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Authority, Responsibility and Justice in Environmental Politics

Papers from the 8.Nordic Environmental Social Science Research Conference June 18-20 2007. Workshop 1

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Abstract: Many of today's most pressing environmental problems share one important characteristic: they are cross-boundary, i.e., they disregard political and geographical borders. Obviously, this is challenging for several reasons. One is that present legal and political institutionshave no effective reach beyond the nation-state. The same is the case with most political authority. Furthermore, the border crossing character of many environmental problems is also ethically challenging. What is a fair distribution of the burdens required to mitigate and adapt to e.g., climate change, chemical pollution andover use of marine resources and/or to make society less vulnerable to its' consequences? And perhaps even more difficult: Who has theresponsibility to take action - those causing the problems or those inrisk to suffer from the devastating effects? The papers in this section are discussing environmental problems from such points of view as authority, responsibility and distributive justice.

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Foreword

The biannual NESS Research Conferences have become a valued tradition. From a relatively humble beginning in the early 1990's, these conferences have grown to become truly international events. The Nordic region shares democratic and social values and at the same time has, to a large extent, the same environmental challenges.

In 2007, it is twenty years since the Brundtland-commission came with the report "Our common future". They launched the most common definition of sustainable development and, as a consequence, gave the global perspective in environmental policy its absolute breakthrough.

Twenty years later, this perspective has become even more relevant. Nature consists of common-pool resources, and environmental problems are border crossing. The 8th NESS conference in Oslo, Norway June 18-20.looked into how the international community, nations and local communities meet common challenges on the environmental area. Furthermore, we discussed how the internationalisation of environmental politics creates challenges, constraints and opportunities on the local, national and global level.

These themes provided a good starting point for interesting discussions and new acquaintances. The conference gathered approximately 80 researchers from the Nordic countries, the Netherlands and Germany. In addition there were four keynote speakers: Arild Underdal, Susan Baker, Terry Marsden and Jan Erling Klausen. In this compendium you will find some of the papers presented at the conference. Of different reasons, some of the participants wanted to abstain from the proceedings.

Oslo, October 2007

Berit Nordahl

Research Director

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Localism In Norton's Environmental Pragmatism: Some Problems

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1 Introduction

It is difficult to marry local democratic decision-making to global environmental protection. Many, if not most environmental problems transcend the boundaries between all kinds of human communities and therefore any attempt to resolve them calls for co-operation between all of them. Agreements made in world summits are rather empty declarations if they lack support from cities and municipalities; local conservation attempts can be nullified by globally imposed laws, such as trade agreements. Global agreements and declarations – both the way they are created and implemented -- lack some of the features we usually attribute to democratic decision-making.[1] In this study, I shall shed light to these difficulties through the writings of the US philosopher Bryan Norton.

In the 1990's and the early 2000's Norton published a series of articles and two books, in which he formulated what environmental valuation should be like. According to him, what should matter is the geographical context where valuation and decision-making takes place because "environmental problems are problems of scale."[2] Decisions should be made close to the place which will be affected by them. Norton's project was to develop and to defend a localist idea of environmental decision-making with a supportive globalist dimension: "even to address to international problems while ensuring democracy at the local level, decision structures must be organized in a bottom-up fashion."[3] Democracy is a fundamental value for Norton, and whenever democratic decision-making produces outcomes that are in conflict with environmentalist objectives, then "we must decide whether we are first and foremost environmentalists or first and foremost democrats." Norton's choice is democracy[4], but democracy in fundamentally local affair. Therefore, as we shall see, his idea of democracy might be in difficulties when we attempt to combine it with global or even national environmental policies.

I begin with introducing shortly the development of Norton's views in Section 2. Section 3 focuses on local environmental valuation at the general level and through two cases, nuclear fuel waste site and wolf reintroduction. Section 4 deals with philosophical underpinnings of Norton's localism, to be found in Deweyan pragmatism and Darwinism, according to which adaptation is always local. From here we can also found the grounds for Norton's localism and scepticism towards global models. And the final Section 5 is a brief attempt to assess the value of Norton's theory.

[1] Global agreements are part of the foreign policy of nation-states, and foreign policy in general is perhaps the most covert part of the democratic decision-making, as the nation-states do not want to expose their interest before the negotiations. Democratic control is mostly made after the negotiations and when results of these negotiations, e.g. agreements, treaties and so on, have become public.
[2] Norton 2003a, 311.
[3] Norton & Hannon 2003, 364.
[4] Norton 2005, 251.

2 The development of Norton's views: A short outline

Bryan Norton is one of the most notable environmental philosophers, whose career in the rapidly developing field of environmental philosophy goes back to early 1980's. By and large, there is hardly any specific issue he has not investigated. But comparing him to some other prominent scholars, it is difficult to recognise any noteworthy changes or radical conversions in the basic line of his thinking. He has remained a defender of moderate, ecologically enlightened version of anthropocentrism and sought to make his philosophical writings relevant to other sciences and policy-making.

During 1980's Norton's main research interest was the biodiversity issue, especially the loss of species, ecosystem functioning and related issues in the philosophy of biology and ecology. In 1991 he published a book titled *Toward Unity among Environmentalists*. In that book he focused more and more on social and political dimensions of environmental valuation and wanted to leave behind the heated controversy concerning the intrinsic value of nature as unfruitful and futile: as he saw it, the both parties of the controversy were motivated to act so as to stop the decline of biodiversity. He called this claim as the convergence hypothesis. (Ironically, the hypothesis has been a source of a lively theoretical debate and the debate still continues in the recent issues of the most prominent journals of the field, *Environmental Ethics* and *Environmental Values*.) Later on, he came to offer a constructive theory of environmental valuation, in which the central concept is that of scale; scale both in the geographical sense and in the temporal sense. This has normative implications: the ideal environmental decision-making provides the crucial role to local communities whose decisions should from result from public and democratic deliberation.

In 1997 and 1998 appeared two articles that Norton co-authored with the geographer Bruce Hannon. In the first of these articles, the two authors summarised their goal as follows:

> The task, then, is to formulate a multiscalar structure of valuation and policy formation that is based democratically in many local perspectives, and yet capable of embracing the imperative that local behaviour be understood in relation to longer-term and larger-scale environmental problems – regional, national, and global.[5]

Yet, in the beginning of the same article the emphasis is laid on the concept of place:

[5] Norton & Hannon 1997, 228.

> A successful approach to sustainability must be built upon these sentiments which express a local 'sense of place'. Our theory, indeed, implies that a preference for the near is inherent in human behaviour.[6]

Norton and Hannon even name their theory a place-based theory on environmental valuation; not something like a multiscalar theory on environmental valuation.

In the early 2000's Norton completed two large books which both have the term 'sustainability' in their titles. The first one was a collection of articles *Searching for Sustainability* (2003). In one of the introductory essays Norton ponders: "If I were writing today, I would have more to say about how to reconcile local values and goals with broader and larger-scale environmental goals. Nevertheless, I stand by our claim that, in some fundamental sense, the responsibility for local environmental problems must rest on local commitments, even though it is clear that competing local commitments and clashes with regional goals will demand coordination and integration with larger-scale policies in many cases."[7] Two years later Norton completed his massive study *Sustainability: A Philosophy of Adaptive Ecosystem Management*. In the contest between localism and universalism, localism seems to have come first again. Besides me, some other reviewers of *Sustainability* have separately paid critical attention to the fact that Norton largely neglects international environmental issues, especially global warming,[8] despite his aforementioned reflections towards that direction. In the remainder of this paper, I want to consider why Norton ended up making this, in my opinion, rather suspicious move.

Before that a short note on my use of Norton published texts. Norton's bibliography is admirably large, even though at times he seems to repeat of himself a bit. I do not aim to carry out a systematic survey of Norton's writings how he deals with the issue of localism but to concentrate on the latest monograph *Sustainability* and on the relevant articles in *Searching for Sustainability*. However, because one of key articles concerning my topic that is not included in the collection, I have also read closely this earlier outcome of Norton's and Hannon's collaboration.

[6] Norton & Hannon 1997, 243.
[7] Norton 2003b, 279.
[8] See Oksanen 2007; Watkinson 2006;

3 A place-based valuation: in which cases?

In their 1997 article Norton and Hannon formulate and defend an idea of place-based valuation of the environment. A place-based valuation rests on the hypothesis that humans are territorial beings in some fundamental sense. Because of their territoriality, they want to exercise control over their immediate natural surroundings, at least to some extent. In other words, people are not unconcerned what their immediate surroundings looks like and what they see and encounter there. The hypothesis is summarised in a generalised statement that, "we wish to be near the things we like and far from the things we fear."[9] Accordingly, we wish to live near schools, churches and shops, and far from industrial areas and dumping areas. This hypothesis is empirical and can be tested. Norton and Hannon are ethical naturalists: what people who inhabit a certain area think and feel about the area is of significance how the area should look like and what there should be. These questions should be answered neither on the basis of *a priori* ethical considerations nor on the basis of place-independent calculation regarding costs and benefits.

As I see it, although the generalised statement above is likely to be true in many cases, it should not, however, be understood in a simplified manner. It is not so that the geographical (or temporal) distance *solely* indicates or determines how human individuals value their environments. Human preference systems are complex systems because there are many environmental things and processes people tend to like when they occur afar from their place. I like hurricanes because they exemplify nature's irresistible forces – it is easy for me to like them, as they tend not to occur in my country and do not constitute a threat to my live or my property. I also think positively about the preservation of dangerous mammals (the wolf, the bear, the tiger and so on) and see it as a moral obligation, regardless of the fact that I encounter them only in the zoo. In both cases I wish that there are such things as hurricanes and man-eating mammals, but I am not willing to experience them in the real-life, in the wild, on the everyday or even annual basis. Nevertheless, I presume that at least some of those people who have opportunities to experience powerful storms and ferocious animals wish not to experience them too often or be afar from them.

Norton and Hannon emphasise that the model they constitute is a phenomenological model, not an objective one. The attribute 'phenomenological' refers to the experiences and understandings of people on the environment:

> We hypothesise that (a) environmental values are formed within a phenomenological space which is organised from some place and (b) that

[9] Norton & Hannon 1997, 230.

> development of a full sense of place involves a recognition of the various scales on which one interacts with nature from that place.[10]

Thus an experience of a place is not only affected by an experience of the larger space where that particular place locates but it is also constituted by "a sense of the space around that place."[11] After clarifying the idea of the place, they introduce a hierarchy theory which is pretty much the formalisation of phenomenological model.[12] Hierarchy theory rests on two assumptions: First, observation and measurement is always time and place bound; it occurs in a certain time and from place within a multiscalar system. The other assumption is about the size of a spatial system affecting the nature of the change: smaller systems are quicker to change than the larger ones. Consider a farmer, who lives in a certain place on earth and whatever he/she does are done with certain expectations that the local systems and the larger planetary systems function normally. As they put it, "Adopting hierarchy theory ensures that individuals view the world from any point within the dynamic will see larger-scale systems as somewhat predictable and relatively 'stable'."[13]

Norton and Hannon go on to suggest that there are three levels of valuation and each of these levels stems from an attachment to a place. This forms, what they call, a triscalar system. First, there are locally developed values that are aggregated outcomes of expression of individual preferences in a certain place. Second, there is "a longer and larger community-oriented scale" which includes the whole of ecological community. And third, there is a global and atemporal scale in which humans consider themselves as a species inhabiting the earth. Local, bioregional and global form jointly the necessary elements in attempts to formulate a sustainability ethic which occurs by means of integrating "each smaller level into the next larger level through a democratic process."[14] In practice, a community may formulate a scheme to protect biodiversity or to participate in the reduction of greenhouse gas emissions – "Think globally, act locally".

In "Democracy and Sense of Place Values in Environmental Policy" that originally came out a year later, Norton and Hannon explicate the idea of this democratic process.[15] They sketch two differing approaches to environmental policy. First there is the top-down approach according to which we should following the centralised decision-making model in which decisions should be made on the basis of rational calculation: compile values across different hierarchical levels and then calculate what people what. Norton here continues his criticism against cost-benefit models according to which positive and negative outcomes should be expressed in terms of money. According to these models governments or other higher-level decision-makers can decide on environmental policies and ignore those expressions of values that "cannot be monetized and aggregated at the national levels".[16]

The alternative they defend is a multiscalar view which basically states that the interests of local communities matter and even can override the interests of larger society: "With a

[10] Norton & Hannon 1997, 232.
[11] Norton & Hannon 1997, 232.
[12] Norton & Hannon 1997, 234.
[13] Norton & Hannon 1997, 233.
[14] Norton & Hannon 1997, 234-35.
[15] I refer to the version in Norton's *Searching for Sustainability* (2003).
[16] Norton & Hannon 2003, 361. Ever since his first environmental monograph *Why Preserve Natural Variety?* Norton has been a staunch critic of, what he calls, strong anthropocentrism according to which the value of any species is fully reducible to its value expressed in dollars or euros.

multiscalar view, every decision-maker would accept the right to self-determination on the local level and would treat this universal veto as a given."[17] The strong conception of local autonomy is problematic idea, as it leads to NIMBYism (Not-In-My-Backyard) and to difficulties in rational planning of environmental policies at national level. The two authors know all this very well. They even start by admitting that NIMBYism is not in general highly regarded by many environmentalists. What they do in the concluding section of the earlier article is that they distinguish two kinds of NIMBYisms, NIMBY A and B. According to NIMBY A, if I don't want *x* to be done in my backyard, it is acceptable to be done in someone else's backyard. According to the latter and the positive form of NIMBYism: "You may not do *x* in my backyard; furthermore, if you cannot find some other community that democratically chooses to accept *x*, then *x* will cease." Thus used, Norton's and Hannon's idea of positive NIMBYism could provide a very powerful instrument for local communities so as to curb those policies that are of national or international interest but which are across the nation unwelcome.[18] In the 1998 article they express also some cautions about the strength of the local veto, as we shall see later.

Norton continually clarifies his political views through examples; some of them are rather sketchy and others are more detailed real-life analyses. It is common to many cases that Norton and Hannon analyse that the local community wants to maintain the traditional character of their landscape and thus to protect nature's values against develop pressures: local community versus nuclear industry, local community versus international forest corporations and so on. In such settings, it is quite easy to understand that communities try to defend environmental values and the developers' aim is to destroy them. But there are trickier cases. Let us see first how Norton and Hannon picture their idea of positive NIMBYism to operate in real-life context and what would the veto of a community mean in case of setting up a low-level radioactive waste storage. The second example is from Norton's singly written article on the wolf reintroduction. I have chosen these examples because they remind me of Finnish cases of disposing the nuclear waste into the bedrock[19] and numerous local conflicts over wildlife management. Both of the cases have international dimensions, as other states (especially in the EU) might find the stable Finnish bedrock attractive alternative to their nuclear waste problems and some of the Finnish wildlife is protected in international agreements and laws.

(a) *Low-level radioactive waste storage*. In their 1998 article, Norton and Hannon illustrate the idea of positive NIMBYism through a case of where to establish a low-level radioactive waste storage. They mention that they try to avoid a naive view of localism in which the veto of the communities possibly leads to the situation in which all the communities have refused accept the waste storage in their lands and the site would not be built at all; an alternative that could be the worst-off scenario for the people involved. In other words, one big storage site is better than multiple smaller sites. Thus, the naïve position is unable to solve the problem that is there already; the mere refutation to recognise it does not eliminate it. Therefore, the bottom-up approach is "inoperative as a complete solution". But for Norton and Hannon it is not right if the national decision-makers take the course, in which the storage site will be sited there where the opposition to it is weakest or where is the optimal place for it as calculated according to the pure computational style. Rather, unanimous opposition to storage site at the local level will send such a message to national level that radio-active waste should not be brought into

[17] Norton & Hannon 2003, 361-62.
[18] Norton & Hannon 1997, 244.
[19] Finland is the first country to solve problem of the nuclear fuel waste by burying it into the bedrock. Posiva is the corporation to carry out the plans. See http://www.posiva.fi/englanti/

existence in the first place.[20] When local sentiments and expressions of values are taken into account, the community's right to self-determination provides it a trump card and consequently the burden of proof why local interests can be overridden belongs to the national government.[21]

(b) *Reintroduction of the wolf*. Perhaps the most detailed of Norton's articles that focuses on one single issue deals with the reintroduction of the wolf to the Adirondack Mountains, New York. There are tens of thousands of people whose life could be affected by the presence of the wolf and many of these people prefer a life without the wolf in the neighbourhood. Should we follow the localist model, it would be easy to solve the case: there is no room for the wolf. But Norton – who himself lives in Atlanta, Georgia – is of the opinion that the reintroduction is a good idea. Actually, this single article is possible to be read as Norton's use of his entire intellectual power to persuade the local community more favourable to the reintroduction. The arguments he presents to support his case are of secondary importance here; it is more important to consider whether the plans should be carried out and a wolf population be transferred there. According to negative type of NIMBYism, what solely matters to the community is the aggregate of actual interests of the members of the community, and if most members feel that the reintroduction will harm them or they simply don't to encounter the wolf, then the realisation of the plans is not justified. However, Norton professes here an ecologically enlightened version of NIMBYism, and the result of multiscalar valuation is the reverse because then "it is also possible to see that from the larger scale of the region or nation, existence of wolves is this unique habitat may have enough value to outweigh the loss and risks to the local community."[22]

Norton's reasoning here ends with the conclusion that the government may accomplish the reintroduction plans despite the local resistance. But those affected, especially the landowners and other residents, should be compensated for the losses they might suffer. For Norton, this model of conflict resolution has not diminished the power of the local community. He writes:

> Having acknowledged that some compensation may be due landowners and residents if they are supporting a public value, this places the local communities at the center of the decision process, a process that is embedded in a comprehensive, multiscale examination and evaluation of the reintroduction at regional and state levels.[23]

In these two cases, Norton's treatment of the local *veto* is slightly different: in the nuclear waste example, the local residences all over the nation-state could and perhaps should provide a case to end the process which produces harmful substances; in the wolf example, if it turns out that all the suitable communities refuse to accept the reintroduction of the wolf, then begins the trade between localities and the national government. Those landowners or land users whose interests are directly affected by the reintroduction should be compensated. In the wolf case, the possibility of wiping out the wolf totally is out of question, whereas the local fears about nuclear waste could imply a change in national energy policy.

It might appear that all the potential sites either for the nuclear waste storage or for the reintroduction of the wolf are ineligible for political reasons: in both cases there are no

[20] Norton & Hannon 2003, 361-62.
[21] Norton & Hannon 2003, 363.
[22] Norton 2003d, 506.
[23] Norton 2003d, 506.

communities are willing to allow a nuclear-waste storage or a wolf population in the area of their community. When it comes to the waste site, Norton and Hannon emphasise that if the message from all the potential storage site communities were negative, then the government should radically modify its energy policies. But in the reintroduction case, the message from the people should not be understood in the same manner; rather it is the local communities who should check their attitude to the wolf.

Environmental conflicts are, however, more complicated and local communities can choose the attitude of developers and make up policies to utilise the natural resources and to get rid on harmful animals. In such cases the governments can step into the position of environmentalists and the constellation has been reversed to that of Norton's and Hannon's. The wolf-example might be seen to imply even more drastic consequences because it will take Norton on a slippery slope: perhaps also other conflicts between local actors and non-local actors should be solved in favour of the latter. If so, the wolf case opens up possibilities to justify interventionist climate policies in a top-down manner.

4 Two aspects of localism: adaptation and sustainability

In this section I want explicate shortly the philosophical underpinnings of Norton's trust on local communities. As a political vision localism clearly has its problems, that Norton inevitably recognises, the philosophical justification for it is in many respects sensible. Norton's philosophical main work *Sustainability* is an attempt to formulate a comprehensive environmental ethical and political theory on human use of the natural environment and ecosystem services.

The starting point for Norton is the American philosophical tradition of pragmatism which has had close links to Darwinism[24], and this link is something that Norton wants to emphasise: "Pragmatists and Darwinians were, in general, critical of individualism and emphasized community both in truth-seeking and in valuing cooperative behaviour."[25] Sustainability and adaptation are related concepts: of all those human features that have ecological bearings could be said that what is sustainable must be adaptive. (Of course there are behavioural patterns that lack an immediate ecological dimension.) But it is impossible to provide such a general account of adaptation that entirely lacks a description of the place where one is adapted to. Consider Darwin's famous finches that were morphologically different and each species was adapted to a specific ecological niche in the Galapagos Islands. With regard to humans, the object of adaptation is human community that can learn to develop "successful cultural models of existence"[26]. It is not primarily a matter what certain individuals do or imagined context-independent actors do, but adaptation and thus sustainability is a matter of institutions and practices of communities residing on a certain place. This clearly expressed in the following quotation:

> Darwinian adaptation is always local – one organism either survives or perishes in particular situations, and when Darwin's principle is applied to societies, the relevant question is not whether the society has THE TRUTH (for all times and places) but rather whether the society has developed practices and institutions that are responsive to, and sustainable in, their local environment.[27]

After stating this Norton is in a hurry to point out that larger regional and global systems do have an impact on local systems and that various systems form interlocking, complex and dynamic larger systems, but these larger wholes are always understood "from a given

[24] Dewey's essay "The influence of Darwinism on philosophy" (orig. 1909) is among the key texts.
[25] Norton 2005, 64.
[26] Norton 2005, 67.
[27] Norton 2005, 93-94.

perspective within a multiscalar system".[28] According to his naturalistic thinking, Norton first characterises the nature of human communities in general terms and then moves towards political and ethical views. For example, here Norton defines localism in a rather descriptive manner as to include "the idea of a community of people capable and willing to participate in decisions that affect their lives in their local context."[29] Localism is also a normative stance: a community of people should participate in this decision-making – there is no unbridgeable gap between the empirical and the normative.

Environmental pragmatism calls for systems of political decision making to adapt to local conditions and different ways of sorting out problems should be put forward to be tested. Ideally, decision making is context sensitive, based on sciences and democratic. Norton's views are deeply Deweyan here, as Dewey has emphasised that, "There is no such thing as an environment in general; there are specific changing objects and events."[30]

Norton is interested in integrating pluralism and consensus in a public policy and in a practice of environmental management. The development of sustainable policies requires cooperation between various actors and cooperation requires the use of language. So, instead of offering yet another substantive, authoritative definition of sustainability Norton offers a process description how to construct sustainability in real-life and a new way of discussing of environmental problems. What he calls Ideological Environmentalism is the culprit for the chaotic and largely polarised situation in environmental policy: 'Outbursts of ideologically motivated rhetoric are unlikely to results in improved environmental policies.'[31] Economism and Intrinsic Value Theory are the main forms of ideological environmentalism and targets of Norton's criticism. Norton assumes that there is a possibility to formulate an environmental philosophical view that is fundamentally different and could leave behind the old ideological battles stemming from pre-experiential commitments of the participants of the debate. Pragmatic method is the 'third force'.[32] (One may ask whether Norton adds to the list of ideologies a third ideology, pragmatism, and whether the way he depicts the two ideologies is biased or too inflexible. But I leave it for others to discuss.) For Norton, environmental pragmatism is process-based, a method and it encourages pluralism of all kinds and at every societal level. Environmental pragmatism is primarily interested in real-life problems, many of which can be characterised as 'wicked'. Wicked problems are devoid of immediate solution and cannot be solved by applying some general rule (contrary to what the ideological views hold).

Because of the wicked nature of environmental problems, communities – or successful communities, it is better to speak -- have learned through trial-and-error to respond to them. Some cultures and communities have socially learned to live in the natural setting in which they have lived from times immemorial. From time to time Norton relies on anthropological case studies. From them he learns a lesson which is, again, supportive to localism. The key concept of his work 'sustainability' is such a concept that cannot and shouldn't be defined in a more substantive manner – sustainability is a local matter:

[28] Norton 2005, 94.
[29] Norton 2005, 94.
[30] Dewey 1922 quoted in McDonald 2004, 78.
[31] Norton 2005, *ix*.
[32] Norton 2005, 58.

