerment of Women. October 2018. p. 7.

2.3.1 Distributive Justice and the History Sensitive Approach

The general claim advanced by distributive justice scholars and practitioners working in environmental politics is that developing nations have been wronged in the past, are being wronged in the present and will continue to be wronged in the future because of past and ongoing pollution.¹²⁸ To do justice to the climate harms that affect developing nations, distributive justice offers an avenue for compensating the world's most poor. However, as the last chapter showed, economic policies can be effective at remedying economic inequalities, but they are likely to be ineffective at addressing environmental damages that cannot be monetarily defined. If we assume that the goods to be remedied are environmental damages, redistribution can occur either through financial redistribution or policies that limit emissions.

The first way to engage in distributive justice is to equate environmental damages with a financial amount and compensate for environmental damages using money. The problem with this approach is that environmental damages are not adequately corrected for, but rather substituted with finances to correct past environmental injustices. In other words, some environmental damages cannot be reduced to economic terms, and distributive justice is unable to redistribute for injustices unless they are premised on economic terms. While economic compensation and redistribution may be effective in cases where the environmental damages are insignificant at a cultural, social, economic or environmental level, there are cases where these environmental damages seriously threaten individuals, groups or nations cultural heritage and social fabric.¹²⁹ This is to say that when environmental damages result in the loss of the livelihood of individuals, citizens, or groups or their cultural heritage or background, economic

¹²⁸ Dimento, Joseph. *The Global Environmental and International Law*. University of Texas Press, 2003. p. 130.

¹²⁹ Hiskes, Richard. *The Human Right to a Green Future: Environmental Rights and Intergenerational Justice*. Cambridge University Press, 2009. p. 44.

redistribution does very little for parties who have been harmed in ways that cannot be economically quantifiable. Consequently, distributive justice efforts are typically framed as a one-off. This is to say that when a particular injustice is identified and an economic settlement is reached and agreed upon, the presumption is that the settlement corrects the identified injustice and parties are made whole.¹³⁰ In other words, the best case scenario for redistribution through finances for environmental damages is that it is able to correct environmental injustices as a one-off case, while the worst case scenario is that correcting for environmental injustices through financial redistribution is ineffective because the environmental damages are irreversible and no amount of money can correct the damage that has occurred.

One case study of distributive justice as being ineffective is in the case of the Kyoto Protocol. The Kyoto Protocol exemplifies the nature of pollution and climate change as a global burden to be shared, and the system to realize this shared burden is the trading of emission rights.¹³¹ The problem with trading emissions rights is twofold. First, it does not adequately curb emission levels from developed nations, and it has been ineffective at reducing emissions because it employs grandfathering principles that factor in previous emissions levels to determine the distribution of emission permits.¹³² Though the Kyoto Protocol is history sensitive in that it examines historical trajectories of pollution, it betrays the ideal of distributive justice in its creation of grandfathering principles where more emissions permits are allocated to high polluting nations compared to low polluting nations. A more just outcome would be that low polluting states ought to be allocated more emissions permits and high polluting states with less

¹³⁰ Robeyns, Ingrid. *Is Nancy Fraser's Critique of Theories of Distributive Justice Justified?* Constellations. Vol. 10, No. 4. P. 540.

¹³¹ Anand, Ruchi. *International Environmental Justice. A North-South Dimension*. Routledge, 2004. p. 27.

¹³² Meyer, Lucas and Dominic Roser. *Distributive Justice and Climate Change: Allocation of Emission Rights*. Analyse and Kritik. 2006. p. 247.

emissions permits to pursue greater economic and environmental equity between developed and developing states. Second, while the Kyoto Protocol attempts to price carbon through the trading of emission rights based on an economic model of financial incentives for states, it does not sufficiently do justice to past climate injustices because the model of economic incentives does not address past climate harms.¹³³ This is perhaps a problem of distributive justice being concerned with primarily goods and what is a just allocation of goods and resources. While the environment is a resource for all to enjoy and use, it cannot be reduced to purely economic terms. This is because economic incentives can condition our behaviour and optimize our actions and strategies for interacting with the environment, but some environmental damages and harms cannot be economically compensated for, like in cases of resource deprivation, species extinction, rising sea levels and so on. Though distributive justice can correct for some environmental damages and potentially alter polluting behaviour in the present, it is highly limited in what it can correct and what it cannot correct, namely economic inequality and environmental damages, respectively.

The second way of employing distributive justice is through the capabilities approach. The capability approach as articulated by Martha Nussbaum involves two claims. First, there is the claim that the freedom to achieve well-being is morally significant. Second, the freedom to achieve well-being is understood in terms of people's capabilities, framed in terms of the opportunities they may have and what they value.¹³⁴ Alternatively, Amartya Sen's iteration of the capability approach is focused on the capabilities to function as well as achieve well-being, and that each person should have reasonably similar capabilities.¹³⁵ Edward Page argues that the

¹³³ Maltais, Aaron. *Global Warming and the Cosmopolitan Conception of Justice*. Environmental Politics. Vol. 17, No. 4. 2008. p. 601.

¹³⁴ Nussbaum, Martha. *Creating Capabilities*. Harvard University Press, 2011. p. 19.

¹³⁵ Sen, Amartya. *Human Rights and Capabilities*. Journal of Human Development. Vol. 6, No. 2. p. 156.

capabilities approach offers an account of partial distributive justice as the approach focuses on the capabilities and functions of people today and the environment around them, but does not offer an answer to the problem of intergenerational environmental justice. This is because the capabilities approach is framed as a theory of distributive justice focused on the distribution of primarily economic goods between people within a generation, while intergenerational environmental justice examines environmental conditions both within and between generations and how best to promote a framework of justice and fairness. Page's insight is that it is possible to extend Nussbaum and Sen's capability approach to intergenerational justice by separating capabilities from the natural environment and to examine the impact of people on their successors and their respective capabilities or functions.¹³⁶ This is applied in David Schlosberg's argument for the capability approach being used as a metric for climate policy by focusing on the relationship between people and the environment.¹³⁷ One of the inherent strengths of the capability approach is that the well-being and opportunities of people can be empirically measured.

In terms of empirical examples of the capabilities approach integrated in international environmental law, we can see aspects of Sen's and Nussbaum's variant of the capabilities approach in the UNFCCC with the goal of stabilizing greenhouse gas concentrations in the atmosphere to prevent climate change which would protect the environment. For Sen's variant of the capabilities approach, protecting the environment would enable the prospects of all human beings to acquire human rights, and for Nussbaum's variant, protecting the environment is in the interest of all because our environment directly affects our ability to realize our capabilities and

¹³⁶ Page, Edward. *Intergenerational Justice of What: Welfare, Resources or Capabilities?* Environmental Politics. Vol. 16, No. 3. p. 462.

¹³⁷ Schlosberg, David. *Climate Justice and Capabilities: A Framework for Adaptation and Policy.* Ethics and International Affairs. 2012. p. 451.

interests. There is an acknowledgement of environmental protection and reducing present emission levels, but this acknowledgement does not carry much force by way of motivating sufficient action to substantially reduce emission levels. One of the justifications for the reduction of pollution levels is that the environment is a prerequisite to realizing a minimum standard of living and rights.¹³⁸ While climate justice today is seen as a largely individualistic, state-centered enterprise, the goal is to extend it to be of communal, global concern, and environmental justice struggles to focus on the recognition of groups over individuals.

To extend discussions of climate justice beyond the state, Wolff and Shalit build on the capability approach and argue that climate change leads to corrosive disadvantage that tends to affect groups of people as opposed to individuals. Corrosive disadvantage is the idea that climate change imparts risks and disadvantages that tend to be clustered and localized, and the loss of one capability is likely to lead to the loss of other capabilities, resulting in the creation of unique patterns of inequality.¹³⁹ For Wolff and Shalit, the responsibility to interrupt these disadvantages and to fix the lost capabilities of vulnerable people falls on states, and the capability approach can be deployed as an important benchmark for evaluating environmental policies.

Relating the capability approach to environmental justice, we might say that instead of focusing on the economics of redistribution, we should focus on the environmental aspects of redistribution, namely the emissions ceiling and limiting pollution. One argument is that developed nations have polluted more than developing nations and instead of compensating developing nations for past pollution, developed nations could commit to limiting their current pollution levels to protect the environment and enable developing nations to pollute more to

¹³⁸ Holland, Breena. *Ecology and the Limits of Justice: Establishing Capability Ceilings in Nussbaum's Capabilities Approach*. Journal of Human Development. Vol. 9, No. 3. 2008. p. 410.

¹³⁹ Wolff, Johnathan and Avner de-Shalit. *Disadvantage*. Oxford University Press. 2007. p. 10.

develop. However, such an approach is likely to be unsuccessful as we are unable to engage in international collective action on climate change. This is because it would involve cutting the emissions of developed nations which would in turn have a detrimental effect on their economy while enabling developing nations to further pollute, which would improve their economy at the expense of developed nations. Furthermore, since climate change and pollution are collective action problems, if some developed nations were to cut their emissions, there are no guarantees that the environment would be better protected if other developed nations decide not to cut their emissions or if developing nations pollute at a disproportionately higher level. However, a potential solution to this is investing in green technology which allows us to produce energy in an environmentally safe manner albeit coming at a great upfront financial cost. When thinking about the prospects of green technology, the costs would be borne by present generations, but the economic and environmental payoffs in the future could be significant. Thus, green technology offers a way for present generations to better create conditions that enable future generations to be able to exercise and realize their capabilities, but holds significant upfront economic costs and requires a sufficient political will to enable collective action on developing cleaner energy at both the domestic and international level.

Connecting distributive justice to environmental justice, Steve Vanderheiden acknowledges that environmental justice discourse has moved to a discussion of emissions reduction and that one way to achieve emissions reduction is through engaging in distributive justice or politics to help the worse off through Rawls' maximin principle.¹⁴⁰ We have moved away from financial reparations and towards emissions reductions policies in order to do justice

¹⁴⁰ Vanderheiden, Steve. *Environmental and Climate Justice* in The Oxford Handbook of Environmental Political Theory edited by Gabrielson et al. Oxford University Press. 2016. p. 5.

to past environmental injustices. This can perhaps be seen in the Paris Agreement, where discussions on how to manage pollution levels have shifted away from a rhetoric of assigning blame and financial responsibility to individual states for past actions, and towards a discussion of how to best manage past and present pollution levels. The Paris Agreement utilizes scientific data on climate change and integrates that data into international discussions of burden sharing and responsibility for present pollution. Although the Paris Agreement outlines various goals that are grounded in science, it does not provide a clear course of action for how we can collectively reduce emissions or how we can ensure that parties remain compliant to reach the ambitious goal of 2 degrees Celsius.

Alternatively, Chukwumeriji Okereke asserts that global environmental policy today is geared towards systems of mutual advantage and property rights, but policies today are ineffective at doing justice to the principles outlined in the Brundtland Report.¹⁴¹ Looking at the Kyoto Protocol and the emissions trading system shows that pricing carbon would deter states from polluting because of the heightened cost to do so; however, it hinges on the claim that states are economically motivated to comply with the emissions trading system that employs grandfathering principles.¹⁴² Furthermore, the Kyoto Protocol is understood as system of mutual advantage. This system of mutual advantage relies on developed nations acquiring additional permits to legally pollute and developing nations acquire financial benefits for selling their emission permits. Thus, the Protocol is ineffective at truly realizing the *Principle of Common but Differentiated Responsibilities* which outlines that developed nations ought to take on greater responsibilities than their developing counterparts. The primary culprit for why the Protocol is

¹⁴¹ Okereke, Chukwumerije. *Global Justice and Neoliberal Environmental Governance*. Routledge, 2008. p. 32.

¹⁴² Jakon, Michael et al. *Chapter 3: Governing the Commons to Protect Global Justice – Climate Change Mitigation and Rent Taxation*. In *Climate Justice: Integrating Economics and Philosophy* edited by Ravi Kanbur and Henry Shue. Oxford University Press, 2009.

ineffective is due to grandfathering principles that threaten the prospect of equitable burden sharing between developed and developing nations.

While Okereke acknowledges that there is a need for distributive justice at the international level, very little has been said or done regarding notions of justice in global environmental politics. One way to do so would be to employ Thomas Pogge's idea of the global resource dividend which claims that we can establish a principle of redistribution derived from past excess usage.¹⁴³ Pogge's global resource dividend offers us a way to conceptualize how we might be able to compensate for environmental injustices regarding consumption of resources and pollution. Darren Mollendorf claims that a common criticism levied towards the right of sustainable development is that institutions fail to be sufficiently upheld at the international level and are generally unfeasible because of a lack of cooperation between states.¹⁴⁴

The takeaway for redistributive justice is that the primary mechanism for correcting injustices is through economic redistribution to do justice to harmed parties, but it is limited in being able to correct for environmental damages. Rather, distributive justice offers us a way to conceptualize how we might be able to enable human flourishing through the capabilities approach. One such example of this would be through green energy which would enable present generations to better create conditions to enable future generations to exercise and realize their capabilities, but involves significant upfront costs. Furthermore, there is some merit with distributive justice as it opens a potential avenue to pursue sustainable development policies to protect future generations and can be expanded at the global level to protect developing nations

¹⁴³ Pogge, Thomas. *A Global Resources Dividend* in *Ethics of Consumption: The Good Life, Justice and Global Stewardship* edited by David Crocker and Toby Linden. Rowman & Littlefield Publishers. 1998. p. 515.

¹⁴⁴ Mollendorf, Darrell. *Chapter 5: Taking UNFCCC Norms Seriously in Climate Justice in a Non-Ideal World* edited by Clare Hayward and Dominic Roser. Oxford University Press, 2016. p. 105.

as well as to fairly share the burden of pollution and climate change among all nations. In the next part, I turn to reparative justice as another avenue to history-sensitive approaches for correcting past climate injustices and how it can inform our climate policies today.

2.3.2 Reparative Justice and the History-Sensitive Approach

As an alternative to distributive justice which is primarily focused on correcting past injustice, reparative justice takes a different angle on past injustices. Rather than focusing on the redistribution of goods or calibration of actions to achieve a more just treatment of past injustices, reparative justice focuses on the recognition of past wrongdoings and to repair the consequences of the harms done to victims because of human rights violations. The moral calculus found in reparative justice differs substantially from distributive justice. Reparative justice recognizes an unjust act and aims to meaningfully address the human rights infractions experienced by victims in both the short and long term, while redistributive justice frames injustices in terms of economic damages to compensate for past harms. Reparative justice typically hinges on four procedural criteria to determine what the injustice is, what the harm of the injustice is, who the victims are, and what can be done to repair the damage done.¹⁴⁵ First, the scope of injustice needs to be established, and here the injustice is pollution and environmental degradation. Second, the harm of injustice needs to be determined, and for environmental injustice, the harms are both economic and environmental damages. Third, harmed parties need to be identified, and for global warming, the parties most at risk are poor individuals living in developing nations. Finally, we need to be able to determine what kinds of reparations are at play and the reach of who and what the reparations cover.¹⁴⁶ Such reparations can include material

¹⁴⁵ Muddell, Kelli and Sibley Hawkins. *Gender and Transitional Justice*. International Center for Transitional Justice at the United Nations Entity for Gender Equality and Empowerment of Women. October 2018. p. 18.

¹⁴⁶ *Ibid.*, p. 19.

and symbolic reparations that respond to the violations that occurred, the consequences that were suffered, the historical context of events and the funding and capacity of the groups involved. The United Nations *Basic Principles and Guidelines on the Rights to a Remedy and Reparation for Victims of Gross Violations of International Human rights Law and Serious Violations of International Humanitarian Law* defines reparations as including: restitution, to restore the victim to an original condition prior to the violations occurring; compensation, to provide for any economically assessable damage; rehabilitation; to include medical, psychological, legal care and social services; satisfaction, where the reparation satisfactorily addresses past injustices and aims to prevent future violations of human rights; and guarantees of non-repetition, where historical injustices will not be repeated in the future.¹⁴⁷

Reparations are not new phenomena. We have seen instances of reparation like in that of Canada and indigenous peoples who were forcibly assimilated through the residential school system or in Rwanda and the Gacaca courts where communal justice was adopted to promote communal healing and rebuilding in the aftermath of the Rwandan genocide.¹⁴⁸ Reparations are a form of repayment, restitution, or recompense for a past wrong. Reparations can be either backwards-looking, examining historical wrongs that have occurred and offering reparations for them, or be forward-looking, focusing on historical wrongs that are ongoing and need further action in order to arrive at a just outcome.¹⁴⁹ An example of a backwards-looking reparation could be in the form of reparative claims flowing from the injustices of colonialism. Such a

¹⁴⁷ United Nations Human Rights Office of the High Commissioner (OHCHR). *Basic Principles and Guidelines on the Right to a Remedy and Reparations for victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian law*. 2005.

¹⁴⁸ For the case of Canadian reparations see: Cunneen, Chris. *Colonialism and Historical Injustice. Reparations for Indigenous Peoples*. Social Semiotics. Vol. 15, No. 1. 2005. P. 62. For the case of Rwanda and reparations see: Lasco, Chante. *Repairing the Irreparable: Current and Future Approaches to Reparations*, Human Rights Brief. Vol. 10, No. 2. 2003. p. 5.

¹⁴⁹ Buxton, Rebecca. *Reparative Justice for Climate Refugees*. Philosophy. Vol. 94. 2019. p. 196.

claim, as argued by Kok-Chor Tan, asserts that it is the nation or the people, not the descendants of individuals who lived under colonialism, that have a legitimate claim for reparations for past harms. As Tan puts it, colonialism was an assault against the collective identity of a people, and present individual holders of that same identity can demand reparations given that they are now the trustees of the community, even though they themselves were not personally wronged as a form of backwards-looking reparations.¹⁵⁰ Alternatively, an example of a forward-looking reparation are reparations that may refer to past events but do so with the intent of determining how best to improve the future. For example, climate adaptation policies are an example of forward-looking reparations as they usually consider historical injustices generated as a result of pollution but use the lessons from historical environmental injustice combined with scientific research to develop new strategies to aid the world's worst off. Reparative justice can also be structured in terms of rights or obligations. As Rebecca Buxton outlines, rights-based claims in reparative justice argue that if there is a party whose rights have been infringed or deprived, reparations ought to be owed. Alternatively, obligation-based claims in reparative justice focus on the role of responsibility and that claims of reparations rely on the existence of a duty-bearer.¹⁵¹ Take for example, climate refugees who are individuals that have been displaced from their home or country because of climate change. Climate refugees ought to be owed backwards-looking reparations as climate refugees have been impacted by the compounding effects of pollution and climate change, and forward-looking reparations since it is likely that the number of climate refugees will continue to grow as the effects of climate change worsen over time.

¹⁵⁰ Tan, Kok-Chor, *Colonialism, Reparations and Global Justice*. in *Reparations*. Edited by Jon Miller and Rahul Kumar. Oxford University Press. 2007.

¹⁵¹ *Ibid.*, p. 198.

However, one puzzling question remains. Who has the responsibility or obligation to bear the duty of protecting climate refugees?

Buxton argues that reparative justice requires three key considerations which include: determining who is owed reparations, who is delivering reparations and in what form should the reparations take?¹⁵² In the case of climate refugees, they typically come from poor countries and are unable to adapt to the deleterious effects of climate change, which results in being forcibly displaced from their home or country. Climate refugees, as a broad category, are the subjects that are owed reparations because they have been wronged by the actions of others, namely high-polluting developed states. Next, there is the problem of who ought to offer reparations for climate refugees. If we adhere to a standard framework of responsibility, the agent that caused the harm is the agent that is responsible for owing reparations for the harm caused. James Souter argues that we ought to have a distinction between moral and outcome responsibility and that such a distinction would allow us to better understand environmental justice in developing nations. Moral responsibility is understood as being held accountable for actions that an agent freely chose to take. Outcome responsibility allocates responsibility when a clear connection can be found between a particular cause and effect.¹⁵³ When looking at climate change as a problem of collective action, intergenerational justice, and diffused responsibility, developed countries ought to bear greater responsibility for climate refugees because they can be found both morally responsible and outcome responsible. Developed countries can be found retroactively morally responsible for the displacement of climate refugees because of their history of heightened pollution and can be found outcome responsible because there is a clear relationship between

¹⁵² Ibid., p. 204.

¹⁵³ Souter, James. *Towards a Theory of Asylum as Reparation for Past Injustice*. Political Studies. Vol. 62, No. 2. 2014. p. 329.

pollution and global warming. Finally, there is the question of what is to be done for climate refugees. Buxton offers three potential solutions of which I agree with the second. First, she claims that money is often a recompense offered in reparations to make harmed parties whole.¹⁵⁴ However, financial compensation does not directly address the loss of a home or a country, and it does not correct the displacement that has occurred because of climate change. Second, another avenue is through immigration and free movement, where developed nations would take greater responsibility and open their borders to climate refugees to resettle them.¹⁵⁵ I agree with this solution as it directly addresses the problem of displacement, that is through resettling climate refugees, and that developed nations are taking greater responsibility for the negative effects of climate change. However, though developed states may be taking on greater responsibility for displacement caused by climate change, this does not substantially alter their pollution levels. Third, Buxton offers land or territory as a form of recompense for climate refugees, as it would allow them to resettle in a more commensurable manner than immigration and free movement.¹⁵⁶ However, this option results in some logistical concerns, namely, finding a territory that could be used as land for resettling and how might the process of resettlement be implemented. Thus, climate refugees provide a unique opportunity for states to take on greater responsibility in the form of reparative justice, to take responsibility for the effects of climate change.

While some developed states have opened their borders and taken some responsibility for climate refugees, this policy action has yielded little fruit by way of altering polluting action in developed nations. These immigration policies are specifically tailored to address climate refugees on humanitarian grounds but do not engage with the underlying cause of why climate

¹⁵⁴ Buxton, Rebecca. *Reparative Justice for Climate Refugees*. Philosophy. Vol. 94. 2019. p. 212.

¹⁵⁵ Ibid., p. 213.

¹⁵⁶ Ibid., p. 215.

refugees exist, namely climate change and pollution. To elucidate this claim of how the international community has stepped up and recognized the shared collective responsibility for the resettlement of climate refugees, but failed to substantially alter our present pollution levels and response to climate change, I begin with a discussion of what constitutes a climate migrant or refugee. Next, I look at the case study of Bangladesh and show that the international community has not really taken responsibility for climate refugees nor have we addressed the underlying conditions that create climate refugees.

The International Organization for Migrants (IOM) defines climate refugees in three categories. First, environmental emergency migrants are people or groups that flee their country because of an environmental disaster. An example of this would be in the case of the Tropical Cyclone Idai that struck Mozambique, resulting in roughly 1.85 million people requiring assistance. Of these 1.85 million people, 146,000 were internally displaced, and in the aftermath of the cyclone, there was approximately 1 billion dollars of infrastructure damage.¹⁵⁷ Second, environmentally forced migrants are people or groups that flee their country because of a deteriorating environmental condition. An example of this is rising sea levels and island nations that will, over time, become submerged underwater. Individuals or groups that migrate from these island nations do so on the grounds that the environment is worsening and will eventually become uninhabitable.¹⁵⁸ Finally, climate refugees can be defined as environmentally induced economic migrants as individuals or groups that choose to leave their respective countries to avoid future problems that would affect their livelihoods. One such example of this is in Latin America, where the major agricultural exports include livestock and grains which are likely to be

¹⁵⁷ Wachiaya, Catherine. *One Year On, People Displaced by Cyclone Idai Struggle to Rebuild*. United Nations High Commissioner for Refugees. March 13, 2020.

¹⁵⁸ Averett, Nancy. *Pacific Island Countries and Climate Change: Examining Associated Human Health Vulnerabilities*. Environmental Health Perspectives. Vol. 124, No. 11. 2016. p. 1.

impacted by increased temperatures and will result in shorter growing seasons, and lowered crop production; thus, emigrating from Latin America to nations where the climate is more temperate and acceptable for agriculture would provide an economic incentive to immigrate.¹⁵⁹

In considering each of these three categories, I look at the case of Bangladesh to show how climate change has generated climate refugees which have been partially recognized at the international level, but due to a lack of collective action, it is unclear who has the responsibility of resettling climate refugees and how best to prevent future climate refugees. Bayes Ahmed's works demonstrates that Bangladesh is one of the greatest victims of climate change and is frequently struck with climatic disasters and will likely experience rising sea levels, an increase in average temperatures and an increase in the likelihood of cyclones.¹⁶⁰ To address the climate refugees that will be generated as a result of climatic disasters, Biermann and Boas articulate five principles to address the climate refugee problems which include: planned relocation and resettlement, resettlement instead of asylum, collective rights for displaced populations, international assistance, and international burden sharing.¹⁶¹ While Ahmed argues that the responsibility to resettle climate refugees from developing nations falls on high polluting developed states, the IPCC projects that over the next 30 years, we can estimate that 16 to 26 million people will migrate from climate affected regions of Bangladesh, and that the majority of these migrants will be economic migrants that travel to foreign countries as labour migrants.¹⁶²

¹⁵⁹ Kaenzig, Raoul and Etienne Piguet. *Migration and Climate Change in Latin America and the Caribbean*. In *People on the Move in a Changing Climate: The Regional Impact of Environmental Change on Migration* edited by Etienne Piguet and F. Laczko. Vol. 2. p. 165.

¹⁶⁰ Ahmed, Bayes. *Who Takes Responsibility for the Climate Refugees?* *International Journal of Climate Change Strategies and Management*. 2018. p. 10.

¹⁶¹ Biermann, Frank and Ingrid Boas. *Preparing for a Warmer World: Towards a Global Governance System to Protect Climate Refugees*. *Global Environmental Politics*. Vol. 10, No. 1. 2010. p. 76.

¹⁶² Ahmed, Bayes. *Who Takes Responsibility for the Climate Refugees?* *International Journal of Climate Change Strategies and Management*. 2018. p. 14.

The conclusion that Ahmed draws is that developed countries ought to share the burden of climate refugees proportional to their respective pollution contributions. However, though engaging in a dialogue on climate refugees is a step in the right direction for addressing displacement caused by climate change, it does not provide guidance on how countries ought to act by way of climate policy to prevent further environmental damage and future climate refugees.