> sustainability is a relationship between generations such that the earlier generations fulfill their individual wants and needs so as not to destroy, or close off, important and valued options for future generations.[33]

Norton emphasises the schematic, formal nature of this definition implying that it is up to every community to confer the content for sustainability and to decide what to leave for the generations to come. By implication, "every community may come up with a different definition".[34] For Norton this is 'contextualism', and intuitively it is appealing because of apparent variance in circumstances. Therefore, we should give attention to local solutions to local problems and to let communities to define locally what they want to transfer to the future generations of their community. Some of the values that can be bequeathed can be protected as constitutive values of the community, and their destruction virtually means the destruction of the community.[35]

Norton's characterisation of sustainability goes close to the position which he formulated in 1998. In this article he reflected upon the possibility of "universal earth ethic" in the context of the Earth Charter initiative.[36] As Norton understands the point of this initiative, it does not intend to "tell the many peoples and cultures of the world *how* they should value nature."[37] In other words, because Norton prioritises democracy to environmental values, the idea of fair and open process of public deliberation to the substantive value conceptions and because democracy is a local arrangement, it leads to emphasising the local understanding of sustainability as it is defined in a local democratic process. It is clear that localities can and do define sustainability in ways that does not look ecologically reasonable to outsiders or to some critical members of the community, but this is the cost of the arrangement. Norton seems, however, not be fully happy with that possibility. Namely, he also articulates the idea of sustainability in a manner that is not solely formal. His view is a compromise between absurdly strong and weak conceptions. He calls it 'suitably strong', and it requires us to "begin the adaptive process of managing resources" but it is not so demanding that the use of resources for human development is entirely out of question.[38] Sustainability is a human value and any talk about it is profoundly human, "seen from human eyes and scaled by human concerns and capabilities".[39] Despite this conception of sustainability, the question remains: is there then any basis for external criticism, if the localities are the principal actors to define sustainability? This is difficult question for anyone stressing localities. For Norton external criticism leans primarily on the nature of the decision-making processes, from which policies affecting the environment stem. But is this enough?

If a community adopts an unsuitable idea of sustainability and related unsustainable practices, it is better to give them up before "the struggle to survive will winnow out

[33] Norton 2005, 363.
[34] Norton 2005, 40.
[35] "Constitutive values for people are values such that, if they were lost, the person in question would no longer call that place home and would judge that its integrity had been compromised." (Norton 2003d, 509.) These constitutive values of a community can be at conflict with the constitutive values of the larger communities; then the communities must reflect what really are constitutive to their identity. See Aaltola & Oksanen 2002 which focuses on the conflict between the EU and autonomous province of Finland, Åland, over a local tradition that is banned elsewhere.
[36] See the website: http://www.earthcharter.org/
[37] Norton 2003c, 412.
[38] Norton 2005, 307.
[39] Norton 2005, 383.

inappropriate practices."[40] And moreover: "The only arbiter is experience; the only ultimate arbiter is time indefinite."[41] It is interesting to compare Norton's analysis with Jared Diamond's recent work *Collapse* (2005), as these two works are somewhat complementary: Norton's focus is on theory of sustainability defined in terms of what works in the long run, while Diamond provides important long-term cases studies of both failures (Norse colony in Greenland) and success stories (Japan), as far as we are entitled to use the latter characterisation.

Although Norton implicitly guides us to make acquaintance oneself with anthropological, archaeological and other relevant literature that enable us to make comparison, the big question remains: how to extrapolate the ancient and more recent experiences from localities and local communities to post-modern societies? Or how to make pragmatism prospective instead of retrospective? This is a real challenge for environmental pragmatism as well as those who do not identify themselves as pragmatists. It is easier to say afterwards that "It didn't work" than to demonstrate that "This will work, that won't", and the later option is the one needed in formulating and implementing environmental policies before the communities have faced a collapse.

Paradoxically, this seems to require a form of knowledge that is abstracted from case studies: what is needed is the understanding of basic mechanism of cultures how they sustain or collapse. For example, Diamond singles out eight different categories what can trigger a collapse of a community: deforestation and habitat destruction, soil problems, water management problems, overhunting, overfishing, effects of introduced species on native ones, human population growth, and increased pre-capita impact of people. Diamond points out that, "past collapses tended to follow somewhat similar courses constituting variations on a theme."[42] Besides Diamond's efforts, this has attracted much of multidisciplinary interests and given rise to novel research, such as the recent Dahlem workshop[43]. It is notable, however, that the indices of Diamond's *Collapse* and Dahlem workshop report do not include the word 'democracy'.[44] If context-independent, abstract knowledge is available, it of course opens up the possibility of national or even global management.

But when we are talking about communities, what kind of social entities we are referring to? It is clear that there are many kinds of communities, local, regional, national, global. And so, to tackle global warming we need to develop the notion of global community; to protect the Baltic Sea, a community of communities and of nations living around the sea should be formed. For Norton, however, a community is a local actor in the first place. Is his approach applicable to resolving those problems that are not local and or not recognised or are refused to be recognised by local communities? To solve such problems

[40] Norton 2005, 110.
[41] Norton 2005, 287.
[42] Diamond 2005, 6.
[43] By time of completing this paper I got in my hands an edited volume *Sustainability or Collapse? An Integrated History and Future of People on Earth* (Costanza, Graumlich & Steffen, eds., 2007.) The aim of that book is to integrate human and natural history so as to deepen our understanding of our ecological past and to advance our capability to formulate possible futures that are sustainable.
[44] This does not mean that democracy has not been deal with. For example, Diamond considers why both bottom-up and top-down approaches to environmental management have provided success in different cases and why they might even coexist: "For example, in the United States and other democracies we have bottom-up management by local neighbourhood and citizen's group coexisting with top-down management by many levels of government (city, county, state, and national)." (Diamond 2005, 279.)

apparently calls for grand-scale cooperation between local communities, either at national or international level or both. It is notable that Norton talks about global warming only twice and very briefly in both occasions. Perhaps it is an issue beyond the theme of adaptive ecosystem management, in which case Norton's theory is not comprehensive. (Intuitively, to consider climate as an object of management is problematic, regardless of the fact that humans affect it.) I admit that virtually all decisions concerning climate do have local dimensions, in particular energy decisions, but the big question of the commitment of localities to common policies remains. More obvious and incontestable case is the protection of migratory species of birds. Some migrating birds cannot survive if we hold to the communal valuation merely because the local valuation tends to vary. A case in point is barn swallow, a small migratory species of bird that is cherished with full protection in Finland where it nests; in some Mediterranean islands it is a hunted species when it stops there to rest during the migration; and in Western and Central Africa the bird winters in massive flocks, but it suffers from hunting, the use of DDT and conversion of wetlands into agricultural lands. It is apparent that efforts to save birds in some communities are undermined if not followed in other communities.

In both examples above, it is required a perspective that is rather detached from the restraints of localities and is truly global. Norton's concepts of hierarchy theory and multiscalar analysis seem to provide potential to deal with these issues, as information of local values flows upward in the decision-making system. However, they are less helpful, if communities cannot be pressurised to a single policy. This is an important issue in the EU at the moment, because there is a stark contrast between the EU policies and provincial sentiments in environmental matters. For instance, there is a question of the relation of centralised decision-making in Brussels to local communities who are worried about individual wolves (in the East of Finland) or bears (in the French Pyrenees). On the basis of my analysis of Norton's localist theory on environmental management, I am rather perplexed how such could be solved without compromising localist principles.

5 Concluding remarks

I agree with Norton on a wide variety of issues. But my own attitude to decentralised decision-making and prioritisation of the localities is not uncritically favourable. Pressures from abroad are often of crucial importance. For example, in my own country Finland, irrespective of the fact that local debates and even conflicts in regard to he environment occur recurrently, the national debates tend to follow the international debates rather slavishly. A few years ago biodiversity was the topic of the day, and then the Aarhus Convention, and now again global warming, the Kyoto protocol and its numerous ramifications. Roughly, the national environmental debate is about adjusting national legislation with international laws and commitments and moreover, environmental politics at the local level is about adjusting to national legislation to international laws and commitments. The issues Norton examines are of utmost importance to environmental policy. There hardly is any easy way to find solutions. Decisions to be made are optimal to some parties, aversive to other parties and indifferent to the third parties: politics enters the arena and decisions will made that are not in accordance with the interests of some communities..

As I see it, without progress at the international level, even less progressive steps would have been taken at national and subnational levels. But, Norton is right to emphasise that the process of expansion and strengthening of environmental legislation may not and should not be a one-way, top-down process. There must be a proper place for expressing local sentiments and place-related values in environmental debates and participating in environmental decision making. But it is difficult to see how a community, which occupies a restricted area on earth, could sustain if they look at themselves solely and if they don’t take into account the whole of humanity living on the planet Earth.

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Deontology, Non-Identity and Future People

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1 The Non-Identity Problem

Many of our actions will affect the welfare of future people. For instance, continued emissions of greenhouse gases may lead to future environmental degradation. This will negatively affect people's lives. If we continue emitting GHG's into the atmosphere, are we then harming future people? In light of the so-called non-identity problem, we are apparently not.

It is commonly assumed that an act harms a person to the extent that the person is left worse off than she would have been, had the act not been performed. Initially, it seems reasonable to assume that we can harm future people, for instance by depositing toxic waste in an unsafe way. It can be argued however, that this is not always true.[1] In some cases, people could not have been born had it not been for those actions that are now negatively affecting their welfare. One common example is climate policy. A society can be in a situation in which it must choose between a policy of reducing emissions, and a policy of polluting at the present level. The first policy will result in a higher level of welfare for future generations than the second. However, this choice of policy is also implicitly a choice of future populations, because reducing emissions will have societal impact in many big and small ways. This will affect the identities of new people, and over time, the total population will have been replaced, relative to the population that would have resulted had the policy not been implemented. If emissions are not reduced, then, those future generations that exist, say three hundred years from now, and who are badly off because of policies implemented centuries earlier, cannot, for this reason, claim to have been harmed, because in the alternative world in which emissions *are* reduced, these people do not exist.[2]

The same problem arises also in smaller contexts, if, for instance, a child is negatively affected (by a limiting handicap, say), in a way that could only have been avoided if conception had taken place at a different time.

The implications of the non-identity problem seem highly counterintuitive, but it has proven difficult to get around it, at least on a person-affecting view of morality.[3] This is embarrassing, because it reveals that many moral theories are unable to account for why we should be concerned with what many regard as the most important moral challenge of our time.

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[1] Gregory Kavka, "The Paradox of Future Individuals", *Philosophy & Public Affairs* 11 (1981), 93-112, Derek Parfit, *Reasons and Persons* (Oxford University Press, 1984).
[2] Parfit 1984, 361-3
[3] Consequentialist (non-person-affecting) theories avoid the non-identity problem. See for instance Nils Holtug, "Prioritarianism", in Nils Holtug and Kasper Lippert-Rasmussen (eds.) *Egalitarianism – New Essays on the Nature and Value of Equality* (2006) Oxford: Oxford University Press, and Alan Carter, "Can We Harm Future People?", *Environmental Values* 10 (2001), 429-54. However, such theories tend to imply other unfortunate features, most notably the so-called repugnant conclusion.

In the following I assess three recent attempts, (by Alan Carter, Edward Page, and Rahul Kumar) at grounding concern for future generations in deontological moral theory. Although these attempts are all promising, I conclude that none are completely successful.

2 The Limits of the Non-Identity Problem

Alan Carter accepts (apparently for the sake of argument) the main tenets of the non-identity problem. He agrees that acts that cause existence (at a positive welfare level) cannot harm. However, with special reference to environmental policy, he argues that the problem will not often arise, and that we can certainly harm future people even if these people's existence is only possible in the world in which previous generations continued pollution.

To make good his claim, Carter points to the fact that there are many possible future worlds whose populations are overlapping. One major policy decision will normally not entail that the next generation is completely distinct from the next generation that would have existed had the policy not been implemented.

Carter imagines three people, Andrea, Ben and Clara. They exist in the actual world, and the three of them are presently depleting the environment. These activities cause Xerxis, Yolanda and Zak to exist in the future.[4] In an alternative world, Andrea, Ben and Clara refrain from degrading the environment. In this world, Xerxis, Yolanda, and Zak are never born.[5]

In the first world, the world of depletion, Xerxis, Yolanda, and Zak must face the challenges of a depleted environment. If we accept the challenge posed by the non-identity problem, Andrea, Ben and Clara, in this case, have not harmed Xerxis, Yolanda or Zak.

As Carter argues however, if, in the world of depletion, Clara decided to stop her environmental degradation, this would not have altered the future population entirely. If we assume that only Zak is thus dependent on Clara's depletion, then Xerxis and Yolanda, but not Zak, would exist in the future if Alice and Ben choose depletion while Clara choose conservation.[6] In this alternative future world, Xerxis and Yolanda are better off than in the future world that includes Zak. Thus, if Clara depletes, she *harms* Xerxis and Yolanda (though not Zak) because in the world where Clara depletes they are (in the future) worse off than in the alternative world where Clara depletes and Xerxis and Yolanda still exists in the future (though not Zak).[7] The same is true of Alice and Ben, with regards to Xerxis and Yolanda, respectively. On the basis of this analysis, Carter concludes that Andrea, Ben, and Clara *individually* harm some, but not all future people.[8]

[4] Carter 2001, 435.
[5] Carter 2001, 435.
[6] Carter 2001, 441.
[7] Carter 2001, 441.
[8] Carter 2001, 442.

It is worth noting here that this does not *solve* the non-identity problem. The argument is valuable, however, in that it highlights the possibility that the non-identity problem might sometimes be overstated, and that it does not arise as often as many seem to think. The argument does nothing to evade implausible implications in small pre-conception cases, but it may nevertheless have real bearing on climate issues. Most of us would welcome this. That we would welcome it does not mean that we should not assess this analysis closely, however. Despite its initial promise, there might be some problems with the approach.

It is true that individual acts to some extent harm those future people whose existence is not contingent on one's actions. Consider however the following (not wholly unrealistic) scenario. The world faces an energy crisis. In order to avoid plummeting into a massive economic breakdown, this crisis must be solved. There are two main options. Either a) to invest all available resources in the pursuit of developing the technology necessary for extracting vast, newly discovered but hard to access oil reservoirs hidden deep below the earth's surface, or b) investing all available resources in developing the technology necessary to develop renewable energy on a scale sufficient to avoid economic decline. Assume that this choice is real and that both policies are so demanding that compromises most likely will have the result that neither policy fully succeeds. Assume further that the decision is made collectively in a legitimate way, for instance through suitable international institutions, after inclusive and democratic discussions on the domestic level. Lastly, assume that policy a) is chosen, and that this over time depletes the environment in such a way, that some generations down the line, people's welfare levels are substantially lower than the welfare level of the people that would have existed, had policy b) been implemented instead.

If it is true that the population three generations after policy a) is chosen is completely distinct from the population that would have existed at the same point in time had b) been chosen, then it seems to follow that most ordinary acts of depletion undertaken after a) is chosen is dependent in the same way on the choice of a). If so, most individual acts cannot be said to harm even those that are not caused to exist by one's individual actions of depletion. Surely, one might argue that if I spend my days emitting carbon dioxide just for fun, I harm future people. But I do not harm future people through ordinary conduct within the frames set by the choice of policy a). The reason is that conserving at the level possible if b) is chosen might well be too costly for individuals in a world governed by policy a).

One might think that individually, the people who partake in the *decision* that leads to the adoption of policy a) harm future people. But this seems implausible. Collective decisions are the result of many agents' choices. Assume for simplicity that the policy is adopted by an all-inclusive democratic vote. If a) is chosen, Population A will exist in the future. If b) is chosen, Population B will exist in the future. These populations do not overlap. Most likely, Alice's single vote will make no difference, and even if it did, even if it was the case that her vote decided the election, she would still not have harmed anyone, because her vote would have decided the whole future population (the same, of course, is true if Alice is a world dictator who individually decides to implement policy a)). It seems, moreover that these are the scenarios in which the non-identity problem is most devastating. Few people believe that there is no way in which to harm future people. To the contrary, this is easily done. The most important question is whether we harm future people by for instance not implementing large-scale reductions in the emissions of GHG's.

In order to reduce global warming in the future, large societal changes are needed. These changes will lead to a different population than the one which will obtain if the changes are not implemented. Therefore, we have, if we accept the non-identity problem, no moral reason to undertake these large changes. Although we do have reason to protect the environment in other ways, ways which will not affect who is born in the future, it seems that there must be some limit to the cost it is reasonable for existing people to incur in order to benefit future people. In particular it seems unreasonable to ask the world's poor to pay this price. Many developing countries are today dependent on using environmentally polluting technologies in order to raise the welfare levels of their citizens.

In reply, we could note that if all those who can, incur some cost in order not to harm those in the future whose existence do not depend on their actions, this could amount to real change. It could also lead to the discovery of new technology which in turn could be exported to those who cannot incur the cost themselves. This would further improve the situation of future generations. In this case, no major shift in world energy policy is involved. Rather, small steps taken by those who harm some (but not all) future people, lead to further changes which adds up to a major shift in policy. If so, Carter's argument may be successful after all.

However, before we conclude that this is the case, we should consider a further possible problem. As we recall, Clara harms the people that she does not cause to exist. Therefore she should stop polluting, or degrading the environment. The same is true of Alice and Ben. But as we also recall, if all of them act as they should, Xerxis, Yolanda, and Zak are not born. Thus, Clara harms Xerxis and Yolanda only if Alice and Ben deplete as well. We can see this more easily if we reduce the number of people involved. Assume that A and B live in the actual world. If A depletes, X is born in the future. If A conserves, P is born in the future. If B depletes, Y is born in the future. If B conserves Q is born in the future. Consider then the following four scenarios.

1. A depletes, B depletes. X and Y are born in the future.
2. A conserves, B conserves. P and Q are born in the future.
3. A conserves, B depletes. P and Y are born in the future.
4. A depletes, B conserves. X and Q are born in the future.

In 1, A, according to Carter, harms Y, because Y in 1 is worse off than she would have been in 3, in which A conserves. However, in 2, A also conserves, but Y is not better off, since here Y do not exist. Thus, if A conserves, this is not necessarily better for Y. The same is true of A's depletion. A's depletion harms Y in 1, but not in 4, in which Y does not exist. Whether or not A harms Y, moreover, depends crucially on B. More precisely, Y can only be harmed by A if B depletes. Similarly, X can be harmed by B, only if A depletes. Thus, on Carter's view, both X and Y are harmed. They both have equally valid claims not to be harmed. However, if neither is harmed, none of them is ever born. This casts some doubt on the validity of these claims. Y's valid claim can only be met if X is harmed. And X's valid claim can only be met if Y is harmed. This seems to undermine the force of both claims. In addition, if we consider the situation from the standpoint of X and Y, it seems that both have reason (hypothetically) to waive their moral claims not to be harmed, since this is better for both than if both claims are met.

It could of course be argued that the only morally relevant fact for Y in 1 is that she is harmed relative to 3. After all, 3 is the only possible world in which Y is not harmed by A. But it would be hard to maintain that 3 is the only morally relevant alternative for Y,

because this implies that 4, for the exact same reasons is the only relevant alternative for X. If A and B take these reasons seriously, and for that reason tries to bring about 3 and 4 respectively, 2 comes about. Given the assumptions, this is a fact. But 2 cannot be said to be better for either X or Y.

3 Obligations to Future Collectivities

Edward Page has argued that an appeal to collectivities might help circumvent the non-identity problem. In his view, such "group-centred" views are "special instances of identity-dependent views…"[9] Group-centred views, moreover, are characterized by the fact that they hold that an act can be wrong even if it does not harm any particular person. An act can be harmful because it affects a particular group for the worse.[10] On this view groups can possess ethical rights in ways that are not reducible to the individual rights of the members of the group. Groups have ethical rights in much the same way as corporations can have legal rights. [11]

The implications of this theory are well exemplified by the fate of low-lying nations and regions in the event of sea-level rise resulting from climate change. Some small pacific islands are threatened by total destruction if IPPC estimations concerning sea-level rise turns out to be correct.[12] On the assumption that individual islanders cannot be said to have been harmed (because they would not have existed had an alternative policy of conservation been implemented), Page asks whether the island community have been "harmed by … the failure of previous generations to implement GHG limiting policies…?"[13]

On the Group-centred view, there is some reason to think so. Regardless of what environmental policies that have been implemented in the past, it is plausible that some group or community exist on pacific islands in 2100. The question then, is whether "…the interests of those groups are deserving of concern and respect *in their own right.*"[14]

The main justification for this view is that cultures realize some sort of impersonal value that is distinct from the value cultures may bring *to* people. If a whole nation perishes (in part because the young flee the island and take up life somewhere else), as might happen to certain pacific islands, the islanders' cultural and linguistic heritage becomes impoverished.[15]

> Because it assumes that there is inherent value in the survival of certain groups and these groups possess valid moral claims *qua* groups, the group-

[9] Edward Page, "Intergenerational Justice and Climate Change", *Political Studies* XLVII (1999), 53-66, and Edward Page *Climate Change, Justice, and Future Generations* (Cheltenham, Edward Elgar, 2006). Page uses the terms groups and collectivities interchangeably (Page 2006, 130).
[10] Page 1999, 62.
[11] Page 2006, 130. Note that the view that groups can have rights is not a focus of attention in Page 1999. My arguments do not depend on the question of rights as opposed to mere harm.
[12] Page 1999, 62-3.
[13] Page 1999, 63.
[14] Page 1999, 63, emphasis in original. Alternatively, one could ask whether the group's rights have been violated (Page, 2006).
[15] Page 1999, 63.

> centred view appears to avoid the problems of non-identity. This is because the conditions of existence of many future groups (such as states, nations, or cultures) will often be robust to the point that they will not be affected by environmental policy decisions made in the past … [T]he central idea appears to be plausible: that climate changes will in certain instances jeopardize the survival of certain communities and traditional patterns of life quite apart from the effects it will have on the individual members of these cultures.[16]

There is no reason to deny the empirical assumption that some cultures and traditional patterns of life may be jeopardized by climate change. Also, it is indubitable that most groups of the relevant sort will not owe its existence to environmental degradation in the past. However, there are several important questions that must be answered before we accept that the group-centred view solves the non-identity problem.

First, it is not obvious that groups can be inherently valuable in their own right. If we nevertheless grant that groups can have such value, the challenge is to define what kind of groups that can be valuable in this way. There are many groups in the world, and there is little reason to think that all these groups are worthy of protection and moral concern. What characterizes groups whose survival is inherently valuable?

Page suggests that "…we adopt a 'practical' approach to ethical standing, we should not be deterred by the lack of a clearly definable list of conditions that will rule certain entities in, and other entities out of the bounds of justice".[17] Instead we should consider which entities we in fact tend to ascribe ethical status to. As Page himself, points out, this is not a fully satisfactory approach. Ideally, we should be able to give persuasive reasons for assigning value to an entity.

Another worry is that the group-centred view, even if defensible, may turn out to provide scant guidance in policy questions. Many features of our world leave collectivities, and their ways of life, in flux. Groups generally persist over time. They also change over time. In many cases the changes groups undergo in a couple of centuries are quite radical. If Group G at time t has a particular and valuable way of life w, then it seems as if G at t2 has a different though valuable way of life w2, and this is a result of external influences, including policies, then G is somehow violated, because the former way of life w has in one sense been destroyed, even if it is replaced by another valuable way of life.

Further, it might be true that a policy of depletion risks destroying (and thus harming or violating the rights of) certain cultures. But it seems equally plausible that other patterns of life, and other cultures or groups may be threatened by a policy of conservation. In fact, it is quite hard to believe the opposite: that a major global shift of energy policy will not adversely affect *any* relevant group. It seems however, that some argument to this effect must be given, if the justification of this policy-shift is the concern for groups. Alternatively, an argument could be given that more groups, or more valuable groups are threatened by a policy of depletion than a policy of conservation. I do not want to rule out the possibility that some such argument could be given, but it seems that they would be quite complex and perhaps insecure.

Also, there are other problems with conceiving groups as moral entities which are capable of being harmed, and whose value is independent of the individuals who constitute the

[16] Page 1999, 63-4.
[17] Page 2006, 153.

group. For instance, can a group be harmed if its members voluntarily leave in pursuit of other ways of life?

This is not a hypothetical problem. Many traditional ways of life have trouble keeping the attention of the young. Are these groups then relevantly harmed? If not, why? If yes, what restrictions does this pose to those who contemplate leaving? Are they harming the group in the same way as emissions of GHG's will harm certain groups? This seems to be the implication of a view of collectivities that take groups to be valuable apart from the value they have to the individuals who belong to them.

Consider the following example. Due to lack of communication and infrastructure, a group lives in relative isolation from the greater society. The group has a traditional life-style, and cultivates and takes pride in its linguistic and artistic heritage. The surrounding society aims to bring the goods of modern life to all its citizens however, and develops infrastructure which facilitates more extensive contact between the group and the rest of society increases. As time passes, more and more young people are attracted to the comforts of modern life, and leave their birthplace in order to take up life in urban settings. Older people, and the young who stay, regret this. After a while, the group realizes that its distinct way of life is threatened. However, access to modern technology and comfort has in many ways improved their quality of life.

Is the society to blame? The group is threatened by destruction. Many regret this. But those who leave do so voluntarily, and for something they perceive as a better life. Those who stay are not harmed, apart from realizing that their cultural heritage will not survive them. If groups can be harmed, or have rights, distinctly from the individual members, it seems that this group is harmed in the same way as the pacific islanders.