Therefore, reparative justice offers us another way to conceptualize how we might be able to offer recompense for past and present injustices that are experienced by the world's most poor, but appropriate and viable solutions are severely limited. While reparative justice seeks to bring justice to those who have been wronged, offering money, immigration and free movement or land is merely a solution that addresses the outcome of climate change, namely the climate induced displacement of people in developing nations, and does not remedy the underlying cause of injustice, namely polluting behaviour from high polluting developed states. Though past pollution and injustice has already occurred, and present pollution and injustice is ongoing, I argue that an adequate approach to climate justice needs to be able to better incorporate responsibility for pollution for both present and future generations. To do so, I claim that a combination of the history-sensitive option and future-oriented option the best avenue at addressing past, present and future climate injustices that present and future generations face, especially in developing nations.

2.4 – The Future-Oriented Option

Thus far, I have outlined the “Do Nothing” approach and the history-sensitive approach as two potential avenues for present generations to act with respect to their current emissions levels. The first approach is insufficient in addressing present pollution levels as the option either

claims that present generations have no responsibility for past, present or future emissions, and passes the burdens of retroactive pollution to future generations or that we employ a business-as-usual approach, failing to take greater responsibility for past and present pollution to protect future generations. While the “Do Nothing” approach might be advantageous to present generations in that we can enjoy the benefits of pollution without bearing significant costs, it results in a clear injustice to future generations, especially since we are cognizant of the detrimental effects that pollution has. The second option, the history-sensitive approach, employs a backwards looking approach in examining past pollution and by employing distributive or reparation justice, aims to create a more just treatment for present pollution levels. However, neither distributive nor reparative justice are effective in cases where reparations do not directly address the harms caused or in situations where damages cannot be corrected for through monetary redistribution. This is because distributive justice is framed in terms of monetary distribution, and some environmental harms cannot be monetarily defined. Alternatively, reparative justice is focused on addressing and resolving harms that have taken place with the intention to prevent future harm. Here, I outline what a future-oriented option might look like in terms of climate justice and responsibility for present emissions.

The future-oriented option examines the prospects of how mitigating pollution levels today would benefit future generations. The sentiment behind the future-oriented option is that present generations have some interest in the future. In the literature, Steve Vanderheiden appeals to the idea of foresight as present generations can reasonably predict the outcomes of their actions and are ethically accountable for their pollution levels.¹⁶³ As such, we ought to

¹⁶³ Vanderheiden, Steve. *Atmospheric Justice: A Political Theory of Climate Change*. Oxford University Press, 2009. p. 137

reject a presentist notion of climate change which is the idea that our actions are benign if effects are felt in the future. This view is complemented by Burns Weston's view that future generations can have legal rights to protections from climate change harms and that the ecological rights of future generations can define the ecological duties that present generations hold.¹⁶⁴ Some of these ecological duties include: ensuring that present generations protect limited resources like freshwater sources so that future generations are able to have access to clean water and cutting back on current emissions to prevent global warming to protect the environment for future generations. In practice, the future-oriented approach can be found in various international summits on climate change, which demonstrate that at the very least, nations around the world acknowledge the problem of climate change and have framed some solutions in the form of short-term and long-term goals, typically through an economic lens. Some of the more recent pivotal summits include: the 1992 Rio Convention where the UNFCCC was adopted; the 1997 3rd Conference of the Parties where the Kyoto Protocol was signed; the 2001 6th Conference of the Parties where elements of the Kyoto Protocol were amended including compliance, financing, and flexible trading mechanisms; the 2008 14th Conference of the Parties where delegates agreed on financing developing nations to assist in coping with the negative effects of climate change; the 2012 18th Conference of Parties resulting in the Doha Amendment, featuring a second commitment period to the Kyoto Protocol from 2012 to 2020; and the 2015 21st Conference of the Parties where the Paris Agreement was adopted.¹⁶⁵ These summits all mark major advancements on international environmental policy to promote environmental protection

¹⁶⁴ Weston, Burns. *Climate Change and Intergenerational Justice: Foundational Reflections*. Vermont Journal of Environmental Law. 2008. p. 421.

¹⁶⁵ United Nations Framework Convention on Climate Change. *UNFCCC -- 25 Years of Effort and Achievement: Key Milestones in the Evolution of International Climate Policy*. 2020.

and to lower global pollution levels in the interest of the environment for present and future generations.

Since pollution remains in the atmosphere far after it has been emitted, a comprehensive approach necessarily involves a policy approach that is both adaptive and mitigative to protect present generations and generations to come. Climate adaptation strategies are defined as strategies that seek to aid individuals, communities, regions, and nations in adapting to the negative effects of climate change. Climate adaptation strategies need to be employed in the present so that individuals living in areas adversely affected by climate change and pollution can adapt and survive. Examples of pre-existing climate adaptation strategies include using: scarce resources more efficiently, changing building codes to adapt to future climate conditions, and setting aside land or territory for migration. At the international level, in March 2015, UN member states agreed to implement the 2030 Agenda and the accompanying Sustainable Development Goals (SDG's). Goal #13, the Climate Action Goal, calls on the international community to take immediate action to combat climate change and its impacts.¹⁶⁶ To achieve this goal, UN member states need to make efforts to accelerate their actions and investments on climate change.¹⁶⁷ Canada is committing 2.65 billion dollars towards a climate finance pledge to help developing countries adapt to the effects of climate change. These efforts include aiding developing nations in the transition to a low-carbon and climate resilient economy. The funding is to be used for: clean and renewable energy; climate-sensitive agriculture, including sustainable forestry practices; watershed management; and climate resilience.¹⁶⁸ Furthermore, the United Nations Environment Programme (UNEP) has made steps to incorporate climate adaptation into

¹⁶⁶ United Nations. *Sustainable Development Goals: 13 Climate Action: Why it Matters?* 2018.

¹⁶⁷ Campbell, Bruce M. *Urgent Action to Combat Climate Change and its Impacts: Transforming Agriculture and Food Systems*. *Current Opinions in Environmental Sustainability*. Vol. 34. Oct 2018. p. 17.

¹⁶⁸ Government of Canada. *Climate Change in Developing Countries*. 2019.

a comprehensive response to climate change, and this first step was implemented in the 2015 Paris Agreement, where a Global Adaptation Goal was stated.¹⁶⁹ The Global Adaptation Goal builds on the UNEP's existing response to the negative effects of climate change, resulting in implementing 50 projects on climate change adaptation for approximately 40 countries. These projects include: ecosystem adaptation, implementing projects that utilize biodiversity and ecosystem services as part of a comprehensive, holistic approach to climate adaptation; disseminating knowledge on best practices for climate adaptation; the creation of the World Adaptation Science Programme, connecting climate change researchers with policy-makers; and National Adaptation Plans, which support countries to better transition to adopting climate adaptation policies.¹⁷⁰ Today, signatory countries to the Paris Agreement are required to report their emissions levels every two years. Thus far, one round of emissions reports has been made and a second round of emissions reports was published in December 2020. The December 2020 report finds that despite a brief dip in carbon dioxide emissions caused by the COVID-19 pandemic, the world is still heading for a temperature rise in excess of 3 degrees Celsius which is beyond the Paris Agreement goals of limiting global warming to below 2 degrees Celsius. However, the positive prospects of the dip in carbon dioxide emissions as a result of COVID-19 is that a low-carbon pandemic recovery could cut global emissions by approximately 25% expected by 2030, which would put the world much closer to achieving the 2 degrees Celsius goal.¹⁷¹ Furthermore, the United States rejoined the Paris Agreement under President Joe Biden after former President Trump withdrew the United States from the Paris Agreement, citing economic and political concerns that would put the United States at a competitive disadvantage

¹⁶⁹ United Nations Environment Programme. *Climate Adaptation: What We Do*. 2019.

¹⁷⁰ Lesnikowski, Alexandra et al. *What does the Paris Agreement mean for Adaptation?* Climate Policy. Vol. 17, No. 7. 2017. p 831.

¹⁷¹ United Nations Environment Programme. *Emissions Gap Report 2020: Executive Summary*. December 2020.

compared to other leading carbon emitters like China and India. Under Joe Biden and the Democratic Party, climate change is believed to be one of the greatest dangers that the United States faces and believe that rejoining the Paris Agreement will enable the United States to better tackle climate change while simultaneously developing novel economic opportunities.

Connecting the most recent Paris Agreement 2020 Emissions Report, and based on analysis conducted by the Climate Action Tracker, a non-profit organization that analyzes emission reports and determines how compliant countries are with emissions reductions, there are only 2 countries that are compliant with limiting the increase to global temperatures to 1.5 degrees Celsius, Morocco and The Gambia. 5 countries are moderately compliant to limiting the increase in global temperatures to 2 degrees Celsius which includes: Bhutan, Costa Rica, Ethiopia, India, and the Philippines. The Climate Action Tracker then classifies countries that are insufficiently meeting their emissions reductions obligations by projecting what temperature increase is likely to occur based on their respective pollution levels. 10 countries are insufficient, resulting in at least a 3 degrees Celsius increase. These 10 countries include Australia, Brazil, the EU, Kazakhstan, Mexico, New Zealand, Norway, Peru, Switzerland, and the UAE. 9 countries are highly insufficient, projecting to have at least a 4 degrees Celsius increase. These 9 countries are: Argentina, Canada, Chile, China, Indonesia, Japan, Singapore, South Africa, and South Korea. Finally, 5 countries are determined to be critically insufficient, meaning that their emissions contributions are likely to generate a temperature increase of greater than 4 degrees Celsius, and these countries include: Russia, Saudi Arabia, Turkey, the USA, and Ukraine.¹⁷²

What this 2018 round of reporting shows is that many developing nations with weaker

¹⁷² Climate Action Tracker. Comparability of Effort. 2019. Url: <https://climateactiontracker.org/methodology/comparability-of-effort/>

economies are compliant with the Paris Agreement, while many developed nations and developing nations with strong economies tend to not be compliant with the Paris Agreement. The next step for climate adaptation strategies on global warming is for developed states to continue to assist least developed nations to better adapt to climate change, but also for developed nations to better engage in climate mitigation strategies to be compliant with the Paris Agreement to protect the environment.

Climate mitigation strategies are designed to alter or prevent emission of pollution and greenhouse gases into the atmosphere. Examples of climate mitigation strategies include emissions reduction policies and the development of new green energy. However, these strategies may not be viable in developing countries and may be unpalatable for developed countries. At the international level, developing nations hold income levels far below those of developed countries and will likely increase their emissions to develop their economies and improve their quality of life. For example, Brazil's annual emissions are at 91 million tons, but this amount could be reduced by approximately 10 percent if they transitioned away from using biofuels and deployed energy efficient programs aimed at reducing energy imports and supplies. Furthermore, Brazil offers a tax incentive for automobile owners to buy low emission or green vehicles to reduce their carbon emissions. However, a major sector of Brazil's emissions comes from their forestry industry, where deforestation in Brazil contributes twice as much carbon dioxide compared to the energy sector.¹⁷³ Alternatively, China has taken major strides in cutting their emissions growth rate through slower population growth, energy efficient systems, and gradually shifting from the use of coal to natural gas and cutting back on deforestation.

¹⁷³ Pao, Hsiao-Tien and Chung-Ming Tsai. *Modelling and Forecasting the CO2 Emissions, Energy Consumption, and Economic Growth in Brazil*. Energy. Vol. 36, No. 5. 2011. p. 2453.

Emissions reductions policies in China have reduced by roughly 250 million carbon tons per year, since 2002, reaching a reduction of 1/3rd of their current emissions. IPCC forecasts that continued climate mitigation policy in China could result in reducing emission growth by approximately an additional 500 million tons, cutting their emissions by 50% from 2002 to 2020.¹⁷⁴ Finally, India has achieved significant carbon dioxide emissions reductions from 1990 to 2000 through economic restructuring, creating, and enforcing clean air laws and developing renewable energy programs. Since 2000, energy policies in India have reduced emissions by approximately 18 million tons, resulting in a reduction of approximately 5% per year. Furthermore, India has one of the world's fastest-growing renewable energy programs and is projected to be able to generate 40% of their energy from non-fossil fuel sources by the end of 2020. However, more work can be done in India to further climate mitigation policies including: improving efficiency in both energy supply and demand, continuing to move away from using fossil fuels and coal to green energy sources, and to reduce deforestation. The broad consensus for developing countries are that many of them are taking action to significantly reduce their emissions growth levels on an annual basis.¹⁷⁵ The incentives for developing states include: generating greater environmental protection at the local level, greater energy security and progresses towards sustainable development and poverty alleviation. While the transition to green energy involves a significant financial investment, the potential benefits including economic investment and environmental protection outweigh the costs. To demonstrate the prospects of the future-oriented option, I focus on the Montreal Protocol, which has been lauded

¹⁷⁴ Oberschelp, Christopher et al. *Global Emission Hotspots of Coal Power Generation*. Nature Sustainability. Vol. 2, No. 2. 2019. p. 115.

¹⁷⁵ Mehta, Lyla, et al. *Climate Change and Uncertainty from Above and Below: Perspective from India*. Regional Environmental Change Vol. 19, No. 6. 2019. p. 1538.

as a success story in international environmental law and policy due to its galvanization of the international community to collectively ban sources of ozone-depletion. While the Montreal Protocol has been successful in the reduction of the use of ozone-depleting sources, I show that there is still more that needs to be done to address the underlying problems surrounding international climate politics.

The Montreal Protocol was signed in August 1987 and came into force in August 1989 and was an international treaty designed to protect the ozone layer by progressively phasing out the production of numerous environmentally harmful substances that are responsible for the depletion of the ozone layer. To date, there are 197 nations that have signed onto the Montreal Protocol, and the international agreement is considered to be the first international treaty to significantly address a global environmental regulatory challenge between nations through the extensive use of scientific experts around the world.¹⁷⁶ The significance of the Montreal Protocol is that to date, the world has effectively phased out 98% of the world's ozone-depleting substances, namely halogenated hydrocarbons, and most countries are in compliance with the regulations set forth in the Montreal Protocol. The reason why the Protocol is seen as a success story, in the realm of international environmental law, is because it was successful in securing cooperation from the Global North and South and equitably distributed costs and benefits among all participants which resulted in the reduction of ozone depleting substances.

The science behind the ozone layer is that it absorbs solar radiation and stabilizes the global climate, and that there is a link between chlorofluorocarbons (CFC's) and the depletion of

¹⁷⁶ Stephen DeCanio's article *Economic Analysis Economic Analysis, Environmental Policy and Intergenerational Justice in the Reagan Administration: The Case of the Montreal Protocol* (International Environmental Agreements, 2003) provides an excellent primer on the Montreal Protocol and how it has affected American domestic and foreign policy.

the ozone. Ozone depleting substances, up until the induction of the Montreal Protocol, were primarily used in industrialized countries who accounted for 88% of CFC's into the atmosphere. Developing countries claimed that because they were not responsible for ozone depletion, they should not be accountable or responsible for efforts taken to mitigate ozone depletion. While developing countries, then and now, are generally concerned with questions of development and poverty, there is a trade-off with environmental protection and ozone depletion because of CFC emissions. The impacts of ozone depletion are negative on human health, ranging from a heightened chance of skin cancer, compromised immune systems, eye disorders, genetic deficiencies, general damage to ecosystems and global warming. However, what makes the Montreal Protocol a unique case is that Global North, developed nations are more vulnerable to ozone depletion than Global South, developing nations, and this created an incentive for Global North states to mobilize collective action to combat ozone depletion. While there were disputes and disagreements between the European Community and the United States regarding the ban of ozone depleting substances, both parties were able to compromise resulting in three harmonized policy goals. First, the Montreal Protocol's proposal outlined a ban against all ozone depleting substances. Second, the protocol employed a plan to gradually phase out the usage of ozone depleting substances. Third, periodic assessments are conducted to evaluate the efficacy of the ban of ozone depleting substances and the status of the ozone layer. What made the Montreal Protocol effective is its incorporation of fairness and equity. The protocol employs a flexible system of determining what CFC's are to be included on the list of banned ozone depleting substances and establishes limits on production and consumption of CFC's which resulted in adjusted production levels of ozone depleting substances. This meant that consumption and production of CFC's were first frozen and then progressively reduced and phased out according

to an agreed schedule. There are also fair provisions in the protocol which include an acknowledgement of differing needs and circumstances of signatory parties, and trade restrictions to ban any export of CFC's to non-signatory parties. For developing nations to agree to the Montreal Protocol, four conditions needed to be met. These conditions included: the development of a trust fund to assist developing nations with the costs of compliance with the Protocol, creating obligations for developed countries to assist developing countries on cost-sharing, contributions from developed nations as additional to existing aid; and free access to safe technologies for developing nations. Developed states in turn suggested three conditions which included: developing nations to comply with the conditions associated with financial assistance and technology transfer; the transfer of technology as non-preferential and non-commercial; and that establishing an international trust fund must have balanced representation. The general takeaway from the Montreal Protocol is that it is a successful collective action effort that was able to address a significant environmental harm, namely CFC's and ozone depletion while incorporating elements of equity, fairness, and justice. This was accomplished by the Global North taking responsibility for its role in causing ozone depletion and acknowledging that developing nations should not have to pay for ozone depletion since they did not cause it. Furthermore, the ozone regime required international cooperation and the prioritization of environmental protection. Thus, while the Montreal Protocol has been largely successful, I will show that there are some key lessons that can be learned and applied to the current problem of climate change which can aid us in taking on greater responsibility for present emissions.

Before covering the lessons to take away from the Montreal Protocol, there are two key differences to consider between the Montreal Protocol as a case study compared to pollution and climate change. These differences include: the geographical area most affected by ozone

depletion compared to climate change and the prioritization of the environment over the economy resulting in phasing out CFC's that did not significantly harm economic development. However, in the history of corporate America as it relates to CFC's, a collaborative effort emerged from a few American corporations including: Du Pont, General Motors, Frigidaire, and Monsanto to create a less toxic replacement for CFC's. What ended up happening was that a substitute to CFC's ended up being developed as an alternative to harmful refrigerants and its related substances, enabling industry to move away from creating and using CFC's. The first primary difference between the Montreal Protocol compared to pollution and climate change is that the impacts of ozone depletion affected Global North states more than Global South states, creating an incentive to act. Scientific research has shown that holes in the ozone layer began to form in Antarctica in the 1980's, and that 80% of the chemicals responsible for the depletion of the ozone layer were man-made.¹⁷⁷ The science behind the ozone layer is that it absorbs solar radiation and stabilizes the global climate, but ozone-depleting substances were primarily used by industrialized countries. The impact of ozone depletion included risks to human health, UV radiation, damage to aquatic and ecosystems and global warming.¹⁷⁸ Anand argues that the disproportionate risks generated from ozone depletion resulted in the Global North being more vulnerable to ozone depletion than the Global South.¹⁷⁹ Therefore, developed states have a stronger incentive to act than developing states. Second, what makes the Montreal Protocol unique is that it was one of the first cases in international environmental policy where the environment was prioritized over the economy of developed nations. The reason for doing so is

¹⁷⁷ Zehr, Stephen. *Accounting for the Ozone Hole: Scientific Representations of an Anomaly and Prior Incorrect Claims in Public Settings*. *The Sociological Quarterly*. Vol. 35, No. 1994. p. 606.

¹⁷⁸ Betsill, Michelle M. and Roger Pielke. *Blurring the Boundaries: Domestic and International Ozone Politics and Lesson for Climate Change*. *International Environmental Affairs*. Vol. 10. 1998. p. 156.

¹⁷⁹ Anand, Ruchi. *International Environmental Justice. A North-South Dimension*. Routledge, 2004. p. 59.

that the Montreal Protocol was able to generate the sufficient political will necessary to foster international collective action on environmental protection and doing so resulted in a net environmental benefit for all parties involved with little financial cost since economies around the world do not substantially rely on ozone-depleting substances for economic development. However, with pollution and climate change today, we do not see the same mobilization of resources to protect the environment. In what follows, I flesh out three key lessons that can be learned from the Montreal Protocol applied to contemporary domestic environmental policies and international environmental agreements.

First, the Montreal Protocol was far more limited in its scope, only focusing on 7 specific ozone-depleting chemicals that had direct effects on the ozone layer, unlike climate change which is framed as a large issue area that is attributed to a wide range of pollutants and carbon emissions. The Kyoto Protocol attempted to focus on reducing and gradually phasing out greenhouse gases and focused on six greenhouse gasses including: carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, and sulphur hexafluoride. Alternatively, the Paris Agreement has its stated goal of reducing global warming temperatures to below 2 degrees Celsius above pre-industrial levels but does not offer a specific regulatory framework to do so, as countries voluntarily submit a course of action for how they planned to respond to climate change, which promotes universal participation but currently lacks enforcement mechanisms to hold countries accountable to their respective climate plans. While the spirit of the Kyoto Protocol mimicked that of the Montreal Protocol in limiting the scope of pollutants that cause climate change, it was less effective than the Montreal Protocol for two reasons. The first reason is that climate change problems are by nature multidimensional, incomplete, changing and sometimes contradictory, which makes it difficult to have a simple, coherent response. The

second reason is that because ozone depletion was a specific issue area that was tied to the use of ozone-depleting substances, and collectively phasing out ozone-depleting substances would directly resolve the issue of ozone depletion. The Paris Agreement, like the Kyoto Protocol, frames climate change as a broad issue area, but is improved considering the Kyoto Protocol as it adopts a system of universal participation, whereas Kyoto fell prey to the criticism of countries receiving unequal emissions treatment based on their status as being a developing or developed nation. However, climate change is understood to be wider issue area that is primarily caused by anthropogenic action through pollution, which makes responding to it a much more difficult endeavour. The first lesson to take away is that global community needs to find a way to reduce the problem of climate change into specific sectors or areas which can be resolved individually to make gradual steps towards reducing emissions and preventing global warming.

Second, the issue of ozone depletion generated widespread public support because of the immediacy of the harms of having a hole in the ozone layer. Thus, the ability for the global community to come together quickly to respond to ozone depletion was because it was framed as an immediate threat. Furthermore, an international committee was created soon after the depletion of the ozone layer was recognized as a problematic environmental phenomenon with detrimental environmental impacts, which actively worked to resolve the issue of ozone depletion due to its urgency. There was also a broad understanding that every day that the hole in the ozone layer was left unchecked, environmental harms would grow over time. We see that framing is a key component in determining how an issue area is resolved. If we compare the framing of ozone depletion to climate change, ozone depletion was treated as an immediate concern that needed to be acted on quickly and as a result garnered significant levels of public support. Alternatively, climate change is framed as a progressive problem with delayed

environmental impacts that we can respond to over time and has varying levels of public support, which gives rise to ineffective and inefficient domestic and international responses. The challenge that we must overcome for climate change is to rethink it as a phenomenon that we are primarily responsible for and that it has both immediate and long-term environmental harms, since our current track record for responding to environmental harms are better for harms that have immediate impacts as opposed to those with distant or progressive impacts. Thus, the second lesson to take away from the Montreal Protocol is that we need to generate greater public support on climate change as we did on ozone depletion and that there needs to be broader recognition of climate change as an issue area that has both immediate and long-term impacts to our environment.

Finally, the third lesson that can be gleaned from the Montreal Protocol is that the international environmental agreement was not a single international agreement occurring in one instance. Rather, the Montreal Protocol has been amended numerous times, each amendment making the agreement stronger and better for environmental protection. The Montreal Protocol employed a sectoral agreement which enabled scientists, policy makers and technologists to learn faster and find a plausible solution. This is also aided by the fact that ozone depleting substances were specifically identified, and its usage was limited to a select few industries. Contrasting this with climate change, where the primary cause are greenhouse gasses and carbon emissions which are prevalent in huge sectors of the global economy, ranging anywhere from transportation to manufacturing to energy production, such a change would require a significant transformation of the global economy which has relied on approximately 200 years of development based on fossil fuels. While it is unlikely that our reliance on fossil fuels can be changed instantly to more environmentally safe sources of energy, what the Montreal Protocol

teaches us is that if we employ a sectoral approach to climate change by dividing it into specific issue areas, it could result in faster learning, research and development into alternative green energies or technologies that do not harm the environment and progressively reduce our reliance on fossil fuels.

Generally speaking, the Montreal Protocol shows us that international collective action on climate change is possible if we can limit the scope of climate change to specific issue areas, generate widespread support to act immediately on climate change, and that a strong response to climate change requires a progressive policy response and improving our international agreements over time. Therefore, if we are to see environmental protection take place in the form of emissions reductions in climate mitigation strategies, or conservation of resources in climate adaptation strategies, there needs to be a wider acceptance that climate change will affect us all, and that the disproportionate and time-delayed effects of climate change should not demotivate us from acting to protect the environment.

2.5 – Conclusion

This chapter has examined three prevailing approaches to responsibility for present pollution levels. First, I argued that the “Do Nothing” approach is indefensible from a moral point of view as it discards causal, moral responsibility or it advocates for a “business as usual” approach which does not solve the problem of present pollution impacting present and future generations. Second, the moral and ethical appeal of integrating the history-sensitive approach in domestic and international environmental policymaking on resolving climate change is that it factors historic injustices generated because of pollution and environmental degradation. However, on its own, the history-sensitive approach fails to sufficiently offer a course of action for how best to protect the environment for future generations, as the primary concern of the

approach is to do justice to past climate and environmental injustices through the lens of distributive or reparative justice. Third, the moral and ethical appeal of the future oriented option, is that it pays specific attention to how environmental policies can balance the rights and interests of present generations with future generations. The future oriented option offers a potential pathway into remedying some of the maladies of economic or environmental injustice, by enabling present generations to take greater responsibility for their own pollution levels to safeguard future generations. However, the future-oriented option on its own typically focuses on what needs to be done to protect the environment in the present and future and tends to discount histories of past pollution and disproportional development trajectories. Today, international environmental agreements and laws typically include an acknowledgement of protecting the environment, the world's most destitute and future generations, there has yet to be a substantial domestic or international policy that provides a clear course of action to do so.

I think this is where the appeal of a combination of a history-sensitive approach and future-oriented option lies, as it shifts the discussion to what can be done and should be done for the interests of both present and future generations while simultaneously keeping in mind that the policies we create ought to do justice to past environmental harms and are fair. While there have not been many success stories by way of environmental protection at the international level, the Montreal Protocol serves as a promising standard whereby both developing and developed states were able to come to a consensus, multilaterally agreed and abided by the terms of the Protocol and to this day, have been able to successfully reduce the consumption and production of ozone-depleting substances which has resulted in a net environmental benefit for all. One way to take better global responsibility for present pollution involves a harmonization of climate adaptation and mitigation policies, at both the domestic and international level, to do justice to the harms

generated from past and present pollution and to better preserve our environment for present and future generations. While there may be reluctance to pursue such a policy option at the domestic level since it means prioritizing the interests, needs and rights of future generations over present generations, an effective policy response to climate change needs to balance the interests, needs and rights of present generations with that of future generations in a way that does not detrimentally harm currently living people. At the international level, the same problem is present, but with an added dimension in the form universal collective action, that is, how to ensure that all states contribute to the fight against climate change. Tying this back to discussions of intergenerational justice, this means that present generations must bear additional burdens to address the cause and effects of climate change in a way that does incorporate past injustices and future generations.

Chapter III: RESPONSIBILITY FOR FUTURE GENERATIONS AND CLIMATE CHANGE

“If future generations are to remember us more with gratitude than sorrow, we must achieve more than just the miracles of technology. We must also leave them a glimpse of the world as it was created, not just as it looked when we got through with it” – Lyndon B. Johnson, after signing the Wilderness Act of 1964.

“Real generosity towards the future lies in giving all to the present.” – Albert Camus, *The Rebel: An Essay on Man in Revolt*, 1951.

“We are the first generation to be able to end poverty, and the last generation that can take steps to avoid the worst impacts of climate change. Future generations will judge us harshly if we fail to uphold our moral and historical responsibilities.” Ban Ki-Moon, Secretary-General of the United Nations, 2015 in Leuven, Belgium at the University of Leuven.

3.1 Introduction

Thus far, I have examined the problem of intergenerational justice and responsibility for past and present emissions. The argument that I advanced in the first chapter is that we ought to supplement existing economic international environmental policies with moral and political responsibilities for past pollution levels because existing models that tie responsibility to causal agents are not helpful in resolving intergenerational climate harms as past polluters are no longer alive. The second chapter examined the responsibilities that we have in the present for our current emissions levels. The argument there is that we are directly responsible for our pollution levels and ought to develop more effective and meaningful ways to better mitigate our pollution levels as well as adapt to the deleterious effects of climate change in the present and future. Doing so involves creating environmental policies that are both history-sensitive and future-oriented as such an approach emphasizes the unique agency that present generations have in their ability to impact present and future generations.

In this chapter, I examine the responsibilities that present generations have to future generations in terms of environmental protection. While efforts have been made and continue to be made to protect the environment in the present and going into the future, our collective

response so far has not been adequate to the challenge we are facing. To investigate the duties that present generations have to future generations more closely, I begin by reviewing the philosophical and moral arguments against present generations bearing any responsibility for future generations. One such argument is found in Derek Parfit's non-identity problem thesis. I also look at John Dunn's claim that providing legal rights for future generations is non-sensical as legal rights cannot be accorded to non-existent entities. Both these arguments offer strong claims for why present generations do not need to consider the interests of future generations in our day to day lives and our policy or law-making processes. However, I challenge both arguments by asserting that because present generations are currently aware of the intergenerational environmental harms of pollution and climate change, failing to act to protect the environment today and going into the future constitutes a failure to protect the rights and interests of future generations.

After examining the arguments against responsibilities to future generations, I turn to a discussion of human rights as providing a compelling way to conceptualize moral duties to future generations. The point here is that if we believe that human rights are applicable to all human beings, this must include future people; thus, affirming the universality of human rights for future generations. Next, if we understand that environmental harms will harm or affect the basic rights of future generations, present generations have a moral duty to protect the environment for future generations knowing that pollution and climate change will cause irreversible environmental harms. Lastly, if we recognize that future generations have moral rights because of their humanity, and that our duties to protecting the environment will result in affirming their legal human rights, our duties must also include protecting the rights of future generations through legal institutions that exist today.

When looking at the prospects of creating institutions to protect future generations and promoting long-term interests, like environmental protection, we have some theoretical tools at our disposal as well as cases of institutional reform that can offer us some guidance. Democratic theorists working in the field of intergenerational justice and representation within democratic institutions focus on problems of balancing present interests with future interests, how best to mitigate the epistemic problem, and how best to represent future generations. Today, existing democratic institutions are criticized for being myopic for a range of reasons. This can be caricatured as the problem of a presentist bias in democratic institutions. To start, Michael MacKenzie outlines that democracies suffer from four main issues when trying to think through questions of intergenerational justice through democratic institutions. These issues include: short-sighted or short-term oriented voters; short electoral cycles; problems of future representation; and dominance of specific interest groups. This part of the chapter will examine how we might be able to conceptualize different ways to ensure that the rights of future generations can be better protected through current institutions.

From here, I examine two institutional approaches to resolving long-term issues within democracies. The first is a technocratic solution which involves setting up institutions or offices for future generations such that they would be able to better engage with questions of obligations to future generations. To do so, I look at two examples of institutional innovation: the Israeli Commission for Future Generations and Hungarian Office of the Commissioner for Fundamental Rights. Both are examples of how we can better protect and represent future generations. However, when looking at the theory and practice of creating institutions to protect future generations, we are faced with two challenges. First, even with the good intentions we see embodied in these institutional innovations, how do we know that present deliberation accurately

captures the real interests of future generations? Second, the policies and laws we create today might be biased in the interest of present generations and not for future generations.

Alternatively, the second institutional approach is through democratic innovations. Here, democracies are traditionally viewed as being part of the problem to resolving long-term issues and not the solution due to the way democratic institutions are set up to prioritize present interests over future interests. These claims are made on the grounds that citizens may not be well informed, driven by partisan issues, pursue short-term agendas and as a result, elected officials pursue platforms that will garner the greatest number of votes possible to become elected. However, democratic theorists challenge this view by claiming that the image of citizens is created by the dynamics of elite driven electoral politics, and if we look at citizens in other settings outside of elections and electoral cycles, like in citizen assemblies, we see a very different image of citizens as being more future-oriented. I examine the French Citizen's Assembly as a democratic innovation where citizens can be future-oriented contrary to the conventional understanding of democracy as focusing primarily on short-term issues.

Considering these two main institutional approaches, I argue that institutional innovations are helpful by way of making ordinary citizens consider future generations more deeply, but this needs to be grounded in a stronger moral conversion to cosmopolitanism because most citizens are unable to participate in citizen assemblies at the local and national level. At the international level, we need to develop a more robust set of cosmopolitan institutions to resolve the problem of climate change because it is inherently a global issue and current our institutions are unable to resolve climate change in global terms. When extending these problems of institutional reform to climate change and pollution, I argue that rethinking the problem of moral responsibility from the perspective of future generations can give us the sufficient political will at the level of

international relations to think through long-term policy problems in a way that our current institutions do not allow us to do or have the space for.

3.2 Two Arguments for Denying Moral Obligations to Future Generations

There are two main arguments for denying moral obligations to future generations. The first philosophical argument is that present generations do not have any duties or obligations to future generations because it is impossible to harm an entity that does not yet exist. To arrive at this argument, Derek Parfit claims that future generations owe their existence to choices made by current generations and these same choices may appear to make things worse for future generations.¹⁸⁰ If current generations were to opt for a different set of choices to make things better for future generations, those future generations would be different people as they would owe their existence to a different set of choices.¹⁸¹ To illustrate this in an example, if I pollute today, it will eventually result in harming future generations to come; therefore, if I wanted to avoid harming future generations, I would limit my pollution accordingly. However, if I were to limit my pollution to be more environmentally friendly and significantly alter my behavior today this could have the consequence of bringing about a different future and a different set of individuals in the future. Hence, we have a paradox. I am motivated to alter my behavior today because of harm to X in the future. But if I alter my behavior today then X might not exist in the future. The conclusion that Parfit arrives at is that an act can only be bad if it is bad for someone, and that the rightness or wrongness of an action can only be evaluated based on its consequences. This is called the Non-Identity problem because the person whose harm I am supposedly reducing is not the same person, as they do not have the same identity as the person

¹⁸⁰ Parfit, Derek. *Reasons and Persons*. Oxford University Press. 1986. p. 351.

¹⁸¹ Gundling, Lothar. *Our Responsibility to Future Generations*. *American Journal of International Environmental Law*. Vol. 14, No. 1. 1990. p. 210.

who will actually exist in the future. If an act does not make someone worse off, it does not harm them or wrong them.¹⁸² This might sound like analytic philosophy over thinking moral obligation but strong moral obligations to non-existent persons is a philosophical puzzle that needs to be thought through with some precision.

To tie Parfit's Non-Identity problem to environmental and intergenerational justice, take for example a person living in the United States. This individual owes their existence to previous generations, and for this individual to exist, past generations needed to consume natural resources and pollute to subsist long enough to procreate, giving rise to the next generation. Thus, this individual owes their existence to the acts of previous generations which include the consumption of resources and past pollution, which we have established to be an injustice that affects people. People in the future benefit from the creation of developed infrastructures, goods, and services, but suffer from the negative side effects of pollution. When looking at whether future generations can be said to be wronged from past pollution, Parfit's argument is compelling for two reasons. First, according to Parfit, we cannot say that a future individual has been wronged or made worse off by the acts of present generations, like pollution or procreation, because they do not yet exist. Second, Parfit asserts that future generations exist because of actions taken by present generations and cannot be harmed by these actions as they are necessary to bring future generations into existence. However, we do know that polluting our environment will inevitably result in environmental harms that affect future generations. The question then becomes which future generations will be harmed and who the future generation will be. The main point that Parfit is advancing is that ethical theories arguing that we should not harm other people are not adequate because these theories cannot address how our actions in the present

¹⁸² Ibid., p. 354.

either harm or benefit future peoples, but rather that our actions determine which set of future people will exist in the future. Thus, future people will exist as a direct result of how we, in the present, decide to live our lives. Moral theory traditionally relies on the assumption that an act can only be bad if it is bad for someone, which claims that an act is morally wrong if it renders a person worse off in some way.¹⁸³ However, the conclusion that we arrive at when taking Parfit's Non-Identity problem seriously for intergenerational environmental justice is that it would not be morally wrong for present generations to pollute and leave behind an unsustainable climate.

Moral philosophers take Parfit's challenge to explain harm to future people seriously; however, there is a lack of consensus on how best to resolve the Non-Identity Problem. Marc Davidson attempts to develop a moral theory that justifies not harming future peoples. His argument is that we need to employ a precautionary approach to climate change and assume that it is a wrongful harm to future generations.¹⁸⁴ Doing so would result in the creation of policies that at worst, will negatively impact the livelihood of present generations while generating no benefits for future generations, and at best, will minimally affect the livelihood of present generations while conferring greater environmental protection for future generations. Similarly, Roser and Seidel advance the claim that the lack of identity of future generations in the Non-Identity Problem or the lack of information of the future damages rendered by climate change does not sufficiently deny duties or responsibilities to future generations.¹⁸⁵ This is to say that ignorance of the harms of climate change and the problem of having an indeterminate future generation does not provide grounds to adequately deny duties or responsibilities to future

¹⁸³ Huseby, Robert. *Person-Affecting Moral Theory, Non-Identity and Future People*. Environmental Values. Vol. 19, No. 2. 2010. p. 195.

¹⁸⁴ Davidson, Marc. *Wrongful Harm to Future Generations: The Case of Climate Change*. Environmental Values. Vol. 17, No. 4. 2008. p. 481.

¹⁸⁵ Roser, Dominic and Christian Seidel. *Climate Justice: An Introduction*. Routledge, 2017. p. 38.

generations. Thus, the Non-Identity Problem results in a counterintuitive moral conclusion, namely that it would not be morally wrong to pollute and leave behind a world worse than we found it. This conclusion generates a tension between our normative intuitions and theoretical frameworks today. Normatively, we have the moral intuition to protect the environment for future generations, but theoretically, we are ill-equipped to justify such a claim. However, as Davidson, Roser and Seidel argue, we need a proactive response to environmental protection for future generations because the consequences of failing to act are costly and detrimental to the lives of future generations.

The second argument for denying moral obligations to future generations is grounded in a specific conception of legal human rights. This argument is advanced by John Dunn who argues that future generations cannot be said to have any form of legal rights, and any coherent theory of justice implies conferring legal rights to people. Therefore, the rights and interests of future generations cannot be protected or promoted within the framework of any theory of justice, on the grounds that they do not yet exist.¹⁸⁶ This view of rights, however, is very narrow and legalistic. While it is true that we, in the present, cannot enact legal protections in the future, we can conceive of future generations having a moral claim to certain protections and enact legal protections today that will continue into the future. This is how a great deal of moral and political philosophy thinks about rights. Rawls, for example, attempted to construct a theory of intergenerational justice through his just savings principle. His just savings principle was intended to create a fair distribution of goods among citizens within a given generation and once this was achieved, present generations would save for the benefit of future generations.¹⁸⁷

¹⁸⁶ Dunn, John. *Politics and the Well-being of Future Generations* in *Self and Future Generations: An Intercultural Conversation between East and West* edited by Taechang Kim and Ross Harrison. The White Horse Press. 1999. p. 74.

¹⁸⁷ Rawls, John. *Justice as Fairness: A Restatement*. Belknap Press. 2001. p. 159.

However, rights and justice do not exhaust the whole of morality, and we ought to have moral obligations to consider the interests of future generations since they will be impacted by the policies we create today. Brian Barry offers an alternative view of intergenerational justice contrary to the traditional Rawlsian view of intergenerational justice through the just savings principle. Barry argues that human rights can be thought of through obligations towards future generations based on a view of a common humanity, akin to a cosmopolitan world view.¹⁸⁸ Such a view argues that unequal outcomes are justifiable if they arise from one's choices, meaning that different outcomes for different people are okay if they are due to people's different voluntary choices. When looking at intergenerational justice and responsibility, people in the future cannot be held responsible for the world they inherit, so it would be unjust if future generations inherit a world that is in worse physical condition than we currently have. Thus, present generations can be held accountable for the environment that future generations will inherit and as a result, present generations have a corresponding moral duty to protect the environment for future generations.

Dunn's second claim in his argument is that theories of justice require conferring rights to people, and justice, through institutions, defines the rights and duties of citizens and how these rights and duties are to be shared among all.¹⁸⁹ To contest Dunn's denial of rights to people not yet in existence, Brian Barry broadens the scope of a theory of justice to accommodate intergenerational justice and does so through an appeal to a moral understanding of human rights and a principle of vital interests. Vital interests are defined as interests that individuals possess

¹⁸⁸ Barry, Brian. *Sustainability and Intergenerational Justice* in Fairness and Futurity edited by Andrew Dobson. Oxford University Press. 1999. p. 3.

¹⁸⁹ Dunn, John. *Politics and the Well-being of Future Generations* in Self and Future Generations: An Intercultural Conversation between East and West edited by Taechang Kim and Ross Harrison. The White Horse Press. 1999. p. 75.

that are essential to their survival. Barry argues that we ought to take stock of the impacts of our actions on the vital interests of future generations because those future people's vital interests have the same priority as our own.¹⁹⁰ Justice requires that we give higher priority to ensuring that everyone has the means to satisfy their vital interests than to ensuring that everyone can satisfy their excess interests. This results in the claim that it would be unjust for society to give people the means or opportunity to satisfy excess interests while others are unable to satisfy basic interests. Looking at this from an intragenerational level, there is a clear injustice that is being rendered to individuals living in the developing world, who are more likely to be able to struggle to meet their vital interests, while individuals in the developed world are more likely to meet and exceed their vital interests. Alternatively, from an intergenerational perspective, one's location in space or time does not affect one's claim to vital interests. This means that whether a person is halfway across the world or is a member of a future generation does not lessen the moral value of that person's claim to satisfying their own corresponding vital interests. Furthermore, the vital interests of future generations, for Barry, ought to have the same level of priority as the vital interests of present generations. The reason for this is to prevent present generations from satisfying their excess interests if it would undermine the ability for future generations to meet their vital interests. Barry's view of vital interests leads to the need for sustainable development, where present generations ought to preserve their environment for future generations without compromising their own standard of living. In my view, Barry's view of intergenerational justice and concept of vital interests provides a stronger moral argument for why present generations ought to engage in proactive environmental protection policies as opposed to Dunn's view of denying rights to future people simply because they do not presently exist. For Barry, the moral

¹⁹⁰ Barry, Brian. *Sustainability and Intergenerational Justice*. *Theoria: A Journal of Social and Political Theory*. No. 89. June 1997. p. 52.

calculus is weighted in favour of protecting an indeterminate future generation because we can predict with reasonable certainty that future generations will eventually exist and that failing to protect the environment will likely have adverse effects on their livelihoods and ability to realize their vital interests. If we take Dunn's argument as the course of action for environmental policy, we are likely to continue our current quality of life and standards of living which privilege present generations at the expense of future generations. I think this constitutes a moral shortcoming for intergenerational environmental justice as the point of intergenerational justice is to promote a greater sense of equality between generations and given that environmental degradation is likely to worsen as time goes on, the morally correct course of action would be for present generations to pursue stronger environmental policies to offset the growing environmental harms that future generations will face.

Thus, denying the duty of mitigating climate change on the grounds of having no obligations to future generations because they cannot possess legal rights is an ineffective argument since: future generations can possess moral rights in theory, present generations are aware and cognizant of the harms of climate change, and our current institutions ought to be framed in a way that better protects the rights and interests of future generations as a moral good.

3.3 Moral Duties and Human Rights

In the last section, I introduced and evaluated two arguments for denying strong responsibilities to future generations for environmental protections. I established that both arguments ultimately fail to override our obligations to future generations to protect the environment. This section examines the moral duties that present generations have and their responsibility to protect the environment for future generations. To establish these moral duties and rights, the sketch of the main argument is as follows. Pollution inflicts environmental harms

and contributes to climate change. Pollution harms future generations disproportionately compared to present generations. Therefore, we have an obligation to mitigate this harm. To arrive at this argument, I show that moral human rights are a compelling way to conceptualizing moral duties to future generations. To do so, I argue for three things. First, present generations have a duty to protect the environment for future generations since we are currently cognizant of the harms of climate change and doing so would result in protecting the moral human rights of future generations. This duty can be realized through promoting a sufficientarian view of justice that enables present generations to promote a standard of minimum rights for all based on their humanity. Second, present generations have the duty to protect the rights of future generations to do justice to the universal idea of human rights for all based on their humanity. Here, I turn to the work of Henry Shue to clarify what these rights and duties might be. Finally, I argue that to realize our moral duty to protect the rights of future generations, we ought to create institutions which would in turn create laws or policies that recognize the agency of future generations and protect their rights. As it stands today, our current institutions are ill-equipped to adequately protect the rights of future generations, and as such, institutional innovations are necessary to protect the rights and interests of future generations.

Human rights, in the literature and in practice have typically focused on the rights of presently existing people and how these rights ought to be conferred and protected by virtue of one's humanity.¹⁹¹ Human rights in this sense, can be thought of as being both legal and moral

¹⁹¹ In the literature, the general idea of human rights is centered around four key features. First, human rights are rights which impose duties or responsibilities on their addressees or duty bearers. Rights typically focus on a freedom, protection, status, or benefit for the right holders. (Beitz 2009). Second, human rights are plural, meaning that human rights address a wide array of problems that can be universally applicable. (Cohen 2004, Ignatieff 2004). Third, human rights are universal which means that all living people have human rights independent of their practices, morality, law, nationality, or culture. Fourth, human rights are a matter of high priority. Cranston argues that human rights are matters of paramount importance and should not be violated. However, in practice, human rights have typically focused on the rights of living people. This means that for human rights to be recognized in the

for the presently living. They are moral human rights to the extent that all human beings have them¹⁹², and they are legal human rights in that these rights ought to be respected and protected through domestic or international legal institutions.¹⁹³ From a moral point of view, then, all human beings, past, present, and future, are worthy of respect and so possess human rights. Whereas our actions cannot retroactively undo human right's violation of the past, our actions can have significant impact on the human rights prospects for future people. This can be seen in over 150 countries today which include environmental rights or duties in their respective constitutions, which elevates the moral right for all citizens to have a safe and clean environment to the level of legal rights where governments ought to actively provide a safe and clean environment for her citizens. Therefore, we need to think about what moral duties we have to future generations in protecting their human rights. Simon Caney articulates a compelling view of these moral duties. Caney uses a sufficientarian principle of justice to establish a minimum baseline of rights and freedoms for all.¹⁹⁴ Sufficientarianism is defined as all people having a baseline minimum set of rights and freedoms, and that each individual ought to be able to reach a level of sufficiency irrespective of the actions of other people. Sufficientarianism is articulated in two versions. Weak sufficientarianism argues that people who live under the minimum threshold of rights and freedoms ought to be paid special attention the worse off they are, and that above the minimum threshold no special attention is paid.¹⁹⁵ Alternatively, strong sufficientarianism

form of legal rights, a necessary condition is that people need to be alive in order to have legal human rights or to lay claim to legal human rights.

¹⁹² Chamberlain, James. *Motivating Cosmopolitanism: Jurgen Habermas, Jean-Luc Nancy and the Case for Cosmopolitanism*. Contemporary Political Theory. Vol. 19, No. 1. 2020. p. 111.

¹⁹³ Beckerman, Wilfred and Joanna Pasek. *Justice, Posteriority and the Environment*. Oxford University Press, 2001. p. 15.

¹⁹⁴ Caney, Simon. *Climate Change, Intergenerational Equity and the Social Discount Rate*. Politics, Philosophy and Economics. Vol. 13, No. 4. 2014. p. 325.

¹⁹⁵ Meyer, Lukas and Dominic Roser. *Enough for the Future* in Intergenerational Justice edited by Axel Gosseries and Lukas Meyer. Oxford University Press, 2009. p. 222.

asserts that the improvement of the lives of people who live under the minimum baseline of rights and freedoms have lexical priority and benefiting the worse off matters more the worse off they are.¹⁹⁶ Strong sufficientarians attempt to address inequalities generated above the minimum baseline of rights with a utilitarian angle to benefit the most amount of people, if possible, with the limitation that rights and benefits cannot be traded between individuals living above and below the threshold. The difficulty for both a weak and strong sufficientarian view of justice is in determining the minimum threshold of rights and how best to minimize the number of people that fall below this threshold limit.¹⁹⁷ Sufficientarianism has been criticized on the grounds that moral intuitions of whether an act is good or bad requires historical continuity or context, which sufficientarianism lacks as an analytical ahistorical normative theory of distributive justice. Furthermore, sufficientarianism does not deal with inequalities above minimum threshold levels.¹⁹⁸ This is to say that sufficientarianism focuses on ensuring that all human beings reach a minimum baseline of rights and freedoms but does not address any inequalities that exist above this minimum baseline.

The appeal of a sufficientarian view of justice is that it promotes a minimum baseline of rights from which people can realize their interests; however, as shown earlier, there are two key issues for sufficientarianism to address. When conceptualizing a minimum baseline of rights for all, what duties might this impose on the presently living? For one, recent scientific and policy research has shown that current generations are failing to curb their emissions levels and that the environmental policies currently in place do very little to protect the environment for future

¹⁹⁶ Ibid., p. 224.

¹⁹⁷ Brousalis, Nicholas. *Intergenerational Justice: A Primer* in *Institutions for Future Generations* edited by Inigo Gonzales-Ricoy and Axel Gosseries. Oxford University Press. 2016. p. 52.

¹⁹⁸ Meyer, Lukas and Dominic Roser. *Distributive Justice and Climate Change: Allocation of Emissions Rights*. *Analyse and Kritik*. Vol. 28, No. 2. 2006. p. 236.

generations.¹⁹⁹ On these shortcomings, one way for us to realize our duties to future generations is to reduce our emissions levels such that they do not substantially harm the environment or contribute to climate change. There are a variety of reasons to explain why we have been unable to collectively reduce our emissions levels to environmentally safe level. For one, the global economy is still heavily reliant on the usage of fossil fuels for economic productivity. This reliance on the usage of fossil generates primarily short-term economic benefits at the expense of long-term environmental damages in the form of greenhouse gas emissions, environmental degradation and contributing to climate change.²⁰⁰ Another reason for why we have been unable to collectively reduce our emissions levels is due to the varying emissions contributions we make daily. Residents of developed, high polluting nations tend to enjoy high carbon and high polluting lifestyles as compared to residents of developing, low polluting nations which tend to have lower carbon footprints. A just response to limiting pollution for the purposes of environmental protection would involve reducing the emissions levels for residents of developed nations while enabling residents of developing nations to pollute more to sustainably develop. The problem with this response is that it is likely to draw criticism and scrutiny from citizens residing in developed nations to voluntarily lower their quality of life to protect the environment. Such a response would yield two beneficial results. First, it would result in a reduction of emissions levels so that future generations would be more likely to enjoy a safe environment and stable climate. Second, it would create greater environmental equality between nations today, where developed nations would reduce their carbon footprints to protect the environment, and developing nations increase their emissions levels in a sustainable manner to develop. Another

¹⁹⁹ Siaz, Angel Valencia. *Globalisation, Cosmopolitanism and Ecological Citizenship*. *Environmental Politics*. Vol. 14, No. 2. 2005. p 168.

²⁰⁰ Maltais, Aaron. *A Climate of Disorder: What to do about obstacles to effective climate politics?* in *Climate Justice in a Non-Ideal World*. Edited by Clare Hayward and Dominic Roser. Oxford University Press. 2016. p. 50.

way for us to realize our duties to future generations would be to reform environmental policies in a way that better balances the interests of future generations against that of present generations.²⁰¹ Given that our current domestic and international policy response has been not been adequately effective at lowering emissions levels, protecting the environment, and moving towards green energy and away from fossil fuels, our response needs to be significantly rethought in a way that fairly balances the interests and rights of the currently living against future generations to come.