Of course, there is one difference. The individual islanders are not harmed, because they would not have existed in the world in which their culture is not threatened. Thus, there is no conflict between individual and group rights, and the latter tips the scale. In the case of the traditional group, the individuals actually benefits from moving, and it would be absurd to force them to stay. However, the harm to the group (or rights-violation) seems to be similar in both cases. In my view, this cast the notion of group rights into doubt.

However, if we do accept the notion of group rights, we would still, as suggested, balk at the idea of limiting the opportunities of individuals in order to respect the rights of a group, when no individual rights violation is involved. This points to a limitation in the group-centred view. The islanders are not harmed individually. If we reduce emission on account of the islanders we do so on account of a group. However, reducing emissions will restrain the opportunities of hundreds of millions *existing* people. Why should the rights of a group whose individual members suffer no harm (though they may of course suffer) take precedence over the interests of billions of individuals?

Page further observes an interesting connection between the group-centred view and Thomas Scanlon's contractualism. The suggestion is that Scanlon's judgment that "an act is wrong only if its performance "would be disallowed by any system of rules for the general regulation of behaviour which no one could reasonably reject as a basis for informed, unforced general agreement". In order for this to work out, Page notes, groups must have properties such that they meet Scanlon's criterion that

> (1) moral beings must possess a good in the sense 'that there be a clear sense in which things can be said to go better or worse for that being', and

> (2) moral beings must 'constitute a point of view; that is there be a such a thing as what it is like to be that being'"[18]

Page suggests that there "seems to be no insurmountable barrier in the way of those who whish to argue that can be such thing as a group point of view, or perspective on things, or that things can go better or worse for at least *some* groups.[19] This seems true, but it is less clear that there is such a thing as *being* a group. According to the quote from Scanlon, there should be such a thing in order for a group to be a moral being. This seems to require a defence. Alternatively, it might be possible to argue in favour of a relaxation of Scanlon's criteria on this count. This would, however, also require more argument. Note however that if the requirements are relaxed, museums, football clubs, and academic institutions are also candidates.

[18] T. M.Scanlon, "Contractualism and Utilitarianism", in A Sen and B. Williams (eds.), *Utilitarianism and Beyond* (Cambridge. Cambridge University Press, 1982), 110, and 113-4 (quoted in Page, 1999, 65).
[19] Page 1999, 65.

4 The Nonconsequentialist Account

Rahul Kumar starts by rejecting the notion of harm presupposed by the non-identity problem. He argues that harm does not always constitute a moral wrong, and that moral wrongs do not depend on inflicted harm. In his view, the traditional notion of harm, which he labels "the outcome approach", implies an unjustified consequentialist bias, in that harms, and thus wrongs are evaluated in terms of counterfactual assessments.[20] In contrast, on a truly non-consequentialist understanding of wronging, it is not relevant what happens to a person, or whether the identity of the harmed exists in both an actual and a possible outcome.[21] On non-consequentialism, what matters is "…how the wrongdoer has related to the wronged (quite apart from the consequences for the victim)."[22] Kumar suggests that Scanlon's contractualism might provide a nonconsequentialist account of harm that is able both to avoid the non-identity problem and vindicate "commonsense convictions concerning who can be wronged."[23]

The non-consequentialist contractual account thus rejects the outcome approach, and holds instead that being wronged "requires that certain *legitimate expectations*, to which one is entitled in virtue of a valid moral principle, have been violated"[24] These expectations vary with the type of relationship one has to another person.[25] The main idea is that wronging is a failure on the part of the agent, and not the fact that the "wrongdoer has left the wronged worse-off than she otherwise would have been"[26]

Kumar is concerned that contractualism may seem counterintuitive in that it focuses so strongly on the culpable wrongdoer, rather than on the wronged. This worry is put to rest because of the

> *individual reasons restriction*, which isolates as morally relevant for the justification of principles that regulate individual relations only those considerations that have a bearing upon the recognition of the status of a person as one capable of rational self-government. The restriction should be read broadly enough to encompass considerations that anyone has reason to care about in the early stages of the developmental path that

[20] Rahul Kumar, "Who Can Be Wronged?", *Philosophy & Public Affairs* 32 (2003), 99-118, 100-105.
[21] Kumar 2003, 101.
[22] Kumar 2003, 105.
[23] Kumar 2003, 105.
[24] Kumar 2003, 106.
[25] Kumar 2003, 106. Note that person refers to a normative ideal of a person. Kumar follows Scanlon., and hold the normative ideal of a person to be that of a rational self-governor. A rational self-governor is a "creature capable of recognizing, and acting upon reasons" (Kumar 2003, 106), and "with a capacity to select among various ways there is reason to want life to go (T. M. Scanlon, *What We Owe to Each Other* (Cambridge: Harvard University Press, 1998), 105 (quoted in Kumar 2003, 106).
[26] Kumar 2003, 108.

> generally results in the realization of the capacity for rational self-governance.[27]

According to Kumar, the individual reasons restriction enables contractualism to accommodate the intuitions that fuel the outcome approach.

> It does so by securing a connection between culpably failing to comply with the legitimate expectations of another – or *wronging* another – and a failure to have appropriately recognized her status as a person in one's understanding of how it is appropriate to relate to her. While rejecting the idea that having been wronged has to do with having been left worse-off, then, contractualism can be understood as recognizing the importance of the intuition to which this idea appeals, namely that to be an instance of wronging, an action must be such that it can make the kind of difference to a person that can be appealed to as a basis of a claim to have been wronged.[28]

Does this accommodate the intuition behind the outcome approach? In one sense yes, because it rules out the possibility that my legitimate expectation to you can imply that you in any sense wrong *me* by deciding to have salad rather than sandwiches for lunch. But then again, the absence of such a limitation would simply be absurd. It is also worth noting that for an action to be an instance of wronging it must "make the kind of difference to a person that can be appealed to as a basis of a claim to have been wronged." One way in which an act can make a difference to a person is making him worse off than he would have been. A difference, one might think, is a sort of relation, in which the relata in many cases will be states of affairs. It is tempting then, to think that in some cases an act makes a difference to someone if he is made worse off (than he would otherwise, in an alternative world in which the act was not committed). If so, contractualism too, is outcome-oriented, despite Kumar's remarks to the contrary.

However that might be, Kumar is right to point out that wronging and harming are not co-extensive. The outcome-oriented notion of harm cannot stand alone. It is reasonable to think that people can be wronged even when they are not harmed. It is also reasonable to accept that someone can be harmed without being wronged. It is not harms, but *undue* harms that constitute wrongs.[29] Harms are potential wrongs, whether or not they are, in the end, wrongs, depends on justified rules of conduct. But surely, some of these rules are justified in part by what a particular harm amounts to. In other words, some harms are wrongs in virtue of their outcomes. I do have legitimate expectations that you do not chop off my right leg. If you do this, you culpably fail to comply with my legitimate expectations. The same is true if you take the last cookie without asking if I want it. But there is a difference between the two cases that are not best explained in terms of legitimate expectations, but in what your acts lead to, or the outcome.

Anyhow, Kumar argues that focusing on what was done instead of what happened will enable the contractualist to evade the non-identity problem. He admits, however that it is at first not entirely obvious

> [H]ow can one have wronged another when there was no "other" who stood to be wronged by one's conduct at the time of that conduct, and who

[27] Kumar 2003, 108.
[28] Kumar 2003, 109-110.
[29] Thomas Pogge, *World Poverty and Human Rights* (Cambridge: Polity Press, 2002), 130.

> is now the particular person she is because of the conduct in virtue of which she takes herself to have been wronged?[30]

These questions seem pertinent. The answer according to Kumar is that legitimate expectations in contractualism are those expectations certain *types* of persons (for instance one's children, children in general, family, friends, students or colleagues) can legitimately have in certain *types* of situations (for instance teaching, socializing, working, or considering whether to have a child).[31]

This means that any individual's legitimate expectations depends on "both a) what expectations can in fact be defended on the basis of the relevant principle, and b) the relevant type descriptions that happen to fit her an her circumstances at that time." Principles are here the word for legitimate expectations of a type of person in a type of situation.[32]

Relevant types may be that of a person understood as a rational self-governor, or more specifically a husband, a child, a dependent or a caretaker.[33] Kumar goes on to argue that even though one normally knows those individuals who are entitled to legitimate expectations in relation to one's acts and decisions, this is not necessary. It is sufficient that one has "reason to take the other to be of a certain type."[34]

It is not hard to accept the basic tenet of this argument. Children are entitled to certain expectations concerning their parents' behaviour towards them.[35] Kumar tries to establish that anybody being a token of the type child has legitimate expectations that her parents care duly for her welfare. According to Kumar, in some circumstances, these expectations include preconception screening for certain limiting handicaps.[36] This holds regardless of the identity of the child that happens to be born. The prospective parents are responsible for taking into account the legitimate expectations of their future child. Among these expectations is the expectation that the parents take reasonable steps to make sure their future child is not handicapped. At this time, then, the parents take into consideration the legitimate expectations of a type of person, the type of which any child of theirs will be a token.

The question here is really who can have legitimate expectations before conception has taken place. Kumar suggests that the child (whose parents neglected to screen for handicaps) have been wronged. Thus, it must be her legitimate expectations that have been violated. But it seems odd that *her* expectations are violated before she is even conceived. As Kumar realizes, this means that she is equally wronged even if she happens to be born healthy. If the parents had delayed conception in order to screen for handicaps, the wronged child would not have been born. But it seems that it is the instantiated actual self-governing person that actually has these claims. Smith's children are entitled to expect that he care for them. The same would have been true of the children Smith might have had, but do not in fact have. But to the extent that these other non-existent children

[30] Kumar 2003, 110.
[31] "[T]he "types" in question are simply normatively significant sets of characteristics, whose instantiation together may be found in actual, substantial individuals, and in the actual situations in which individuals find themselves." (Kumar 2003, 111).
[32] Kumar 2003, 111.
[33] Kumar 2003, 112.
[34] Kumar, 2003, 112.
[35] We might add that children are entitled to certain expectations concerning their parents' behaviour in general.
[36] Of course, whether or not this is the case also depends on other circumstances, such as the access to the screening procedure and so on.

are in fact not Smith's children, they do not in fact have the legitimate expectations that they would have had had they been his children.

Of course, Kumar avoids identity-dependence by focusing on types. If the child in question is not born, another child, conceived later, will be born instead, and *her* legitimate expectations have not been violated. However, if the first, wronged, child is born, nonconsequentialism implies that respecting her legitimate expectations imply her not being born in the first place. After all, she is a token of the type child, and she is born, and her legitimate expectations are hers, even if these expectations can be generalized to all instantiations of her type. Thus, she has a legitimate expectation of not being born, whether or not she is born healthy. This seems a bit awkward. It is hard to believe that actual children carry along the legitimate expectations that the type children have even before they are conceived, especially since the expectations imply never being born.

Consider also an alternative scenario. A couple considers having a baby. They do not screen for handicaps. Unfortunately, they do not conceive a child. Are they still culpable? It seems that they are, since they have failed to take due account of the legitimate expectations of the type children. As we remember, nonconsequentialism focuses on the wrongdoer, and how he or she takes into account the interests of types of persons. It is not outcome-oriented. But since there is no instantiation, who has been wronged? (This is *really* a non-identity problem).

Lastly, note that Kumar's example concerns a child with a handicap that impose "severe restrictions on the quality of her life", but who nevertheless has a life "objectively worth living.[37] There are many things that can severely restrict the quality of one's life, without reducing it to a level not worth living. Lack of intelligence, unfortunate looks and poverty may at times fit this description. These traits are sometimes hereditary (socially or genetically). Have parents of less than average intelligence wronged their children, simply by trying to conceive them?

It seems that Kumar's attempt at solving the non-identity problem does not succeed. Although his arguments concerns pre-conception cases, it is likely that this lack of success carries over to larger cases concerning climate change and future generations.

[37] Kumar 2003, 99 (and note 2).

5 Conclusion

In my view, none of the theories examined in this paper can be said to avoid the non-identity problem altogether. Although many are reluctant to give up a broadly deontological moral outlook, it seems to me that we have reason to accept at least elements of a consequentialist, non person-affecting doctrine, because this will better make sense of the convictions we have concerning who can be harmed (and wronged).

INTERGENERATIONAL RESPONSIBILITY.

HISTORICAL EMISSIONS AND CLIMATE CHANGE ADAPTATION.

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1 Introduction

This paper addresses the question of fair climate change adaptation. Adaptation, the strategy of leaning to cope with the ill-effects of climate change, poses questions of justice that are distinct from, and no less difficult than, those of mitigation.[1] Adaptation gives birth to two separate questions: (1) how adaptation resources are to be distrusted, and (2) how adaptation resources are to be raised. Throughout, we assume that adaptation should be distributed according to vulnerability, and instead focus on the latter question. How should obligations to contribute to adaptation funds be allocated? This, we argue, is fundamentally a question of responsibility, and one which remains far from satisfactorily answered. To assign responsibility is inherently more difficult in problems such as climate change, since responsibility need to be analysed in global and intergenerational terms. The ill-effects of climate change involves trans-temporal and border crossing asymmetries. Later generations will be impacted by the actions of prior generations. Those who pollute most need not be those who suffer most from the effects of climate change. And so forth.

We outline a set of climate change adaptation models, which differ in terms of the way they allocate responsibility. These models are tested in terms of their normative appeal. This is to say that we do not, as a rule, consider the feasibility of the models. Instead, we run the models against considered moral judgements, and try to assess the extent to which each model leads to implications that seem problematic. As will become obvious, this is a pluralist approach, and one which is quite explorative. We do not run the models against explicit preconceived principles or criteria, but argue the flaws and merits of each model as we go along. The conclusion is that while all of the models have problems, there is some merit to recent attempts to combine principles of historical responsibility with those of ability to help others adapt. We end, however, by speculating that a likely future adaptation regime, which to a large extent disregards social justice, is one which is founded on a market based insurance system where each state will be expected to take responsibility for its own protection.

[1] We offer a validation of this claim in (Jagers & Duus-Otterström 2007)

2 Climate Change Adaptation

The dangers associated with climate change call for a broad spectrum of policy responses and innovative strategies at the individual, local, national and international level. The UNFCCC (United Nations Framework Convention on Climate Change) highlight two fundamental response strategies: *mitigation* and *adaptation*. Mitigation means to limit (human induced) climate change by reducing the emissions of GHG (greenhouse gases), by enhancing 'sink' opportunities, e.g., by planting trees and through sequestration. *Adaptation*, on the other hand, aims to alleviate the adverse impacts of climate change. Thus, adaptive capacity is defined as "the potential or capability of a system to adjust to climate change, including climate variability and extremes, to moderate potential damages, to take advantage of opportunities, or to cope with consequences" (Smit & Pilifosova 2001). Since it is assumed that there will be a wide range of effects connected to climate change, e.g., unstable weather such as flooding, drought, hurricanes, spreading of diseases, sea-level increases, and consequently demographic changes, adaptation as activity refer to a multiplicity of actions, often with rather local uniqueness (Fussel & Klein 2002).

Although both mitigation and adaptation measures need to be pursued in order to cope with climate change – not to speak of, to create an effective and inclusive international regime – most of hitherto attention has been devoted to mitigation, both within the sciences and in the policy debate (TERI 2006; Burton, Diringer & Smith 2006). The sensitivity to adaptation issues has, however, grown during the last few years, especially following the IPCC's (Intergovernmental Panel on Climate Change) Third Assessment Report (TAR). And there are good reasons for this, we believe. No matter how efficient and robust mitigation measures are or will be, a certain degree of climate change seems inevitable due to historical emissions and their inertial effect on the climate system (IPCC 2001). Thus, the effects of mitigation may take many decades before being fully manifested in terms of a stabilised climate (if that is at all plausible), or at least a stable global average temperature. Awaiting such stabilisation, adaptation measures will be needed to alleviate problems caused by climate change.[2]

Also, while the mitigation strategy is motivationally dependent upon the claim that current and future climate change is *human induced*, adaptation measures can be justified regardless of whether climate change is caused by humanity or natural climate variation. Thus, even if some still doubt the extent to which climate change is caused by humans,

[2] A similar point has been made by Gardiner, who argues that, "adaptation measures will clearly need to be part of any sensible climate policy, since because we are already committed to some warming due to past emissions, and almost all of the proposed abatement strategies envisage that overall global emissions will continue to rise for at least the next few decades, committing us to even more" (Gardiner 2004: 573). In his excellent survey of ethical questions posed by climate change, Gardiner does not seem to think that adaptation poses normatively distinct questions, however, which we will argue in this paper.

this doubt cannot in itself be raised as an argument against the duty to alleviate the effects of climate change as such.

While the international debate on adaptation is very much needed, it is also quite understandable that is has gained less attention in the present negotiations. It really *is* a difficult matter. Almost by definition adaptation must vary across both geographical scales (i.e., from individual/local up to international level) and temporal scales (both coping with current impact and preparing for long-term effects). In addition, the idea of adaptation covers highly complex and still rather uncertain conditions: To a large extent we still do not know when, where and what will happen with the climate when the global temperature is increasing. Nor do we know when or at what GHG concentrations the temperature increase will peak and we can expect the climate to become less unpredictable (TERI 2006).[3]

These uncertainties and complexities are, however, not the only reason why adaptation has been kept a Cinderella in the international climate negotiations. For example, after been agreed upon at the COP-meeting in Marrakesh in 2001, there are now three different international funds designed to collect capital to cover the costs for adaptation projects, mainly in countries particularly vulnerable and least capable to finance the projects by themselves.[4] These funds are plagued by a number of problems. The first Fund, the Kyoto Protocol's Adaptation Fund (AF) is primarily supposed to be replenished through a two percent levy on the Kyoto Protocol Clean Development Mechanism. Although officially already set in action, many formal issues remain before the fund is fully functioning, e.g., it is still unclear who is actually qualified to apply from the fund and, not least important, who should manage it. The second fund, the Least Developed Country Fund (LDC) is supposed to support at least 49 such countries in their designing of national adaptation programmes of action. Finally there is the Special Climate Change Fund (SCCF) which is aimed to support a variety of adaptation initiatives, e.g., technology transfer, transport, industry, natural resources and waste management – i.e., largely to assist developing countries in diversifying their economies. While it is decided that the latter two funds are operated by GEF (Global Environmental Facility) under the umbrella of UN, and while the funds are already operational, at least one important remaining problem with both funds is that they are based upon voluntary contributions. Thus, the question "*who should pay?"* is not founded in any international agreements but remains each country's discretion (Huq & Burton 2003).

A very straightforward reason why the question of adaptation has been largely avoided in prior negotiations is that adaptation is costly (Burton, Diringer & Smith 2006). For example, with the present size and development of AF, which has been estimated by the World Bank to amount to between $270 to $600 million by 2012, the global community is far from covering the expected *annual* developing countries adaptation costs of between $9 and $41 billion (Muller 2006). Thus, for the other two funds to cover the annual costs, the donor countries must leave *significant* voluntary contributions.

[3] This is not say that the world will go from one stable climatic equilibrium to another. To the contrary, most experts agree that, regardless of a future new temperature equilibrium, the future climate will nevertheless be much more uncertain and unpredictable than in the past (Burton, Diringer & Smith 2006).

[4] While the greatest losses, in absolute terms, occur in the industrialised world, when measured in relation to wealth, losses from extreme weather events are much higher in developing countries.

3 Fair Adaptation to Climate Change

Many problems of more practical-political and institutional nature thus plague present attempts to adapt to climate change. But even those practicalities aside, the more fundamental question of *fair adaptation* remains insufficiently examined. While most ethical work on climate change has either addressed mitigation exclusively (Adger, Paavola & Huq 2006), or seen mitigation and adaptation as strategies that raise the same moral problems (cf. Caney 2005), this paper argues that adaptation does give birth to some problems that seem separate from (and no less difficult than) those of mitigation.[5] This paper is devoted to furthering the discussion of what would be a fair way of adapting to global climate change.

In what way does adaptation raise separate normative problems?[6] Paavola & Adger (2006) has treated this question, arguing the need to hold adaptation and mitigation separate. Adaptation, they claim, "presents formidable dilemmas of justice to the international community, ones which are more complex and no less important to those presented by mitigation" (ibid. 594). The reason why adaptation is (more) complex is built upon two cornerstones. First, anthropogenic climate change is caused by GHGs emitted by developed countries, while the consequences of climate change will disproportionately burden developing countries. In addition, however, "while climate change impacts are often presented and projected at the global, continental or national level, they are ultimately felt at the local level" (Ibid. 594). From a distributive point of view, Paavola & Adger continues, this is a major problem since communities suffering from climate change impact have different vulnerability within each country (Burton, Diringer & Smith 2006). Also, the most vulnerable people often have the least say (cf. Light & de-shalit 2003; Schlosberg 2002: 12-4). Paavola and Adger's reasoning lead them to conclude that adaptation presents a number of justice dilemmas, including (a) what is the responsibility of developed countries for climate change impact?, (b) how much should developed countries give assistance to developing countries for adapting to climate change and how should the burdens be distributed among the developed countries?, (c) how should assistance be distributed between recipient countries and adaptation measures? And finally, (d) what procedures are fair in planning and making decisions on adaptation (Ibid. 595)?

[5] An example of a theorist who treat mitigation and adaptation jointly is Simon Caney. In a recent article about climate change and responsibility, he writes: "I shall not explore the difficult question of how much we should seek to mitigate and how much we should seek to adapt. This is, of course, a key question when determining what specific concrete policies should be implemented. It is also the subject of some controversy. However, I wish to set that practical issue aside and simply focus on the more abstract question of who is morally responsible for bearing the burdens caused by climate change" (Caney 2005: 752). It is noteworthy that Caney here considers the question of mitigation vs. adaptation as a *practical* issue.

[6] Again, we have offered a fuller validation of the principled differences elsewhere. See footnote 1.

Though we support Paavola & Adger's point of departure, we believe that the normative characteristics of adaptation can be further developed: The question about responsibility and the burden sharing dilemma of adaptation is perhaps more challenging than suggested by the two. Because, apart from the obviously asymmetrical relationship between who causes and who suffer from climate change, factors such as uncertainty and halving time of the GHGs add to the difficulties that need to be dealt with when assigning responsibility.

First, to a large extent, the *resilience* of the climate system is uncertain. This uncertainty comprises what, when and where will happen when the global temperature is increasing (Schneider & Lane 2006). Nor do we know when or at what GHG concentrations the temperature increase will peak, and after which we can (hopefully) expect the climate to stabilize or at lest become less unpredictable. This *uncertainty* is problematic from a responsibility point of view. Provided that we support the human induced climate change theory, there is no such uncertainty regarding the (long-term) *positive* effects of mitigation, nor any uncertainty that the action taken will have desirable effects. Regarding adaptation the situation is different. What can be demanded of those potentially responsible or morally obliged to finance adaptation projects? How certain does one – not to speak of those presumably responsible for it - need to be before one is willing to chip in? In fact, this uncertainty may force adaptation to turn into *compensation* rather than assistance (not to mention prevention) (Linnerooth-Bayer & Vári 2006).

Second, while mitigation should be considered a common good - or perhaps better put: a strategy producing a good for (the vast majority)[7] of the global community - adaptation is obviously a *particular good* only benefiting those in need of, or dependent upon, what the adaptation strategy is targeting. Reasonably, this characteristic of adaptation will have consequences when successfully theorising about who is responsible and who should pay. Is it, e.g., those who are responsible for climate change who can afford?, or perhaps even those who, without adaptation efforts, will otherwise suffer, and this regardless of economic strength?

Third, the halving times of many greenhouse gases[8] is yet another reason why adaptation is more problematic than mitigation when it comes to responsibility and who should take the burdens for it. No matter how robust mitigation measures are, *a certain degree of climate change is inevitable due to historical emissions and the inertia of the climate system* (IPCC 2001). This also means that irrespective of how successful societies are in mitigating climate change, the future may hold unexpected and harmful events - the responsible for which may no longer be alive. Thus, the normative story of climate change does not end with effective mitigation.

Given the complexity of adaptation, it is no surprise that normative theorising on the subject is still more or less in its infancy. The aforementioned paper – Paavola and Adger's authoritative statement on fair adaptation to climate change – omits some key issues. In particular, it leaves unspecified the guiding principle according to which allocations of burdens should be distributed.[9] Plausible as Paavola and Adger's reasoning

[7] Climate change may turn out to be beneficial for some areas, e.g., currently dry regions predicted to receive more precipitation.

[8] E.g., the halving time for carbon dioxide is approximately 140 years.