While it is easy to discount future generations as an indeterminate group of people that we may or may not have obligations to, or to continue to pollute to enjoy our currently quality of life, making our pollution the problem of future generations, I think either course of action constitutes a significant moral failure. This is because our institutions today are set up in a way that favour short-term decision-making processes resulting in policies that are myopic in nature. Though we, as citizens, are often able to think about ourselves in both the short-term and in the long-term, we typically focus on short-term decisions or outcomes at the expense of long-term goals, which in turn enables us to discount future generations for the benefit of present generations. Furthermore, because future generations do not carry a particular identity or discernible quality, it is easier to discount our obligations to a future generation that we do not yet know. The problem with doing so is that while our institutions are not well positioned to address long-term issues that may affect future generations, we, as individuals, are capable of conceptualizing both short and long-term issues that can have intergenerational effects. Thus, discounting obligations to future generations, like protecting the environment for future

²⁰¹ Lewis, Bridget. *The Rights of Future Generations Within the Post-Paris Climate Regime*. Transnational Environmental Law. Vol. 7, No. 1. p. 70.

generations, results in a significant moral shortcoming especially when current generations are cognizant of the deleterious effects of environmental degradation. Alternatively, if we choose to continue our current high polluting standards of living, we are additionally burdening future generations with environmental harms that could have been reasonably prevented or mitigated for through emissions reductions policies. Tying this back to sufficientarianism, disregarding our obligations to future generations, and continuing to have high polluting lifestyles would principally violate a sufficientarian view of justice. This is because sufficientarianism at its core argues for a baseline level of equality that all people ought to be able to achieve by virtue of their humanity. For instance, a person living in South Africa and a person living in Spain ought to be able to realize their basic needs and possess basic rights. However, if current generations opt to disregard their environmental obligations to future generations, the needs and rights of future generations are adversely affected as having a safe, clean environment is a necessary condition to realizing other rights and interests. Alternatively, Christopher Stone addresses some institutional challenges that arise when the rights of non-human entities, like the environment, or future generations are being addressed. In particular, he argues that natural objects ought to be given rights, and that the law only recognizes the owners and users of natural objects.²⁰² This creates issues in terms of intergenerational justice. For example, if a river is polluted, downstream owners or individuals affected may opt to claim damages and be recompensed by the polluter who may then opt to continue polluting, or to stop polluting, but the rights of the environment itself, in this case the river, are not considered or protected. The takeaway for Stone is that we

²⁰² Stone, Christopher. *Should Trees Have Standing? Law, Morality and the Environment*. 3rd Edition. Oxford University Press. 2010. p. 62.

ought to broaden our concepts of rights, as we have done so in the past in terms of including children, minorities and women.²⁰³

In other words, intergenerationally, a descendant of a person living in South Africa will be more detrimentally affected by the environmental inaction of previous generations as compared to a person living in Spain. Similarly, if present generations choose to continue high polluting lifestyles and not to pursue emissions reductions policies, descendants of current generations are likely to be burdened with environmental harms that could have been reasonable prevented with precautionary measures. Thus, the key contribution that Caney's view of sufficientarianism makes is that all people, particularly currently living people and future people to come, ought to have minimum basic rights and this view hinges on ensuring that current generations take up the necessary obligations to protect the environment such that future generations will be able to enjoy a clean and safe environment from which their rights can be realized. In the next part, I extend Caney's argument of sufficientarianism to Henry Shue's view of environmental rights.

Sufficientarianism as a theory of intergenerational justice appears attractive in its vision of ensuring that all people ought to be assured a minimum baseline level of rights. However, what might this entail in terms of actual rights and duties for the presently living and for future generations? Here, I turn to Henry Shue's view of environmental rights where he extends Caney's argument for sufficientarianism and develops an argument for basic environmental rights which include the right to liberty, security and subsist. Henry Shue's main argument is that environmental rights entail three main duties which include: the duty not to deprive people, the

²⁰³ Stone, Christopher. *Should Trees Have Standing? Law, Morality and the Environment*. 3rd Edition. Oxford University Press. 2010. p. 17.

duty to protect people from being deprived, and the duty to aid those that are being deprived of having a safe and secure environment.²⁰⁴ These three duties offer a good starting point to discuss how best to protect the moral rights of future generations. While we typically conceptualize rights and duties as being framed for the presently living, I will show that through Shue's argument for basic environmental rights and their three corresponding duties, that they can be expanded to include past and future generations. This is to say that if present generations are to do justice to the universal idea of human rights for all, human rights ought to be expanded to include moral rights for future generations.

Shue's first duty, the duty not to deprive people, involves restricting people from engaging in acts that either knowingly or unknowingly deprive another person of basic necessities which may affect their ability to realize basic rights. From a moral perspective, if we adhere to a sufficientarian view of justice as having humans holding a minimum baseline of rights, this guiding right makes intuitive sense as depriving people of necessities would affect their ability to have basic rights which would infringe upon having a minimum baseline of rights. If we look at issues of sustainability today, our inability to engage in meaningful sustainable development to protect our environment has a direct effect on the environment that people in the future will inhabit. While this may be of little consequence for future generations residing in the developed world, where the effects of climate change and pollution may be better adapted to or mitigated for, future residents of developing nations are likely to face grave environmental threats that may directly affect their ability to realize basic necessities and rights.²⁰⁵

²⁰⁴ Shue, Henry. *Basic Rights: Subsistence, Affluence and U.S. Foreign Policy*. Princeton University Press, 1996. p. 22.

²⁰⁵ Hubin, Clayton. *Justice and Future Generations*. *Philosophy and Public Affairs*. Vol. 6, No. 1. 1976. p. 79.

Shue's second duty, the duty to protect people from being deprived, operates on the assumption that if there are people that are being deprived of having a stable climate or clean environment, that this state of deprivation will have negative effects on their wellbeing and will likely affect their ability or capacity to realize basic human rights. Thus, this duty involves an obligation to act to protect people from deprivation should it occur. The implications of realizing this duty involves recognition of the fact that present generations are in a unique position to be able to protect the environment for future generations through public policy, and that if we are cognizant of the intergenerational harms of climate change and pollution, then we ought to act in a way that prevents future generations from being deprived of having access to a stable climate or clean environment.

Lastly, Shue's third duty, to aid people that are being deprived, supplements his second duty. If we recognize that people are being deprived, we have an obligation to protect them; however, if we are unable to protect them, we ought to offer aid to those that are being deprived. This is made on the assumption that if people are forced to live in conditions where their quality of life is significantly impacted by environment harms, they ought to be protected in a meaningful way. Some examples of this protection might range from economic compensation, financial redistribution, and resettlement policies. Engaging in these three duties will enable individuals to realize their interests, to flourish, and most importantly, be able to possess basic environmental rights. These three duties provide a moral argument for why present generations ought to promote and respect basic environmental rights as it results in protecting the well-being of future generations.

When applying Shue's three duties to intergenerational justice for future generations, fulfilling each duty enables future generations to be able to realize their basic environmental

rights. For example, Shue's first duty consisting of the duty to not deprive people, when extended to intergenerational justice involves present generations not engaging in actions that would deprive future generations from having access to a safe environment and stable climate. As I have shown, the problem is that our current action and response on climate change and environmental degradation is resulting in conferring harms that will be felt by future generations; thus, depriving them of having a stable environment or climate. To do justice to the idea of universal moral human rights for all, present generations are obligated to mitigate environmental harms that will be felt by future generations so that their moral human rights will be respected.²⁰⁶

Shue's second duty, the duty to protect people from being deprived applied to intergenerational justice and human rights establishes an obligation for present generations who are currently aware of the negative impacts of pollution and environmental degradation to act to protect the environment such that future generations will have access to stable climate and clean environment. Such an act today, involves significant changes at all levels from the local to the global. From the local, individual level, this can mean changing how we live our lives daily and to become more ecofriendly. From a national level, this could involve changing our environmental policies to be more aggressive against pollution and to foster strong climate mitigation and adaptation policies. At the international level, this might involve reforming international organizations or international legal systems to better hold nations accountable for their respective pollution levels. In short, Shue's second duty reveals to us that intergenerationally, present generations are failing to sufficiently protect future generations from being deprived of having a stable climate or clean environment. Thus, a strong moral response

²⁰⁶ Mendus, Susan. *Human Rights in Political Theory*. Political Studies. Vol. 43. 1995. p. 14.

involves engaging in individual, collective, and international action to safeguard our environment for the benefit of future generations.

Lastly, Shue's third duty is to aid individuals that are being deprived. However, from an intergenerational context, this duty is difficult for current generations to fulfill. This is because Shue's third duty of aiding individuals that are being deprived is applied in the present. Individuals that are currently alive and living in conditions where their environment is detrimentally affected by pollution and climate change, for Shue, are people that ought to be aided, if we ascribe to the idea of universal human rights, which include basic environmental rights.²⁰⁷ Extending this to intergenerational justice, future generations are not currently being harmed by pollution or climate change because they do not yet exist. In other words, we cannot immediately act to protect future generations that are being deprived of having a stable climate or clean environment because they are not alive. One way to better embody Shue's third duty for future generations is to engage in proactive environmental policies that will protect the environment for future generations that prevents them from being harmed. Richard Hiskes makes the claim that to achieve environmental protection for future generations, greater global consensus needs to be reached on the moral imperative of human rights by arguing for the environmental human rights of future generations.²⁰⁸ This might take the form of making a moral claim to have a universal concern for the global environment and for citizens to have their environmental rights grounded in their particular attachments or lived experiences.²⁰⁹ To achieve such a moral claim, Hiskes argues that we need to institutionalize intergenerational

²⁰⁷ Caney, Simon. *Chapter 9: Climate Change, Human Rights, Moral Thresholds* in *Climate Justice: Essential Readings* by Stephen Gardiner, Simon Caney, Dale Jamison and Henry Shue. Oxford University Press. 2010. p. 166.

²⁰⁸ Hiskes, Richard. *The Human Right to a Green Future: Environmental Rights and Intergenerational Justice*. Cambridge University Press, 2009. p. 92.

²⁰⁹ Mutua, Makau. *The Complexity of Universalism in Human Rights*. In *Human Rights with Modesty: The Problem of Universalism* edited by Andras Sajó. Springer Netherlands. 2013. p. 53.

environmental rights that prioritize future generations without disadvantaging present generations at the domestic level before considering international solutions. Alternatively, what we can do for future generations is to engage in actions and policies that protect the environment in the present and future such that when future generations are born and come into existence, their environment will have been protected due to the actions and choices made by present generations. Such a strategy would require prioritizing the rights and interests of future generations over the presently living, and at the level of international environmental agreements and laws, there is universal recognition of the relevance of future generations and how the environment ought to be protected so that they can realize their rights and interests. Engaging in proactive behaviours and policies allows present generations to put their best foot forward for promoting intergenerational justice and human rights for future generations. However, today we are still falling short, as the most recent IPCC report indicates that the pollution levels of countries around the world will likely result in substantial environmental damage and a global increase in temperature levels, harming future generations.²¹⁰ If we are to do justice to the universal moral idea of human rights for all based on our humanity, present generations have to actively engage in the three aforementioned duties which will result in protecting the basic environmental rights of future generations. Next, I turn to a discussion of how these duties can be implemented through legal institutions to better protect the human rights of future generations.

²¹⁰ The next IPCC report to be released is the 6th assessment report which is currently underway and an initial working draft containing all three working groups will be made available in September 2022 in light of delays caused by the COVID-19 pandemic. Working Group I focuses on the physical science basis of climate change, to be released July 2021; Working Group II focuses on Impacts, Climate Adaptation and Vulnerability, to be released on February 2022; Working Group III focuses on the Mitigation of Climate Change, to be released in March 2022. For the most recent complete synthesis report see: Intergovernmental Panel on Climate Change. AR5 Synthesis Report. Summary for Policymakers. 2014. p. 11.

Today, moral human rights tend to be espoused and promoted by international organizations and institutions, while legal human rights claims tend to be adjudicated at all levels of law, ranging from domestic legal systems to international courts. When looking at human rights from the perspective of present generations, present generations are in a unique position to have both their moral human rights recognized and legal human rights protected because they are alive. However, future generations are presumed to have their moral rights recognized by virtue of their humanity, and legal rights protected because they will eventually come into existence.²¹¹ There is one significant problem, we are not able to enforce the legal rights of future generations. To resolve this issue, institutional reforms are necessary to make democracies more robust when it comes to addressing the rights and interests of future generations. There are some examples of legal rights to environmental protections today that are found in approximately 150 constitutions of nations around the world, and of these 150 countries, more than 85 of them recognize a right to an environment of a certain quality.²¹² For example, Italy's constitution makes explicit reference to the protection of natural landscapes in its 1947 Constitution²¹³, while Myanmar's constitution states 'that the Union shall protect and conserve the natural environment'²¹⁴. While many countries do manifest some form of environmental constitution, not all states do, and of the states that do have environmental rights or duties built into their constitution, not all of them are enforced.²¹⁵ Generally speaking, when environmental rights are cast on the state, they tend to be procedural which involve greater decision making, access to information and access to justice.²¹⁶

²¹¹ Gundling, Lothar. *Our Responsibility to Future Generations*. American Journal of International Law. Vol. 14, No. 1. 1990. p. 209.

²¹² Lewis, Bridget. *Constitutional Environmental Rights* in Environmental Human Rights and Climate Change. Springer, Singapore. p. 41.

²¹³ Constitution of the Republic of Italy, Article 9.

²¹⁴ Constitution of the Republic of the Union of Myanmar, Article 45.

²¹⁵ Gellers, Josh. *The Global Emergence of Constitutional Environmental Rights*. Routledge. 2017. Pg. 6.

²¹⁶ O'Gorman, Roderic. *Environmental Constitutionalism: A Comparative Study*. Transnational Environmental Law. Vol. 6, No. 3. 2017. p. 439.

Related to this, environmental rights generally carry three separate elements which include: environmental procedural rights, the right of environment and the right to environment.²¹⁷

Alternatively, some states describe the relationship between citizen, state and the environment as being based on duties as opposed to rights. Environmental duties tend to be widely framed in basic terms and some include an obligation to improve the environment, or to increase environmental awareness.²¹⁸

Considering this discussion of environmental rights and duties being enshrined in constitutions, there are cases where the entrenchment of these rights and duties in constitutions can be found radical. In particular, The French Citizen Assembly asked to have the recognition of right to a safe and secure environment added to France's constitution, but this was thought to be too radical. The goal for the French Citizen's Assembly was to include environmental preservation in Article 1 of France's constitution, which was debated for several months, and France's President, Emmanuel Macron claimed he was in favour of modifying Article 1 to include a clause on the environment.²¹⁹ The controversy is that the inclusion of environmental rights within the constitution must rise to the same level of fundamental French laws, but cannot be placed above them, and politically, France's Senate president, Gérard Lacher, prefers to not include environmental protection in the constitution, but rather in an article at the same level of other fundamental freedoms.²²⁰ A question to consider is that even if there are constitutions that recognize environmental rights, can these rights be legally enforced? On the one hand, the legal

²¹⁷ Rodriguez-Rivera, Luis. *Is the Human Right to Environment Recognized under International Law? It Depends on the Source*. Colorado Journal of International Environmental Law and Policy. Vol. 12, No. 1. p. 24.

²¹⁸ O'Gorman, Roderic. *Environmental Constitutionalism: A Comparative Study*. Transnational Environmental Law. Vol. 6, No. 3. 2017. p. 440.

²¹⁹ Eymard, Laurence. *From the French Citizen's Convention on Climate to the Conference on the Future Of Europe: A Participatory Science and Democracy Perspective*. European Law Journal. Vol. 26, No. 1-2. 2020. p. 137.

²²⁰ *Ibid.*, p. 137.

enforcement of laws in a domestic setting is generally left up to the state, but on the other hand, because environmental harms span across borders, this might create complex situations where citizens of multiple nations might have the environmental rights harmed, in which case enforcement of these rights may be difficult to achieve beyond borders. Connected to this, since climate change is a global issue, how might environmental rights at the international level be enforced, if at all? What we see today is that moral human rights for future generations have been promoted by international organizations and institutions.²²¹ To build on this discussion of the rights of future generations, I turn to current international agreements and institutions that aim to protect the rights of future generations. After doing so, I articulate some shortcomings that international institutions have in terms of promoting the rights of future generations. Finally, I argue that if international institutions support the mandate of universal human rights, that their institutions ought to be reformed in a way to better realize intergenerational universal human rights, with a specific emphasis on environmental protection.

The Paris Agreement entered into force as international law in November 2016. However, the Paris Agreement contains limited and generalized references to intergenerational equity and justice, and no specific reference to future generations.²²² Earlier drafts of the Paris Agreement had language regarding the interests and rights of future generations, but this language was removed prior to the adoption of the final Agreement. Examples of this language can be found in the draft text of Article 2 where states should address climate change for the benefit of present and future generations. This language is consistent with Article 3 of the UNFCCC, where “the Parties [to the UNFCCC] should protect the climate system for the benefit

²²¹ Cullet, Philippe. *Definition of an Environmental Right in a Human Rights Context*. Netherlands quarterly of Human Rights. Vol. 13, No. 1. 1995. p. 26.

²²² United Nations Framework for Climate Change. The Paris Agreement. 2015.

of present and future generations of humankind”.²²³ At the Bonn meeting in 2015, the reference to future generations was removed and intergenerational equity was proposed as one of the principles which would need to be considered in the final deliberations leading to the implementation of the Paris Agreement. In the final text of the Paris Agreement, Article 2 states that the Agreement will be implemented to reflect equity and the principle of common but differentiated responsibilities and respective capabilities considering different national circumstances.²²⁴ This seems to allude that the focus of the Paris Agreement in the context of intergenerational justice is weighted towards intragenerational equity and the fair distribution of responsibilities between members of the present generations rather than an explicit consideration of the interests of future generations and any obligations that we might have to them. This is not to say that the Paris Agreement has no space or reference to the rights of future generations, as there is a reference to human rights in the Preamble to the Paris Agreement which does not specify that the agreement applies only to current generations.²²⁵ Thus, a broader interpretation of the Paris Agreement allows for space for human rights to encompass future generations. Such an interpretation can be found in the Preamble to the Paris Agreement urging states to respect, promote and consider their respective obligations on human rights can also be understood to include human rights obligations owed to future generations. However, the statement is vaguely written, as it is unclear what is explicitly required to respect, promote, and consider human rights obligations through the Paris Agreement and as such, leaves it with little legal force.

Furthermore, future generations might also be conceptualized as the beneficiaries of sustainable development which is defined as development that meets the needs of the present

²²³ Lewis, Bridget. *The Rights of Future Generations Within the Post-Paris Climate Regime*. Transnational Environmental Law. Vol. 7, No. 1. p. 70.

²²⁴ *Ibid.*, p. 72.

²²⁵ Mayer, Benoit. *Human Rights in the Paris Agreement*. Climate Law. Vol. 6. 2016. p. 107.

without compromising the ability of future generations to meet their own needs. It is important to note that while sustainable development does not explicitly adopt the language, theories, or practices of human rights, it is understood as a guiding principle for domestic and international environmental agreements, laws and policies and shares common values and is mutually constitutive of human rights. The impetus for including sustainable development principles within the Paris Agreement is to for states to be accountable for the future impacts of the laws and policies they create, and this accountability has a direct effect on promoting and protecting the rights of future generations.²²⁶ Thus, the Paris Agreement does not explicitly argue for the protection of the rights of future generations, but focuses more on the actions of present generations to pursue intergenerational equity and the fair distribution of responsibility which would in turn influence promoting and protecting the rights of future generations.

Alongside the Paris Agreement, the World Future Council, an independent international body formally founded in Hamburg, Germany with the support of the United Nations, was formed to speak on behalf of policy solutions that serve the interests of future generations. The World Future Council includes members active in governmental bodies, society, business, science, and the arts. Since its induction, the council's primary focus has been on climate change, pollution, and climate security.²²⁷ The World Future Council calls for the creation of Ombudspersons for Future Generations at all governance levels and has created a proposal to elevate the institution of a Parliamentary Commissioner or Ombudsperson for Future Generations to the international level by calling for the implementation of a UN High Commissioner for Future Generations under the Rio Framework for Sustainable Development.

²²⁶ Lewis, Bridget. *The Rights of Future Generations Within the Post-Paris Climate Regime*. Transnational Environmental Law. Vol. 7, No. 1. p. 74.

²²⁷ Girardet, Herbert and Miguel Mendonca. *A Renewable World Energy, Ecology and Equality*. A Report for the World Future Council. Green Books & Resurgence Books. 2009. p. 44.

The purpose for doing so is that this unique role would monitor the United Nations and its related agencies focusing on multilateral environmental agreements so that an integrated approach to decision-making, policymaking, and program development can take place.²²⁸

Ideally, the proposal would advocate for the interests and rights of future generations across UN organizations as well as other global institutions. However, to date, there is no international institution that adequately represents and protects the rights and interests of future generations.

Rather, what we see is an emphasis and broad acknowledgement of the rights and interests of future generations in international environmental agreements without any explicit course of action to protect future generations. This is primarily because of the lack of agency or representation of future generations since they are not yet alive and can only have their rights and interests indirectly represented by present generations. Furthermore, international legal institutions, as they stand today for present generations, are criticized for a few reasons. One such reason is that nations observe a principle of equality of sovereignty, meaning that no state is in subjection to any other state, as affirmed in Article 2 of the UN Charter.²²⁹ Another reason is that because international law lacks a sovereign power and a monopoly of force that it is unenforceable and rather serves more as positive morality consisting primarily of moral opinions and ethical sentiments.²³⁰ The bulk of international law comes primarily from treaties which are binding only on countries that have ratified or signed onto the respective treaty, meaning that for nations that are not signatory parties to an agreement, they are not bound to the terms of the treaty. Finally, Hans Morgenthau famously claims that international law is the weakest and most

²²⁸ World Future Council. *Empowering Cities in the European Union: From Political Will to Political Action*. 2019. p. 4.

²²⁹ United Nations. Charter of the United Nations: Chapter I, Article 2:1. June 1945.

²³⁰ Chinkin, Christine and Mary Kaldor. *Sovereignty and the Authority to Use Force in International Law and New Wars*. Cambridge University Press. 2017. p. 79.

primitive system of legal enforcement due to its decentralized nature and lack of monopoly of force which is what makes domestic law enforceable, and between nations, there are multiple competing sources of force which make the enforcement of international law difficult to achieve.²³¹ Each of these criticisms focus on applying international law between contemporaries and above the level of states, and when adding in the dimension of the rights and interests of future generations, the ability for international law to sufficiently protect future generations when it is unable to coherently adjudicate cases between nations is severely weakened.

The current landscape of international institutions makes it difficult to effectively implement, facilitate and enforce international agreements at the level of international law.²³² In light of these difficulties, international law does serve several important uses. For one, without international law, there could be chaos in international relations and state interactions could be tumultuous. For another, international law sets up a framework focusing on states as the primary actor and defines their legal responsibilities with each other as well as their treatment of individuals within their sovereign jurisdiction. International law is broad in the sense that it covers human rights, international crime, refugees and migration, the use of force, and most importantly for the purposes of this chapter, regulation of the global commons like the environment, sustainable development, and international waters. While countries often come together to sign a treaty, namely an agreement or acknowledgement to be bound by the terms of the treaty, there is no overarching judicial system or penal system that can hold states accountable for breaching treaties or to settle disputes between nations. However, the United Nations, through the International Court of Justice can be used as a venue for nations to

²³¹ Morgenthau, Hans. *International Law and International Politics: An Uneasy Partnership*. Proceedings of the Annual Meeting of the American Society of International Law. Vol. 68. April 1974. p. 332.

²³² Von Stein, Jana. *International Law: Understanding Compliance and Enforcement* in the Oxford Research Encyclopedia of International Studies. 2010. p. 2.

peacefully settle their disputes, and the UN Security Council can adopt sanctions or the use of force to address threats to international peace and security. Why, then, are environmental agreements focusing on future generations difficult to enforce with our current institutions? For one, our international order accepts and acknowledges the rights of future generations, but we do very little to ensure that their rights can be protected. For another, our international order today has had a mixed history in terms of adjudicating disputes between nations and using sanctions to deter illegal behaviour between contemporaries, it appears unlikely that our institutions can sufficiently protect the rights of future generations. However, there are some positive prospects by way of institutional innovations that might offer an avenue to more effectively implementing environmental agreements that protect the environment in the present and future as well as achieving more equitable treatment between states. In the following section on institutional mechanisms, I develop a few criticisms of why current domestic and international institutions are ineffective at balancing short-term and long-term environmental interests, and why institutional innovations focusing on environmental protection are necessary to better protect the rights of future generations.

3.4 Institutional Mechanisms and Political Will: The Problem of Short-term vs Long-term Interests

So far, the last section provided a sustained examination to the question of human rights for future generations. The takeaway from the last section is that present generations have a duty to protect the environment for future generations as a morally good thing to do and to adequately do justice to the universal ideal of human rights. While often acknowledging the rights of future generations, our current institutions are ill-equipped to produce policies that will protect those rights in any meaningful or substantive way. This section examines how we might be able to conceptualize different ways to ensure that the rights of future generations can be better

protected through current institutions. First, I begin with a brief overview of the problem of balancing short-term interests with long term interests in democracies. After doing so, I outline two prevailing institutional approaches to addressing short- and long-term interests which consists of a technocratic approach and a democratic approach. Within the technocratic approach, I look at two case studies of future-oriented institutions which consist of the Israeli Commission for Future Generations and the Hungarian Parliamentary Commissioner for Future Generations as potential solutions to better addressing long-term interests in democracies. Within the democratic approach, I examine the case of France's Citizens Climate Assembly as an innovative form of participatory democracy that aims to promote future-focused proposals that protect the environment. Lastly, I look at the problem of political will and the balancing of short-term and long-term interests in environmental policymaking through cosmopolitanism as both a moral perspective and through institutions.

When looking at how we might be able to balance short-term and long-term interests in democracies, it appears at first blush that democracies are ill-equipped to consistently pursue long-term interests. Today, Michael Mackenzie argues that democratic institutions are criticized for being myopic for four main reasons. These four reasons include: short-sighted voters; short electoral cycles; problems of representing future people; and the dominance of specific interest groups.²³³ Though voters can think through issues in both the short and long term, voters tend to be myopic in nature and vote for candidates that are most likely to support their interests and have platforms that are reasonably attainable over the course of their respective term. This then results in electoral candidates who pursue concrete platforms which result in deliverables over

²³³ Mackenzie, Michael. *Future Publics: Democracy, Deliberation and Future-Regarding Collective Action*. New York: Oxford University Press. 2021. Pg. 20.

the course of their electoral term, as opposed to pursuing platforms with long-term issues which are unlikely to be fulfilled in an election cycle. Democracies also tend to have short election cycles which makes it difficult for long-term policies to be developed effectively, since governments can change often, resulting in a potential shift in what policies are being pursued depending on the political parties that hold power. Furthermore, democracies also do not have effective institutions that enable the representation of future individuals, groups, or generations. However, there are some examples of offices for future generations that have been set up in a range of different countries like in Israel and Hungary, which suggest the prospect of having more special branches of government that expressly focus on future generations. Finally, democratic processes tend to be stifled in cases where specific interest groups can dominate or influence the legislative process. Graham Smith argues that economic elites in capitalist societies are incentivized to influence the legislative process, which in turn structures the types of policies that governments pursue.²³⁴ These four issues in combination essentially create the problem of balancing short-term interests with long-term interests, and effectively prevent democracies from being able to resolve long-term issues like climate change.