[9] Paavola and Adger (2006) advance four normative principles, which they take to be key for fair adaptation. First, the principle of avoiding dangerous climate change – which is, plausibly enough, the principle that GHG emissions should be kept at level that "does not surpass the capacity of natural systems, food production systems and economic systems to adapt" (p. 602). Second, the principle of forward-looking responsibility, which states the action needed to keep

is at a general level, it does not sufficiently examine the nature of the desirables in their theory, nor the various ways in which they can compete and conflict with each other. In particular, their crucial second principle – the principle of forward-looking responsibility – needs to be further examined.[10] Paavola and Adger claim that a uniform carbon tax, which befalls states that exceed their per capita quota, would be fair (and also make sure that economic and environmental interests overlap). Leaving the beneficial consequences of such a tax aside for now, the normative principle underlying it, which seems to be some variety of the polluter pays principle, is plagued by many problems that need to be addressed.[11] There are certainly many alternative ways of determining contributions to adaptation funds to a uniform carbon tax, and this paper is devoted to presenting and analysing some of them – going into some detail about exactly how and why obligations to contribute to adaptation should be assigned [12]

3.1 A state-centred approach

A crucial issue for theorists of climate change regards the basic level of analysis. When one speaks of such-and-such agents having such-and-such obligations, what is then referred to? A rough distinction can be made between approaches that are *individual-centred* and analyse harms, burdens, etc. in terms of individuals, and those who are *state-centred* and analyse harms, burdens etc. in terms of unitary states.[13] The choice between the two approaches involves the difficult question of collective responsibility – whether it can make sense to regard a compound entity such as a state as a collectively responsible

emissions at or below the safety level. Paavola and Adger argue that a uniform carbon tax could ensure this. The tax revenue would then be used to finance adaptation. Third, the principle of putting the most vulnerable first. "This rule would call for assisting the most vulnerable group first and moving then up in the vulnerability ladder" (p. 605). This is a "leximin rule". Vulnerability, excellently treated by Paavola and Adger, is understood as a function of *exposure*, *sensitivity* and *adaptive capacity*. It follows that Haiti and Florida should not be seen as equally vulnerable, although both run fairly even risks of hurricanes. Fourth, the principle of equal participation for all. Paavola and Adger here argue that a fair adaptation regime would need to be procedurally fair and not only distributively fair. This is not least important, since different communities may have different standards of risk, need, etc., and should have a voice in the decision making process.

[10] We of course agree that emissions should be kept at or below a safety level (a question of mitigation, it seems); that resources should be distributed according to vulnerability; and that decision making processes should be inclusive and fair. (We shall not, however, have the time to address questions of procedural justice).

[11] Note also, on the prudential side, that we might have a situation where all states stay below the per capita quota but where adaptation is still required, because of the inertia of climate change.

[12] Some could object on normative grounds, however, to the very idea of adaptation. For to adapt means to cope with a problem, rather than stopping the problem in the first place. This, one may object, might seem like a strategy of resignation - more reactive than preventive. This objection would be sound only to the extent that adaptation is the *only* strategy pursued, however. We do not wish to argue this, nor would (we hope) anyone else. A sensible climate change regime should rest on both adaptation and mitigation. As we have already argued, even if we in the near future manage to reduce emissions dramatically, the inertia of climate change means that we still need to take adaptive action. Note also that much adaptive action *is* preventive rather than reactive; see e.g. (Paavola & Adger 2006).

[13] Note that this is not an exhaustive distinction. Other suggested levels of analysis, in terms of responsibility, are *nations* (Miller 2004), *corporations* (May 1992; Pettit 2007), and even *random groups* (Held 1970).

agent.[14] The choice between the approaches has also substantive ramifications for the question of justice.[15] In this paper we take a state-centred approach. We assume that the basic bearers of responsibility are states. There are many difficulties involved in making this assumption, and we certainly do not wish to suggest that there are adequate responses to all of them. But taking an individualist-centred approach complicates matters – complicates them more than what this paper can handle.[16] Furthermore, it is reasonable to assume that the contributors to adaptation funds will be states. Even though the costs in the end fall on individuals, it is nevertheless appropriate to consider obligations to contribute to adaptation as obligations of states.

So, given that we treat states as the basic level of analysis, what can be said about the backdrop against which the question of fair adaptation is addressed? Without anticipating the forthcoming sections, this much can be established already here: *It appears that those most vulnerable to climate change are the ones least causally responsible for it and also the ones least able to pay*. Thus, it is reasonable to assume that any local, national and international adaptation efforts - regardless of form and regardless of being understood as prevention, assistance or compensation - will be adequate only insofar as affluent countries, i.e., surplus economies, are willing to set aside resources for such projects. The question of if and how such redistribution can be fair is what animates much work on climate change, and is certainly what animates this paper.

[14] For a forceful criticism of the notion of collective responsibility, see (Narveson 2002).
[15] As we will see, a state-centred approach sidesteps one of the more devilish problems associated with intergenerational justice: the non-identity problem, see (Page 1999).
[16] Apart from inviting the non-identity problem, an individualist approach raises complicated questions about the internal political situation in a state. For instance, it raises the question whether a state that discriminates a particular minority in need of adaptive resources should granted assistance, given that the state *might* put the resources to ill use.

4 Adaptation, Responsibility and Future Generations

The normative questions posed by climate change are often framed as questions of *responsibility* (Gardiner 2004; Caney 2005). This makes sense. The concept of responsibility has a built in ambiguity which captures nicely the justice-based concerns of climate change. When we say that some state of affairs *X* is your responsibility, we can namely mean roughly two separate things. On the one hand we may intend that the occurrence of *X* in some particular way is attributable to you: that you are responsible for *X* since your actions, omissions, etc., are such that you in some way have caused or produced *X*. Responsibility in this sense is *backward-looking*. Its fundamental question is "Who has caused the occurrence of *X*", or, assuming that *X* is something bad, "Who, (if any) is to blame for *X*?". On the other hand, by saying that *X* is your responsibility we may also mean that you in some way have an obligation, or at least is strongly expected to, act so as to correct or counter the effects of *X* in various ways (for instance by helping those who suffer from *X*). Responsibility in this sense is *forward-looking*. Its fundamental question is "Who should do something about *X*?".

The distinction between backward-looking and forward-looking responsibility is widely accepted among theorists. Backward-looking responsibility in turn is sometimes elaborated so as to account for differences between *causal*, *outcome* and *moral* responsibility.[17] For the purposes of this paper, we shall settle for the term *causal* responsibility. Causal responsibility here simply stands for causal contribution – an agent (or non-agent) is causally responsible for *X* if the agent singularly or in combination with others have caused *X* to occur, and causally responsible to a degree that corresponds with the degree of causal influence. To be sure, it will sometimes be appropriate to introduce considerations exclusive to moral responsibility – one key question with respects to historical (causal) responsibility for emissions of GHGs is whether it makes a difference that prior generations were ignorant of the consequences of such emissions – but for the most part we shall use the term causal responsibility, indicating when we use other varieties of backward-looking responsibility.

[17] In Miller's version the difference between *causal* and *outcome* responsibility is that the latter do not extend to outcomes that "arise in bizarre and unpredictable ways" (Miller 2004: 245). Although our causal contribution is necessary (and perhaps sufficient) for the outcome in such cases, Miller argues that we are not outcome responsible for them since we lack the kind of fundamental control required in order for the outcome to be appropriately attributed to us. Outcome responsibility differ from *moral* responsibility, furthermore, in that the latter concerns moral assessment (such as whether an agent is blameworthy) whereas the former need not. One can thus be outcome responsible even if one is without moral responsibility, such as under conditions of strict liability. If we are outcome responsible for a harm, we may be required to compensate others even though we may not be *at fault* for the harm occurring.

Forward-looking responsibility of the kind which concerns who should correct or counter *X* or the effects of *X* is perhaps more straightforward. An agent has this kind of responsibility if he or she has a moral obligation, or at least a weighty moral reason, to in various ways correct or counter *X*. Theorists have employed various terms to denote this kind of responsibility, however.[18] Miller prefers to refer to the concept as *remedial* responsibility, which is the term we will use.[19] We may debate the moral weight of being remedially responsible. Some seem to assume that being remedially responsible equals being under a perfect duty to take action, whereas others seem to think that it presents a reason, but perhaps not a conclusive one, to do so. On any account, however, being remedially responsible means something stronger than "would be nice". Responsibilities are not optional in this way.

Causal and remedial responsibility clearly captures most of the problems of justice associated with climate change: both questions of causal contributions to the occurrence of climate change (human-induced or not) and questions of who should be taken to have an obligation to correct or counter the effects of climate change.[20] It is important to note that causal and remedial responsibility are logically independent of one another. One may be causally responsible without being remedially responsible, and vice versa. A basic analytical framework of responsibility is thus to ask, for any given agent, whether or not they are causally responsible and remedially responsible, respectively. Assuming for simplicity that answers are dichotomous, we get a four-placed outcome table:

[18] Iyengar prefers to refer to it as *treatment* responsibility (Iyengar 1988). Goodin has developed a closely related notion of *task* responsibility (Goodin 1985; 1995). It is important to note that this kind of responsibility is often conferred on an agent *precisely because of* the agent's institutional role or position. It is the remedial responsibility of the health system, for instance, to cure people of various diseases. However, many instances of remedial responsibility are defined by their *lack* of institutionally assigned caretakers. We may for instance have a duty to intervene in a failing state, despite the lack of formal mandate to do so.

[19] Miller writes: "The idea of remedial responsibility comes into play when we consider a person or group who are suffering harm of some kind, and we want to identify an agent whose job it is to put that situation right: we say that the agent in question has a remedial responsibility to end the suffering" (Miller 2004: 247).

[20] If, against all reasonable guesses, it turns out that climate change is exclusively a result of natural variation, the causal responsibility in question would befall "nature" – surely not something which can be held to standards of behaviour and which we can blame or otherwise hold accountable. However, even if all responsibility-capable agents are without causal responsibility for climate change, it does *not* follow that all are without remedial responsibility for correcting or countering its effects.

		REMEDIAL RESPONSIBILITY	
		NO	YES
CAUSAL RESPONSIBILITY	NO	(a)	(b)
	YES	(c)	(d)

Comment. Whereas causal and remedial responsibility are treated as dichotomous variables here, both kinds of responsibility come in degrees. It is plausible that all states share causal responsibility for the occurrence of climate change, but they do so to vastly different extent. Some cut-off point should therefore be postulated below which a state cannot plausibly be said to be causally responsible (we do not provide such a postulation here, however). Above this cut-off point, causal responsibility comes in degrees. Remedial responsibility also comes in degrees, but there is no need to introduce a cut-off point with respects to this concept.

This basic table will have some importance later when we consider various principles of adaptation, which in essence consist in different ways to occupy the four positions. It is important to note, however, that the table is only an analytical tool, and not a means of drawing conclusions. We would not say, at this point, that a model is better or worse depending on the different boxes it occupies.[21]

A prevalent view is that causal and remedial responsibility should interconnect in a particular way. A strong intuition of justice namely holds that it is those who are causally responsible for a problem that have an obligation to correct or counter the problem – that it is unfair if agents are burdened for things for which they have no causal responsibility.[22] Within the context of climate change, the polluter pays principle (PPP) is an expression of this view. But to make remedial responsibility depend on causal responsibility is a substantive and contestable view, and not one that all accept (see e.g. Young 2006).

The most daunting aspect of climate change, in particular with respects to responsibility, has to do with the fact that it raises questions of *intergenerational* justice, in two ways.[23] Firstly, it is today agreed that coming generations are as worthy of consideration and respect (if not *equal* consideration and respect) as present generations. Thus, what we do today must affect future generations in an acceptable way: we cannot squander the climate just because doing so might be in *our* immediate interest. Secondly, and more to the point, climate change is a process that takes place across generations. What an agent emits at one time has consequences at a (much) later time. Thus, we are now beginning to suffer from emissions (arbitrarily) dating back to 1850, and what we emit today will similarly have effects that are sometime quite distant. This fact puts the intuition that

[21] That is, we would not say that e.g. a model which enables all four positions is better than one which only occupies, for instance, (a) and (d). Such a position is a substantive claim, which needs a separate justification. At this point, then, we remain agnostic about what relations between causal and remedial responsibility is to be preferred.

[22] This is a cornerstone in luck egalitarian thought, for instance. For critical surveys of luck egalitarian ideas, see (Anderson 1999; Scheffler 2005).

[23] Seminal works in intergenerational justice are (Rawls 2000) and (Parfit 1987). (Dobson 1999) is a useful collection of essays dealing with environmental questions and intergenerational justice. A very strong recent book on climate change, future generations and justice is (Page 2006).

causal responsibility gives remedial responsibility in some difficulty. It is one thing to say that I, as a well-defined and existing agent, may owe you compensation or repentance if I cause you harm. It is another thing if the harm you suffer is the result of actions that were taken decades or even centuries ago.[24] If the harmers are all dead, who should be made to pay?[25]

We assume that the question of fair adaptation to climate change is largely a question of responsibility: it concerns how to allocate remedial responsibility in a fair way. It is an open question whether an adequate answer to the normative question before us requires that causal responsibility be taken into account. When trying to specify a fair way to distribute burdens associated with remedial responsibility for climate change, it is crucial to see that climate change, and the challenges it poses, is irreducibly an intergenerational question, both in terms of prior causal contribution and future effects. Thus, to answer the question of fair adaptation one must also address the question of intergenerational responsibility.

To summarize: in this paper we intend to address the question of how burdens associated with adaptation to climate change should be distributed, in particular when keeping in mind that climate change is an intergenerational problem. We assume that the basic units of analysis are states. Adaptation is the process, reactive or preventive, that enable us to live with the ill-effects of climate change. We here assume that adaptation is properly seen as a *burden* – in Caney's words, adaptation measures "require resources that could otherwise be spent on other activities" (2005: 752). We do not consider the possibility that some adaptation might turn out to be all in all beneficial even in strictly economic terms.[26] We now proceed to various ways in which remedial responsibility should be allocated with respects to adaptation.

[24] Having taken a state-centred approach, we are able to steer clear of the difficult non-identity problem, which has been made (in)famous by Derek Parfit. The basic challenge of the non-identity problem is that what we do at some point in time will have consequences for who mates with whom and at what time. This means that different courses of action will have consequences for what sets of people (or even generations) that will come into existence ((Parfit 1987)). Now, the tricky part is that it is difficult to see in what way one can be said to harm future people once we accept this. Suppose we pollute heavily today, and as a result future people live in a world where the climate is changed for the worse. These future people cannot complain that we in some ways have harmed them, however, since by hypothesis they would not have come into existence *unless* we chose to pollute. As long as the future people agree that they have lives worth living – as long as they do not regret being born – it indeed seems as if they have *benefited* them by polluting. As noted by Page, if one settles for a group-centred view, this problem becomes more manageable. For it is seldom the case that a actions at one point fundamentally affect what kind of groups (such as states) there will be in the future. Thus, even if the set of members in a given group may be different depending on, say, the level of GHG emissions, it still seems to make sense to say that a *group* has been harmed by the emissions – at least as long as we take the view that the group (or state) has an identity that is not strictly reducible to the sum of its particular members ((Page 1999); see also Caney 2005).

[25] Others argue that even within a single generation, climate change is too large in scope and too interconnected in terms of causation to make differential causal responsibility a feasible criterion for remedial responsibility. When there are too many hands involved, we need other guiding principles (Young 2006).

[26] Suppose adaptation requires that drugs for various new diseases are developed. It might be that a state that bears the costs of developing the drugs are able to build an industry around it, with a subsequent gain in economic growth. In such a case it would clearly be wrong to call having to develop a new drug a burden. We assume, not implausibly, that at least some adaptation will be inherently burdensome.

5 Models of Responsibility for Adaptation

The literature on the normative questions of adaptation is fairly recent and small. We here sketch the outlines of various models of responsibility in adaptation. These models are similar to those used to discuss responsibility for mitigation, but as we shall see, some aspects of adaptation present questions that are specific to adaptation, while dropping others.[27] In line with our previous discussion about adaptation funds, all models but one (the insurance model, which is based upon contribution), assume that adaptation measures should be distributed according to need among applying states. In light of this relative consensus, we will not discuss further how adaptation resources are to be distributed, though there of course are different ways of distributing according to "need". The models do differ, however, when it comes to distributing obligations to *contribute* to adaptation funds, i.e. the allocation of remedial responsibility. We begin by considering historical models of responsibility, which state that causal responsibility (and only causal responsibility) translates into remedial responsibility. Next, we consider the idea that all states should assume some equal or equitable level of remedial responsibility. We then treat the model which holds that it is the ability to assume remedial responsibility (the "ability to pay") that creates obligations, not historical responsibility. We conclude by considering a pure market-based approach: that adaptation should be dealt with just like any insurance-based scheme of risk-management, and that each state must pay premiums in order to be eligible for adaptation funds.

5.1 Polluter pays

Within the environmental discourse, the polluter pays principle (PPP) is a classic and almost taken for granted guiding-principle for how to share and distribute environmentally related burdens and measures. Environmental taxes are based upon this principle, for example, as are many international environmental regimes such as those for air pollution and chemical pollution. The foundational idea of the PPP is that causal responsibility transforms into remedial responsibility and that one is remedially responsible to the degree one is causally responsible. In other words, those without causal connection to some harm, or some other problem, are not obligated to pay - although they *may do so* anyway, e.g., as a matter of beneficence.

If positioning PPP in our analytical scheme, only positions (a) and (d) are possible. If someone is causing damage, this someone is also obliged to compensate for it. And vice versa.

[27] In particular, discussion concerning trade with emissions rights, as put front and centre by Peter Singer (2002), are largely inapplicable when it comes to adaptation. It makes little sense to say that a poorly adapted state can buy shares of adaptation resources from an adequately adapted state, for instance.

		REMEDIAL RESPONSIBILITY	
		NO	YES
CAUSAL RESPONSIBILITY	NO	(a)	(b)
	YES	(c)	(d)

Comment. Boxes with dotted lines indicate outcomes that are ruled out by the principle

When applying PPP on the problem of who should pay for adaptation costs (either preventive or reactive), PPP informs us that it is those (and only those) who have caused the temperature increase, and thus also the climate change-related risks and damages, who should bear the adaptation costs. Note also that the principle only works as long as climate change is human induced. If it turns out that climate change is due to natural variation, other principles of other-regarding duties to assist must be sought for, if it is believed that such duties must exist ("nature" cannot be held liable for the damages).

Is this principle reasonable in the case of adaptation? Although issues such as baseline and whether emission cuts should be calculated on total emissions per country or per capita, PPP surely seems appropriate when applied on the issue of reducing the causes to climate change, i.e., mitigation. Morally it seems straightforward that at least those who emit most ought to be among those who should reduce their emissions. A common intuition in everyday life is, as we have already mentioned, that it is those who cause the problem who should clean up their own mess. As Caney has noted about PPP: "This principle has considerable intuitive appeal. In everyday situations we frequently think that if someone has produced a harm […] then they should rectify that situation. They as causers are responsible for their ill-effects." (2005: 752).

For all its intuitive appeal, however, PPP encounters some significant problems. Consider first the possibility that polluters are desperately poor. Of course, the present (all too familiar) situation is that it is those who are most causally responsible who are also among the most advantaged (no doubt in part a result of their degree of polluting). But we can imagine a world where the heaviest polluters are also among the worst off. The problem is that the PPP obligates the worst off to pay, regardless of the (one may assume for the sake of argument) extraordinary wealth of the non-polluters.

The most serious problems associated with PPP arise out of its preoccupation with historical responsibility, however. It is unclear whether the principle can handle the fact that climate change is an intergenerational problem. Caney (2005; 2006) has done much to illuminate the problems of applying the PPP in an intergenerational context. The most straightforward problem has to do with the possibility of *holding* those causally responsible to account. It is well-known that there is a significant delay-factor involved in climate change. It takes quite some time for actual emissions to establish itself in the atmosphere and start causing increased temperatures. Furthermore, GHGs have long halving time – for carbon dioxide it is approximately 140 years. This means that present climate change is due to the emissions of prior generations. But they are all dead and gone. So whom do we then hold remedially responsible?

This problem has truly epic ramifications when combined with an individual centred approach, as this opens up for the non-identity problem.[28] Since we are testing models against a state-centred approach we can steer clear of some of them. If Sweden, as a collective political entity, has contributed to climate change at an earlier time, it may be reasonable to hold Sweden responsible at a later time. This argument works only as long as it makes sense to treat the collective as something more than the sum of its individual parts. It would then be possible to treat Sweden as an entity that exists over time, independent of its ever-changing citizenry – a useful metaphor is perhaps that of a rope, with no fibre running all the way trough it, but all fibres constituting the same compound entity.[29] But it is questionable, even if one takes a state-centred view, if it makes sense to hold present generations responsible for the actions of their (dead) forefathers. Later generations might reasonably object to the unfairness of being expected to shoulder burdens associated with actions which they could not control. If their complaint is valid, it is because collectives are *not* independent of their sets of individual members. A future, green U.S. might protest that the pollution of the U.S. in the beginning of the 21st century was not committed *by the same political collective*.[30]

PPP thus runs into trouble when dealing with the intergenerational aspect of climate change. As Caney has argued it makes little difference to claim that present members of well-off states have *benefited from* pollution in the past (Caney 2006). Present generations could still protest that they had no control over the benefits they were born with and perhaps would have forgone if given the opportunity.

5.2 A Nozickian polluter pays

PPP thus seems ill-equipped to handle the allocation of remedial responsibility across generations. It faces a further problem today since it was not until fairly recently that the ill-effects of GHG emissions became (widely) known. This seems to exonerate historical polluters on grounds of excusable ignorance.[31] In sum, the PPP seems to fail since it seeks to place blame in places where it cannot be placed. It is not certain that these problems suffice to throw out all historical dimensions of climate change, however. We here want to consider a Nozickian version of the PPP, which is based solely on the notion of causal contribution.

As noted by Perry (1997), a libertarian model of responsibility a la Nozick is committed to strict outcome responsibility, irrespective of whether the outcomes are positive or negative: a self-owning agent is entitled to full ownership of all the good things he/she/it creates, but must also internalize the costs of all the harms he/she/it causes. Since all agents (such as, we assume, states) are self-owning, it would be unfair for one agent to force costs on other agents. Simply put, a Nozickian model of responsibility means that strict liability would reign with respects to all the harm one causes.

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[28] See (Parfit 1987: ch. 16; Page 1999; Caney 2005: 756-8; Page 2006).

[29] The metaphor is Wittgenstein's, used by him to describe the concept of family resemblance, which he employed to criticise conceptual essentialism (Wittgenstein 1999).

[30] This $U.S._{GREEN}$ could protest that it is morally different from $U.S._{POLLUTING.}$ Note also that the state-centred view assumes that states are somewhat fixed over time, e.g. inhabit a particular territory. If a region is invaded and occupied by a neighbouring state, for instance, does the acquired region now share in the historical guilt of the invader?

[31] As a consequence of this ignorance plea, Caney (2005) has suggested that the PPP only be made relevant with respects to post 1990 emissions.

A Nozickian version of the PPP would say that the questions of moral backward-looking responsibility are irrelevant. Nozick's third principle of justice states that justice today may require correction of wrongs being done in the past (Nozick 1974). But to correct these wrongs does *not* have to assume that those who caused the wrongs are or were morally responsible. A good example of this logic is how present Americans have compensated Japanese-Americans for the way they were treated during the 2WW. This correction need not imply that past Americans were blameworthy for what happened (they might have done what they thought was best), nor that present Americans have benefited from what happened at that time or share some collective guilt in virtue of being American. What matters, from a Nozickian point of view, is simply the fact that some illegitimate cost or harm did arise during the war, for which justice requires compensation. If the harm-doers happen to be dead, it is their offspring who have an obligation to do so. Since the costs must fall somewhere, it is (somewhat arbitrarily) those closest to the harm-doers who must internalize the costs, since it would be more unfair to have anyone else taking the costs – offspring can inherit the debts of their ancestors on this account. This way of reasoning probably works best as long as we stick to a group or state-centred view: inhabitants of a state have an obligation to correct wrongs in the past based on pure causal contribution of their ancestors – not *moral* causal contribution.[32]

If we apply this principle on our adaptation problem, it seems to hold irrespective of (a) whether the polluters are still alive, (b) whether the ancestors knew that GHG emissions were dangerous and (c) whether the GHG emissions have produced any benefits for subsequent generations. This, we believe, is about as far as one can come by modifying the PPP principle to fit with the adaptation problem. But we do not think it is far enough because one difficulty remain: it is still possible that (some of) the worst off are expected/forced to internalize costs, which is an outcome that most people would claim is unfair. Imagine, for example, a future U.S. which is desperately poor. In this situation, would it be right to say that the Americans must correct for the decisions and actions made by the U.S. during the 20th century? Our intuition is that it would not. There are two beliefs that, in combination or taken apart, serve to explain this intuition. One the one hand, we might be resisting the notion of collective trans-temporal responsibility. One the other hand, we may simply find it unfair that the worst off pick up the tab for a problem, regardless of the way the problem ensued.