To date, democratic theorists focusing on long-term decision making in democracies have presented some potential solutions to the problem of representing future generations. Mackenzie suggests that future-focused institutions could correct short-term biases in democracies and could achieve a better balance between the interests of present and future people. He claims that the major source of myopic short-term policies is based on two things. First, people living in the present tend to favour near benefits over far benefits and are generally impatient. Second, there is a utility focus on present gain over future gains as the future is discounted because of a lack of

²³⁴ Smith, Graham. *Can Democracy Safeguard the Future?* Polity Press. 2021. p. 23.

knowledge or uncertainty of what the future holds.²³⁵ The argument that Mackenzie puts forth to mitigate the misrepresentation of future generations is through the creation of an institutional body that represents the interest of future generations and granting this body special powers to protect the interests of future generations. Furthermore, he argues that comprehensive institutional reform is necessary in democracies to integrate the interest of future generations and to address intergenerational issues.²³⁶ Building on Mackenzie, Arija Karmein states that democracies are intrinsically ill-equipped to deal with long-term issues because of the short-term orientation of democratic politics.²³⁷ The representation of future generations in present day institutions are made by currently living individuals who can be construed as being intergenerationally biased as they may prioritize the interests of the present against the interests of future generations within this representative process.²³⁸ Furthermore, the epistemic problem in democracy limits our knowledge and information of the preferences of future people, but we can assume basic interests that people may have. The danger of the epistemic problem applied to intergenerational justice is that there is a projection of present interests to future people and that epistemic difficulties tend to undermine future interests.²³⁹ Karmein claims that one potential solution to addressing the problem of representation and the epistemic problem is through an appeal to Jane Mansbridge's idea of surrogate representation. Jane Mansbridge's idea of surrogate representation involves legislators representing people outside of their districts and that

²³⁵ Mackenzie, Michael. *Institutional Design and Sources of Short-termism* in *Institutions for Future Generations* edited by Inigo Gonzales-Ricoy and Axel Gosseries. Oxford University Press. 2016. p. 25.

²³⁶ *Ibid.*, p. 42.

²³⁷ Karmein, Arija. Can we Represent Future Generations? In *Institutions for Future Generations* edited by Inigo Gonzales-Ricoy and Axel Gosseries. Oxford University Press. 2016. p. 83.

²³⁸ *Ibid.*, p. 85.

²³⁹ For an overview of the challenge of the epistemic problem in democracy see: Schwartzberg, Melissa. Epistemic Democracy and Its Challenges. *Annual review of Political Science*. Vol. 18. 2015. p. 187-203. For a discussion of the epistemic condition and its effect on policies for future generations see: Beyleveld, Deryck, Marcus Duwell and Andreas Spahn. Why and How Should We Represent Future Generations in Policymaking? *Jurisprudence: An International Journal of Legal and Political Thought*. Vol. 6, No. 3. 2015. p. 552.

a surrogate representative needs to be elected to be legitimate.²⁴⁰ The problem for intergenerational justice and promoting the interests of future generations in a representative democratic institution is that a future person does not presently exist to be elected and thus cannot be considered legitimate. For the interests of future generations to be represented in democratic institutions, a proxy is required. Thus, this idea of surrogate representation in democratic institutions applied to future generations, for Karmein, can sufficiently represent the interests of future generations if the proxy representative can maintain a consistent duty to the interests of future generations independent from the interest of present generations. Next, I turn to the first of two institutional approaches to resolving the tension between short- and long-term problems, namely, a technocratic solution.

At the level of domestic institutions, there are two significant examples of democratic future-oriented institutions that aim to represent the interests of future generations in a technocratic manner by setting up offices of the future. The first example is the Israeli Commission for Future Generations between 2001 and 2006. In March 2001, the Knesset, Israel's parliament, established a Commission for Future Generations. The Israeli Commission for Future Generations appointed a commissioner that was empowered to examine any parliamentary bill and legislation that was judged to have potential harm on future generations and to express this harm during legislative deliberations or as an addendum to bills being created.²⁴¹ The purpose of such a commission was to enhance long-term thinking on sustainability among policymakers in the state of Israel and to ensure these considerations are included in all legislation. In practice, the Commissioner had extensive rights to information and

²⁴⁰ Mansbridge, Jane. *Rethinking Representation*. The American Political Science Review. Vol. 97, No. 4. 2003. p. 522.

²⁴¹ Shoham, Shlomo and Nira Lamay. *Commission for Future Generations in the Knesset: Lessons Learnt* in the Handbook of Intergenerational Justice edited by Joerg Tremmel. Edward Elgar. 2006. p. 254.

participation in the political process but was able to delay the political process to evaluate bills to ensure that they would not harm future generations. The Israeli Commission effectively had informal veto powers over lawmaking which prevented laws from being able to be passed. This generated substantial tensions between the Commission and Israeli legislators as bills and proposals as the Commission had the power to examine any bill or proposal to ensure that they were in the interests of future generations. However, the Israeli Commission was abolished in 2006 as the costs of its operations were too great and the commission was viewed as having too much authority that interfered in the legislative process.²⁴² Put simply, the authority of the commission to promote the interests of future generations resulted in slowing down and preventing the legislative process from being able to create and pass bills in a timely manner because they did not consider the interests of future generations; thus, preventing new laws from being created. After 2006, the Israeli government changed and named budgetary concerns as the primary reason for why a new commissioner was not appointed. To date, the

The second major example is the Hungarian Parliamentary Commissioner for Future Generations which was established in 2008 as part of an overarching statute that created an ombudsperson for civil rights to reinforce environmental protection and to safeguard intergenerational justice.²⁴³ There were two goals in mind for the Commissioner for Future Generations. First, the Commissioner for Future Generations attempted to better understand our obligations to future generations. This goal was largely sparked as a result of a need to protect natural resources at a constitutional level by stating that the environment was part of Hungary's common heritage and named the Hungarian government and its citizens to protect, sustain and

²⁴² Boston, Jonathan. *Governing for the Future: Designing Democratic Institutions for a Better Tomorrow*. Emerald Publishing. 2016. p. 358.

²⁴³ Ambrusne, Eva T. *The Parliamentary Commissioner for Future Generations of Hungary and his Impact*. *Intergenerational Justice Review*. Vol. 10, No. 1. 2010. p. 18.

preserve the environment for future generations. Second, the commissioner aimed to safeguard a healthy planet for both present and future generations to enjoy.²⁴⁴ In doing so, the commissioner established a direct link between the environment, the interests of future generations and basic constitutional rights like the right to a healthy environment and the right to physical and mental health. The commissioner was institutionally designed to be a representative that ensured the fundamental right to a healthy environment as enshrined in Hungary's constitution, and was appointed by the Hungarian Parliament to represent the interests of the public. However, in 2012, the Parliamentary Commissioner for Future Generations was integrated into the Office of the Commissioner for Fundamental Rights. Within the Office of the Commissioner for Fundamental Rights, there are two Deputies for the Commissioner for Fundamental Rights, one of which is responsible for the protection of the interests of future generations. The deputy advises and gives opinions on the drafting of legislation and laws that result in long-term development or may affect future generations.²⁴⁵ Since 2017, Gyula Bandi is the deputy commissioner for fundamental rights within Hungary's Ombudsman for Future Generations. Today, there are two significant powers that the deputy commissioner can exercise. First, the deputy commissioner can initiate or investigate cases where there is a strong belief that legislation may violate the rights or interests of future generations. Second, the deputy commissioner can also examine national and local legislative actions, policy developments and proposals to ensure that they do not adversely harm the environment or future generations. In sum, both of these cases highlight the potential of how the interests of future generations might be protected by setting up offices of

²⁴⁴ Ibid., p. 20.

²⁴⁵ Ibid., p. 23.

the future that create special branches of government which are led by qualified experts to address long-term issues like climate change for future generations.

In both the Israeli and Hungarian examples, they are future-representing institutions in democratic societies. Representing future generations, as an indeterminate group of people, comes with significant logistical difficulties. One of these difficulties involves designing institutions in a way that enables future generations to have their interests represented in a way that does not dominate the legislative process in the present, like in the case of the Israeli Commission. Another difficulty is in the efficacy of such an intergenerational, future-focused institutional body. While future generations can be represented by present generations, present generations are not future generations; thus, their interests are likely to be imperfectly represented.²⁴⁶ Furthermore, if the interests of future generations could be represented in a meaningful way, we would need a way for these interests to be realized, especially against a backdrop where it is only present generations that would be able to legislate future-focused policies.

Thus, two problems arise. The first problem is how policies we make today for future generations may not accurately capture their interests, ideas, or views. While we can reasonably assume a basic standard of rights and interests that are common to all human beings irrespective of generation, all policies that are created are intended to have some impact in the present, both in the short and long term, and we ought to better create policies that protect future generations and their respective interests as well. For example, present generations might opt for investing in green technologies with the hope that it would bring our global emissions level down to a

²⁴⁶ Jensen, Karsten. *Future Generations in Democracy: Representation or Consideration?* Jurisprudence: An International Journal of Legal and Political Thought. Vol. 6, No. 3. 2015. p. 538.

sustainable rate. At first glance, this appears to be a positive policy, if it can result in developing meaningful technologies that can lower our environmental footprints. However, there is the possibility that such a policy would not be in the interest of future generations in the event that the new technologies that are developed ultimately fail to improve or protect our environment and end up being large economic ventures with little environmental payoff. Therefore, institutional mechanisms ought to be developed in a way that allows the space for present generations to create laws and policies that can protect future generations, but also to enable future generations to be able to create their own respective laws and policies that reflect their own preferences and views, independent of present generations.

The second problem is the creation of biased policies in favour of present generations, since the policies we construct today for future generations are made by current generations. This is understood as the problem of presentism. Presentism is defined as an ethical framework that emphasizes the interests of present generations while denying that future generations have full moral standing.²⁴⁷ Presentists argue that most people hold altruistic preferences concerning the welfare of their children and grandchildren, and that these preferences provide the most appropriate basis for balancing short-term costs with long-term benefits in the context of environmental policy.²⁴⁸ Within our current democratic processes, there are significant checks and balances as well as oversight in the legislative and policymaking process to ensure that the laws and policies we create are fair, just, and representative of our current population. However, when looking at intergenerational problems of climate change and pollution, democracies are ill-equipped to tackle long-term issues given the potential for frequent changes of power in

²⁴⁷ Howard, Richard. *Intergenerational Justice*. in the Oxford Handbook of Climate Change and Society. Edited by John Dryzek, Richard Norgaard and David Schlosberg. Oxford University Press. 2011. p. 340.

²⁴⁸ *Ibid.*, p. 341.

government and the inability to represent future generations in a meaningful way. As such, it is more likely that policy-making processes under our current democratic framework will continue to create policies that have immediate or short-term effects as opposed to intergenerational, long-term effects.²⁴⁹

To remedy the myopic intergenerational shortcoming of presentism in the legislative and policy-making process, institutional innovations to enable greater representation of the rights and interests of future generations are necessary. In both the Hungarian and Israeli examples, the takeaway is that institutional innovations are necessary to do justice to future generations, but more work needs to be done to grant greater agency to the representation of future generations and to ensure that this representation is as free of bias as possible. While there have been steps at the level of domestic institutions to create offices for future generations like in the case of Israel and Hungary, I think stronger democratic institutions are needed. This is primarily because domestic offices for future generations have not historically fared well representing the interests of future generations in domestic affairs and have been criticized on the grounds that these bodies tend to take precedent over traditional democratic institutions that reflect the interests of current generations.²⁵⁰ Next, I turn to the democratic institutional approach as a potential solution to balancing short- and long-term interests.

As mentioned earlier, democracies are criticized for being unable to look past short-term interests in favour of long-term interests. The criticisms effectively fall into two categories, namely citizens and institutions. On the one hand, citizens are criticized for being myopic in

²⁴⁹ Jacobs, Alan. *Policy Making for the Long Term in Advanced Democracies*. Annual Review of Political Science. Vol. 19. 2016. p. 443.

²⁵⁰ Lewis, Bridget. *Human Rights Duties Towards Future Generations and the Potential for Achieving Climate Justice*. Netherlands Quarterly of Human Rights. Vol. 32, No. 3. 2016. p. 221.

nature, a claim that I will contend and demonstrate that citizens are in fact able to address issue areas with an eye towards the future. While citizens can both pursue short-term and long-term interests, the problem is that democratic institutions are set up in such a way where short-term interests are prioritized over long-term interests, which effectively conditions citizens to pursue short-term interests and to compromise their long-term interests. However, if we get citizens in other settings, like citizen assemblies or mini-publics, citizens can be future oriented and can directly contribute to discussions and deliberations that focus on long-term issues like climate change. On the other hand, democratic institutions reinforce the pursuit of short-term interests in their electoral and economic systems as well as possessing institutional difficulties in representing future generations. Democratic institutions as they exist today are currently constituted in such a way to have a tendency towards myopic, short-term decision making. An effective solution to better pursue long-term interests in democracies then requires rethinking citizens as not only merely constituents that care about short-term issues and creating alternative avenues to engaging in democratic participation that enable citizens to democratically participate in deliberations on long-term issue areas like climate change. Here, Graham Smith offers a participatory approach to deepening democracy based on deliberative mini-publics, digital and physical democratic participation in a way to directly involve people into decision-making processes for long-term issues.²⁵¹ For Smith, he argues that the current strategies we have to protect future generations are inadequate since they do not directly involve citizens, and that one way to do so is to redesign institutions in a way that bring citizens to the front and center of decision-making processes which can aid in reforming legislative practices, integrating constitutional provisions for future generations, and creating new offices for future

²⁵¹ Smith, Graham. *Can Democracy Safeguard the Future?* Polity Press. 2021. p. 108.

generations.²⁵² In light of Smith's participatory approach to deepening democracy, the French Citizen's Climate Assembly is one example that illuminates the prospects of being able to democratically pursue long-term interests outside of the traditional model of democratic institutions.

In April 2019, France's President, Emmanuel Macron, announced the creation of the French Citizen's Convention for Climate (also known as the French Citizen's Climate Assembly) with the goal of giving French citizens a voice to accelerate the fight against climate change. The mandate of the citizen assembly was to define a series of measures that would allow France to achieve a reduction of at least 40% of its current greenhouse gas emissions by 2030 in the spirit of social justice.²⁵³ The French Citizen's Climate Assembly was established in October of 2019 and ran until June of 2020, where 150 citizens were drawn by lottery to participate in learning more about climate change, debating what measures to propose, and to prepare draft laws on all potential ways to combat climate change. During the course of the meetings of the citizen assembly, participants listened to expert briefings from climate, agricultural and commerce think tanks; were educated in environmental regulation and finance; learned about France's major sources of emissions, and deliberated on key issue areas that would be impacted by environmental policies like housing, transport, fashion, plastics and food. The outcome of the convention resulted in 149 proposals that were unveiled to the French government, including proposing ranging from cutting taxes on train tickets, regulating advertising on polluting products, banning domestic flights on journeys that could be accomplished by train in under four hours. Macron accepted all but 3 of the 149 proposals, but divisions emerged between the

²⁵² Ibid., p. 110.

²⁵³ Convention Citoyenne pour le Climat. *The Citizen's Convention on Climate, What is it?* URL: <https://www.conventioncitoyennepourleclimat.fr/en/>

government and the citizen assembly.²⁵⁴ These divisions effectively prevented these policies from being implemented as they were seen as being too radical and not aligned with the interests of politicians, stakeholders and industry. In December 2020, some officials believed that the convention had gone too far and exceeded their advisory role, while Macron defended the work of the citizen assembly.²⁵⁵ Most recently, the French government published its proposed climate bill in January of 2021, and it includes about 40% of the proposals made by the citizen assembly.

What the French Citizen's Assembly shows us is three things. First, citizens outside of a traditional electoral system, can think through long-term issues like climate change when they are unconstrained by electoral cycles. This is because traditional electoral cycles involve a great deal of strategic platforming on the part of politicians running for office, and in some cases, strategic voting from voters to ensure a positive election outcome. Within the citizen assembly, the 150 citizens that were selected by lottery were able to directly participate in the creation of 149 proposals related to environmental protection through various consultations with industry experts and without influence from politicians and political processes.²⁵⁶ This enabled the citizens assembly to develop proposals that address climate change and environmental degradation. Second, though the citizen assembly is an example of direct deliberative democracy in practice, it is limited in what it can and cannot do. The proposals that were developed in the assembly were only meant to be advisory in nature, meaning that the proposals that were created were only meant to inform politicians and policymakers, and were not binding as enforceable law or policy. This meant that while citizens can be informed of long-term issues and pursue potential solutions to those problems, the recommendations made by the assembly still need to

²⁵⁴ Giraudet, Louis-Gaëtan, et al. *Deliberating on Climate Action: Insights from the French Citizens Convention for Climate*. Working Paper. 2021. Pg. 9.

²⁵⁵ *Ibid.*, p. 10.

²⁵⁶ *Ibid.*, p. 6.

be filtered through the French Parliament and President. Optimistically, this would mean that if environmental recommendations made by citizen assemblies are effective and can solve problems associated with climate change, future citizen assemblies may emerge in the future. Pessimistically, citizen assemblies do not hold any form of political power and exist merely as an advisory body to government officials. This could mean that citizen assemblies could be bodies where direct democracy and deliberation could emerge to discuss pressing issues, but the recommendations that emerge from these assemblies may not be implemented in public policy. Third, from an institutional perspective, not all citizens would be able to participate in the assembly, since participants were randomly selected. The 150 citizens that were randomly selected with the goal of ensuring that there was a good balance of gender, age, education, employment, residency, and location in relation to French society. Practically speaking, having the random selection of 150 citizens to participate in an assembly is feasible to implement, but the broader public would not be able to directly participate in the processes of developing key recommendations for government officials. In other words, the French Citizen's Assembly, which involved creating a small representative body that encompasses French society as a whole to deliberate on issues of climate change, ends up excluding the majority of society from being able to directly engage on issues of climate change. However, as I will show later, and more substantively in the next section that while democratic innovations in terms of institutions can be effective in getting citizens together to discuss and deliberate on long-term issues, we need a deeper moral conversion to cosmopolitanism because most people do not get to participate in citizen assemblies and those that do should adopt a cosmopolitan perspective to have a more future-oriented view of environmental protection. Thus, democracy is not so much the reason for why we cannot balance short-term interests with long-term interests, but rather democratic

innovations in the form of citizen assemblies can provide settings for citizens to be future-oriented, like in the case of the French Citizen's Assembly. Next, I turn to a discussion of political will and how a cosmopolitan perspective is going to be helpful in promoting long-term decisions to be made at both the domestic and international levels.

Despite all the science behind climate change and pollution, recognition from governments, agreements, laws, and policies developed by international institutions, and citizen participation in institutional innovations to protect future generations from the effects of climate change, we are still falling short in terms of arriving at a palatable solution to protect the environment for present and future generations. The key puzzle to address here is why citizens, national governments, and the international community, despite recognizing the seriousness of climate change, are unable to take the steps necessary to adequately address the crisis. This is a problem of political will. We know we are in a climate crisis; we know that we need to do something about it; but we are unable to take the necessary action.

The problem of political will can be framed in terms of three key issues. First, there is the problem of the absence of sufficient responsibility of political leaders to protect the environment.²⁵⁷ Though there is broad recognition of climate change, pollution and environmental degradation as the problem of our time and an intergenerational dilemma that will impact future generations to come, recognition alone does not provide the sufficient political will necessary to generate the needed collective responsibility to resolve the issue at hand. The French Citizen's Assembly provides a good example in which French citizens were able to come together, learn, discuss, and deliberate on climate issues to provide recommendations on what the

²⁵⁷ Siaz, Angel Valencia. *Globalisation, Cosmopolitanism and Ecological Citizenship*. Environmental Politics. Vol. 14, No. 2. 2005. p. 164.

government ought to do to better address climate change. However, the citizen assembly was unable to directly translate all its recommendations into public policy and law as it was only consultative. Political leaders in Parliament came under additional pressure from unions and energy industry lobbyists that resulted in a failure to adopt and move forward on the most significant of the Assembly's recommendation. This shows us that creating the political will to affectively address climate change is not only or even primarily about getting ordinary citizens on board, but that it is also about ensuring the political leadership prioritize these policy initiatives.

Alongside political leaders, cooperation between states is necessary to protect future generations around the world. This is because collective action problems like climate change requires a political will that agrees on the issue at hand, how to resolve it, and what positive impacts are generated by resolving climate change.²⁵⁸ Climate change understood as a collective action problem might enable us to reconceptualize how we frame environmental rights and future generations, as we tend to think of future generations as individuals or small groups that are impacted by our decisions today. An alternative to this would be to think of environmental rights and future generations as a communal group that will be impacted by our actions today as provides a stronger justification to protect future generations.

Second, there is the problem of electoral terms connected to environmental challenges, where institutions are ill-equipped to resolve long-term policy issues like pollution and climate change²⁵⁹. As mentioned earlier, our current democratic institutions are ill-equipped to address long-term, intergenerational issues due to the limitations of electoral terms and the practical

²⁵⁸ Ibid., p. 165.

²⁵⁹ Mackenzie, Michael. *Institutional Design and Sources of Short-termism* in *Institutions for Future Generations* edited by Inigo Gonzales-Ricoy and Axel Gosseries. Oxford University Press. 2016. p. 31.

problems of representation when creating policies and laws for future generations. However, the French Citizen's Assembly emerged outside of the political process and electoral cycle, which shows us that ordinary citizens are more likely to take a long-term view on policy issues, while in elections, policy issues tend to be framed in a partisan manner, which enables citizens to pursue or prefer short-term policy platforms. While there have been domestic institutional innovations in recent years to better represent and protect the interests of future generations, more work is needed to ensure that the rights and interests of future generations can be fully respected. At the international level, we do not yet have the political will necessary to create an appropriate framework or institution to compel states to accept an international order that will hold nations accountable and responsible for their pollution levels. What we do have at the international level is that environmental concerns are broadly recognized as a major political agenda by the UNEP, international environmental law, international financial institutions that execute agreements, and other related treaty organizations, but current international governance on climate change and environmental issues leaves much to be desired. This is to say that because democratic institutions are designed to have electoral cycles every few years, it results in policy agendas being shifted and skewed to address short-term over long-term issues; thus, democratic innovations are necessary to reconceptualize how democracy can better tackle long-term issues given its institutional limitations.

Third, human societies today are still heavily premised on cultures of consumption and a general unwillingness to shift away from traditional forms of mass production which negatively impacts the environment.²⁶⁰ There needs to be a shift in how we as people consume resources and affect our environment, and a shift from industry to move towards more sustainable forms of

²⁶⁰ Giddens, Anthony. *Politics of Climate Change*. Polity. 2009. p. 31.

production that can offset our carbon footprints. Our track record by way of resolving salient policy areas is strengthened when issue areas are identified to be urgent areas of concern which overcome our political inertia to solve policy issues. The issue of political inertia to resolve policy issues is framed through economic cost-benefit analysis, motivations to act, and the effects that policies may have in the future.²⁶¹ Thus, we need to rethink our usual lethargic policy response to long-term environmental issues in a way that frames them as being issues of imperative concern. Simply put, these three problems, framed together as the problem of political will, can be understood as pursuing short-term political and economic interests over long-term environmental interests.

Considering the problem of political will and the institutional limitations that currently exist for us to be able to adequately respond to climate change as a long-term issue, I suggest that technocratic solutions in terms of creating offices for future generations can be helpful in getting experts into discussions and deliberations of how to create policies to protect the environment for future generations, but the actual outcome of these technocratic institutions has been ineffective as offices for future generations tend to be subverted by existing political bodies or discounted, and have been criticized for taking too much time and emphasis away from legislative processes. Alternatively, democratic institutions can be effective in creating a stronger political will on the part of citizens to consider long-term issues like climate change, but there are limitations on political participation. While deliberative institutional innovations can greatly inform citizens about long-term issues outside of conventional democratic processes, these innovations are limited in terms of which citizens can participate and to what extent do these innovations lead to

²⁶¹ Gardiner, Stephen. *The Ethical Tragedy of Climate Change: A Perfect Moral Storm*. Oxford University Press, 2011. p. 186.

relevant policy or legal outcomes. In light of these two innovations, I argue that we need a deeper moral conversion to cosmopolitanism for democratic innovations to resolve long-term issues because most people do not get to participate in citizen assemblies and those that do should realize that they are adopting a cosmopolitan perspective to have a more future-oriented view of environmental protection. This is because cosmopolitanism as a moral theory advocates for universal citizenship and/or universal political community based on one's humanity, and that our obligations to other people do not stop at our borders or nationalities. When looking at issues of democracy as they intersect with climate change, it is easy for states to focus on domestic issues and their respective constituents and to disregard the duties and responsibilities we have to other human beings that reside in other nations. It is expressly through a cosmopolitan vision of universal community where human beings as citizens of the world can better act to resolve climate change at all levels, from the local to the global. This involves learning about the effects that local actions can have on the world, and collectively taking responsibility for climate change. Furthermore, extending this to the international level, we need to develop a more robust set of cosmopolitan institutions to resolve climate change because climate change is a global issue and our current actions and solutions do not really solve it at the global level. This involves reforming international institutions to be more cosmopolitan in nature as currently states tend to prioritize domestic interests over international interests and developed states are falling short in terms of taking on greater responsibility for their contributions to climate change. Reforming international institutions to be more cosmopolitan will enable us to better realize global justice through international institutions that promote greater equality for all human beings. In the next chapter, I examine the prospects of cosmopolitanism as both a moral theory of universal community and institutional theory of global justice as providing a compelling argument to

theorize a normative solution to the problem of political will, intergenerational justice, and climate change.

3.5 Conclusion

In this chapter, I examined the responsibilities that present generations have to future generations. To do so, I looked at two common philosophical arguments for denying responsibilities to future generations made by Derek Parfit and John Dunn. I found neither argument to be persuasive. They ultimately fail to override our obligations to future generations to protect the environment. Because present generations are aware of the intergenerational environmental harms of pollution and climate change, failing to act to protect the environment constitutes a failure to protect the rights and interests of future generations. Thus, I suggested that a stronger, proactive response is needed to protect future generations from pollution and climate change as the cost of inaction is too great. To do so, I then examined the moral duties and rights we have to future generations. This resulted in three key contributions. First, present generations have a duty to protect the environment for future generations because we are aware of the harms of climate change and protecting the environment would result in protecting the moral human rights of future generations. Second, present generations have a moral duty to protect the moral rights of future generations to do justice to the universal idea of human rights for all based on their humanity. Third, to realize our moral duty to protect the moral rights of future generations, I claimed that we need to create institutions that can effectively create laws or policies that can recognize the agency of future generations and protect their rights, as our current institutions fall short; therefore, institutional innovations are needed to protect the moral rights and interests of future generations. Finally, this chapter examined some potential solutions to protect future generations and promote long-term interests. The two main institutional

approaches consist of a technocratic approach which involves setting up offices of the future, like the Israeli Commission and the Hungarian Ombudsman, and a democratic approach, which involves institutional innovations to better enable citizens to directly participate in deliberations of long-term issues like climate change. The technocratic approach; however, has not yielded much success, while the democratic approach provides some potential pathways to improve democracies to be more future-oriented. Thus, to resolve the problem of climate change we need institutional innovation at the both the domestic and international level to protect future generations as well as to rethink the problem of moral responsibility from the perspective of future generations to give us the sufficient political will necessary to think through long-term policy problems.