5.3 An Equal Shares Approach

A second set of principles to be considered are those that may be called *equal shares* approaches. According to this set of principles, all states should partake in financing adaptation. President George W. Bush seems to have advanced something akin to this in the context of mitigation:

> "I'll tell you one thing I'm not going to do is I'm not going to let the United States carry the burden of cleaning up the world's air like the Kyoto Treaty would have done. China and India were exempted from that treaty. I think we need to be more evenhanded" (cited in Singer 2002: 30).

What would it mean to be "evenhanded" here? One interpretation suggests itself: *that all states should be obligated to contribute equal amounts of funds to adaptation*. Such a view can be grounded by appeal that the climate is a common good, the management of which is a collective responsibility shared by all. Singer holds the approach in some

[32] Note that it is likely that Nozick would find such a use of his ideas odious, since he consistently emphasised individualism.

esteem, if combined with notions of set quotas of emissions and trade of emissions rights (2002).

A first reaction to this principle is that it would be wildly unfair to expect all states to pay set amounts of money to finance adaptation. Such a view disregards completely that some states are vastly more causally responsible than others. Furthermore, on a practical note, if all states, including the very poor, should contribute equal amounts of funds, this would effectively level down the basic contribution made by all to the point that it became insufficient to adequately cover existing needs.

Let us then modify the equal shares approach to mean an *equal proportions* approach. All states should according to this principle be expected to contribute some set percentage of their GNP/per capita to adaptation funds.[33] This would mean that rich states contribute with larger amounts of money whereas poor states contribute with smaller amounts. But all would do their part to finance adaptation to the common problem of climate change. Maybe this could qualify as an "evenhanded" approach?

The problems associated with this view are, however, numerous. Note, first, that some appeals to equal shares/proportions when it comes to cutting emissions are grounded in the claim that a better and cleaner climate is *good* for all states. Therefore, if one is to enjoy the collective good, one also ought to partake in the efforts to maintain that good (although perhaps not to an equal extent). But this argument works only in the context of mitigation. Adaptation concerns coping with the *ill-effects* of climate change. These ill-effects cannot be construed as good, let alone good for all. Climate change will hit different regions in different ways. What befalls low-lying regions need not be what befalls mountainous regions. This means that states that are highly disadvantaged by climate change may complain that they have to pay for outcomes that have to do with the brute fact of where their territories happen to lie (prone to drought, likely to be flooded, etc.). Matters of course become most contestable when those who are in great need to adapt are also only to a small extent causally responsible for climate change to begin with (Bangladesh is a paradigm example).

So an equal shares approach to adaptation cannot be justified by the fact that all have an interest, or at least an equal interest, in correcting or countering the effects of climate change. All may have a common interest in lowering emissions, but not in adapting low-lying states to rising sea levels. What rationale is then left? In our opinion, virtually none at all. Take again our analytical scheme:

		REMEDIAL RESPONSIBILITY	
		NO	YES
CAUSAL RESPONSIBILITY	NO	(a)	(b)
	YES	(c)	(d)

Comment. Boxes with dotted lines indicate outcomes that are ruled out by the principle.

[33] Requiring that all pay equal proportions of their total GNP would, of course, mean that poor states with large populations would suffer a higher per capita cost than rich states with small populations.

The equal shares approach establishes that all states, regardless of their causal responsibility for climate change or their ability to pay, should contribute to adaptation funds. This in effects means that only positions (b) and (d) are possible. But saying that all shares remedial responsibility, although to a different degree, in fact obscures many differences between states that seem morally important, if not decisive. First of all, the equal shares approach obviously disregards historical causal responsibility completely. This certainly seems problematic. A state that has contributed little to the incidence of climate change may perfectly well claim to suffer through no fault of its own. To ask that such a state helps to pay for its own adaptation may seem stark. Moreover, with respects to the ability to pay, the equal shares approach simply does not seem to do justice to the fact that the international system of today is one of very profound inequality. Even when (plausibly) interpreting "evenhanded" remedial responsibility as equal proportions rather than equal amounts, it still seems unfair to expect the worst off to share the same responsibility to adapt as the most advantaged. It may plausibly be suggested that the worst off should use any surplus resources to address other problems, such as poverty or famine.

5.4 Ability to pay

Now, if historical action and equal shares are not legitimate or at least a good-enough bases for claiming burden-taking, then what is? One answer might be found by glancing at how burdens and costs are distributed in traditional welfare states, where *ability* is an important guiding principle.[34] On a pure ability to pay approach, the ties between causal and remedial responsibility are severed completely (which is a good start for us). Those who are able to pay have an obligation to pay.

When addressing the *ability to pay* approach to our analytical scheme it appears that all four outcomes are possible, and some of the moral objections it encounters have to do with the possibility of (b) and (c). Inhabitants of box (b) may complain that they are expected to correct problems that are not of their making, and inhabitants of box (c) appear to be able to free ride on others' contributions.

		REMEDIAL RESPONSIBILITY	
		NO	YES
CAUSAL RESPONSIBILITY	NO	(a)	(b)
	YES	(c)	(d)

How would adaptation costs be distributed if being done in line with the ability to pay principle? The more advantaged in terms of paying ability, the larger the share of the burden-taking, would seem to be the straightforward interpretation. In the case of climate change, today's most advantaged are more or less also those who are most causally responsible for the incidence of climate change, since access to cheap energy has been the *primus motor* behind most of hitherto wealth increase. We may, however, envision a

[34] The most straightforward expression is perhaps Marx's slogan: "from each according to ability, to each according to need".

future situation where the worst off are also those most causally responsible for climate change. In this situation and sticking to the ability principle, the most advantaged are still required to pay most in virtue of their ability to do so.

It seems evident that although ability is a common distribution principle in welfare states, it is problematic to apply to the adaptation case. Apart from a number of institutional objections, the principle can certainly also be questioned from a fairness point of view. First we have the problem of *double penalizing*, where the following example is a good illustration. Assume, in an initial position, that we have a heavily polluting country *X*. Because of a general will to comply with ever stronger climate change regimes, *X* voluntarily takes the costs inherent in transforming its economy to a GHG-neutral one, and does this successfully. Because of the ability to pay criteria, *X* will have to pay comparatively more than other countries – who are poorer but perhaps emit much more GHG than *X*. This means that *X* takes the cost of both (a) its own transformation and (b) others' non-transformation. Second, there is the related problem of *constant excuse*, which refers to the heavy - but poor - polluter who, if the ability to pay criteria is adopted, may continue its polluting since its poverty means that it will not be expected to pay anyway. Third, there is the problem with *the new polluter*, which can be captured with the following example. Assume that many states have polluted heavily in the past, and that one state *S* recently has experienced a boom in economic growth and starts polluting severely. If *S* is able to pay, it is obligated to do so. But this was not expected of the polluting states in the past. So *S* has to pick up costs which other states did not, and it may seem as if *S* is not equitably treated.[35]

Many of the problems that a pure ability to pay approach encounters have to do with its complete disregard for historical emissions, i.e. causal responsibility over time. It is not difficult to construct theoretical examples, nor to conceive real ones, that lead the principle into recommending seemingly unfair outcomes. We now turn to a recent attempt to combine an ability to pay approach with some historical elements of responsibility: Caney's hybrid model.

5.5 A modified ability to pay approach: Caney's hybrid account

Simon Caney (2005) has recently advanced a "hybrid" model of justice in climate change, which attempts to combine the ability to pay approach with some aspects of the PPP.[36] Caney, as we have seen, has incisively criticised the PPP, particularly since it does not work as an intergenerational principle, but also since knowledge that GHG emissions cause climate change is fairly new. He advocates a system where all agents are entitled to emit GHGs up to some level, and are (as of 1990, when the ill-effects of emissions could reasonably be expected to be know, and onwards) under an obligation to compensate for exceeding their share.[37] But since much emission is caused by polluters that are dead,

[35] This line of reasoning underscores intuitions that developing states should enjoy a right to pollute (heavily) over a transition phase. They should enjoy that right precisely since developed have taken that right in the past.

[36] Caney himself prefers to see his hybrid model as complementing the PPP with some element of the ability to pay approach, but we believe that ability to pay is given a more fundamental standing in his model.

[37] Caney advocates an individualist-centred approach to climate change. Thus, the quotas are, presumably, individual quotas, and those able to pay are explicitly rich persons, not rich states.

unable/ unwilling to pay, or who were ignorant of the effects of their actions, Caney proposes that it is the *most advantaged* who have an obligation to adapt/mitigate to the extent that suffices to cover the emissions by polluters who are not able or willing to pay.[38] They have this obligation based on precisely their ability to pay:

> "The most advantaged can perform the roles attributed to them more easily, and, moreover, it is reasonable to ask them given (rather than the needy) to bear this burden since they can bear such burdens more easily. It is true that they may not have caused the problem but that does not mean that they have no duty to help solve this problem." (Caney 2005: 769)

As in the case of the pure ability to pay approach, all four combinations of causal and remedial responsibility are possible. The starting point is that all agents are to be held remedially responsible to the extent that they exceed their quota. But in order to correct or counter effects of polluters unfit to be held responsible, the most advantaged have a remedial responsibility that does not befall the worst off – regardless of the degree of causal contribution of the former.

Caney's hybrid model is promising, but some problems are not properly worked out . First of all, it is (as Caney knows) arbitrary to draw the line for excusable ignorance at 1990. Some agents are still today ignorant of climate change, and cannot reasonably be expected to know, at least if one (like Caney) pursues an individualist path. Secondly, defining the most advantaged is never going to be easy. How advantaged is advantaged enough? At what point does a poor but developing emitter become well-off enough to shoulder the burdens of its own emissions? Furthermore, it is somewhat unclear to what extent the hybrid model is feasible on a thoroughgoing individualist account. It seems likely that emission quotas and obligation to mitigate/adapt will in practice befall states. Moreover, to assess the extent to which *individuals* post-1990 have exceeded their quotas seems all but easy.

For our purposes, however, Caney's hybrid account should be reframed so as to (a) treat states as the basic carrier of responsibility and (b) exclusively concern adaptation. To treat states as the main responsibility carriers simplifies the model significantly – what we are now considering is whether states have exceeded their 1990 quota and the relative (per capita) wealth of the states. Furthermore, the excusable ignorance objection loses strength.[39] However, some of the problems associated with the pure ability to pay approach plague Caney's hybrid model too. First of all, well-off states without causal responsibility may complain that it is unfair to make them take remedial responsibility for the shortcomings of others.[40] This becomes particularly relevant in the case of adaptation, which, unlike mitigation, cannot be seen as something which is good for all. Caney agrees that the most advantaged *are* unfairly treated if they are cleaning up others' mess, but thinks that this outcome is less problematic than the alternatives.[41] We further risk creating

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Therefore, a wealthy Indian will be under a weightier obligation to compensate than a poor American on Caney's account.

[38] Caney also holds that it is the most advantaged who have an obligation to create and uphold a climate change regime that discourages non-compliance with the quotas.

[39] While some individuals remain non-culpably ignorant today, it is less likely that states as such can claim to be ignorant of climate change.

[40] Particularly problematic is the possibility that the most advantaged state of all may simply refuse to pay, which would create obligations among less advantaged states.

[41] *Inaction*, first of all, seems reckless. To hold none remedially responsible just because the de facto causally responsible cannot pay is not viable. Thus, someone must shoulder the burden. But the polluters sometimes cannot afford to pay – they may be amongst the worst off. To expect the

constant polluting states that, because of their poverty, have no incentives to cut their emissions. They can get their adaptation needs funded by others, and share no obligation to help others adapt.

Note also that Caney's model seems somewhat blind to the objections that can be levelled against the PPP from an intergenerational point of view. Caney argues that all should accept remedial responsibility for mitigation/adaptation caused by their own excess emissions. If one cannot shoulder this responsibility, however (e.g. because one is dead or too poor), the richest states have to step in and take the burden. But again, since later generations (who happen to be among the most advantaged) are held remedially responsible for the action of prior generations on this account, the latter may complain that they are being held liable for things they in no way could control. Some problems thus still remain for the hybrid model, but we would say they are of less significance and the notion of combining aspects of the PPP with an ability to pay approach – together with a state-centred point of departure - is promising and appear to be the model that comes out best so far.

5.6 An insurance based approach

The international negotiations on climate change mitigation have largely been facilitated by market-based solutions that have developed over time. The most obvious example is the emerging market for tradable emission permits. This system speaks a language that both the market itself and the market-based - heavy polluting - countries understand, can relate to and even sympathizes with. Political theorists and ethicists have defended a market-based solution to cutting GHG emissions as well. Peter Singer, for instance, in his *One World* (2002) argues that a good way to mitigate would be to assign equal per capita emission rights to each state, provided that the quotas are set in such a way that total emissions are at a safety level. This would mean that present heavy per capita polluters (such as the U.S.) would have to make significant cuts in emissions, whereas low per capita polluters (such as India) could increase their emissions somewhat. The key ingredient in this scheme, Singer states, is that it facilitates a market based logic that has beneficial consequences. Heavy per capita polluters will buy emission rights from states that are below their quota. This enables that the former can transform their economy over time without making dramatic changes, while the latter have a product in demand that can be sold at a handsome price. As long as the per capita quota is set at the right level, Singer makes a strong case for that a market solution could lead to effective (and perhaps also fair) mitigation.

What (if anything) would be an equivalent market solution for climate change adaptation? Well, certainly not any adaptation funds. Adaptation permits or rights seem distant too. There is a more obvious candidate. In our introduction we may give the impression that adaptation is a rather new way of approaching societal risks. This is not the case. On the contrary, among institutions dealing with risks (of any kind), adaptation is a self-evident approach, which has been developed almost to perfection by the insurance industry. Adapting society to better cope with whatever external and internal change is a prerequisite for the insurance industry to keep down both their remunerations and premiums. By taking inspiration from, e.g., Stripple (1998), Burton *et al.* (2006) and Linnerooth-Bayer & Vári (2006) it is thus not too far-fetched to anticipate that a system develops, in which *states* will have access to insurances guaranteeing them some form of

most advantaged to pay is unfair, but decidedly less unfair than to make the poorest states shoulder the burden of climate change adaptation, Caney argues (Caney 2005).

adaptation measures - either in the form of physical protection, if the climate change effects can be determined *ex ante*, or else in the form of *ex poste* economic compensation - provided that they pay the premiums for the protection product.

There are however major problems with this model too. One is of a pure insurance-philosophy nature: If I have causal responsibility for the damage I claim (e.g., I have smashed my own window), I am not entitled to enjoy my insurance (unless I have some kind of third party liability insurance). If the same logic is scaled up to state-level, it means that if climate change is human induced, then, reasonably, it is significantly more difficult to claim anything from the insurer since the country may be causally responsible for the problem it claims compensation for. On the other hand, however, if the problem the country is experiencing is caused by natural forces (e.g., weather variability), then the insurer can usually make use of the *force majeur* criterion (Carlsson & Stripple 1998), which, in the case of climate change, would again leave the country without compensation.[42] These issues may be possible to straighten out, but they certainly complicates matters.

Furthermore, if we try to position an insurance based approach in our analytical scheme, we find that it appear to completely eschew any questions of responsibility. It is only those (states) who *de facto* have paid their premiums who are entitled to the adaptation resources. Perhaps then the insurance model is completely out of place in a discussion about climate change adaptation and justice to future generations, since it does not seem to adequately point out anyone responsible for such measures? This would indicate that the insurance model ought to be excluded from any discussions about adaptation. But that seems absurd. The way we understand it, to say that the insurance model has nothing to do with responsibility is only valid as long as we assume that "responsibility" implies "responsibility for others"; a criterion we have perhaps more or less taken for granted here. But we need not assume this. What an insurance model in fact establishes is that each and everyone should take responsibility *for their own interests*. Thus, the principle *does* correspond with remedial responsibility (i.e., (b) and (d) in the analytical scheme) but represents a kind of strict self-regarding remedial responsibility: those who contribute to their safety also have the right to claim security.[43]

However, since the insurance model completely disregard historical responsibility as well as remedial responsibility (for others), it can (and perhaps also ought to) be considered extraordinarily unfair. Not least if recalling the mantra: "those who are assumed to suffer most from climate change are mainly the ones who have contributed least to its origin". However, the model is no less unfair than most other procedural models, which all have in common that they largely disregard the status of the actors involved in the game. Because, to e.g. consider the degree to which the actors are equal - in this case equal in terms of vulnerability and economic capacity to protect themselves – is simply not part of that game. What matters is instead whether the procedures are fair and complied with – something the contribution criteria (i.e., paid insurance premium) is a guarantee for. Thus,

[42] Supposedly, in the case of global climate change and especially the collective causal responsibility that at least a large part of humanity has, the problem of "personal responsibility" must not be such a big problem.

[43] While we here only pay attention to pure market-based insurance constructions, both Stripple (1998), Burton *et al.* (2006) and Linnerooth-Bayer & Vári (2006), discuss complementary "products" where criteria such as social justice *could* be built in, they argue. Such approaches, however, easily navigates us towards traditional welfare-state programmes (and they rather tuff objections that have been raised against such ideas), where (social)insurance constructions are popular – only that now these constructions are supposed to be implemented and managed internationally and intergenerationally and this in an anarchical international political system.

to claim that the insurance model is unfair *per se* would require a much more thorough analysis than is allowed for in this paper.

6 Concluding Discussion: fairness and feasibility in climate change adaptation

What are the conclusions to be drawn from this paper? As the reader may have noted, we believe that a fair way of distributing remedial responsibility would involve both considerations of historical responsibility and the ability to shoulder burdens. The equal shares approach disregards both, and so would seem to be most decisively rejected. Various versions of the PPP are weak since they seem ill-equipped to handle some intergenerational problems, in particular the quite obvious point that yesterday's polluters are dead by now, and that it seems unfair, even if one takes a state-centred approach, to burden existing generations for what prior generations did. Furthermore, the PPP is inattentive to the ability to pay. We can see the problematic nature of the PPP as a general principle by imagining a world in which the poorest states are also the ones who pollute the most – surely it seems unfair to let the poor shoulder the burdens of adaptation if there are others who can do it much more easily.

Conversely, however, the ability to pay approach suffers from its disregard for historical considerations. There are valid moral claims, we believe, in saying that those with causal responsibility should also be the ones who accept remedial responsibility, or at least more of it. Imagine it this way: two states are equally well-off and equally able to contribute to climate change adaptation. State *A* have a history of heavy pollution, however, whereas state *B* has not. Other things equal, we propose, it seems obvious that *A* should take a greater remedial responsibility than *B*. Examples such as these suggest that recent rejections of historical principles of responsibility may be too hasty (see also Gardiner 2004).

Logically, then, we seem propelled towards some hybrid account, which incorporates considerations of both ability to pay and causal responsibility. Caney's recent hybrid model, the outlines of which we have sketched above, seems like a good place to start. In our opinion, Caney's model is clearly the one which best withstands critical scrutiny in this paper. There are no reasons why it could not work as a guide for fair adaptation, though work remains do be done on the notion of hybridisation (not least, as in all pluralist theories, on compatibility).

To say that something akin to Caney's hybrid model would be the most fair way to distribute burdens associated with global adaptation is not to say that it is the most feasible, however. We have earlier pressed on the fact that whereas mitigation produces a good virtually all states desire, adaptation is to be seen as something which is good for particular actors. This in all likelihood means that an international adaptation regime will be harder to set up and enforce than a mitigation regime – in particular since the

international system is still without a common power.[44] Individual states will be more likely to shirk their responsibilities if they perceive that they get little back from their contributions in terms of pure self-interest. Based on these considerations, the most feasible future adaptation regime is one along the lines of the insurance model.

While the insurance model seems like a normatively resigned way to adapt, more focused on self-regarding than other-regarding duties, a pragmatic political interpretation is that this may in fact be rather good - for feasibility reasons. If we are correct in assuming that the negotiating parties (at least the more powerful ones) tend to search for market solutions to the problems discussed under the Kyoto regime, then a climate change insurance with a premium set according to, e.g., (1) degree of vulnerability and (2) estimated probability of harm, may be what they are all after.

While this might appear relieving for those parties who think they can afford such insurance premiums (either because they are very rich or because they live in less vulnerable areas), the criteria for setting the premium imply a most uncertain future for those poor countries who are assumed to be most vulnerable (Jagers, Paterson & Stripple 2003). An important question here is of course if the insurance and reinsurance industry would manage to take the costs for a frequent or at least repeated number of hurricane Andrews or Danube floodings? Probably not. However, the industry has already developed a "prototype" that would: *catastrophic bonds*, which mean that the insurers convert the climate change risk into a more neutral risk that can be sold on the international capital market (Stripple 1998). Hitherto experiences suggest that such risks are attractive for capitalists since they hardly correlate with any of the traditional market risks (Stripple 2002). Thus, a not too far-fetched guess is that concurrently with increasing climate change effects, the rich world will have the capacity to compensate their damaged properties while the rest of the world is forced to reconstruct on its own steam every time the weather gods are against them. It is true that this way of reasoning has little to do with justice and responsibility, i.e., the analysis performed in this paper but it may be perceived as feasible and thus a near at hand "solution" for the least vulnerable.

[44] Traxler has thus noted: "Each nation is (let us hope) genuinely concerned with this problem [climate change], but each nation is also aware that it is in its interest not to contribute or do its share, regardless of what other countries do (…) In short, in the absence of the appropriate international coercive muscle, defection, however unjust it may be, is just too tempting" (Traxler 2002: 122).

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Political obligation and ecological citizenship

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Abstract

Political authority involves a claim to the obedience of its subjects, e.g. citizens of a state. Political obligations, in turn, are traditionally understood as duties of citizens to support and comply with the requirements of their political authorities.

Environmental and ecological citizenship is often characterized not by rights but by the self-imposed duties of the citizens. In this sense it contrast the liberal citizenship. But it departures also from the civic republican citizenship by broadening the space within which citizenship relations take place. In this it follows the critique of the cosmopolitan and feminist insights that a nation state and its public realm cannot be the only options for such political space.

Thus, the discussion about the concept of environmental or ecological citizenship has focused on determining what the political space connected to this concept might be. This has been linked to the debate of the *moral duties* that an environmentally enlightened citizen should have. Much less has been discussed about what the kinds of *political obligations* – understood as traditionally a relationship between the citizen and the political authority – the concept of environmental and the more rigorous notion of ecological citizenship entails.

In this paper, I analyse, how the demands of environmental and ecological citizenships contribute to our understanding of political authorisation. First, there are questions concerning the justificatory basis of this authorisation. For instance, the ecological citizenship's understanding replaces the membership-based notion of citizenship with a notion that is based on the material and causal bonds of unjust ecological space utilisation. How does this affect our understanding of the democratic and procedural legitimation of political authority?

Second, how will the concept of environmental/ecological citizenship alter our understanding of the just distribution of responsibilities to take action – both between the citizens and their authorities as well as between those that are responsible for environmental harm and the victims of this harm?

Finally, how will the presumed non-state authorization of environmental political space alter the nature of political obligations? For instance, in what circumstances might obedience to unjust (e.g. , from the ecological space utilisation point of view) law be justifiably required and when or whether would civil disobedience need to be justified.

1 Introduction: the project of ecological citizenship

Citizenship has become one of the focal points in green political theory. According to Dobson and Valencia Sáiz this has both practical and theoretical reasons. At the practical level, they note, governments are slowly becoming to realise that they cannot create "green" or sustainable societies on their own. They need to turn to the citizens to have "a role in bringing it about". This move has often characterised as a move from 'government' to 'governance'. From the theoretical point of view it has been recognised that "sustainability requires shifts in attitudes at a deep level", which means also that the concept of citizenship needs to be modified. (Dobson & Valencia Sáiz 2005).

One of such modifications is characterized by claiming that environmental or ecological citizenship concerns not so much rights but the self-imposed responsibilities and duties of the citizens. Van Steenbergen (1994, 146), for instance, writes: "Considering the role of social movements, there is one important difference between the environmental movement and other emancipation movements. This difference has to do with the notion of *responsibility*. ... This brings us to the point that citizenship not only concerns rights and entitlements, but also duties, obligations and responsibilities."

In this sense the notion of environmental or ecological citizenship contrast the liberal citizenship, which is usually taken to emphasise the citizenship rights against the state. In liberalism the duties are then typically derived as correlatives of these rights. But environmental or ecological notion is claimed to departure also from the civic republican citizenship by broadening the space within which citizenship relations take place. In this it follows the critique of the cosmopolitan and feminist insights that a nation state and its public realm cannot be the only options for such political space. Thus, the discussion on the notion of environmental or ecological citizenship has focused on determining what the political space connected to this concept might be. As Dobson notes: "we would expect a properly ecological challenge to citizenship to offer an account of citizenship space in accord with the intentions of political ecology" (Dobson 2006a, 229).