The next chapter will show that a cosmopolitan perspective can galvanize the necessary political will to make ordinary citizens more informed about climate change, and that by having more cosmopolitan international institutions it can aid us in resolving climate change as a global issue. I focus on three key aspects. First, I provide an overview on the history of the cosmopolitan tradition and show why it is a compelling theory of universal community and global justice that can address collective action dilemmas like climate change. Next, I show why cosmopolitanism matters for questions of intergenerational environmental justice, and why instilling a cosmopolitan mindset is necessary for promoting intergenerational justice, as well as the implications of what this might look like on the part of everyday citizens. Lastly, I examine global citizen climate assemblies as an international institutional innovation that ought to be more cosmopolitan in nature to better promote greater global governance on climate change.

CHAPTER IV – A COSMOPOLITAN APPROACH TO INTERGENERATIONAL CLIMATE JUSTICE

“If I knew of something that could serve my country, but would ruin another, I would not propose it to my prince, for I am first a man, and only then a Frenchman...because I am necessarily a man, and only accidentally am I French.” - Montesquieu, *Pensées Et Fragments Inédits de Montesquieu*, Vol. 1.

“I am urging that we should learn about people in other places, take an interest in their civilizations, their arguments, their errors, their achievements, not because that will bring us to agreement, but because it will help us get used to one another” – Kwame Anthony Appiah, *Cosmopolitanism: Ethics in a World of Strangers*.

“We are the first generation to feel the effects of climate change and the last generation that can do something about it.” – Barack Obama, President of the United States at the U.N. Climate Change Summit

Chapter 4.1 – Introduction

Montesquieu identifies himself as a cosmopolitan in the sense of being open-minded and impartial towards difference and the “other”. For Montesquieu, to be cosmopolitan meant refusing to be subservient to a particular religious or political authority, and rejecting the bias of national affiliations, particular loyalties, or cultural preferences.²⁶² Today cosmopolitanism has shifted towards promoting universal citizenship or global justice, while still maintaining the spirit of Montesquieu’s ideal. In this chapter, I focus on cosmopolitanism as a moral theory of universal community and its implications for intergenerational climate justice. This chapter will do three things. First, I introduce cosmopolitanism and its rich historical tradition and show why it is a persuasive theory that can help us frame and ultimately address pressing global issues like climate change. Second, I argue that cosmopolitanism encourages us to think of ourselves as citizens of the world. Such a self-understanding leads, on the one hand, to embracing individual responsibility for protecting the environment in our day to day lives and, on the other hand, to pushing governments from the bottom-up to pursue environmental policies for the interests of all. Third, I

²⁶² Montesquieu, Charles de Secondat. *Pensées Et Fragments Inédits de Montesquieu*, Vol. 1. Wentworth Press, 2019. pg. 350

argue that global citizen climate assemblies are an innovative and promising cosmopolitical global institution that can develop just environmental policies at the international level to effectively address climate change.

Chapter 4.2 – The Cosmopolitan Tradition and the Case for Cosmopolitanism

Diogenes the Cynic in Ancient Greece is often thought to be the earliest Western cosmopolitan. Diogenes, when asked where he came from, and where his loyalties lay, he stated, “I am a kosmopolite, a citizen of the world!”²⁶³ In this statement Diogenes was challenging the centrality of the polis or city state to Greek identity and conceptions of loyalty and belonging. While many Greeks thought that the polis was a natural unit similar to the family, Diogenes exposed it as a conventional rather than natural unit. Indeed, for Diogenes all the political divisions between humans were mere conventions and not anchored in nature. Diogenes had no interest in a world state, as something we often associate with modern interpretations of cosmopolitanism. Instead, he was interested in fostering a way of life that was in conformity with nature, and this meant a way of life that ignored or rose above the conventional divisions between individuals. These divisions included political affiliations but also one’s social status in society.

The rejection of convention and the seeking out of the natural way of life is the root of cosmopolitanism because it opens the door to the idea of belonging to humanity, as a natural category, rather than belonging to any social or political group. Diogenes spoke of being a citizen of the world, but he did not understand citizenship in political terms as we conceive of it today. Today, this original intuition has been translated into a sophisticated moral and political

²⁶³ Long, A. A. *The Concept of the Cosmopolitan in Greek & Roman Thought*. *Daedalus*. Vol. 137, No. 3. 2008. p. 50.

philosophy that understands citizenship more concretely than did Diogenes, or at least, from what we know of Diogenes ideas. Today, cosmopolitanism is primarily thought of as an approach to global justice with an appeal to universal equality. There is considerable difference in how thinkers articulate this cosmopolitan ideal, ranging from open borders to a world state, but the core egalitarian and emancipatory ideal is effectively the same, where all human beings ought to have equal moral worth, irrespective of their differences. How might we be able to achieve this vision of being a citizen of the world? Diogenes thought that a radical rejection of all social conventions would bring us closer to a life lived in accordance with universal values of nature. Modern cosmopolitans focus on the particular conventions that block us from seeing our shared humanity. Chief among such conventions are nation-state identifications in the form of one's citizenship. The takeaway is for us to question whether it is possible for an individual to be a citizen of a particular state and to also be a citizen of the world.

The Stoics were influenced by the Cynics ideal of living according to nature but did not interpret that way of life as a radical rejection of all social conventions. Rather, the early Stoics believed that living according to nature meant living according to universal principles that could be deduced from nature. Rather than rejecting all parochial political affiliation, Stoics often stressed that existing political units, like the city-state or ancient empires alike, should conform to universal principles found in nature. But as Stoicism developed in the ancient world, that connection between the individual and the universal law of all humanity became an internal affair of personal rectitude and psychic conformity with nature. Ironically, this led to the opposite sort of behavior to Cynics. While Cynics behaved in shocking and unconventional ways, Stoics especially in Roman Stoicism, internalized all their universality and so outwardly they were very conformist. But both these intellectual movements can be seen as the precursors

to modern cosmopolitanism because both explore the significance of thinking of oneself as a member of humanity before any other affiliation. Seneca argued that there are two human communities, the first being a truly common community that embraces all gods and men, and the second is a community that we are assigned by the accident of our birth.²⁶⁴ Seneca's claim here is that we ought to focus on the first truly common cosmopolitical city and that we should derive our moral guidance from universal principles, as opposed to taking moral guidance from our empirical local political communities. Stoic cosmopolitanism varies across thinkers and practices but the overall argument is that we ought to affirm our common humanity and engage in actions that promote the good of the whole species.

The takeaway from the classical interpretation of cosmopolitanism from Diogenes to the Stoics is that it was primarily a criticism of taking the city state or empire as one's moral guide.²⁶⁵ The early formulations of cosmopolitanism show us that it did not emerge as a grand scale project we might think of it today as either a project of universal citizenship or promoting global justice, but rather emerged as a range of beliefs, practices, and inner psychic order that rejected parochial, cultural, and conventional systems as sources of the good or happy life. The search for a sense of belonging to a world order has a long history in Western philosophy, but I turn to Kant as the most influential voice of cosmopolitanism in its Enlightenment revival who provides a modern articulation of cosmopolitanism. Kant offers an approach to cosmopolitanism which he defines as a cosmopolitan right that reinforces being a citizen of a state while simultaneously enabling the possibility of treating all human beings equally through his notion of universal hospitality.

²⁶⁴ Sellars, John. *Stoic Cosmopolitanism and Zeno's Republic*. History of Political Thought. Vol. 23. No. 1. Spring 2007. p. 2.

²⁶⁵ *Ibid.*, p. 6.

Immanuel Kant in his 1795 essay on *Perpetual Peace* offers three definitive articles that he believed could serve as a foundation on which states could build peace.²⁶⁶ In the context of cosmopolitanism, his third article is of interest. His third article states that the law of world citizenship shall be limited to conditions of universal hospitality.²⁶⁷ Kant outlines that universal hospitality means the right of a stranger who arrives on the shores of a foreign nation to not automatically be treated as an enemy. The idea of universal hospitality for Kant serves as a principle of human equality in that all strangers ought to not be treated as an enemy, but rather as humans that live in the world collectively. Furthermore, Kant posits that it is a human right to be able to use the earth for its natural resources for our survival. Since all people that inhabit this world share and partake in a limited amount of resources, the totality of the world is understood through what is to be shared and divided among the commons.²⁶⁸ This division of limited resources occurs through social human interaction, and he believes that this interaction is the basis of cosmopolitanism, through the sharing of limited resources.

Kant's vision of cosmopolitanism accepts citizenship as grounded in the nation-state, but simultaneously allows for the equal treatment of foreigners in the context of universal hospitality. This is to say that individuals that arrive on the shores of a foreign nation ought to be treated equally and not automatically as an enemy, but that these same individuals do not have the same rights and protections as citizens. In other words, Kant's approach is both a step in the right direction in realizing the universal equal moral worth of human beings, but also a step in the wrong direction. On the one hand, Kant affirms the idea of the nation-state which articulates

²⁶⁶ Kant's three definitive articles include: 1) The civil constitution of every state should be republican; 2) The law of nations shall be founded on a federation of free states; 3) The law of world citizenship shall be limited to conditions of universal hospitality.

²⁶⁷ Kant, Immanuel, and Hans Siegbert. Reiss. *Kant: Political Writings*. Cambridge: Cambridge UP, 1991. Print. p. 93.

²⁶⁸ *Ibid.*, p. 96.

a vision of partial political community, in that being a citizen of a particular community affords certain rights and benefits that non-citizens would not be entitled to; thus, compromising the emancipatory, egalitarian ideal of cosmopolitanism. On the other hand, Kant's appeal to universal hospitality reveals that non-citizens ought to be afforded a baseline set of rights and freedoms on the basis of being human, which is compatible with the cosmopolitan ideal of realizing the equal moral worth of human beings.²⁶⁹ Kant's idea of universal hospitality reveals a contradiction between upholding the cosmopolitan ideal of universal moral equality and the nation-state as the primary political actor that protects individuals and ensures political equality between their respective citizens. For Kant to compensate for this contradiction, he introduced the idea of universal hospitality to address the tension between universal moral equality and partial sovereignty. In doing so, Kant effectively argues that human beings as citizens of the world ought to be offered basic rights and freedoms through universal hospitality by states and in turn states can still maintain their own duties and obligations to their citizens. Kant is an important figure in the history of cosmopolitanism, as he also defines cosmopolitanism in his 8th Proposition in his essay, *Idea for a Universal History with a Cosmopolitan Purpose* as "the matrix within which all original capacities of the human race may develop".²⁷⁰ Alongside Kant's vision of universal hospitality, Kantian cosmopolitanism can be thought of as being concerned with the cultivation of a global environment where all human beings can fully develop their capacities.²⁷¹ In this sense, Kant maintained the necessity of a cosmopolitan principle that could appropriately reflect a universal respect for humanity.

²⁶⁹ Kleingeld, Pauline. *Kant and Cosmopolitanism: The Philosophical Ideal of World Citizenship*. Cambridge University Press. 2013. p. 49.

²⁷⁰ Kant, Immanuel. *Idea for a Universal History with a Cosmopolitan Purpose* in *Political Writings*, edited by H.S. Reiss. Cambridge Texts in the History of Political Thought. 2nd Edition. 1991. Pg. 50.

²⁷¹ Brown, Garrett Wallace. *Grounding Cosmopolitanism: From Kant to the Idea of a Cosmopolitan Constitution*. Edinburgh University Press. 2009.

Contemporary iterations of cosmopolitanism begin from a principle of moral universalism: arguing all humans are of equal moral worth, and this equal moral worth can be expressed in the form of global citizenship or universal political community. Such a vision of universal community offers us a critical alternative to the traditional state-centric view of citizenship that ties our duties and responsibilities primarily to our compatriots. Kwame Anthony Appiah argues for moral cosmopolitanism and argues that there exists a universal ethic that applies to all individuals irrespective of discriminating features.²⁷² Moral cosmopolitans focus on the interests and morals of human beings and that these interests and morals are globalized. Cosmopolitans are moral universalists in that they believe there is a universal ethic or moral code that applies to all individuals irrespective of race, culture, sex, religion, nationality, or any other discriminating features, and that cosmopolitanism is distinct as moral universalist theory as it points in the direction of organizing our lives in adherence to principles of cosmopolitanism. Appiah's definition of cosmopolitanism can be understood as universality plus difference.²⁷³ He argues that universality takes precedence over difference and applies this argument to human culture. Appiah states, "Different cultures are respected not because the differences in culture matter, but because people matter, and culture matters to people."²⁷⁴ Building on Appiah's ideas, differences between people ought to be respected as long they are not harmful to people and do not create conflicts with the universal concern for every other human's life and well-being. This results in a sufficientarian argument for human rights asserting that individuals ought to have a baseline of rights and freedoms to pursue their own interests so long as they do not result in

²⁷² Appiah, Anthony. *Cosmopolitanism: Ethics in a World of Strangers*. New York: W.W. Northon, 2006. Print. p. 13.

²⁷³ *Ibid.*, p. 13.

²⁷⁴ *Ibid.*, p. 15.

depriving another person's ability or capability to realize their respective interests.²⁷⁵ In Appiah's concept of cosmopolitanism, he introduces two ideas. First, that we have obligations to other human beings that extends past citizenship at the state level. Second, he outlines that we should never take for granted the value of life and we should aim to be more informed of the lives, practices, and beliefs of others. These two ideas present a "cosmopolitan standard", that reveal that we have obligations to other human beings that extend past borders, and that such boundaries are deemed to be morally irrelevant when it comes to the natural obligations that we have to other human beings.²⁷⁶ The takeaway for Appiah is that we suffer from a problem of political association in that we are myopic in how we conceptualize our political communities as being centered around the local to the national, as opposed to the global. We ought to look past the associations we have to people in our domestic contexts, and examine at a broader level, the responsibilities and duties we have to other human beings and humanity broadly construed. The goal for cosmopolitans is that we ought to assist people who need it on the principle of respecting as well as promoting human rights and justice.

Although embracing moral universalism as do all cosmopolitans, David Held takes the theory in a more political and institutional direction than Appiah. Held argues that democracy and cosmopolitanism can be entrenched in a global order to better promote global justice.²⁷⁷ Held's vision of democratic cosmopolitanism is understood in his terms as "overlapping communities of fate", where countries are overlapping with each other in terms of resources, politics, economics and culture.²⁷⁸ In this specific interpretation of democratic cosmopolitanism,

²⁷⁵ Caney, Simon. *Climate Change, Intergenerational Equity and the Social Discount Rate*. Politics, Philosophy and Economics. Vol. 13, No. 4. 2014. p. 325.

²⁷⁶ Ibid., p. 31.

²⁷⁷ Held, David. *Cosmopolitanism: Ideals and Realities*. Cambridge: Polity, 2010. Print. p. 21.

²⁷⁸ Ibid., p. 26.

countries around the world can find some level of common ground, like resources, politics, economics and culture and so on, and this common ground is what allows countries to adopt democratic principles and eventually globalize democracy in the spirit of cosmopolitanism. Held argues that the classical tradition of political theory has always been concerned with the characterization of the world that we live in, and how to develop and reach normative goals. Such goals include liberty, democracy, and social justice and how to move from where we currently are, to one of these goals. The challenge that Held undertakes in his work is to explore how globalization has altered the practice of politics, and how cosmopolitanism provides an ideal standard to rethink politics and the political good. In doing so, Held endorses a democratic iteration of a global cosmopolitan state. Democratic cosmopolitanism insists that all nation states ought to be democracies and that through globalizing democracy we can achieve the cosmopolitan ideal of universal equal moral worth.²⁷⁹ I suggest that while institutionalizing democracy is theoretically convincing, there are some practical issues to consider, namely the fact that not all countries want to be democratic, not everyone would agree to cosmopolitan principles, and that there is no guarantee that democracies can bring people together. As such, I suggest that institutional innovations are needed to improve democracies in such a way that bring people together, to discuss and deliberate on ideas and issues, and to come to meaningful conclusions or recommendations.

Today, cosmopolitanism is a contested concept in political theory and international relations theory, but there are some common premises that are accepted and acknowledged by cosmopolitan thinkers and theorists. These premises include: an affirmation of moral universalism, and the idea that all human beings belong to a single community which is

²⁷⁹ Held, David. *Globalization and Cosmopolitan Democracy*. Peace Review. Vol. 9, No. 3. 1997. p. 310.

expressed in terms of universal citizenship or universal political community.²⁸⁰ Thomas Pogge and David Held define three major tenets of cosmopolitanism which include: individualism, universalism, and generality. Individualism means that individual human beings, as opposed to groups or collective, and especially states, are the primary unit of concern and analysis. Universalism is the idea that every person, irrespective of class, gender, race, religion, or other distinguishing features is equally worthy of respect and recognition by others. Generality is the idea that the whole of humanity is entitled to fair and impartial treatment.²⁸¹ However, cosmopolitanism can be criticized along two major claims, namely that it is infeasible to practically implement in an institutional sense, and that the condition of generality can be problematized as human beings tend to have stronger attachments towards members of their own state or nation as opposed to humanity writ large. Institutionally, we are not at a place in time where we can implement cosmopolitanism in the form of a world state, and so we must look for ways to implement cosmopolitanism through the nation-state system. In terms of addressing the problem of stronger local and national associations with generality as a major tenet of cosmopolitanism, thinking about cosmopolitanism as something that emerges from the local to the global enables us to have citizens that both prioritize their local and national commitments with an eye towards the international community. In light of these criticisms, I assert that cosmopolitanism effectively broadens our view of citizenship to the global community at the

²⁸⁰ See Pauline Kleingeld's Stanford Encyclopedia entry on cosmopolitanism for a detailed definition of cosmopolitanism and the history of the idea of cosmopolitanism as well as her taxonomy of cosmopolitanism which include: cultural, ethical, moral and political cosmopolitanism. For the purposes of this dissertation, I expressly focus on moral and political cosmopolitanism.

²⁸¹ Held, David. *From Executive to Cosmopolitan Multilateralism* in *Taming Globalization: Frontiers of Governance* edited by David Held and Daniele Archibugi. Polity Press, 2003. p. 162. See also: Pogge, Thomas. *Cosmopolitanism and Sovereignty*. *Ethics*. Vol. 103, No. 1. 1992. p. 48.

international level and expands our obligations and responsibilities beyond the level of the state and towards humanity as a whole.

Cosmopolitanism is a distinctive and persuasive theory of universal community and global justice that can address collective action problems because it offers a unique point of view that shifts how we understand our obligations and responsibilities to other human beings. Today, states exist as the major unit of analysis for domestic and international issues, and though the nation-state can be effective at resolving local or domestic issues within its own sovereign jurisdiction, the nation-state system is ill-equipped to address collective action problems between states and citizens of different nations. There are two main reasons why the nation-state system today is ill-equipped to address global collective action problems.

First, the nation-state system operates under the principle of sovereignty as responsibility²⁸², meaning that states have the principal responsibility to assist and protect their own citizens, but if they are unable to do so, they ought to accept international aid. The concept of sovereignty as responsibility is linked to the Responsibility to Protect and mass atrocity which exists as a global political commitment to prevent genocide, war crimes, ethnic cleansing, and crimes against humanity, but I suggest that sovereignty as responsibility can be extended to climate change to protect all populations from human rights violations caused by environmental harms. In practice, states that cannot protect their own citizens can and do accept international aid, but this aid may come with conditionalities or that the aid offered is unable to effectively assist or protect affected citizens.²⁸³ When relating the principle of sovereignty as responsibility

²⁸² Deng, Francis et al. *Sovereignty as Responsibility: Conflict Management in Africa*. Brookings Press. 1996. p. 145.

²⁸³ Harris, Paul and Jonathan Symons. *Justice in Adaptation to Climate Change: Cosmopolitan Implications for International Institutions*. *Environmental Politics*. Vol. 19, No. 4. 2010. p. 618.

to collective action problems, states generally put the interests of their respective citizens above the interests of foreigners or non-citizens.²⁸⁴ However, collective action problems like climate change show us that high polluting states today continue to pollute at high levels to maintain their quality of life to pursue their own interests while indirectly harming the livelihood of other people living in climate-risk areas. The implication for global justice under the Westphalian state system is that pursuing or valuing the interests of citizens in one nation at the expense of others is a clear violation of cosmopolitan justice, where the interests of the citizens of one state ought to be weighed equally to the interests of citizens of another state.

The second reason for why the nation-state system is unable to address collective action problems is because citizens of nations carry specific beliefs, cultures, languages, religions, and they can conflict with the beliefs, cultures, languages, and religions of citizens of other nations. This is to say that differences between citizens of different nations is likely to result in issues of cooperation and coordination.²⁸⁵ These differences become significant when we are thinking of our obligations and commitments to other people. Citizens of a particular nation are more likely to aid and assist their own compatriots as opposed to citizens of another nation because of their shared beliefs, cultures, language, religion, and nationality. In other words, I as a Canadian citizen would feel more obligated to assist other Canadian citizens because I share similar beliefs, cultures, language, and religion to other Canadians as opposed to my obligations to a Brazilian citizen where we may have differences in belief systems, cultures, language, and religion. The problem with the Westphalian state-system is that the way in which it organizes people is primarily based on the location of their birth, and this form of social organization lays

²⁸⁴ Ibid., p. 633.

²⁸⁵ Kim, Hyun Seop. *An Extension of Rawls' Theory of Justice for Climate Change*. International Theory. Vol. 11, 2019. p. 168.

the foundation for people to primarily develop moral commitments to other similar people based on proximity as opposed to necessity. The implication for global justice under the Westphalian state system is that the organization of people based on their nationality as opposed to their humanity creates an unfair moral calculus where interests of citizens of one nation may be viewed as more important than the interests of citizens of another nation, which goes against the cosmopolitan spirit of promoting equal moral worth between human beings. Some examples of this moral calculus in action include how different issues are addressed at the international level with varying levels of representation by states. Historically, developed nations tend to have greater say and agenda-setting power than developing nations, and with something like climate change where most of the fault lies with high polluting developed nations, we are met with a conundrum. The conundrum is that developed nations are most responsible for climate change, have greater capabilities to respond to climate change, and tend to be valued more than developing nations, but are falling short by way of correcting for past environmental injustices or addressing ongoing and future climate issues.

Here, I argue that cosmopolitanism is compelling as it offers potential solutions to both the problem of collective action between states that primarily pursue the interests of their citizens and the problem of differences that are generated because of how we, as human beings, are organized today as citizens of a particular nation. Cosmopolitanism is compelling because it specifically argues for two things: the pursuit of equal moral worth based on one's humanity, and the reorientation of how we conceptualize human community, to become citizens of the world. The cosmopolitan ideal of pursuing equal moral worth is made on the grounds that the moral

value of one human being ought to be equal to that of another human being.²⁸⁶ Rethinking the nation-state system to be one where the interests of one person or nation ought to not be prioritized over the interests of another person or nation provides one such path for us to realize a potential solution to collective action. This is because collective action problems are generated when agents pursue their own interests at the expense of other agents and are unwilling to compromise or offer alternative solutions. What cosmopolitanism brings to the table is that most reasonable citizens would be willing to discuss or deliberate on issues that they are concerned about or affected by. Today, climate discussions are marred by disagreements between developed and developing countries alike. However, cosmopolitanism, in the form of citizen assemblies, offers us the potential of having people come together to discuss and deliberate a solution to a common problem, climate change. While it is evident that parties are likely to disagree with each other in terms of what course of action to take, citizen climate assemblies have shown us that with open, non-partisan discussions and deliberations, more ambitious and fruitful recommendations can emerge from these assemblies which can then enable greater change when adopted by governments. Thus, if we adopt a cosmopolitan perspective of valuing the interests of different citizens and nations equally, we may find ourselves more willing to engage in discussions and deliberations to resolve collective action dilemmas.

Next, cosmopolitanism argues for a reorientation of how we conceptualize human community by focusing on human beings as citizens of the world as opposed to citizens of a particular nation. This is because by viewing ourselves as citizens of the world, we see ourselves as equals, and though our beliefs and values may conflict and differ with each other, these

²⁸⁶ Cabrera, Luis. *The Cosmopolitan Imperative: Global Justice through Accountable Integration*. The Journal of Ethics. Vol. 9, No. 1-2. 2005. p. 174.

differences do not serve as grounds to determine if one's beliefs or values are more or less valuable compared to other people.²⁸⁷ Rather, seeing ourselves as citizens of a particular nation is what gives us the moral commitment to prioritize our compatriots over foreigners or non-citizens. Thus, cosmopolitanism offers a reading of global citizenship that reduces difference by conceptualizing people as being equal by virtue of their humanity as opposed to being citizens of a particular nation.

Lastly, cosmopolitanism projects a vision of a world beyond the nation-state, and a world where individuals can exist as citizens of the world. Cosmopolitanism enables us to rethink our obligations and responsibilities to other human beings beyond borders. However, to realize such a cosmopolitan vision of promoting global obligations and responsibilities, it requires creating new, radical institutions that would facilitate coordinating global collective action. Furthermore, realizing this cosmopolitan vision would require creating a new political culture of global obligations across borders. Both innovations would provide effective solutions to our current climate crisis. Global institutions that are cosmopolitan in nature that could facilitate global collective action on climate change would take major strides in terms of resolving the disagreements between nations in terms of obligations and responsibilities for climate change from the top-down. Alternatively, creating a political culture that would facilitate global obligations across borders among citizens would enable citizens to take on greater duties and responsibilities to climate change vis-à-vis other human beings, from the bottom-up. In viewing ourselves as citizens of the world, we are more likely to resolve collective action problems that affect humanity because thinking of ourselves as equal citizens of the world enables us to think

²⁸⁷ Ingram, James. *Radical Cosmopolitics: The Ethics and Politics of Democratic Universalism*. Columbia University Press. 2013. p. 25.

deeply about how our actions may be directly or indirectly affecting other people around the world. However, today, we are not able to realize global cosmopolitan institutions or a world government. Therefore, I will focus on the smaller steps that we can take to foster a cosmopolitan point of view within the nation state system with the hope that these steps can lead us to developing new radical cosmopolitan institutions and a new political culture of global obligations across borders.

4.3 – Cosmopolitanism, Intergenerational Environmental Justice and Education

This section focuses on why fostering a cosmopolitan point of view is important to promote intergenerational environmental justice. The appeal of cosmopolitanism is that it encourages us to think of ourselves as citizens of the world in addition to being citizens of a given nation. It encourages us to translate universal moral commitments, like the cosmopolitan ideal of promoting equal moral worth of all human beings, into a transnational perspective on global challenges. In applying cosmopolitanism to questions of intergenerational environmental justice, I do two things. First, I examine the problem of creating the political will that can adequately address environmental challenges. According to the Pew Research Center in 2018, global public opinion on climate change was recognized by most surveyed countries to be a major risk and threat to their respective countries. In 2013, the Pew Research Center surveyed countries on whether global climate change was a threat to their country, which resulted in 56% of countries reporting that climate change was a risk, and this number grew to 67% in 2018.²⁸⁸ The global public opinion on climate change is centered around three main issues. These three issues include: a lack of global consensus on how to resolve climate change, primarily having a domestic policy response to climate change, and a lack of a strong environmental political will

²⁸⁸ Poushter, Jacob and Christine Huang. *Climate Change Still Seen as the Top Global Threat, but Cyberattacks a Rising Concern*. Pew Research Center: Global Attitudes and Trends. 2019.

that can compel governments to create effective climate policies. Second, I will argue that effective climate politics is not only about acknowledging that we face a serious climate crisis, but that it also is about embracing climate politics for the right reasons. By this I mean that embracing climate politics for cosmopolitan reasons will result in better policy choices and outcomes. To foster a cosmopolitan point of view, I suggest that citizen climate assemblies can be an effective venue where citizens can be educated on climate change as a global issue, and how cosmopolitanism can help us think in terms of global environmental justice between individuals as citizens of the world as opposed to states. Doing so involves a transformation of how citizens live their lives daily, to be more environmentally conscientious, and to engage in political action to hold governments and politicians accountable for stronger environmental policies in the interest of all.²⁸⁹ Thus, an effective solution to climate change as a matter of intergenerational environmental justice requires us to see ourselves as citizens of the world that are all collectively responsible for the global environment, and that we develop a moral duty and responsibility to all other human beings to protect the environment for our collective enjoyment and use.

4.3.1 – Cosmopolitanism and the Problem of Political Will

One of the main appeals of cosmopolitanism is that it promotes the equal moral worth of human beings and frames this equal moral worth in terms of duties and responsibilities we have to other people by virtue of our humanity. Today, we are organized primarily as citizens of a nation as opposed to citizens of the world. As such, our primary duties and responsibilities exist to our local communities and our compatriots. However, cosmopolitanism offers us a unique

²⁸⁹ Tully, James. *On Global Citizenship: James Tully in Dialogue*. Bloomsbury Publishing. 2014. p. 7.

way to think through our duties and obligations to other human beings considering the current and ongoing climate crisis. It does so by enabling us to rethink our global responsibilities to other human beings as well as to our environment, and to reconceptualize how we think about ourselves as citizens of nations and to think of ourselves as citizens of the world.

Before turning to how cosmopolitanism can provide some theoretical tools to address the problem of political will as it exists today vis-à-vis environmental protection, I first define political will, then outline what political will exists today by way of environmental protection. Political will is formally defined as the extent of committed support among key decision-makers for a particular policy solution to a particular problem.²⁹⁰ This can further be broken down into four key areas. First, a political will exists when a sufficient set of decision-makers is present.²⁹¹ At the domestic level, depending on the type of government and regime, this can range from one person, in the form of an authoritarian leader or a simple majority in the case of most democratic nations. At the international level, this can range from support from high polluting states or actively creating international environmental laws or policies to combat climate change. Second, a common understanding of a particular problem is needed.²⁹² This means that all relevant decision-makers comprehend and understand the problem at hand and agree on what the issue is. In the case of climate change and pollution today, there is a clear common understanding at both the domestic and international level that climate change is problematic and will likely result in significant disproportionate harms in the present and future. Third, there is a commitment to supporting an active response to the issue area.²⁹³ This commitment can be difficult to measure because some policies that are created may do very little, if anything, to substantially reduce emissions or protect

²⁹⁰ Post, Lori Ann et al. *Defining Political Will*. Politics and Policy. Vol. 38, No. 4. 2010. p. 658.

²⁹¹ Ibid., p. 658.

²⁹² Ibid., p. 655.

²⁹³ Ibid., p. 657.

the environment, while being advertised or publicized as strong environmental policies. Alternatively, some environmental policies may do a lot by way of reducing emissions and environmental protection and are described as such. The difficulty in measuring commitments to environmental policy is that scientific projections may outline what the expected outcome is, but actual effects that take place may occur far into the future, and environmental policies that are communicated to the public may underdeliver in what they purport to do. Fourth, a general consensus is needed on the policy created and a general belief that the policy will be effective.²⁹⁴ This means that it is possible to have a false or ineffective political will that is primarily focused on short-term fixes or gains to distract the public or to create the illusion of meaningful action. Real political will involves a significant commitment to real solutions that will have meaningful impacts. These four key areas are necessary to having a genuine political will that can effectively resolve issue areas in a meaningful way. Today, we lack a genuine political will that can effectively resolve climate change.

Here, cosmopolitanism might offer some guidance on how to address the problem of generating an effective environmental political will. To generate a real and sufficient environmental political will, there needs to be an understanding and belief of three things. These three things include: a general understanding of the negative effects of climate change and pollution, an understanding that the harms of climate change and pollution is generated by high-polluting nations and that these harms will have disproportionate spatial and temporal effects, and that environmental protection ought to be prioritized over other issue areas central to the

²⁹⁴ Ibid., p. 665.

notion of political will I believe, as the environment is a necessary condition that we require to pursue our respective goals and interests.

First, we as humans need to understand that climate change and pollution will have deleterious, detrimental effects to people currently living in or will be born in developing nations or climate-risk areas. From a moral point of view, people generally see that pollution and climate change has no borders but possess strong moral obligations to give priority to people and things inside their borders. Furthermore, we recognize climate change as a major global policy issue area and there have been a range of social movements in the form of strikes that emphasize the need for immediate international action, ranging from the 2015 global climate march to Greta Thunberg's school strike for climate in 2018, Extinction Rebellion emerging as a global environmental movement, and the 2020 Digital Global Climate Strikes.²⁹⁵ Each of these social movements show us the prospects of a largely decentralized grassroots movement attempting to create an environmental political will that can motivate substantial policy action by focusing on individual citizens coming together to push governments to pursue environmental policies for the interests of all. Looking at environmental issues from the international level, nations that opt to assist in foreign or international environmental issues on humanitarian grounds generally do so as a form of charity. However, when it comes to climate change and pollution, charity is not enough, and a global concerted effort is needed to adequately respond to it.

There are two key reasons for why people tend to do little by way of acting on the moral sentiment to protect the environment. The first reason is that it is easy to disregard or shirk our responsibilities to other people when we cannot be directly held accountable for our action or

²⁹⁵ Thorson, Kjerstin et al. *Climate and Sustainability: Seeking Visibility in a Big Tent, Digital Communication and the People's March*. International Journal of Communication. Vol. 10, 2016. p. 23.

lack of action. For example, American or British citizens typically enjoy high-polluting lifestyles and within public discourse, climate change is frequently a media and policy agenda item, but there is a significant disconnect between the purported action on climate change and the belief that pollution is detrimental to the environment. Alternatively, if we were to take greater individual action to reduce our emissions, there is no direct accountability mechanism to do so nor is there a direct benefit that can be experienced, aside from the beneficial prospects of environmental protection that will have delayed temporal and spatial effects.²⁹⁶ The second reason is that there is a denial of individual action on the grounds that individual action cannot stop climate change or solve the dilemma of collective action. This is akin to saying that if I, as an individual, reduce my emissions, it alone will not be enough to stop climate change or to galvanize other citizens to collectively reduce their emissions levels, and that if I opt to reduce my emissions, it might be offset by another person who decides to pollute more, rendering my individual choice obsolete. In other words, while we can ground our moral intuition to protect the environment as a good thing to do for present and future generations, there are concerns regarding the feasibility of engaging in behaviours that protect the environment as we may not be able to directly see the results of our actions and our actions to protect the environment may be offset by the environmentally harmful actions of other people.

However, cosmopolitanism addresses both issues by claiming that we have a moral duty to take on greater responsibility as citizens of the world to ensure that we promote the equal moral worth of all, and that individual action by way of changing the way we live our lives can substantially affect how we treat the environment and how we can better develop environmental

²⁹⁶ Duus-Otterstrom, Goran. *The Problem of Past Emissions and Intergenerational Debts*. Critical Review of International Social and Political Philosophy. Vol. 17, No. 4. p. 450.

policies. By instilling a moral duty to take on greater responsibility for environmental protection, we can change how we interact with the environment by becoming more sustainable, and in turn, we generate the possibility that this moral duty to protect the environment can be proliferated at all levels from the local to the global.²⁹⁷ Furthermore, by changing how we live our lives individually vis-à-vis the environment, we can, in aggregate, generate an environmental political will that can push governments to pursue environmental policies for the good of all, as opposed to for the good of a select few. Thus, one way of strengthening our political will on environmental politics and climate change is to develop a stronger understanding of the effects of our harmful actions on the environment and how these actions affect other people around the world.

Second, recognizing that some people will be disproportionately harmed by climate change and pollution, we need to understand that this harm is generated by specific parties, primarily high-polluting developed nations, and that these parties ought to take greater responsibility for their past and present action. There is broad consensus among citizens, scientists, policymakers, and leaders of countries that climate change is the defining issue of our time, domestic governments and international organizations have been slow to translate this consensus into an effective and timely policy agenda that could make real progress in addresses the climate crisis.²⁹⁸ This can be attributed to a range of factors including but not limited to economic and political costs, stakeholder engagement, and collective action problems at both the domestic and international levels.²⁹⁹ Though it is primarily large transnational corporations and states that are

²⁹⁷ Kellow, Aynsley. *Norms, Interests and Environment NGO's: The Limits of Cosmopolitanism*. Environmental Politics. Vol. 9, No. 3. 2000. p. 15.

²⁹⁸ Roser, Renouf Connie et al. *The Genesis of Climate Change Activism: From Key Beliefs to Political Action*. Climactic Change. Vol. 125, No. 2. 2014. p. 167.

²⁹⁹ Hulme, Mike. *Why we Disagree about Climate Change: Understanding Controversy, Inaction and Opportunity*. Cambridge University Press, 2009. p. 76.

causally responsible for pollution levels, pollution itself is a problem at all levels from the individual, local level to the national and global level.³⁰⁰

From a moral perspective, we have a strong understanding of moral responsibility grounded in history, which is to say that developed states are historically more responsible for environmental harms than developing countries.³⁰¹ However, from a practical standpoint, having developed countries take on greater responsibility involves reductions in quality of life, emissions, and investing in green technology, all of which involve significant upfront costs with no immediate economic payoff to both protect the environment as well as fulfill their obligations to take on greater responsibilities for past pollution.³⁰² At the same time, developing nations ought to be able to pursue development that is consistent with the Sustainable Development Goals outlined by the UN in a way to elevate their quality of life and standard of living while simultaneously not drastically harming the environment or offsetting the emission cuts made by developed nations.³⁰³ This approach, I argue, is most fair for all nations involved in the sense that developed states are

³⁰⁰ Seidel, Christian and Dominic Roser. *The Greatest Redistribution in Human History* in *Climate Justice: An Introduction*, edited by Christian Seidel and Dominic Roser. Routledge, 2017. p. 102

³⁰¹ This was framed in the first chapter as a combination of the Polluter Pays Principle and the Ability to Pay Principle. The Polluter Pays Principle offers a normative justification for assignment moral and economic responsibility to pay for pollution, and is effective in cases where polluters can be directly held accountable. From an intragenerational level, the Polluter Pays Principle is effective at delegating responsibility, but at an intergenerational level, the Polluter Pays Principle faces difficulties in assigning responsibility for past or future pollution. The Ability to Pay Principle assigns moral and economic responsibility to pay for pollution if the entity has the financial means to do so. A combination of both the Polluter Pays Principle and the Ability to Pay Principle comprises the current normative justification to hold present generations accountable for their own pollution levels as well as the pollution levels of their predecessors.

³⁰² Benito Muller's article *Varieties of Distributive Justice in Climate Change* (Climactic Change, 2001) argues that when nations or international institutions assign responsibility for pollution in the context of climate change is that moral contexts regarding responsibility can change over time and what is needed is a fair procedure to adjudicate the distribution of emissions. Another related issue is the effectiveness of nations in solving the problem of climate change, and one of the issues with climate policies are that they are temporally stagnant in that policies are deployed for a set period of time without substantial modifications based on real-world circumstances.

³⁰³ This argument was framed in the earlier chapter on the divide between rich, high polluting states as being more culpable for environmental harms and as a result ought to take on greater economic and environmental responsibility as compared to low polluting developing nations which are, by contrast, less responsible for environmental harms, but typically tend to be more affected by them.

taking on greater economic responsibility and developing states can develop without substantially harming the environment. However, what happens in practice is that developed nations like the United States tend to under contribute on the fight against climate change and criticize high polluting developing nations like China for over polluting and rendering the emissions cuts that developed states make obsolete in terms of reducing the overall global emissions levels.³⁰⁴ The problem that the international community is faced with is essentially figuring out how to hold developed nations more accountable for past pollution and simultaneously ensuring that developing states do not freely pollute in a way that harms the environment. Considering this, cosmopolitanism as articulated by Charles Beitz shows that the basic structure of international relations is unjust. This is because if we ascribe to the idea that all people ought to have equal moral worth, every human being ought to have a say in terms of what environmental policies we prefer or pursue and how international institutions ought to be established to uphold these policies.³⁰⁵

Today, most of the pollution that exists in the world is created by a small minority of the human population, primarily by high polluting developed nations. However, most of the human population living in climate-risk areas or in developing nations are going to be detrimentally affected by pollution, while those most culpable are living in climate-resilient areas or are living in developed nations.³⁰⁶ Thus, if we want to do justice to the idea of promoting greater environmental protection and promoting a moral cosmopolitan ideal of greater moral equality among human beings, then we ought to reform our institutions in a way that better represents the

³⁰⁴ Mansfield, Edward D. *International Institutions and Economic Sanctions*. World Politics. Vol. 47, No. 4. 1995. p. 582.

³⁰⁵ Beitz, Charles. *Cosmopolitanism and Global Justice*. Journal of Ethics. Vol. 9. 2005. p. 16.

³⁰⁶ Vanderheiden, Steve. *Climate Change, Environment Rights and Emissions Shares* in Political Theory and Global Climate Change. MIT Press 2008. p. 49.

environmental political will of the people as citizens of the world. I will show in the final section of my chapter how cosmopolitanism might be institutionalized at the international level by using global citizen climate assemblies which can help us resolve issues of global governance and to create more just international environmental policies.

Third, environmental protection for present and future generations needs to be prioritized over other issue areas because without a clean, safe, and habitable environment, it is difficult to achieve other interests or goals. This is because a clean, safe, and habitable environment is a necessary condition to fulfill other goals, like economic development.³⁰⁷ For citizens that live in climate safe or resilient areas, their ability to pursue economic development is likely unhindered by environmental constraints, while citizens residing in climate affected areas are likely to experience environmental constraints when attempting to pursue their interests. Today, developed nations benefit from both having the economic capabilities to invest in climate adaptation and mitigation efforts as well as being in a geographical area that may be climate resilient, while developing nations experience the opposite in terms of not having the same economic capabilities to invest in environmental protection efforts and are in climate-risk areas. Recognizing this economic and environmental inequality as well as the historical trajectories that are shared between developed and developing states in terms of economic exploitation, morally, developed nations have a duty to aid developing nations to create a safe, habitable environment in order to take on greater responsibility for past injustices.

Developed nations have both indirectly and directly affected the capabilities of developing nations to realize their interests or goals by harming their environment through pollution and other

³⁰⁷ Caney, Simon. *Cosmopolitan Justice, Responsibility and Global Climate Change*. *Leiden Journal of International Law*. Vol. 15. 2006. p. 748.

environmentally harmful behaviours. While this commitment may be difficult to justify on economic, political, or social grounds to citizens of developed nations, morally, the commitment to aid developing nations needs to be made if developed countries are to take sufficient responsibility for their past actions. Thus, developed nations ought to prioritize environmental protection for developing nations to assume their moral and causal duties for the environmental harms they have inflicted. Next, I turn to a discussion of how cosmopolitanism can be implemented through education in the form of citizen assemblies and what consequences cosmopolitanism has on our actions and behaviours.

4.3.2 – The Argument for Instilling Cosmopolitan Values through Citizen Assemblies

Thus far, I have outlined cosmopolitanism's two central theoretical contributions and how it might be able to address questions of intergenerational environmental justice related to three key issue areas. These three issues areas include: a lack of consensus on how to respond to climate change, policy responses to climate change being primarily domestic, and the lack of an environmental political will to effectively respond to climate change. Considering these three issues, cosmopolitanism essentially offers us two helpful contributions. First, we can conceive of cosmopolitanism as a theory that offers us an alternative to the idea of political community and belonging in the forms of obligations and responsibilities that we have to other human beings as citizens of the world. Second, cosmopolitanism enables us to rethink units of analysis and to focus on the politics of individuals as citizens of the world as opposed to citizens of nations. These two contributions can be characterized as how best to promote global justice in the spirit of cosmopolitanism and how to be a cosmopolitan, as a citizen of the world with obligations to humanity. This section examines how we can implement cosmopolitanism broadly from the local to the global. I will show that education in the form of citizen assemblies is necessary to broadly

educate the public about the spatial and temporal harms of climate change, and how a cosmopolitan point of view can productively address climate change. After doing so, I engage with some of the consequences of employing cosmopolitanism at all levels which include a broad transformation of how we as citizens live our individual lives, and how we as citizens can engage in greater environmental political action to push governments to pursue stronger environmental policies in the interests of all.

To date, there have been two high profile climate citizens assemblies, in France and the UK, where both assemblies proposed hundreds of measures and recommendations on how best to protect the environment. Citizen assemblies are a new form of democracy which allows citizens to make decisions at a local, regional, national, or international level. Citizen assemblies consist of a randomly selected group of residents according to various demographic criteria like gender and age. The purpose is to recruit an accurate representation of the public to study and evaluate issues affecting society and to provide recommendations. There are four goals in mind for citizens assemblies. These goals include: conducting an in-depth analysis of a given issue; an open discussion over different solutions; deliberating the pros and cons of a given issue; and providing informed decisions or recommendations. Citizen assemblies are an effective, transparent venue to allow for citizens to discuss and deliberate key issues outside of the political process with the common good in mind.

On the horizon, climate assemblies are likely to emerge around the world and are planned in Canada, Germany, Scotland, Spain, and the United States. The main reason for why climate assemblies have been created is primarily due to the lack of confidence in the traditional policy-

making process to tackle climate change at the domestic level.³⁰⁸ There are some similarities between the French and British citizen climate assemblies which include: creating climate assemblies in response to environmental protests; the willingness to learn about the environment; deliberating about what to do and voting on various recommendations; and creating ambitious recommendations on environmental protection.³⁰⁹ While climate assemblies can help raise the general awareness of climate change and lead to promoting more aggressive climate policies, two core questions need to be asked. Will climate proposals that emerge from citizen climate assemblies be sufficient to address climate change? Will climate proposals be adopted and implemented? Scientists have so far determined that there is a general lack of certainty as to whether climate proposals that have emerged from both the French and British citizen climate assemblies will be enough to meaningfully address climate change.³¹⁰ This is because climate proposals that emerge from citizen climate assemblies are used primarily to inform domestic environmental policy and not international environmental policy. In the case of France, Macron faced significant pushback from the French legislature when lobbying the recommendations that arose from the French climate citizens assembly and was unable to translate the majority of the recommendations into policy, and the UK government has not committed to any climate proposals from the British climate citizens assembly. While more work needs to be done by way of addressing the underlying systemic drivers of climate change, namely pollution and carbon emissions, climate assemblies are likely to grow and proliferate to become more impactful in terms of developing a collective and tangible solution to climate change. However, the key

³⁰⁸ Sandover, Rebecca et al. *Contrasting Views of Citizens' Assemblies: Stakeholder Perceptions of Public Deliberation on Climate Change. Politics and Governance*. Vol. 9, No. 2. 2021. p. 78.

³⁰⁹ Mellier, Claire and Rich Wilson. *Getting Climate Citizen Assemblies Right*. Carnegie Europe. 2020.

³¹⁰ Bain, Paul and Renata Bongiorno. *It's not too late to do the right thing: Moral Motivations for Climate Change Action*. Wiley Interdisciplinary Reviews: Climate Change. Vol. 11, No. 1. 2020. p. 615.

takeaway from citizen assemblies is that they demonstrate that citizens, when educated, can be better situated than politicians to provide the ambitious leadership and policies needed to address climate change.

Citizen climate assemblies have shown that citizens are generally willing to learn about climate change as a policy issue area. I show how citizen climate assemblies can be enhanced to incorporate learning about how a moral cosmopolitan perspective to environmental protection can be effective in addressing climate change. The key question to address here is how cosmopolitanism can bring citizens to care about the environment in the right way.

Cosmopolitanism can transform the way citizens live their lives and how they can develop novel policy solutions to climate change, by focusing on the equal moral worth that all human beings have, and by being citizens of the world, our policy solutions can be harmonized and truly global. Today, there is growing public opinion that something needs to be done to protect the environment, and I will argue that citizens need to develop a moral cosmopolitan point of view to adequately protect the environment. Recognizing that citizen climate assemblies occur at primarily local and national levels, and not quite at the global level today, an effective response to climate change must first occur at the local level before we can come to a solution at the global level. This is primarily because a top-down approach to environmental policy has proven to be unsuccessful to date. At the level of international relations, states frequently participate in international summits discussing how best to resolve the looming climate issue, but the conclusions and solutions that the international community reach are significantly falling short by way of reducing emissions levels and lowering the global increase in temperatures.³¹¹

³¹¹ Abeyasinghe, Achala and Saleemul Huq. *Climate Justice for LDC's through Global Decisions* in *Climate Justice in a Non-Ideal World*, edited by Clare Hayward and Dominic Roser. Oxford University Press. 2016. p. 194.

There are two major shortcomings to pursuing a top-down approach to environmental policy. The first is that all states today widely recognize climate change as a policy area that needs to be resolved, but all states also have varying emissions levels and as such pursue different levels of commitments and obligations at the level of international law to fight against climate change.³¹² Internationally, we have yet to reach a stage where all countries can collectively agree on what to do to rectify climate change, but we have various international institutions and bodies, like the UNFCCC and IPCC, that aim to harmonize our domestic and international environmental policies. The second shortcoming is that climate change is one policy area among many that needs to be balanced against other policy areas, and climate policy can and often is compromised for pursuing other policy agenda items.³¹³ Today, climate change is viewed as an issue of paramount concern, and immediate action ought to be taken, but far too often, countries opt to pursue other policy agenda items at the expense of creating effective environmental policies. In this sense, countries are myopic to the effects of climate change and as such, divert their policymaking preferences to other issue areas that they deem to be more important. Most developed countries or countries in non-climate risk areas might experience little to no detrimental environmental effects in the short-term from not pursuing climate policy, while developing countries or countries in climate-risk areas might experience climate change and global warming in real-time and pursuing climate policy is at the forefront of their policy agendas. Here, nations need to be on the same page in terms of how to collectively respond to climate change to effectively address it. One way to do so is through a bottom-up approach to climate justice.

³¹² Attfield, Robin. *Environmental Ethics and Global Sustainability* in *Environmental Ethics & International Policy*, edited by Henk A.M.J. Ten Have. UNESCO. 2006. p. 70.

³¹³ Shelton, Dinah. Human Rights, Environmental Rights and the Right to Environment. *Stanford Journal of International Law*. Vol. 28, No. 1. 1991. p. 110.

A bottom-up approach can be more effective to resolving climate change through citizen climate assemblies where people can come together, be educated on climate change, and directly create policy recommendations. Such an approach would enable citizens to actively participate in learning about the environment, develop an understanding of the problems surrounding the environment and what effective solutions might look like. However, in practice, only a very small number of citizens can participate in citizens assemblies. This is because assemblies are limited in terms of how many people can be chosen to actively participate. While citizen assemblies enable greater learning on salient policy issue areas like climate change, this learning needs to be expanded in two ways, namely in the development of international public opinion on climate change, and the environmental will formation of the general public. In terms of international public opinion on climate change, citizen assemblies currently take place all around the world, with the intent to develop potential solutions to highly divisive and politicized issues like climate change. Internationally, nearly all states recognize climate change as the issue, but are divided in terms of how to take responsibility for it. Citizen assemblies can aid in developing stronger international public opinion on climate change by being more representative and inclusive of citizens which can enable us to better deliberate on common issues. Furthermore, citizen assemblies can help us develop a stronger environmental political will of the general public. This is because citizen assemblies can be an effective place from which a political will can develop as the four main conditions of generating a political will are met. First, citizen assemblies imbue participants with the ability to make policy recommendations outside of the political process. Second, citizens are educated on the policy issue at hand, and acquire a common understanding of what the problem is, like in the French Citizens' assembly, where the issue to be deliberated on was climate change. Third, citizens after being educated on the issue

area tend to be committed to developing real solutions to the problem at hand. Lastly, once citizens have provided input in the form of policy recommendations, there is a general consensus that the recommended policies will be effective at resolving the issue at hand. These assemblies can provide fertile grounds where they can be opinion leaders and lead public debates on climate change while including a cosmopolitan perspective.