Similarly Valencia Sáiz has characterised the notion of ecological citizenship as "under construction" and has described the two stages of this thematic evolution. First, there is a stage, "in which this notion constitutes another contribution to the definition of a green democratic model within a critical reconstruction of the liberal tradition". This stage is often referred to with the term '*environmental* citizenship' while the more rigorous concept of '*ecological* citizenship' is then reserved to the second stage, in which "there is an attempt to define a proper conceptual space within a set of citizenship theories marked by the 'global age' where the transnationality of environmental problems demands a theoretical framework for both obligations and collective responsibility." (Valencia Sáiz 2005, 170.)

One of the features characterising this new "conceptual architecture" of the second stage is that the ecological citizenship "is about the horizontal relationship between citizens rather than the vertical (even if reciprocal) relationship between citizen and state." (Dobson 2003, 116.) Behind this lies "the recognition that the actions of some affect the life chances of distant strangers", and these effects can be taken as relationships generating obligations.

Due to this emphasis on horizontal relationship between citizens, much less has been discussed what the kinds of political obligations – understood as traditionally a vertical relationship between the citizen and the political authority – the concepts of environmental (first stage) and ecological (second stage) citizenships entail. In this traditional understanding political obligations are seen as specific kind of moral requirements: they are duties of citizens to support and comply with the requirements of their political authorities.[1] My central conviction here is that if one is to present a full-bodied theory of citizenship, one necessarily needs to say something about the vertical relationship as well. Questions about the political obligations of citizens toward their political authority are part of the vertical relationships that a society of ecological citizens would also need to have (even though we would be moving from 'government' to 'governance'). In other words, the environmental/ecological citizenship theory needs an account of the conditions, under which any regime, be it national or transnational, can claim to have political authority over its citizens, that is, can legitimately exercise political power.

In order to capture, how such an account could be formulated, I will begin with an examination, how vertical relationships have been constructed in the first stage, starting from the liberal environmental citizenship theory. The traditional notion of political obligation as introduced above serves here as an applicable tool for the analysis. Thus I will analyse, how the demands of environmental citizenship – e.g., transnationality of environmental problems – shape our traditional understanding of the political obligations of citizens. How will, for instance, the presumed non-state authorization of environmental political space alter the nature of the traditional political obligations? These questions have also their connection to our understanding of what the legitimate practices of citizenship are: for instance, in what circumstances might obedience to law be justifiably required and when or whether would civil disobedience need to be justified.

Responds to these questions will reveal the difficulties that liberal environmental citizenship theory may face in the transnational environmental context. Because these difficulties are taken, for instance by Dobson, as reasons for a step to the second stage in the evolution of ecological citizenship, I will then move on to analysing Dobson's concept of ecological citizenship and ask, how does his new conceptual architecture change the situation. Proceeding in this way is justified, I think, because Dobson has in many occasions emphasised, that his notion of 'ecological citizenship' is complementary

[1] The concept of 'political obligation' is, as one can guess, a contested one in the tradition of political philosophy. For some political obligation means simply by definition that citizens are required to obey the law or their government (cf. Simmons 1979). Others take it to mean more generally that political obligation requires "people's actions to take account of the interests or welfare of their polity" (Horton 1992, 163). In any case, it is always a concept that concerns the relationship between the individual member and the requirements of the political community of hers. Insofar as some legitimate political authority (be it the government or the law through which the authority operates, or something else) is needed to implement and enforce these requirements, I take the formulation used here as a justified starting point for my analysis.

to the liberal notion of ‘environmental citizenship’ and that “the traditional understanding of political obligation – involving the relationship between the ruler and ruled [i.e. vertical relationship]– stands alongside the understanding with [Dobson’s account of political obligation between citizens] and is not in contradiction with it.”(Dobson 2006b, 448.) But without a more explicit account of the vertical relationships his notion of ecological citizenship entails, as I will argue, plausibility of these theses remains vague.

I think that this is also crucial for the thematic evolution of the notion of ecological citizenship, particularly, if it aims, as Valencia Sáiz puts it, “at defining its own space – *both* within the green democratic model and in respect of what Dobson calls the conceptual architecture of citizenship.” (Valencia Sáiz 2005, 170, emphasis added.) My concern here is that, when the evolution proceeds from the first stage to the second, the connection between the green democratic model and new conceptual architecture of ecological citizenship becomes unclear and obscure, because the notion of ecological citizenship does not make the vertical relationships it implies explicit enough.

2 Liberal environmental citizenship

2.1 Duties of liberal environmental citizens

One of the most recent accounts of liberal environmental citizenship is offered by Derek Bell (2005). His main argument is that liberal 'environmental citizenship' is not only an attempt to make the list of citizenship rights longer, but rather it tries to redefine the liberal "conception of the environment and our place in it". The prevailing liberal conception of the environment as mainly a property Bell argues to be "internally inconsistent with two key elements of contemporary liberal theories, namely, the right to have our basic needs met and the fact of reasonable pluralism." According to Bell, a more consistent account would require liberals to "prioritise a conception of the environment as a provider of a basic needs over a conception of the environment as property". (Bell 2005, 183-84)

On this basis Bell then constructs an account of a liberal environmental citizen's rights and duties. Rights would comprise substantive rights "derived from an account of basic human needs", and procedural rights, through which citizens can defend their substantive rights. Both classes of rights have, as it is often thought in liberalism, correlative duties and obligations: if you, for example, would have a right to particular air quality, someone would have the correlative duty to ensure that this level of quality is met. But, as Bell notices, fulfilling this duty will most probably mean that it must be divided up among different duty-bearers, and for liberals it is the state that often take care of this diving up duties to citizens and in many cases it also takes on the role of primary duty-bearer itself.

As Bell also recognises, liberal citizens can endorse some self-imposed private duties as well, such as recycling or limiting car use, giving some examples in environmental context. But to be regarded as a duties of liberal (environmental) citizens the source of these duties have to be founded in some way in the correlative rights of other citizens (e.g. right to air quality might create a correlative duty to limit car use) and they fulfilment must not mean prioritising some particular 'green' conception of the environment that goes beyond the Bell's liberal interpretation of it as a provider of a basic needs. Insofar as this is not possible these private duties cannot be required as duties of liberal (environmental) citizens (ibid., 190).

What then Bell thinks that it is legitimate to require as duties of liberal environmental citizens? Instead of trying to make a detailed account of all the environmental duties that the state could legitimately assign to its citizens, Bell tries to look for what might be considered as the "generic duties" of these citizens. Here he follows explicitly John Rawls and the account of the so-called "natural duties" Rawls provides in his *Theory of Justice* (Rawls 1972, 114-117, 333-342). Rawls recognises two most obvious and fundamental liberal natural duties cited by Bell; they are the duty "to support and to comply with just institutions that exist and apply to us" and the duty "to further just

arrangements not yet established, at least when this can be done without too much cost to ourselves" (i.e. so-called cost proviso) (ibid., 115).

It is here where the concept of political obligation comes forward, since Rawls's account of natural duties cannot be understood without situating it in the context of liberal accounts of political obligation. Hence, I will next make a short excursion to the liberal accounts of political obligations.

2.2 Liberal accounts of political obligation

The reason why Rawls called his principles for liberal individuals 'natural duties' rather than 'obligations' was that in his view duties contrary to obligations "apply to us without regard to our voluntary acts." (Ibid., 114). This shift is not only semantics, because there has been a long tradition in the liberal tradition that emphasises individual's voluntary acts (e.g. promise, contract) as a primary basis for justifying any requirements that might be imposed on them. Hence, it is not surprising that one of the most influential accounts of political obligation, that is the consent (or more broadly voluntarist) tradition, seeks to explain political obligation in terms of some freely chosen undertaking (i.e. consent) though which individuals (e.g. citizens) morally bind themselves to their polity and its legitimate political authority (cf. Simmons 1979, Horton 1992).

The problems of the consent theory in justifying political obligations and the legitimacy of political authority have been reported by many (Simmons 1979, Horton 1992, Copp 1999, Buchanan 2002). The most obvious problem is of course, that the "paucity of express consentors is painfully apparent" (Simmons 1979, 79). It is unlikely that any but a few citizens have ever actually consented to be bound by the laws enacted their political authority. Taking this into account, there has been made attempts to understand the voluntary acts of the citizens not as actual, deliberate consensual acts but rather as tacit "consent-implying" acts like accepting and enjoying the benefits of one's government.

This is a move that Rawls also has made in his way to the account of the natural duties. Earlier Rawls (1999a) emphasised a so-called principle of fair play as a justificatory basis for political obligation of citizens. Rawls writes:

> Suppose there is a mutually beneficial and just scheme of social cooperation, and the advantages it yields can only be obtained if everyone, or nearly everyone, cooperates. Suppose further that cooperation requires a certain sacrifice from each person, or at least involves a certain restriction of his liberty. Suppose finally that the benefits produced by cooperation are, up to a certain point, free: that is, the scheme of cooperation is unstable in the sense that if any person knows that all (or nearly all) of the others will continue to do their part, he will still be able to share gain from the scheme, even if he does not do his part. Under these conditions a person who has accepted the benefits of the scheme is bound by a duty of fair play to do his part and not to take advantage of the free benefit by not cooperating. (Rawls 1999a, 122.)

Here the ground of the political obligation (or in this case duty) is not a deliberate consensual act but simply the acceptance of benefits provided through the sacrifices of the other participants in a cooperative scheme. However, in *Theory of Justice* Rawls admits that this account is implausible "in the case of the political system into which we are born and begin our lives", because

> Citizens would not be bound to even a just constitution unless they have accepted and intend to continue to accept its benefits. Moreover this acceptance must be in some appropriate sense voluntary. But what is this sense? (Rawls 1972, 337.)[2]

Since the principle of fair play would lead Rawls to similar kinds of difficulties that a pure consent theory faces (i.e. what can be regarded as voluntary act of accepting the benefits similarly as what can be regarded as voluntary act of consent), he is willing departure from this principle and search an account for citizen duties that are not based in any way on the voluntary undertakings of them – thus the account of natural duties.

[2] In may be worth to note, that in *Theory of Justice* Rawls limits the use of the principle of fair play only to those who take a special advantage of the benefits of government, e.g., by running for public office.

3 Cosmopolitan challenge for liberal environmental citizenship

3.1 The particularity requirement of political obligation in the transnational context

Rawls's natural duty account of political obligations has also raised many questions and it has been criticised (Simmons 1979, Hardin 1989, Horton 1992). While not entering into the details of this debate, there is an issue that is relevant to my current analysis and that will also illuminate why in the end liberal environmental citizenship theory that endorses to any kind of cosmopolitanism as a result of transnational environmental problems is forced, similarly to Rawls, to abandon a pure natural duty basis for political obligation.

In his analysis of Rawls's account John A. Simmons concluded, that there are no sufficient reasons, why one should be obliged only to obey the just institutions of one's own country rather than to the institutions of *any* just government (Simmons 1979, 155). This is obviously a conclusion that the advocators of environmental (and ecological) citizenship would be most comfortable with, since, as Bell also recognises, "in so far as the liberal environmental citizen is conceived of as a 'citizen of planet Earth', the (prima facie) duty of that citizen will be to promote environmental justice across the world." (Bell 2005, 189.) In this sense any automatic and unconditional political authority of one's state of residence, or even any territorial (national) state, would be contrary to the attempt of the advocators of environmental citizenship to "incorporate those humans with a vital interest in decisions made beyond their national boundaries" (Christoff 1996, 155).

As Bell notes, it is here where the liberal notion of environmental citizenship "would seem to support" cosmopolitanism (Bell 2005, 193). This is not a surprise, if we look at what a prominent cosmopolitan David Held, for instance, writes: "National boundaries have traditionally demarcated the basis on which individuals are included and excluded from participation in decisions affecting their lives; but if many socio-economic processes, and the outcomes of decisions about them, stretch beyond national frontiers, then the implications of this are serious, not only for the categories of consent and legitimacy but for all the key ideas of democracy." (Held 1999, 105.) To cosmopolitans such as Held, the answer to this challenge is to internationalise democratic law that can "entrench and enforce" "the cluster of rights and obligations that will create the basis of a common structure of political action" (Held 1999, 105). Similarly, such a common structure would also be necessary for liberal environmentalist, who attempts "actively to include human 'non-citizens' (in territorial and legal sense) in decision making." (Christoff 1996, 161.)

There is, however, still something crucial in the Simmon's conclusion that the liberal cosmopolitans and environmentalists need to answer. Even though we may be

comfortable with the idea, that national or any territorial borders are no longer relevant in determining the political community of the citizens, it still remains the question that Simmons labelled as *particularity requirement.* That is, the requirement that a principle of political obligation is to bind citizens to one *particular* political authority (Simmons 1979, 32; Horton 1992, 16). In this context the question would stand as: which internationalised (just) institutions *apply to* individual environmental citizen in a way that they would oblige her to "comply with it" or "to further it" rather than some other. As Bell notices, without any limits "liberal environmental citizens in an any contemporary democratic society could devote every minute of their lives to promoting global environmental justice and still leave plenty for others to do." (Bell 2005, 189.) Bell reminds us of the "cost proviso" that Rawls includes in his second duty: "we have duty to further just arrangements only when this can be done without too much cost to ourselves."

But what about the first duty to obey "just institutions that exist and apply to us"? Here Bell identifies two "legitimate or just sources" for such institutions in the context of environmental law: First, there are democratically made laws that protect our substantive environmental rights (necessary to satisfy citizen's basic needs). Second, he notices laws that relate to our ideals of the good environment (but not to the environment as a provider of basic needs) will be just laws "if they have been made (directly or indirectly) by voters in deliberative democracy." (Bell 2005, 190)

However, there seem to be nothing in these criteria as such that would particularise, which of the just environmental laws "apply to us". Unfortunately Bell does not tell us much that would specify in which sense, for instance, his rather obscure requirement that just laws "are made by voters in deliberative democracy" should be used as an "application clause" that would particularise just environmental laws. [3] In other words, there is nothing in these criteria that would rule out international environmental law, or prioritise domestic environmental law, unless Bell by the term "voters" wants specifically refer to some territorially predetermined political community of voters. This "territorial application" would, however, be contrary to cosmopolitan ideal of environmental citizenship (as discussed above).

Another way to understand Bell's requirement is to see it more in the light of traditional consent tradition. Here the reference to "deliberative democracy" could then be understood as emphasising the deliberate consent voters have given. In this sense, extending the modes of direct and deliberative democracy in the decision-making, the "paucity of express consentors" might at least to some degree be alleviated. The apparent limits of this strategy in the global world, however, are acknowledged for instance by Held: "If the initial inauguration of a democratic international order is to be legitimate, it must be based on consent. However, thereafter, in circumstances in which people themselves are not directly engaged in the process of governance, consent ought to follow from the majority decision of the people's representatives, so long they – the trustees of the governed – uphold cosmopolitan democratic law and its covenants." (Held 1995, 231.) In the environmental context Robyn Eckersley (2004, 132) has also argued "it is neither possible nor practicable for affected parties literally to deliberate together *en*

[3] For instance, Simmons's analysis of Rawls's natural duties is that Rawls can have an "application clause" only if it is either understood as a "territorial application", which is problematic for the rest of the Rawls's *Theory of Justice*, or it is not a duty at all in the sense that it would "apply to us" independent of our voluntary acts. (Simmons 1979, 147-152.)

masse. Indeed, ecological democracy must necessarily contain a representative element if it is to function as a democracy *for* the affected, including future generations and nonhuman species."

3.2 Limits of liberal citizen's duties as political obligations of cosmopolitan environmental citizens

Perhaps then a more convincing argument for legitimate political authority and political obligation of liberal environmental citizen could be offered if we leave appeals to consent theories and try to go on with the first of the Bell's sources of just environmental law, that is: "democratically made laws that protect our substantive environmental rights". Following the argumentation offered by for instance Allen Buchanan, the starting point here would be the protection of our (most) basic substantive environmental rights (i.e. at least those needed to satisfy our basic needs). The legitimacy of political authority would then be justified if and only if it (a) does a credible job in protecting those rights and (b) provides this protection through processes, policies and actions that themselves respect these rights (Buchanan 2002, 703). In this account it is the obligations citizens have to one another that give them "a weighty reason to comply with the laws that emerge from democratic processes, because these processes are the best available way to express the fundamental commitment to equal consideration" (ibid., 714).

This democratic account underlines the crucial element of Rawls's duty, which is, that we are not only obliged to obey *particular* just/democratic laws, because they are just/democratic, but to "comply with just *institutions*" – or as his earlier formulation was "the scheme of social cooperation" – that is, the whole system of democratic legal procedures. Thus, in the context of environmental citizenship, the Rawlsian duty requires environmental citizens not only to obey particular just *environmental* laws but also any other just (even non-environmental) law as long as they are part of the "just scheme of cooperation". In this sense Bell's liberal environmental citizenship has nothing particularly environmental in it, because citizens have to obey all legitimate or just laws in a similar manner, be they environmental ones or not. Environmental laws have no special status here. Thus every citizen, not only environmental citizen, has to obey also the just environmental law, e.g., using Bell's examples "will not use car with illegal emissions" or "will not illegally buy products whose import has been banned". Only when environmental citizens are "likely to play role in campaigning for global *environmental* [emphasis added] justice", would the importance given to green values be relevant in differentiating them from ordinary citizens. And further, as Bell notes, in campaigning they might "even take part in public protest aimed at securing and protecting citizen's substantive and procedural environmental rights" (Bell 2005, 189). But in order to such actions to remain legitimate, they must not reject or abandon the "just scheme of cooperation", but should rather "manifest a respect for legal procedures", as Rawls puts it (Rawls 1999, 182).

However, there seems to be a discrepancy between Rawls's concept of citizenship and the environmental citizenship that is not recognised by Bell, but is discussed by the cosmopolitan thinkers. For instance Held writes:

> People would come to enjoy multiple citizenships – political membership in the diverse political communities that significantly affected them. They would be citizens of their immediate political communities, and of the wider regional and global networks, which impacted upon their lives. This

> cosmopolitan polity would be one that in form and substance reflected and embraced the diverse forms of power and authority that operate within and across borders. (Held 1995, 233.)

Similarly, Dobson (2003, 74) recognises that we need "to focus on the multiplicity of 'political bodies' on which people in late modernity are members." But whereas Held tries to offer at least some kind of an account of political authority in this multiplicity, such an account is hard to find in the conceptions of environmental citizenship (cf. Hayward 2006a, 436). Although Bell recognises that "our contemporary relationship with the environment would seem to support a cosmopolitan environmental citizenship", he does not offer any account on how his criteria for just environmental law is connected to "cosmopolitan polity". It seems to be this area, where the difficult questions concerning the relationship between environmentalism/ecologism and democracy start to become more apparent.

3.3 Multiple citizenships and the source of political obligation

As I have argued, the most consistent way to interpret environmental citizens' primary criteria for just environmental law – i.e. "democratically made laws that protect our substantive environmental rights"– is to understand it as the recognition and institutional protection of environmental substantive rights (particularly those that satisfy our basic needs) that an environmental citizen has a duty to further (but only when this can be done without too much cost to ourselves). Insofar as this protection is incorporated with existing laws, environmental citizens have a duty to comply with them as any other citizen has, and further, they have if not an obligation then at least "a weighty reason to comply with" any other democratically made law even if it is not environmental. Only when these other laws would act against the "protection of environmental substantive rights", would environmental citizen have weighty reasons for civil disobedience. But as said, civil disobedience would always express "disobedience to law within the limits of fidelity to law" (Rawls 1999, 182).

I believe that there is nothing particularly problematic in this case as far as we stay within a particular polity with a vertical relationship between citizen and political authority. But what if we take the cosmopolitan citizenship to literally mean "multiple citizenships" within "multiplicity of political bodies"? Since national or domestic institutions are obviously inadequate for protecting (all) our substantive environmental rights, an environmental citizen could easily find her- or himself forced to prioritising democratically made international laws that are better equipped for that job. It might then be possible that environmental citizen would be inclined to "manifest respect for" just international environmental procedures and go beyond the "limits of fidelity" to domestic law.

Of course, such civil disobedience to *domestic* laws within the limits of fidelity to *international* laws would be dependent of the existence of international environmental laws that protect the substantive environmental rights and that are democratically made. As far as the paucity of such *democratically made* international laws is painfully apparent, it could be used as practical reason why in practice environmental citizens should prioritize domestic laws. Further it could be claimed in the line of cost proviso that for an individual citizen it is easier to be involved on a day-to-day level with institutions and practices of ones local or domestic political community (Bell 2005, 189; cf. Horton

1992, 104-105). But, how far these practical considerations are legitimate reasons for (cosmopolitan) environmental citizens, if it is obvious that domestic laws are insufficient for institutional protection of environmental substantive rights.

Bell also admits, that there are many problems associated with the idea of cost proviso used in defining the limits of our citizen duties. One of the most basic one, I think, is linked with the very commitment of liberal environmental citizenship to procedural legitimacy and democratic authorisation of environmental law. As Bell also acknowledges, "the detail of [substantive] environmental rights is likely to be subject to considerable dispute" and because of this, "dissension cannot be 'rationally' resolved", it must be made through agreed decision-making procedures (Bell 2005, 187). In this sense, it seem to be the case that the actual possibilities for democratic authorisation restrict also the possibilities for bringing (global) environmental elements and values into liberal citizenship.

Therefore it is not surprising that many see liberal environmental citizenship – even its cosmopolitan version – as a too restricted conception of citizenship in the world of global environmental problems. For Dobson this is so, first, because environmental citizenship with its commitment to practice of right-claiming and procedural legitimacy is also committed to a "single, coherent political body within which to claim the rights and exercise the responsibilities of citizenship". Moreover, this leads to a remit of citizens that "is bounded political configurations modelled with nation state". The second reason, why Dobson sees liberal cosmopolitan citizenship as too restricted or even misplaced reaction to global environmental challenges is that in the globalised world the structure of obligations that comes with citizenship cannot be reciprocity of correlative rights and duties but a version of what he calls "the asymmetrical interdependence thesis – the recognition that the actions of some affect the life chances of distant strangers" (Dobson 2003, 73-74, 89).

3.4 Need for a new conceptual architecture: ecological citizenship

With his notion of ecological citizenship, Dobson wants to overcome the restrictions of liberal environmental citizenship by giving a new conceptual architecture for citizenship. This is the second stage in the Valencia Sáiz's evolutionary process of the notion of ecological citizenship, referred in the introduction and I will turn to it more closely soon. As said, my concern here is that when the evolution proceeds from the first stage to the second, the connection between the democratic model – to which the liberal and cosmopolitan citizenships at the first stage still are committed – and the new conceptual architecture of the notion of 'ecological citizenship' is at risk to become unclear and obscure.

This is especially true because the notion of ecological citizenship does not make the vertical relationships it implies explicit enough. As said, Dobson does not think his notion of ecological citizenship contradicts the liberal one, but rather complements it. For this speaks also Dobson's analysis in the end of his book, whether the liberal state can deliver ecological sustainability by providing education for ecological citizenship. He writes that ecological citizenship is "action-oriented notion of citizenship beyond the state", and that it is "part of a wider recognition that 'national' citizenship needs to be *supplemented* [not substituted] by non-national features" (Dobson 2003, 117).

But what then actually are these new supplementing features? And how well do they fit together with the traditional liberal ones? Dobson's answer is puzzling, because on the one hand he sees "ecological citizenship as improving democracy's chances of producing [ecological] sustainable outcomes", but on the other hand, his notion of citizenship does not arise from equal or impartial recognition of individual interests and does not see the democratic procedures and environmental rights as a primary political remedy for current problems facing citizenship. Rather it starts off from the notion of injustice and sees "that partiality is crucial to effective justice" (Dobson 2003, 22).

4 Ecological citizenship

4.1 The source of obligations of ecological citizenship

When discharging the requirements of reciprocity, Dobson faces the risk of confounding the community of citizens with the moral community of the humans. Since right-claiming activity is too restrictive conceptually, and perhaps also practically, in order to appropriately capture the asymmetrical obligation-generating relationship, Dobson needs another way to differentiate it from mere moral commitment and charity. In other words, he has to be able to distinguish the Good Samaritan's tending to the injured man at the side of the road with a Good Citizen's obligation to do justice in the "r*elations of actual harm*". He writes:

> Now the relationship between the causers and victims of harms is completely different from that between the Good Samaritan and the poor unfortunate by the side of the road. The Good Samaritan was not directly or even indirectly responsible for the injured man's plight… ...The obligation to compensate for harm, or to take action to avoid it, is not an obligation of charity to be met through the exercise of compassion, but of justice. Justice... is a more binding and less paternalistic source and form of obligation than charity, and its political nature takes us out of the realm of ' common humanity' and into realm of citizenship. This obligation to do justice is a political obligation rather than a more general moral obligation, and therefore more appropriately predicated of 'being a citizen' than 'being a human'. (Dobson 2003, 28.)

And further:

> We might have a *moral* commitment to help the global vulnerable and disadvantaged simply because we can 'alleviate their plight', but this only turns into a commitment of *citizenship* if we can show that we have played a 'causal role' in their situation. ... ...What counts is actual, practical, material, causal relationship. (Ibid., 125.)

For Dobson, thus, "it is the *source* of obligation, rather than what the obligation might actually be", "that distinguishes citizenship from a broader humanitarianism."(Ibid., 48) And the source of obligation are the requirements of justice, which are triggered by "antecedent actions". These actions can be a 'contract' or an 'agreement', but more often they are "actual, practical, material, causal relationships" described by the notion of ecological footprint. The "principal ecological citizenship obligation" that follows from these causal and material relationships" is to ensure that ecological footprints make a sustainable, rather than unsustainable, impact", and it is owed to "strangers near and far" on whom "the production of individuals' and collectives' daily lives" has impact (of which the ecological footprints are expressions). (Ibid., 119.)

4.2 Problems of ecological citizen's political obligations

How does this account of ecological citizenship obligations change our understanding of political obligations understood traditionally as involving the vertical relationship between the citizen and the political authority? At first glance, one would be inclined to say that not much, because the requirements of equal ecological space utilisation should be understood as an essential part of equal consideration of basic human needs and rights anyway. From this point of view, *ecological* citizens have political obligation to obey authorities and laws that effectively attempt to further the equal ecological space utilisation, quite similarly as their liberal *environmental* counterparts have a duty to further environmental just institutions around the world. Perhaps the use of cost proviso as an excuse would be more limited, but that's all. And in fact, Dobson mentions the activists of the ecological justice movement claiming rights to an adequate environment as an example of environmental citizens. But he, however, specifies that they are still "'environmental' rather than 'ecological' citizens" (Dobson 2003, 93).

Thus, looking more closely, Dobson's move to the requirements of justice that are triggered by "actual, practical, material, causal relationships" as generating political obligations, is in fact a quite radical move. It is actually a step outside of the political community, which for liberal and cosmopolitan theories of citizenship is thought to create those obligations. The strong willingness of liberals to see consent as a primary source of justified political authority and political obligation is namely emphasising the fact, that legitimate political obligations are created by the members of political community and they are not based on any prepolitical (moral) account of political authority. Contrary to this, as Tim Hayward (2006a, 438) notices, "the relations as defined in terms of differential ecological space utilisation are precisely not political relations" in the sense that they would be created *by* the political community. They are said to *create the community* (of the ecological citizens).[4] In this sense the requirements of justice generated by the material relationships are preceding the political community, whereas in traditional theories of citizenship, justice emanates from the interaction and communication of political community. It is occasioned as a communicatively engendered *response to material relationships*, and not caused by them (Hayward 2006b, 453). This is even more the case, I believe, when a political community proceeds to define the legitimate political relations (e.g., political authority, political obligation) justified by their conception of justice.

From this point of view, political obligations of ecological citizens look more radical than at the first glance. Ecological citizens are obligated to pursue sustainable ecological footprint, because "they want to do justice". Their first virtue is justice; or more specifically, they aim "at ensuring a just distribution of ecological space." As far as I can see, there is nothing in Dobson's proposition that connects this virtue to democratic virtues, like "procedural legitimacy", which characterise the more traditional notions of

[4] According to Hayward, the non-reciprocal and non-contractual basis of these obligations leads to a community of ecological citizens that comprises of only those that have these obligations i.e. have excessive ecological footprint. The victims of this material and causal relationship have already their footprint within the limits of sustainability and have thus no obligations. Thus, to become an ecological citizen one must first become unecological and have unsustainable ecological footprint. In the current situation of unjust distribution of ecological footprints, it most probably is the case, that the current victims "want to do justice" and have their just share of the benefits of ecological unsustainability, "and thus only be 'ecological citizens' by default and against their will". This would be, however, contrary to Dobson's view of a virtuous ecological citizen. (Hayward 2006a, 439.)

liberal and cosmopolitan citizenship. If injustice in the use of ecological space is the starting point and "partiality" is needed to effectively remove this injustice, there seems to be nothing that prevents individual citizens from taking partiality as a basis of they own citizenly action and to ignore fidelity to just institutions and (impartial) procedures. Ecological citizens would, thus, take civil disobedient action without manifesting it as "a respect for legal procedures" as far as these procedures are (ecologically) unjust from their point of view.

Without making an explicit link between ecological justice and just institutions, it is hard to see, why ecological citizens would commit themselves to democratic procedures (be they local, national or transnational) rather than to an active international protest against those procedures. There is nothing that would conceptually determine, how ecological citizenship only complements the liberal notion of environmental citizenship, and why it only supplements national citizenship. Or putting the point even more bluntly: Why should we take the construction of ecological citizenship as evolution rather than as revolution of the liberal environmental citizenship?

Thus, with no account of the vertical relationships emanating from the "material relations of cause and effect in the guise of ecological footprint", I fail to see, how ecological citizenship is connected to green democratic model. Although both are emphasising that active citizenship beyond "institutional reforms of our democratic systems" is needed for sustainable society, much more has to be said about how this citizenly action is linked to legitimation of (multiple) political authorities, particularly in the globalised world.

5 Concluding discussion: Ecological justice as a fair play?

In this paper I have analysed the possible difficulties that the concepts of environmental and ecological citizenships are facing if they are required to contain an account of the vertical relationship between citizens and their political authorities. The most foundational problem with the liberal environmental citizenship is its inability to respond sufficiently, how its commitment to democratic authorisation of just environmental laws is connected to "cosmopolitan polity" with possibly multiple political authorities. In this sense it remains more like a theory of environmental citizens in a single domestic polity, e.g. a nation state. Ecological citizenship, on the other hand, fails to link its citizenly action with democratic authorisation of any environmental law, even though it may manage to capture the global structures of citizen obligations and responsibilities.

As a concluding discussion I want to search a possible way to overcome these difficulties. One option that may strengthen the connection between democratic political authority and obligations of ecological citizens could be provided by the principle of fair play, introduced earlier. Here, the sustainable use of limited ecological space might be seen as a joint global enterprise that produce benefits to co-operators, but requires them also to limit their freedom to use ecological space. In such circumstances, those who have already restricted their use of ecological space under the sustainable level would have a right to a similar restriction from those who have benefited by their submission and those who have benefited would have obligation to obey the rules of sustainable use of ecological space.[5]

The crucial difference of this interpretation what might be called as the principle of 'ecological fair play' and Dobson's original one is that here it is the rules of fair distribution of ecological space that generate our obligation to do our fair share, whereas in the original one they are generated from "the actual, practical, material, causal relationships" of one's usage of the ecological space. The principle of fair play provides here the link that connects these material relationships to the "normative conclusions", to use Hayward's phrase, that give people reasons to recognise their obligations (Hayward 2006b, 444).

But, how sound is this way evaluated on the basis what we have learnt from the theory of political obligation? As we remember, for Rawls, the principle of fair play included two requirements: an individual would be obligated to do her fair share in the joint enterprise, if there is a mutually beneficial and just scheme cooperation (I will call this justice

[5] This formulation follows notably H.L.A. Hart's original formulation of the principle of fair play: "when a number of persons conduct any joint enterprise according to rules and thus restrict their liberty, those who have submitted to these restrictions when required have a right to a similar submission from those who have benefited by their submission. …the moral obligation to obey rules in such circumstances is due to the cooperating members of the society." (Hart 1955, 185.)

requirement) and if she has accepted the benefits of this scheme (acceptance requirement) (Rawls 1999b, 122). We have also learnt, why Rawls later abandoned the principle of fair play: it would lead him to similar kinds of difficulties as consent theories in deciding what can be regarded as voluntary act of accepting the benefits. Does these difficulties relate to the principle of 'ecological fair play' at all?

One way to respond could be to claim that the whole idea of ecological space refers to benefits that are most vital to any human and it is thus irrelevant to require that one has deliberatively accepted them. With them it is not question whether one likes or is willing to accept the benefits, as it can be with benefits of the joint system of providing, to use Nozick's example, neighbourhood entertainment.[6] The acceptance requirement, however, is important for the principle fair play also, because on the basis of it it was possible to prevent that totally outsiders, who nonetheless might accidentally benefit from the co-operative scheme, would be obliged by the principle. But here it could be argued, that because ecological space use is a global matter, we need not occupy ourselves with questions concerning who are the participants or insiders of the co-operative scheme.

The possible problems might, however, emerge with justice requirement of the co-operative scheme. How this requirement should be interpreted: are we obligated only if the scheme allocates a fair (e.g., equal) share to everyone, or to the extent that we are allowed to benefit from the joint scheme (cf. Simmons 1979, 112-113). The former interpretation seem to require too much, since then no-one would obliged to as long as everyone gets a fair share. The latter one seem to be more closer to our intuition of fair play and also the idea of the obligations of Dobson's ecological citizens: the more excessive one's ecological footprint is, the more is one obligated to restrict it. The only problem with this interpretation is that it requires that also those, whose ecological footprint is very small because of the unjust distribution of the joint scheme, are bound to support that scheme at least to the extent they are benefiting from it.

A way to avoid this problem would be to allow at least a limited version of the acceptance requirement. In this way those who are treated unjustly by the scheme could spare themselves the obligation to support it. This would, however, suggest that the obligations cannot be generated involuntarily through the principle of fair ecological space usage, but they would be closer to consensual and contractual generation of obligation. This would, in turn, mean that we would be much closer again to the notion of liberal environmental citizenship and it's the commitment to democratic procedures.

Perhaps, we could still reject the acceptance requirement and think that even though fair play ecological citizens need not commit themselves to democratic procedures and obey also democratically made unenvironmental rules in the same manner as their liberal counterparts need, they would, nevertheless, have strong reasons to support democratically made rules. At least insofar as democratic procedures strengthen the recognition of the obligations of fair play ecological citizens and helps to create a shared conception of fair distribution of ecological space, they should be supported. On the other hand, it seems to me, however, that ecological citizens of fair play should in the usage of

[6] Nozick used neighbourhood entertainment system as a counterexample to H.L.A. Hart's original formulation of the principle of fair play that included no acceptance requirement (cf. note 5; Hart 1955, 185). In Nozick's view neighbourhood entertainment system was a scheme of cooperation, which produces benefits that one is not necessarily willing to accept only on the basis that one lives in that particular neighbourhood. Thus it was implausible for Nozick that one would nevertheless be obliged to do ones share by such a system (Nozick 1974, 93).

ecological space be obligated to do they fair share even when the rules are not democratically made.

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Managing Global Environmental Issues - Preliminary Considerations of a Liberal Global Theory.

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1 Introduction

The core tension of global environmental management in (liberal-based) theories is between whether the moral unit to be counted is the state or the individual. This distinction is especially crucial for establishing political legitimacy. On the one hand, individual autonomy, well-being and equality are indispensable elements of a liberal theory of justice; on the other hand, global environmental problems demand a stronger focus on coordinating diverse interests of individuals with the cumulative effects of environmental issues. Criticism of liberal theories claims that individual-centred basic defaults are hindrances to effective management of environmental issues, particularly on a global scale. In a liberal theory, consumer-citizens are seen as morally responsible only for those actions that are based on sufficient information and chosen voluntarily. In global environmental issues, these preconditions are not fulfilled, so individuals alone cannot be responsible for environmental management. Therefore, global environmental decision-making needs to be political and coordinated impartially, e.g., by relevant global institutions or democratic states.

In my previous work[1], I have argued in favour of public environmental policy even in liberal, neutral societies. I have analysed the possible reinterpreted role of the environment in a Rawlsian framework of *Political Liberalism*, where Rawls himself is unambiguous that care of the environment is to be decided on the basis of individual preferences, not in the political sphere (Rawls 1996, 214). Instead, I argue that environmental issues require public coordination and public decision-making procedures due to the nature of environmental impacts. Individual responsibility is not effective enough for managing environmental issues, especially global and intergenerational ones. In addition, it is unreasonable to assume that individual capabilities would be adequate to solve environmental dilemmas. In my opinion, the environment constitutes one of the core spheres of public matters, and promoting sustainable development is essentially a neutral principle of public concern. Therefore in this paper, I will bypass analysis of whether the environment should be considered a private or a public matter and take it for granted that environmental concerns are in essence public concerns.

The issue of viable global environmental policy principles is addressed through two questions in this paper: First, should global environmental issues to be managed globally or nationally? Second, what is the role of domestic justice and relating, which are global legitimate actors, individuals, institutions or states?

[1] For example, Laakso, M. 2006. 'The Norms Derived from Sustainable Development' in Klaus-Gerd Giesen and Kees van der Pijl (eds.), *Global Norms in the Twenty-First Century*. Cambridge Scholars Press, Newcastle, UK. Pp. 166-181, and Laakso, M. 2006. 'Public Environmental Policy in a Value-Neutral Liberal Society' in D. Fobelova and R. S. Ukrop (eds), *Applied Ethics in Theory and Practice (International Experiences)*, Centre of Applied Ethics Banska Bystrica, Banska Bystrica, Slovakia. Pp. 142-150.

This paper will take as its starting point *liberal internationalism*, concentrating especially on the framework of international law as outlined in *Law of Peoples* by John Rawls. However, for adequate global environmental policy principles, supplementary elements will be required. They are sought in two sources: the recent theory of *critical political ecology* by Robyn Eckersley and Leif Wenar's economic application of the Rawlsian original position.

2 Individuals versus states?

Cosmopolitanism holds the individual to be the only unit of moral concern and to have a right to well-being equal to all, regardless of nationality. The core tension between the cosmopolitan and the traditional liberal understanding of (distributive) justice is, therefore, that those local attachments seen as relevant in liberal theories are irrelevant to cosmopolitan approaches. Liberalism addresses these particularistic attachments as those making human life meaningful, and denying their importance would be, therefore, untenable for liberals. (Tan 2004, 1-2.)

Kok-Chor Tan takes as his starting point egalitarian liberalism, according to which inequalities are permitted only when initial opportunities in society are equal and inequalities resulted are for the benefit of the worst-off individuals. He also states that if egalitarian liberalism is to be promoted, then cosmopolitan liberalism should be promoted as well. (Tan 2004, 2-3.) Tan requires *cosmopolitan* justice because he thinks that individuals, not states, need to be the moral unit of worldwide concern, regardless of national borders. (Tan 2004, 35.)

> Justice aims to guide and regulate our existing institutions, and can call on us to create new ones if necessary. That is, justice constrains and informs our existing institutional arrangements, not the other way around. (Tan 2004, 34.)

The cosmopolitan approach seems quite problematic, particularly from the point of view of implementation. The core criticism of cosmopolitanism is presented along with outlines of liberal internationalism as understood by Rawls and Eckersley. Here, I will concentrate on issues of justice rather than on ethical duties of individuals. In other words, my focus is on political structures rather than on individual requirements. As do both Eckersley and Rawls, I will take the existing system of independent states as a starting point for the institutional frame needed. Justice in the global context will then be applied to this system of states (in the plural), instead of proposing a single world government as the frame of the global institution.

3 Law of Peoples by John Rawls

John Rawls's *Law of Peoples* (1999) is an application of his *Political Liberalism* (1993) in the context of global politics where actors are peoples and, according to the focus of the theory, are also the principles guiding peoples' relations to each other. Political autonomy of peoples is the crucial key to understanding why Rawls so easily bypasses individuals as global moral units: without political independency, peoples would not have a neutral, impartial or equal political system claimed by the very core principles of *Political Liberalism*. Legitimacy of state autonomy is also one of the motivating elements for Rawls in the global framework.

By 'peoples' Rawls refers to integrated groups with political autonomy and political organisation. Rawls has chosen 'peoples' because he wants to separate idealistic peoples from the present states, since the traditional conception of sovereignty is often attached to 'states', and according to him sovereignty implies too strong political power also in domestic issues. He insists on limited authority: certain restrictions also apply to those in power in society. Liberal peoples have three basic features: a reasonably just constitutional democratic government, 'common sympathies', and a moral nature. By 'a reasonably just constitution' Rawls means citizens' control over government: the government does not pursue its own goals as an autonomous agency nor is it directed by private economic powers and the like. 'Common sympathies' mean shared values, e.g., tolerance of diverse cultural backgrounds and ethnic origins. Despite different languages or religions, people may construct a relatively coherent collective with a willingness to share democratic government. And 'moral nature' refers to the idea that a people are rational and reasonable, and willing therefore to cooperate with other reasonable peoples by mutually agreed-upon rules. Present states, Rawls claims, bear the burden of traditional sovereignty, including, e.g., military defence and promotion of self interests. Self interests are, however, not a sufficient reason according to Rawls to declare war. (Rawls 2001, 23-29; Buchanan 2000, 698.) Rawls's reluctance to apply his principles to nation states reminds greatly of the critique Eckersley's criticism of traditional liberal states. I will return to Eckersley's points later, but I will use Rawls's peoples and states as synonyms. I want to emphasize for the reader that I'll apply Rawls's peoples as the idealistic states he envisions, in a way that is similar to Eckersley and her critique of the nature of present states.

Law of Peoples only concerns principles for relationships between democratic states. According to Rawls, this implies two distinct issues: firstly, his theory of global justice is not an individual-centred theory. Although states in international forums may be seen as moral units similar to individuals in domestic forums, the very nature of states as collectives rather than as persons has implications for the principles required. Secondly, the question is not of a distributive justice theory; in other words, international justice does not concern the distribution of goods and bads (benefits or burdens) as domestic justice does. Domestically, each government must respect basic human rights and apply its laws impartially in accordance with liberal social justice. But globally, there is no

requirement for permanently redistributive, much less egalitarian, international institutions. (Rawls 2001, 119-120; Wenar 2002, 56-57.)

In short, international principles concerning states include the following: Free and independent states need to be respected by other states, and all states must observe those treaties and agreements they are committed to as equal parties. States have the right to self-defence, but they have no right to start a war against other states for any other reasons. This is because intervention in other people's domestic issues, even for injustices inflicted on its citizens, is prohibited by liberal principles. States should honour human rights; those societies in which such rights cannot be met, due to unfavourable conditions, need assistance from better-off states. (Rawls 2001, 37.) Rawls classifies the Society of Peoples into five categories in accordance with the above-mentioned principles. *Liberal peoples* and *decent peoples* together construct what Rawls defines as well-ordered societies, which are equal participants in international society. Liberal peoples need to tolerate non-liberal peoples, since otherwise the idea of the liberal principles of *Political Liberalism* would fail: if institutions of a non-liberal society are formed in acceptable ways and its citizens have certain basic human rights, then liberal peoples do not have any right to intervene in other nations' domestic issues, since each individual's comprehensive doctrines must be respected. (Rawls 2001, 59.) Outside well-ordered societies, there are *outlaw peoples* who are not members of the Society of Peoples and *burdened societies*, who should be given assistance against unfavourable conditions. The last of the five groups consists of *benevolent absolutisms*, which recognise most of the central human rights but deny their citizens' right to political participation, and therefore, cannot be included among the well-ordered societies. (Rawls 2001, 63.) .

Rawls does not really assume that decent societies actually need to exist, yet the category of acceptable non-liberal societies is required in the name of reciprocity: when liberal peoples commit to the rule of reciprocal, mutually-consented reasonable pluralism, they need to define what sort of non-liberal peoples they will tolerate and what sort of non-liberal peoples would tolerate them. Unlike burdened societies needing assistance, outlaw peoples and benevolent absolutisms need not be tolerated or helped. (Beitz 2000, 670-78.)

Rawls's ultimate target is to promote development of just and legitimate states as members of the international society, not the well-being of the states' individual citizens. This is, of course, in sharp contrast to cosmopolitan views. According to Rawls, there is neither need nor justification for states to ask for more than is necessary to sustain just institutions – equal well-being among states not being required. A state as a whole is not interested in any further material prosperity than what is necessary for its citizens in order to cope with and become just and free persons. (Rawls 2001, 119.) Therefore, Rawlsian international principles need to secure neither domestic justice nor equality between citizens worldwide.

Rawls has been accused and partly correctly, says Leif Wenar, of forgetting individuals in his global theory. Accusations of this sort are surely serious when made against the world's most famous egalitarian liberal: "For in this book Rawls – perhaps America's leading egalitarian thinker – advances a theory that shows no concern for individuals and requires no narrowing of global material inequality" (Wenar 2002, 53). In spite of the underestimated role of individuals, Wenar believes that Rawls's book still presents a coherent and powerful argument for legitimacy of global coercion and particularly, for its limits. (Wenar 2002, 53.)

But why is Rawls not an egalitarian in a global context? According to Wenar, the reply lies in the different nature of the interests of citizens and of states. While citizens are interested in wealth and prosperity in relation to other citizens, states are not interested in

the wealth of the average citizen, but in territorial integrity, autonomy, maintaining their own institutions and securing their self-respect as nations. (Wenar 2002, 66.) According to Rawls, it is an ancient but now passé aim of nations to strive for more territory, and the idea of increasing wealth only an obsession of capitalistic businessmen. (Rawls 2001, 25-28, 107.) States must care for wealth only when the level of well-being is insufficient to support a just and free political order (and the basic needs of its citizens). Redistribution of resources and wealth is indifferent in making comparisons between states. (Wenar 2002, 66-67.)

> Rawls's fundamental norm of legitimacy for the institutions of a basic structure states that the coercive force that these institutions employ is legitimate only insofar as it is exercised on the grounds that are reasonable or responsibly acceptable to those who are coerced. (Wenar 2002 , 60.)

The principle of legitimacy applies both to liberal and to non-liberal states and institutions. No comprehensive doctrine can provide the content of a liberal society's basic structure; therefore, there remains only one source of ideas for ordering its institutions: society's public political culture (this, in liberal society culture would, include e.g., the idea of persons as free and equal):

> ...from this fact Rawls infers that any legitimate liberal regime must protect the familiar civil and political rights and ensure that all citizens have sufficient means to take advantage of these rights. Beyond this. . . each society will choose a particular scheme of justice built from the materials in its political culture that are acceptable to its particular citizenry. (Wenar 2002, 61-62.)

The requirement of liberal legitimacy then implies that all global institutions need to be accepted by the citizens who will be coerced by them. Here is the point, Wenar assumes, where Rawls turns away from a cosmopolitan, individual-centred global frame. Global institutions and agreements, like *the Universal Declaration of Human Rights*, are declared in terms of states, not individuals, because there is no one person, but only a global culture to apply to all individuals. It is states, not individuals, that international political institutions regard as free and equal. This is the reason why there cannot be a single global government or one set of principles for all individuals: returning to reasonable pluralism in *Political Liberalism*, it is obvious that all the states of the world would hardly accept a single set of (distributive justice) principles. (Wenar 2002, 61-62.)

Though Rawls does not take global environmental issues into consideration in his global theory, there is one crucial element to be found also for the environmental global regime: a strong emphasis on sustaining the prevalent state system in which states are the appropriate core unit of global concern, due to those factors mentioned above. And that through the requirement of the liberal and decent peoples and principles regulating them, it is indeed possible to guarantee citizens' well-being in a domestic political system, unlike the cosmopolitan approaches claim.

3.1 The Criticism of *Law of Peoples*

The cosmopolitans' main reason for criticising Rawls is that when focusing solely on relations between peoples, he dismisses individuals. Rawls's theory does not uphold the need for human rights or for satisfaction of basic needs (e.g., Pogge 2001, Wenar 2002). Both cosmopolitans and liberals have also criticised Rawls for ignoring such things as global structures that affect individuals and domestic justice issues.

Allen Buchanan criticises *Law of Peoples* from two perspectives. First, legal procedural rules like the ones presented by Rawls are necessary, but they cannot be the sole framework for global justice. Individuals are represented insufficiently in the Rawlsian framework: there is no guarantee as to how states will treat their minorities, for example. (Buchanan 2000, 700-701.)

Secondly, Rawls ignores two important types of structures. Global political structures and especially global economic structures are both relevant for implementing justice globally. These structures include, for example, local and international economic agreements, international financial regimes, and also those factors and institutions that coordinate and define global markets and their influences on individual lives. According to Buchanan's critique, *Law of Peoples* is deficient both in outlining the principles of international distributive justice as well as when serving as a normative guide for domestic internal conflicts. (Buchanan 2000, 700-701; Pogge 2001, 248-250.)

Charles Beitz presents a somewhat more benign interpretation of *Law of Peoples* (compared to the previous commentator). According to Beitz, *Law of Peoples* is a continuum of *Political Liberalism.* Its core emphasis is on reasonable pluralism, that is, the requirement that all reasonable different values and life goals must be tolerated and treated impartially in societal political institutions. *Law of Peoples* is a set of principles guiding liberal societies in their international policy: where to draw the limits of tolerance for different societies? Those principles, which each liberal society must comply with are drawn from the original (international) position. Political liberalism includes reciprocity as being inherent, and liberal states need also to tolerate other kinds of societies, since it is unreasonable to require all peoples to adopt similar principles. Therefore, one needs to consider what those societies 'we' can tolerate are like, and what sorts of societies would tolerate us. (Beitz 2000, 677.)