However, citizen assemblies are criticized as only a handful of people can participate in assemblies, and not all citizens will be able to participate in them. It is important to note that citizen assemblies can play multiple roles in civil society. Citizen assemblies can offer policy solutions from a deliberative process that is freed from political influence, lobbying, party politics and partisanship. This enables participants to hone in on issues like climate change and develop various solutions or responses to it that are in the interests of society as a whole and not partial to private or political interests. Citizen assemblies then serve a dual facing purpose. On the one hand, policy recommendations that are developed within these assemblies are passed along to states, which are then considered, and ideally adopted. What differentiates the policy recommendations that citizen assemblies come up with compared to the policies developed in government is that these recommendations tend to be more progressive as they are not beholden to money, industry, or political affiliation. The outcomes, like those found in the French and UK citizen assemblies are cosmopolitan in spirit, in that the policy recommendations on environmental protection are both ambitious and far-reaching. On the other hand, citizen assemblies also face and interact with the general public. In this sense, they become public sphere actors that can contribute to public opinion and political will formation. This is because as things stand today, citizens are generally losing trust in many elites and the political process in terms of being able to generate effective policies or responses to issues. Alternatively, the citizen

assemblies are viewed more positively and are more trusted. However, in practice, the recommendations that citizen assemblies have come up with have not been met with much success in terms of being implemented as public policy. This largely occurs because the recommendations that were developed were ambitious and not aligned with the interests of politicians, stakeholders and industry. In sum, citizen assemblies can be leading actors in the public sphere to encourage a more cosmopolitan perspective to protect the environment on the part of the general public.

To conclude, citizen assemblies can be an effective venue from which a real environmental political will can be developed, and citizens can take on an active commitment to providing effective solutions to government. Citizen assemblies can be thought of as an institution from the bottom-up that can also embody a moral cosmopolitan perspective to environmental protection which can translate our sentiments at the individual level to the national level and eventually the international level. Doing so would involve a transformation of how we live our lives and to better translate our vision of environmental protection into political action to motivate creating more just environmental policies. The result is that we would have citizens that would possess a moral cosmopolitan sentiment to protect the environment for present and future generations and to directly create policy recommendations that are in the interest of all citizens as opposed to existing environmental policies that are created by legislative bodies that are ineffective or are in the interest of politicians and private interests.

4.3.3 The Implications of Instilling Cosmopolitan Values to Protect the Environment

A cosmopolitan perspective, implemented through citizen assemblies, brings us two things. First, it would enable a transformation of the duties and obligations we, as people, have to the environment and to other human beings around the world. While citizen assemblies are

currently limited in terms of who can actively participate in them, like the French Citizens Assembly, which had only 150 participants, citizen assemblies have a lot of potential by way of producing progressive policy recommendations through learning and deliberation, and serving as a public institution that can encourage a more cosmopolitan perspective in the general public. In thinking of ourselves as citizens of the world who ought to protect the environment for present and future generations to come, we could become more individually virtuous, and this may result in changing the way we live our lives to be more ecofriendly and sustainable. This transformation of how we interact with the environment would fulfill our obligations to other human beings both in the present and going into the future. However, though a transformation in how we individually behave might bring about minor changes at the local level, this transformation is not enough to bring about meaningful political action or change in terms of environmental protection at the national or international level.

Second, alongside transforming our sentiments on our duties and obligations we have to the environment and to other human beings, it can also lead us to push our elected representatives to pursue the right environmental policies that are both ambitious and in the interest of all human beings. These environmental policies ought to ensure that human beings in the present and future ought to be able to have basic human rights as well as basic environmental rights, like the right to a stable climate and to subsist. Doing so would enable human beings to have both human rights and environmental rights that are sufficientarian in nature, that is, to ensure that all people have a baseline level of rights. This would result in a drastic improvement as compared to our current environmental policies which tend to be more incremental and in the interest of primarily domestic constituents or residents. These two key contributions, brought about by instilling a cosmopolitan perspective in both our private and public life would enable us

to truly realize what it might mean to be more individually accountable to protecting the environment and how to hold governments accountable for their obligations to protecting our environments in the present as well as the future. On the part of improving our private lives to be more environmentally responsible, citizens could develop ecofriendly habits and sustainable best practices like reducing waste, purchasing environmentally safe products, and safe disposal of waste. On improving our ability to hold governments more accountable for their environmental policies, this might emerge in a range of forms like grassroots social movements, environmental activism, and more recently, citizen assemblies to enable citizens to directly create policy recommendations without having to work through political institutions or processes that have historically disenfranchised the creation of effective environmental policies. In considering these two key contributions, citizen assemblies can include a cosmopolitan perspective when examining climate change as a policy issue area, and such a sentiment needs to be widely proliferated through civil society by entering public debates and discourse to be effective.

From here, the next issue to overcome is how to translate this sentiment of environmental protection rooted in cosmopolitanism from the national level to the international level, and I will show in the last section of this chapter that one way of doing so is through global citizen climate assemblies to promote greater global governance on climate change. Before doing so, I turn briefly to some of the consequences of implementing a moral cosmopolitan perspective and what actions and behaviours this might manifest as.

Applying a cosmopolitanism perspective to citizens on intergenerational environmental issues involve us becoming active rather than passive citizens. As James Tully puts it, we ought to think of ourselves as glocal citizens, as citizens who have obligations to our local

communities, but that we also carry obligations to national and international communities.³¹⁴ As active citizens, we ought to be committed to two things. First, we ought to be committed to the idea that we are willing to be educated about the various issues that we want to resolve, like climate change. This might involve education in various channels and forms, but as mentioned earlier, citizen assemblies provide one such avenue for citizens to grapple with serious policy issues and to develop various proposals or solutions to these issues. The purpose of education is to empower people to be well-informed, active citizens that have fair opportunities to change the world around us for the better.

Today, there is a significant information disconnect between the science of climate change, the policy agendas of politicians, and the public understanding of climate change. Scientists clearly believe that climate change is an issue; politicians recognize climate change as a policy agenda item but vary significantly in their prioritization of it as a policy issue; and the public broadly is informed about climate change but is ill-equipped to substantially act in concert to resolve it. Education can help harmonize these three groups together by effectively instilling in us the moral idea that we, as human beings living on the planet, are all collectively responsible for the environment and have moral duties to each other. Doing so would enable us to individually understand our place in the climate problem as it exists today, and what contributions or changes need to be made at an individual level to resolve it. It would also enable us to understand our duties and responsibilities to other human beings in relation to the environment. In sum, we need to be open and willing to learn about climate change to change

³¹⁴ Tully, James. *On Global Citizenship: James Tully in Dialogue*. Bloomsbury Publishing. 2014. p. 7.

how we interact with the environment and our interactions with other people who might be affected by climate change.

Second, we ought to be willing to change the way we live our lives to be better citizens of the world. In other words, it is not enough for us to merely learn about climate change, develop policy solutions to climate change, and then return to our day to day lives and pollute as we see fit. Rather, the commitment that we must have to resolve climate change is something that we ought to embody in our day to day lives to do truly do justice to the idea of being citizens of the world that realize our obligations to other human beings vis-à-vis environmental protection. This would effectively mean a transformation of how we learn, live and come together to take political action to push our respective governments to do better and to create policies that are in the interest of all, as opposed to the interests of economic elites or domestic citizens. At an individual level, this might mean changing our lifestyles or day to day behaviours to be more environmentally conscientious, like producing less waste, purchasing sustainable goods, and so on. At a collective level, this might take the form of engaging in concerted political action to hold politicians accountable for their environmental policies. What a cosmopolitan perspective offers is that it is not enough for politicians to develop environmental policies that are stronger only in a domestic sense, like implementing a larger carbon tax or having stronger environmental regulations on pollution, but rather, these environmental policies ought to consider the livelihood of all people living on the earth, and not just their respective constituents. In doing so, we can take one strong step forward to sufficiently addressing the climate issue we face today, especially if all states are able to develop environmental policies that focus on humanity as a whole, as opposed to citizens of a particular state. Lastly, I turn to how we can implement cosmopolitanism

at the international level through citizen climate assemblies that can push towards greater global governance on climate change.

4.4 Cosmopolitanism, Global Citizen Climate Assemblies, and Global Governance

This section focuses on questions of implementing cosmopolitanism at the level of international institutions to better promote global governance on climate change. Recognizing that today, we are not going to have a world government that can exist above states to compel nations to pursue stronger environmental policies, we ought to look at how we might be able to develop stronger institutions at the global level to promote global governance on climate change. Here, cosmopolitanism can be understood as either the restructuring of existing international arrangements or the development of new institutions which recognize human rights as being prioritized over other social or economic objectives. This section will advance two key arguments. First, I argue that international institutions ought to be reformed to be more cosmopolitan in nature so that they better respond to the needs of individual citizens as opposed to representatives of state governments. Second, I suggest one way of doing so is through implementing global citizen climate assemblies as an institutional innovation that would enable citizens to come together at the international level to develop environmental policies at the international level.

To begin, Thomas Pogge defines cosmopolitanism in an institutional sense as the restructuring of existing international arrangements and the development of new international institutions which formally recognize human rights as being prioritized over other social or economic objectives.³¹⁵ Realizing universal human rights through an institutional cosmopolitan framework, requires that international institutions possess the agency and capacity to distribute

³¹⁵ Pogge, Thomas. *Cosmopolitanism and Sovereignty*. Ethics. Vol. 103. 1992. p. 55.

resources to fulfill the duty of ensuring that all human beings can have their rights fulfilled, protected and respected. Combining this with the current Westphalian state system, cosmopolitans are faced with state sovereignty and the current institutionalization of human rights and humanitarian norms in the international arena today. Today, this takes the form of the Universal Declaration of Human Rights (UDHR) as an international document adopted by the United Nations General Assembly that enshrines the rights and freedoms of all human beings. The UDHR is considered a foundational text in the history of human and civil rights and outlines the inherent, inalienable basic rights and freedoms human beings have.³¹⁶ While this document is not legally binding in domestic or international courts, the contents of the UDHR have been incorporated into subsequent international treaties, regional human rights instruments, and constitutions of nations. Here, we see that while many countries and the international community recognize the salience of human rights, there is still a gap in their enforcement at the international level. This is to say that domestically, sovereign nations are able to enshrine and protect human rights at their own discretion, but internationally, there is no legal instrument or institution that exists above states to enforce human rights or prosecute against human rights infractions.³¹⁷ In terms of existing human rights institutions like the European Court of Human Rights and the International Criminal Court, these institutions exist, in some way or form, to enshrine and protect human rights at the level of international law. However, in practice, their efficacy is greatly limited. In the case of the European Court of Human Rights, the court lacks enforcement powers and states have ignored their verdicts and continued their practices judged to be human rights violations. Furthermore, the European Court of Human Rights has issues with managing caseloads which does not enable all cases to be

³¹⁶ United Nations. Universal Declaration of Human Rights. 1948.

³¹⁷ Collingsworth, Terry. *The Key Human Rights Challenge: Developing Enforcement Mechanisms*. Harvard Human Rights Journal. Vol. 15 2002. p. 194.

heard or examined. Alternatively, the International Criminal Court has as its mandate to prosecute individuals for international crimes of genocide, crimes against humanity, war crimes, and crimes of aggression which all intersect with the overarching goal of protecting human rights. In practice, the ICC has been heavily criticized as being an international vehicle of Western imperialism, only punishing leaders and parties from small, weak states while ignoring crimes committed by more affluent and larger states, and that its efficacy is limited as it does not have a police force or enforcement body to uphold its recommendations; rather, it relies on cooperation between countries which has led to inconsistent rulings and is prevented from taking on pressing cases which in turn harms the legitimacy of the court.

To date, international law has primarily focused on war crimes and various violations of international law, and very little has been done at the international level to address questions of distribution and inequality between citizens of different nations and nations, and in particular, on environmental questions of unequal consumption of or distribution of resources. Furthermore, as Luis Cabrera states, the current international system is highly unequal and exists largely as an economic venture between states, and if we are to do justice to the liberal ideals of equality, justice, and rights, developed, democratic nations ought to take on greater responsibility and lead institutional reform to address questions of distribution and inequality. International institutions today fail to recognize individuals, as they focus primarily on states, and developing countries that are vulnerable to the effects of climate change are insufficiently allocated funding for climate mitigation or adaptation efforts, resulting in widespread climate harms to current and future residents of developing nations.³¹⁸ Thus, international institutions ought to be reformed to be more

³¹⁸ Harris, Paul and Jonathan Symons. *Justice in Adaptation to Climate Change: Cosmopolitan Implications for International Institutions*. Environmental Politics. Vol. 19, No. 4. 2010. p. 622

cosmopolitan in nature such that they can adequately respond to the needs of individual citizens with respect to climate change. Reforming international institutions would then enable us to reimagine the international system in a way that prioritizes human rights at both the domestic and international level in a way that can hold nations accountable for their human rights practices. Tying this back to the problem of climate change, we need stronger institutions that can facilitate a moral and political responsibility to limit pollution to protect the environment for both present and future generations. One such way of doing so to better addressing climate change is through internationalizing citizen assemblies.

Citizen climate assemblies at the domestic level have shown that citizens that are proportionally selected based on their national population to participate in discussions and deliberations on how to respond to climate change results in three key outcomes. Citizens become more educated on climate change, able to deliberate how best to resolve environmental issues, and create ambitious policy recommendations to protect the environment. One of the main reasons why citizen climate assemblies are effective is because it provides an alternative avenue to resolving divisive policy issues like climate change. Furthermore, citizen climate assemblies offer the potential for regular everyday citizens to be able to learn how they might be able to reconceptualize their obligations and duties to other people and the environment through a cosmopolitan education, that is, to think of ourselves as citizens of the world that have equal moral worth and an equal claim to the environment. For citizens that are unable to participate in assemblies, institutionally, citizen climate assemblies also are viewed by the public as trustworthy institutions that can contribute to opinion and political will formation as well as encourage the public to be more cosmopolitan. There is also evidence suggesting that exposure to education or information within citizen assemblies and mini publics made citizens generally more

knowledgeable and reasonable.³¹⁹ This suggests that there is potential for climate assemblies to take on a public opinion or political will formation leadership role for society, especially for a divisive policy item like climate change and pollution.

Next, I propose extending citizen climate assemblies from the domestic level to the international level to proliferate the creation of an environmental political will that can push for stronger global governance on climate change. In 2021, the Global Assembly, as a global citizen climate assembly, is planned to take place with the intention of accelerating action to address the climate emergency our planet is currently facing and to provide formal recommendations to the 2021 United Nations Climate Change Conference (COP26) to take place between November 1st and November 12th, 2021. The Global Assembly has three main goals. First, it aims to create a globally representative body consisting of 1000 citizens to learn about climate change, deliberate what to do about it, and provide recommendations to the COP26. Second, the Global Assembly will support an ongoing global conversation to explore the scale of the climate emergency and how we might be able to respond it at all levels, from the local to the global. Lastly, it seeks to support large numbers of people and organizations globally to act on the climate emergency. In sum, the Global Assembly aims to address key global climate challenges, improving global democracy, strengthening justice, overcoming polarization, and to promote truth in climate politics.

What makes the Global Assembly novel as an institutional innovation is that it is designed with the intention of embodying grassroots communities and movements, with special attention paid to developing nations or climate-risk nations. This is different than the citizen climate assemblies found in France and the UK, which were initiated by governments from the top-down

³¹⁹ Suiter, Jane et al. *Scaling up Deliberation: Testing the Potential of Mini-Publics to Enhance the Deliberative Capacity of Citizens*. Swiss Political Science Review. Vol. 26, No. 3. p. 268.

to listen to their respective citizens. Rather, the Global Assembly is fueled by the growing climate movements taking place around the world, and is co-designed with institutions, scientists, policymakers, and citizens to offer a representative body of the human population that can directly participate in discussions and deliberations on climate change at the international level. The prospects of the Global Assembly are like that of citizen climate assemblies taking place at the domestic level, where participants would be educated on climate change, deliberate on how best to respond to it, and to develop ambitious recommendations that would then be adopted by the UNFCCC at the COP26. The difficulty, as was seen in the France and UK citizen assemblies, is that translating these recommendations into policies to be implemented is difficult and is likely to be met with pushback. However, the prospect of the Global Assembly is that it would allow people to come together as citizens of the world to be able to collaborate and find solutions to climate change as equals. Doing so would enable residents of developing states to have an equal say compared to residents of developed nations, and that citizens in general would be able to have an equal say on climate issues as opposed to nations or state representatives discussing climate change and international environmental policy on their behalf. In this sense, the Global Assembly would be an example of an institutional innovation in the form of a cosmopolitical institution that focuses directly on will of citizens as opposed to the interests of elected officials or states.

The Global Assembly is unique in the sense that it is populated primarily by citizens and not by representatives of states. Operationally, the Global Assembly will invite 1,000 citizens from around the world to take part in a virtual convention to address the climate crisis and to generate ambitious climate-related proposals. The selected participants will be representative of the global population, including young people, refugees and migrants, minority groups as well as people across all socioeconomic levels. This is key in terms of achieving a cosmopolitan institution as it

returns power to the people to directly learn, participate and develop more ambitious solutions outside of the conventional political process which has traditionally been limited to government officials or representatives of states. When it comes to a global problem like climate change, a cosmopolitan response is needed because individual citizens are going to be affected by climate change on a global scale, and the response we have seen so far at the international level to resolve climate change has been highly politicized and driven by partisan agendas by representatives of developing and developed states alike. The Global Assembly brings with it the prospect of depoliticizing climate change at an international level and enabling individual citizens of nations who have very different experiences vis-à-vis climate change to be able to directly participate in developing a coherent, collective international response to climate change that would be in the interest of all. Doing so would achieve two cosmopolitan ends, that is to have citizens of various nations to come together as citizens of the world under the nation-state system, and to have their interests weighed and valued equally compared to other citizens, which affirms the cosmopolitan ideal of human beings having equal moral worth. This would provide a much more effective response to climate change rather than relying on the existing international system which focuses on states and state representatives which have proven to be ineffective at resolving climate change as a collective action dilemma. In sum, the Global Assembly can be a unique cosmopolitical institutional innovation that focuses on citizens of the world as having equal moral worth with the opportunity to make key international policy recommendations to resolve climate change as an alternative to existing international institutions.

Chapter 4.5 – Conclusion

Where does this leave us with cosmopolitanism and intergenerational climate justice? For one, cosmopolitanism offers us two things. Cosmopolitanism enables us to rethink ourselves as

citizens of the world considering global issues like climate change, and it enables us to rethink the obligations we have to other human beings. When looking at a global issue like climate change, cosmopolitanism provides us with the unique perspective of approaching climate change from the bottom-up as opposed to from the top-down. Our current top-down approach to climate change which tends to focus on states and their domestic and international environmental laws and policies. By contrast, a bottom-up approach enables us to think of ourselves as citizens of the world who can come together to collectively address climate change, and to rethink feasible solutions that would be in the interests of all. One such venue for accomplishing this bottom-up approach to climate change would be in the form of citizen assemblies which enable citizens to come together to be educated on salient environmental issues and to come to ambitious environmental policy recommendations. An argument that I put forth was for the prospect of education in citizen assemblies to promote cosmopolitan values which could enable citizens to develop a stronger environmental political will that can better inform public opinion on environmental protection at both the domestic and international levels and to hold politicians more accountable for the policies they create. While citizen assemblies at the domestic level provide a strong domestic response to climate change, it falls short by way of realizing policy solutions to climate change at the international level. Thus, one remedy would be to extend citizen assemblies to the international level where citizens of nations could come together as citizens of the world as equals to discuss and deliberate on effective responses to climate change for both present and future generations as a cosmopolitical institutional innovation in the form of the Global Assembly. Doing so would result in a more effective response to climate change as it exists as a global issue with temporal effects where global citizen assemblies can emerge as a novel and truly global response to climate

change which focuses on people as citizens of the world as opposed to states or representatives of states.

CONCLUSION

Today, climate change remains a multifaceted complex policy agenda item. This dissertation has explored some of the spatial, temporal, and collective action dilemmas that climate change brings and reveals that our current domestic and international institutions are ill-equipped to respond to this crisis. Considering these dilemmas, rather than attempting to develop new policy solutions within our current institutional frameworks, this project examined the moral and political foundations of generating the necessary duties and obligations that individuals, groups, states, and the international community can undertake to better respond to climate change. This is because rethinking our obligations and duties to past, present, and future generations give us new tools to reshape our institutions to pass on the environment to future generations in a better condition than we found it. What, then, are our obligations to past, present, and future pollution levels, and generations?

This dissertation has been guided by this key question and I have provided a sustained examination into the issue of intergenerational climate justice and found that cosmopolitanism offers one unique way of theorizing a normative obligation across space and time. In terms of understanding our moral obligations to other people, we ought to preserve the planet and protect the environment so present and future generations can enjoy a safe, stable climate and environment. Cosmopolitanism advances the idea that people ought to have equal moral worth and be viewed as equal citizens of the world. I suggest that the cosmopolitan idea to promote equal moral worth and to be equal citizens of the world can translate into a stronger moral obligation to preserve the planet and protect the environment for both present generations and future generations to come. However, as history has shown us from the industrial revolution onwards, we have done the exact opposite by way of protecting the environment. Rather, than

conserving and protecting the environment, we have polluted our environment to modernize our economies and societies. The effects of these actions, namely pollution and environmental degradation, that have taken place in the past are felt in the present and will continue to be felt going into the future. Furthermore, cosmopolitanism offers a unique solution to our current problem of borders, nationalities and territories as limiting our social and political obligations to other human beings. As things stand, we currently live in a world where aiding our compatriots and local or domestic communities are valued more than aiding other human beings living halfway across the world. While cosmopolitanism is sometimes understood as a project of world government or universal citizenship to broaden our social and political obligations, this project employs cosmopolitanism as a perspective to look at climate problems that we face today. In doing so, we can broaden our social and political obligations to aid other human beings from the effects of climate change and can help us build stronger institutions or policies to better combat against climate change instead of focusing myopically on the effects climate change has on states individually. In short, cosmopolitanism can help us reconceptualize our moral duties and obligations among citizens today to better protect the environment for present and future generations. Thus, if we want to better protect our environment, we ought to change the way we, as individuals, live our lives and reduce the ways in which we collectively contribute to climate change.

In terms of evaluating our obligations to past pollution and generations, I have shown that past pollution levels are already found in the atmosphere and the original polluters who emitted these pollutants into the atmosphere are deceased. This generates several difficulties in attributing responsibility for past pollution levels, as people presently living are not causally responsible for past pollution levels, and we are faced with an impasse in terms of determining

who carries the moral duties and obligations for past pollution levels. What I pose is that existing approaches to attributing responsibility to past pollution levels are currently ineffective at resolving climate change as they are primarily motivated by economic environmental policies. Rather, I advance the claim that we need a greater collective environmental responsibility to fight against climate change, and this means imparting present generations with a stronger moral obligation to protect the environment for both present and future generations to come. I show that this moral obligation can be grounded in a cosmopolitan framework which enables citizens to take responsibility individually and collectively for the environment.

Fortunately, evaluating our obligations to present pollution levels is a far easier endeavour, as original polluters are likely still alive, and we can directly attribute responsibility for present pollution levels. There are three ways in which we can ground moral and political responsibilities to the environment today which consists of the do-nothing approach, a history-sensitive approach, and a future-oriented approach. I essentially show that the do-nothing approach is indefensible as it discards causal moral responsibility and does not solve the problem of past or present pollution levels affecting present or future generations. I then pose that an ideal approach consists of a combination of the history-sensitive approach and the future-oriented approach. This combined approach is attractive as it factors in both historic injustices generated because of environmental degradation and simultaneously attempts to balance the rights and interests of future generations vis-à-vis the environment.

In looking towards our obligations to future generations and the environment, I suggest that a stronger proactive response to climate change is needed, as failing to protect the environment when we are cognizant of the harms of climate change constitutes a failure to protect the rights and interests of future generations. I offer three arguments for present

generations to realize their moral duties to future generations. First, we are currently aware of the harms of climate change and protecting the environment would result in protecting the moral human rights of future generations. Second, if we want to do justice to the idea of universal human rights, future generations have moral rights, and as such, present generations are obligated with the duty to protect these rights. Third, we currently do not have adequate institutions that can effectively create laws or policies that can recognize the agency of future generations and protect their rights, and so we need institutional innovations that can protect both the moral rights and interests of future generations. Here, cosmopolitanism provides some healthy prospects for doing so.

What makes cosmopolitanism appealing and novel considering our current climate crisis is that it offers a theoretical reconceptualization of how we see ourselves as human beings and that we as human beings have equal moral worth to each other. This is to say that cosmopolitanism enables us to think of ourselves as human beings as citizens of the world that can both individually take responsibility on the fight against climate change, but also collectively come together to push governments to pursue environmental policies that are in the interests of all. However, merely having cosmopolitanism as a theory does very little in terms of enacting widespread change on climate change, and as such, a cosmopolitan mindset or framework needs to be widely integrated into domestic and international society. One way of doing so would be through citizen assemblies which have shown us that participants in these assemblies are willing to learn about salient issue areas and can come up with ambitious and innovative policy solutions to problems that we face today. While only a handful of people can participate in citizen assemblies, citizen assemblies can play multiple roles; one the one hand, by offering progressive policy solutions developed and thought through outside the influence of partisan and industry

interests, and on the other hand, acting opinion leaders in public debates and public opinion formation. In both these roles Climate Assemblies can further a cosmopolitan perspective and pave the way for two innovations. First, this could foster the development of new cosmopolitical institutions that could better facilitate global collective action on climate change. Second, a cosmopolitan point of view could give rise to a new political culture of global obligations across borders. Today, we are seeing the proliferation of citizen climate assemblies all around the world, where citizens of various nations are coming together to learn, discuss and develop policy solutions for their respective governments to adopt. On the horizon, global citizen assemblies serve as a venue for citizens to come together as citizens of the world to deliberate on how best to solve climate change at the international level for present and future generations to come. Such a global citizen assembly would emerge as a cosmopolitical global institution that can develop just environmental policies at the international level to address climate change.

The central goal of this project has been to understand climate change as a problem of intergenerational justice that can be resolved through a cosmopolitan framework. This project aimed to illuminate some of the spatial and temporal dilemmas that emerge because of climate change, and what duties and obligations, or lack thereof, can be derived from climate change. While we are still far away from reaching our ambitious goals to reduce emissions levels and to lower the rate at which global warming occurs, we are closer than we might seem. In understanding the moral duties and obligations we have for past, present, and future pollution, we can see that that our current institutions are ill-equipped to adequately respond to climate change. Recognizing that our institutions are not sufficient opens an avenue for us to rethink and reimagine our institutions to be cosmopolitical institutions which can better respond to climate change by focusing on citizens as equals coming together to discuss, deliberate and develop a

just solution for present and future generations to come. The hope is that this dissertation offers one small contribution to theorizing a normative solution to the problem of climate change from the perspective of cosmopolitan intergenerational climate justice.

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