According to Beitz, this consideration is justified on the basis that the only criterion for membership in the Society of Peoples is the acceptance of a truncated list of human rights (comparable to the list of rights presented in the Declaration of Human Rights by UN). These core human rights are 'a special class of urgent rights' whose violation should be condemned by well-ordered societies. (Beitz 2000, 683; Rawls 2001, 79). These rights are right to life, including the means for subsistence; personal liberty (including conscience); personal property; and equal treatment under the law. (Beitz 2000, 683-4.) This list does not include, e.g., equal distribution of wealth among individuals beyond the satisfaction of very basic needs. Ultimately, Beitz considers this truncated list too weak to sustain legitimacy in any society. (Beitz 2000, 685-7).

3.2 Eckersley's critical political ecology

One possible way to overcome the deficiencies in *Law of Peoples* might be sought in Robyn Eckersley's *The Green State* (2004) and her theory of critical political ecology presented there. Although Eckersley herself is highly critical of liberal theories, I nevertheless believe that Eckersley's ideas of global renovations are compatible with Rawlsian international framework.

Eckersley asserts that a green (imaginary) state that would take the demands of the green movement seriously must take into account the plea for a strong state, which would be an ethically responsible state upholding public values and common interests. A strong state is especially needed for legislating and implementing fiscal and other legal mechanisms in the environmental sphere. Required elementary features of the proper green state

would be: capacity to control and discipline investors, producers and consumers (markets having only a limited capacity for this); power to redistribute resources and influence life opportunities; and the state as the most legitimate social institution to become the trustee protecting such public goods as the environment. Because such strong responsible institutions would have similar functions readily available in the present existing states, it would be more feasible to modify the present system than to create completely new institutions instead. (Eckersley 2004, 11-12.)

However, there are three core challenges to this pro-state approach: first, the anarchic character of sovereign states (as Eckersley describes it), that is, states need to promote their national interests and benefits at the expense of international cooperation on global issues. This anarchic nature leads to the familiar problem of tragedy of the commons; second, states promote capital accumulation, which leads to economic globalisation and results to lessened political autonomy and steering capacity; finally, democratic deficits of a liberal democratic state undermine opportunities for a genuinely green state and for ecological decisions. (Eckersley 2004, 13-14.) The first two points in Eckersley's critique repeats quite coherently the features Rawls criticises in the present system of states, and the third part of the critique is, in my opinion, incorrect. There may be deficits in liberal democracy, but they do not hinder in any way 'genuinely ecological decision'. Therefore, it seems reasonable to seek for enhancing elements for environmental global management in Eckersley's critical political ecology.

The green state required by critical political ecology is supposed to incorporate transboundary discourses of public interest into public-spirited environmental regulation. By transnational state, Eckersley refers to a state "that enjoys the confidence of its own citizens *as well as* other communities that it may serve or assume responsibilities toward…" (Eckersley 2004, 171.) The central question is, how well can a state create the means to achieve such transboundary goals of interests?

According to Eckersley, it is usual that in formal, national democracies there are no means for recognising the concerns of those who live outside the state – even though these persons may be affected by decisions made by the state. The broadening sphere of transnational interests creates a problem at the national level. For example, Habermas's theory of discursive democracy is cosmopolitan in the sense that any affected persons should be taken into consideration, and yet his concept of legitimacy and state concentrates on a national system because it is the one that necessarily produces legal norms that cannot be transcended beyond a particular culture and community.

It is not only Habermas's theory that produces such tensions when participants in national decision-making procedures are considered in global contexts. Eckersley traces to Kant the cosmopolitan principle of 'affectedness', and to communitarianism, the principle of 'belongingness' or 'membership'. The first principle is a universal one intended to guarantee individual freedom and the right to participate in decisions having effects on oneself. Those bound by norms or rules need to have given their full and informed consent to the rules possibly affecting them. 'Belongingness', on the other hand, restricts participation strictly to those who are members of the community in question, regardless of who else might be affected. Thus, these two principles of membership and affectedness relate to two distinct ways of institutionalising democracy. As an alternative, Eckersley seeks a democratic green will to accommodate the variable, uncertain, and complex character of ecological problems. (Eckersley 2004, 172-4.)

If the affectedness principle is the only principle used in defining the participants, Eckersley finds several downsides. It is especially questionable whether the principle is exclusive rather than inclusive, since those who claim to be affected need to prove their

claims in order to be allowed to participate in decision-making. When considering global environmental issues, the probability of being able to prove consequences is often questionable. Therefore, the affectedness principle may serve as a means of excluding participants from decision-making. (Eckersley 2004, 191.)

Further, how to define the scope and meaning of the affected? Since Eckersley covers democratic societies in which citizens are free to pursue any goals they want and to participate in common matters whether these matters have an effect on them or not, she thinks that it is sufficient to limit the issues to matters of public concern. (Eckersley 2004, 186-187.)

> Instead of permanent, nested layers of governance that require a ”boundary court” to allocated issues suggested by [David] Held, the most feasible means of extending democracy is by means of multilateral agreements between states that create overlapping, supplementary structures of rule that actively utilize existing territorial governance structures. Such an approach may be just as effective and certainly more straightforward (in the domains in which it operates) than Held’s proposal . . .the point . . .is not to replace states but rather to find more effective and more legitimate ways of addressing the shortcomings of exclusive territorial governance. As it happens, there are already several multilateral initiatives that have moved in this direction, which not only demonstrate the practical feasibility of such an approach but also point to the emergence of transnational states. The most significant example is the convention on Access to Information, Public Participation in Decision Making and Access to Justice in Environmental Matters (otherwise known as the Aarhus Convention). (Eckersley 2004, 193.)

According to Eckersley, a green democratic state would guarantee procedural and substantive environmental rights along with more traditional civil and political rights. In these environmental rights she includes the following: the right to information and to be informed of possible risks, to participate in environmental impact assessments, to participate in negotiating standards, to receive compensation when harm is suffered, to adopt (practically speaking) a precautionary principle by state decision-makers and corporations. (Eckersley 2004, 242-4.)

Eckersley claims that after these renovations, a new green democratic state is no longer a neutral state in the liberal sense, yet on the basis of my earlier work I would argue the reverse. Supplementing traditional policy-regimes does not reduce the neutrality of the state as such, but broadens only the range of regimes counted in the public sphere of liberal society.

3.3 Why international rather than interpersonal environmental justice?

Returning to Rawls, Wenar offers a theoretical supplementing element for correcting the linkage between individuals and effects of global institutions, which could also be compatible with Eckersley’s multilateral conception of global environmental management. Wenar’s reply is ‘a corporatist global original position’. A corporatist global original position creates conditions for establishing fair and equal rules for global economic activity. As in the original ‘original position’, the participants in an agreement, the basic structure of ‘society’ and the preconditions need to be defined. The basic

structure in this position is economic global institutions and, e.g., those national laws that affect the international economic world, with distribution of economic goods and bads also having an effect on individuals. In Wenar's scenario, the participants are individual economic actors, i.e., consumers, producers and owners of economic resources. They are put behind a thin veil of ignorance in order to gain an equal and impartial position to decide on principles. The reason why the veil is thin rather than thick is because, even though the participants in this economic position are not aware of their lifetimes, nor are they aware of which economic role they are to represent they do know their national origin, their class and what access they have to natural resources. This is elementary because in a global political culture, these conditions will affect the participants' will to accept the proposed principles. Also, the participants represent and know general human interests. This creates a further hierarchy of interests, since, e.g., avoiding permanent physical damage can always be assumed to be more important than economic gain in luxury benefits. (Wenar 2002, 69-71.)

Under these conditions then, Wenar says, there are two situations in which mutual agreement may be reached: first, when participants' interests converge (rather unusual), and second, when a clear hierarchy of interests is recognised. This also implies that it is rational to avoid the worst possible outcome of decisions. Applying Wenar's "original position" to the environmental management would, I think, result to a somewhat similar model Eckersley presents in *The Green State*. Environmental issues, like the economic ones in Wenar's application, need parallel, multilateral systems: stable and impartial processes of the state, with NGOs and individuals' interests and aims to supplement its duties and contributions. Participants in global environmental decision-making are all those who are interested, and the decisions are implemented in accordance of rules and principles mutually agreed-upon. Finally, this model of participation requires not only the state-system or individuals but also multilevel, transnational institutions and organisations.

3.4 Concluding remarks

Wenar's application of the original position still leaves some questions unanswered but its strength, I think, is that it makes visible the need for a multilateral system of institutions and principles.

Eckersley's interpretation of critical political ecology stresses that traditional liberal conceptions of public and private and intrinsic and instrumental values as well as what belongs to domestic and what to international regimes must all be examined. All those who are not only affected but also interested in, e.g., environmental degradation, must have access to political participation, must be defined as stakeholders and be given an opportunity to be represented. Combining Eckersley's theory and Wenar's application with Rawls's *Law of Peoples* is compatible and would fill in some of the core deficiencies of the Rawlsian conception of international justice.

It is still true that we need an impartial political institution to coordinate distribution of rights, resources and obligations, at least at the national level. Therefore, the traditional liberal democratic state is still to be maintained, and its tasks are to be broadened to encompass environmental issues. This still leaves a large range of matters to individuals and (other) non-state actors, such as NGOs, to deliberate. That is to say, the limitations of state-led action are obvious: the price paid for stability and public coordination is rigidity of public administration, both nationally and internationally. Parallel with state-centred processes and institutions, *issue-centred* non-governmental processes and organisations

are, therefore, needed, which individuals are free to join and which converge on those subject matters individuals see fit, interesting and worth promoting. Environmental issues, like the economic ones in Wenar's application, need parallel, multilateral systems: stable and impartial processes of the state and a channel for voluntary individual actions for those issues about which individuals are concerned but which cannot be or should not be the concern of the state.

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Technology obscuring equity: the case of historical responsibility in UNFCCC negotiations

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Abstract

According to the concept of historical responsibility, the commitments of individual countries to mitigating climate change are distributed based on the relative effects of their past emissions as manifested in present climate change. Brazil presented a comprehensive version of the concept to pre-Kyoto negotiations in 1997. The “Brazilian proposal” originally combined several justice principles; however, following referral to the Subsidiary Body for Scientific and Technological Advice, discussion soon became technical. This case illustrates how disparities in knowledge production and framing can influence the inclusiveness of negotiations. Southern participation in the policy process was restrained due to lack of scientific expertise on the part of Southern countries and due to the non-inclusive biophysical discourse traditionally preferred by the North. The historical responsibility issue became stranded on problems of how correctly to represent physical nature in climate models. This marginalized the original intention that equity should be the guiding principle of the North–South interaction, arguably undercutting a potential angle of approach to advance the climate change negotiations.

Keywords: equity; climate change; Brazilian proposal; historical responsibility

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1 Introduction

Almost all parties to the UN Framework Convention on Climate Change (UNFCCC) agree that stronger commitments must be made after the commitment period of the Kyoto Protocol ends in 2012. The discussions concerning future commitments set forth in Article 9 concern two main issues: what individual countries will have to commit to in reducing greenhouse gas (GHG) emissions and the principles on which future commitments should be based. Ever since climate change appeared on the international political agenda, many Southern countries have argued strongly for the historical responsibility of industrialized countries for creating and upholding asymmetric economic structures of production and consumption. In the words of the Southern collective negotiating body, the Group of 77 (G-77), at the onset of the UNFCCC negotiations, "Since developed countries account for the bulk of the production and consumption of environmentally damaging substances, they should bear the main responsibility in the search for long-term remedies for global environment protection and should make the major contribution to international efforts to reduce the consumption of such substances. The G-77 reiterated that international agreements on climate mitigation policies and measures should take full account of the existing asymmetry in global production and consumption patterns and should consciously seek to redress it" (G-77, 1989). In current negotiations regarding future commitments, the North–South inequalities associated with climate change policies remain a fundamental stumbling block. The introduction of the historical responsibility concept constitutes a developing country attempt to introduce a mechanism that addresses perceived inequities. The struggle to put historical responsibility on the UNFCCC agenda serves as an example of North–South conflict centred on divergent perceptions of equity anchored in different traditions of framing climate change.

Equity is at the heart of stated norms of UNFCCC: "Parties should protect the climate system for the benefit of present and future generations of humankind, *on the basis of equity*" (UNFCCC, 1992: Article 3.1, emphasis added). Translating this and other important equity principles, such as common but differentiated responsibilities (CDRs) and the polluter pays principle (PPP), into praxis has proven to be the crux of the matter (Muylaert and Pinguelli-Rosa, 2003).

How the principle of historical responsibility can be converted to policy has received substantial academic attention (e.g. den Elzen et al., 2005; Rive et al., 2006; Höhne and Blok, 2005; Muylaert de Araujo et al., 2005; Trudinger and Enting, 2005; Pedace et al., 2005). Our article adds to this literature by examining the evolution of the historical responsibility concept within the UNFCCC climate change policy process, doing so by analysing all official reports of UNFCCC bodies (accessible at www.unfccc.int). Furthermore, all references in these documents to discussions of historical responsibility have been examined as well. Special attention is directed towards the framing of historical responsibility over time, particularly regarding discussions of equity. The story

that emerges is one of how proposals focused on equity have been marginalized and out manoeuvred.

Drawing from this examination, we investigate how variations in the framing seem to have affected inclusiveness measured against the norm of equal participation in terms of numbers and scope. We do so from the perspective of discursive ethics, highlighting procedural dimensions of equity, while focusing on the analytical categories of the global North and South.

We start by outlining the history of the historical responsibility concept in the UNFCCC context. Throughout the analysis we discuss the importance of framing to procedural ethics; we return to this subject in the conclusions, applying the complementary perspectives of world systems and dependency theories. We regard the UNFCCC strategy for addressing non-inclusiveness in discussions of historical responsibility as insufficient, and suggest handling this deficiency by re-examining the basic concept. This would permit a broader framing that could help create an inclusive discussion process, promoting much-needed dialogue across the North–South divide to help promote future agreements.

2 Experts obscure equity within a technical fog

In the lead-up to the formulation of the Kyoto Protocol, the Conference of the Parties to the UNFCCC (COP) mandated the Parties to submit proposals for a protocol under the Convention. The aim was to gather ideas that could strengthen and specify in greater detail the commitments of the Convention's Annex 1 parties. The Ad-hoc Group on the Berlin Mandate (AGBM) was established and authorized to lead this process (UNFCCC, 1995).

The Brazilian government acted on this, submitting what has become known as the "Brazilian proposal"; Brazil, referring to the UNFCCC, stressed the need to prioritize issues of equity. In line with the thoughts of G-77, the Brazilian proposal suggests that Annex 1 burdens should be based on the relative levels of past emissions and their effects as manifested in the present climate (UNFCCC, 1997a).

Basic historical responsibility considerations had been part of UNFCCC deliberations before the Brazilian proposal, particularly in talks concerning the PPP and the fact that past emissions mostly originated from the North (Friman, 2007). However, the resulting UNFCCC principles were quite vague and open to interpretation, and thus easy for ratifying parties to comply with (Bodansky, 2001). Brazil in effect concretized these principles in a proposal that could be considered as a serious alternative to other responsibility-attribution and burden-sharing criteria. The Brazilian government attempted to gain the preferential right of interpretation over the concept, by trying both to initiate and conclude a relatively coherent discourse on the subject (cf. Laclau and Mouffe, 2001; Hajer, 1995).

The Brazilian strategy had at least two consequences. First, the Brazilian proposal became an obligatory reference point for all discussions about operationalizing historical responsibility in the UNFCCC context. For better or worse, all references to historical responsibility are today largely associated with the Brazilian proposal, a matter to which we will return later. Second, historical responsibility could no longer be disregarded as a loosely defined and interpretively flexible principle. The Brazilian proposal, therefore, became something that could not be ignored but rather had to be tackled.

2.1 The Brazilian proposal introduced, discussed, and overtaken: historical responsibility and the principle of common but differentiated responsibilities

Parts of the proposal found their way into a negotiating text prepared by the AGBM (UNFCCC, 1997b), so the Brazilian proposal was off to a fairly successful start. However, late in the preparation of a draft protocol, when the objective was to exclude

proposals that were “hopelessly unwieldy, complete non-starters politically, or outside the terms of the negotiating mandate” (Grubb, 1999: 64), these parts were deleted (UNFCCC, 1997c). The AGBM concluded that it had not had enough time to consider the Brazilian proposal deeply enough (UNFCCC, 1997d), but agreed that Estrada-Oyuela, the chairperson, should present an oral statement on the subject to the Kyoto conference. Following the presentation in Kyoto, delegates decided that the Subsidiary Body for Scientific and Technological Advice (SBSTA) should investigate the “methodological and scientific aspects” (UNFCCC, 1998b: 25) of the Brazilian proposal and advise COP4 accordingly. At that time, it was agreed that the SBSTA mandate should not include elaborations of what have traditionally been referred to as political issues.

Nevertheless, in the final days of the Kyoto negotiations, the G-77 requested the reintroduction of parts of the Brazilian proposal relating to the compliance measure called the Clean Development Fund (CDF) (Grubb, 1999). This measure stated that if the mitigation commitments of any Annex 1 party were unfulfilled, the party would have to pay a penalty to the CDF to be used by non-Annex 1 parties in climate change projects (UNFCCC, 1997a). Reintroducing the CDF became the prelude to intense negotiations leading to the creation of the Clean Development Mechanism (CDM).

The CDM is one of three instruments designed to contribute to the Convention’s ultimate objective of reducing greenhouse gas (GHG) emissions in the North to at least 5.2% below 1990 levels (UNFCCC, 1998b). The CDM was intended to help achieve this by transferring cleaner technology to developing countries, which Annex 1 parties could count as certified emissions reductions to help them achieve their commitments.

Some critics of the CDM say that the mechanism helps Annex 1 parties shirk their historical responsibilities, by letting them keep emitting within their borders while using up cheap options for mitigation in the South. This in turn will make it more expensive for non-Annex 1 countries to carry out mitigation projects in the event of future obligations (Najam, 2004). In the original proposal, the CDF assigned a fixed price to a ton of carbon equivalents, the intention being to address non-compliance. The proposal also consisted of strict rules governing the distribution the proceeds of the Fund in the South. It could thus be said that creating the CDM shifted the focus from distributive mechanisms guided by equity and compliance to mechanisms guided by voluntary action and market competition (cf. Linnér and Jacob, 2005; Bachram, 2004).

In short, the original rationale of the Brazilian proposal became blocked in AGBM and COP discussions and any traces of the historical responsibility concept were erased from the final Kyoto Protocol. The Protocol instead differentiated between the GHG mitigation commitments of Annex 1 and non-Annex 1 countries based on the CDR principle. Some claim that this distinction adequately addresses the issue of historical responsibility (cf. Rajamani, 2000), a claim that needs to be addressed at some length.

The CDR principle, one of 27 principles agreed on in the Rio Declaration on Environment and Development of 1992, establishes the following: “In view of the different contributions to global environmental degradation, States have common but differentiated responsibilities. The developed countries acknowledge the responsibility that they bear in the international pursuit of sustainable development in view of the pressures their societies place on the global environment and of the technologies and financial resources they command”. Contributions to both environmental degradation and technological/financial capacity define the level of responsibility as defined in this principle. It has proven difficult to operationalize the distribution of the burden according to a consistent criterion; historical responsibility can be seen as an attempt to develop an instrument with a more stringent and legal status.

CDRs leave room for each country to define its responsibility and capacity for and contribution to global environmental degradation. The unspecified time horizon, for example, has made it possible to choose 1990 as the baseline year. Historical responsibility, as usually defined (cf. UNFCCC, 1997a; Ringius et al., 2002; Höhne and Blok, 2005), is one proposal for defining CDRs based on the PPP; it assumes that the party that has caused environmental damage should pay the costs of remediation. This is in line with principle 16 of the Rio declaration, which stipulates: "National authorities should endeavour to promote the internalization of environmental costs and the use of economic instruments, taking into account the approach that the polluter should, in principle, bear the cost of pollution, with due regard to the public interest and without distorting international trade and investment" (UN, 1992).

Is the distinction between Annex 1 and non-Annex 1 parties, then, based on historical responsibility? In talks regarding the future commitments of the South, this seems not to have been the case. For example, as of 1990 the relative share of energy sector CO_2 emissions for Annex 1 and non-Annex 1 parties were of the order of 75 and 25 percent, respectively (Pinguelli Rosa et al., 2004). If non-Annex 1 parties should commit on these grounds in the future, it would ascribe them much greater responsibility than would accrue, for example, if calculating on the basis of contributions to temperature increase or sea level rise.

Nor does the mechanism for burden sharing among Annex 1 parties resemble in any way the relative historic contributions of Annex 1 parties to the present climate situation. The Kyoto Protocol distributes commitments among Annex 1 parties more or less arbitrarily, based on grandfathered emissions reduction levels. Historical responsibility, again as usually defined, would distribute commitments more stringently. These two distributive methodologies obtain radically different results in terms of distributing commitments among the individual Annex 1 parties.

In sum, CDRs seem to have been operationalized more in line with capacity, rationalized with the rhetoric of aid and voluntary action, rather than in line with responsibility, liability, guilt, or debt.

2.2 After Kyoto

As previously mentioned, after Kyoto the Brazilian proposal was overtaken by SBSTA. In its eighth session, held in June 1998, the parties to the UNFCCC decided to disregard the proposal for the CDF since, they argued, it had been replaced by the CDM (UNFCCC, 1998b). This constituted a major step towards the "technification" of historical responsibility, in which talks on equity had to take a back seat to discussions of simple climate models.

The SBSTA further decided to focus on the remainder of the methodological and scientific aspects. This meant that the PPP-based compliance mechanism and the clear rules for CDF distributions were neglected, while the climate model for calculating historical contributions was to be further developed and evaluated. The SBSTA reported on its discussions to COP4, the delegates of which took note of the work; however, they decided to await any "relevant information" (UNFCCC, 1999b: 28) emerging from a workshop on the subject, to be hosted by Brazil, and asked SBSTA to report on the issue at COP5.

Concurrently, the Brazilian delegation organized an informal meeting for the purposes of exchanging knowledge regarding the proposal, to allow participants to straighten out their

differences before the upcoming workshop (den Elzen et al., 1999). Brazil sought to forge a consensus discourse on historical responsibility.

At the workshop, held in Cachoeira Paulista, Brazil, in May 1999, experts discussed a revised proposal and concluded that while it hugely improved the original calculation model, it still lacked precision in relation to a number of climatic non-linearities. The revised draft was also criticized for making use of several faulty parameters, for failing to include methane (CH_4) and nitrous oxide (N_2O) emissions, and for a paucity of data regarding country-specific land-based carbon dioxide (CO_2) and anthropogenic CH_4 and N_2O emissions (den Elzen et al., 1999).

It was agreed that the identified errors should be addressed. Furthermore, and rather surprisingly, considering the focus on uncertainties, the meeting participants concluded that there was after all "sufficient scientific and technical basis for operating the Brazilian proposal" (den Elzen et al., 1999: 96). The experts also called for a second expert meeting with a broader perspective, i.e. involving more experts from a wider range of fields (den Elzen et al., 1999).

By the time of the SBSTA11 meeting, conclusions on the issue were fairly abundant, and the UNFCCC secretariat was asked to coordinate a review of the Brazilian proposal. Parties were urged to make all their information regarding the proposal available to the experts for evaluation (UNFCCC, 2000a).

Parallel to SBSTA11, COP5 also decided to require further work on the issue; however, by not asking SBSTA to report back on the issue, COP5 made it clear that it did not want to discuss the proposal as a viable option (UNFCCC, 1999a). This marked the last time that the primary decision-making body of UNFCCC discussed the Brazilian proposal or, for that matter, any other operational versions of the historical responsibility concept.

2.3 The discourse turns technical

By this time, discussions of equity had disappeared from UNFCCC negotiations on operational versions of historical responsibility, replaced by debate on how to represent climate change using an accurate but simple model. In January 2000, a substantially updated calculation model, prepared by Brazil, further enhanced this technical focus. It corrected most of the imperfections identified in the previous calculation model (UNFCCC, 2000b), and as such was presumed to end many of the discussions concerning scientific uncertainties.

Despite these Brazilian actions, the scientific community was slow to act; the UNFCCC secretariat therefore decided to speed up the process by organizing an expert meeting to be held in Bonn in May 2001.

The meeting, though attended by a wider range of specialists, approximately half from non-Annex 1 countries (UNFCCC, 2001b), provided a telling example of how the historical responsibility issue was narrowed to a merely technical definition of "methodological and scientific aspects". This technical line of discussion had already started after SBSTA8 in 1998 (cf. UNFCCC, 1998a), but seemed to escalate into a technical "inferno" at the UNFCCC expert meeting. The experts discussed, for example, the modelling of gases and particles, ranging from the Kyoto gases of carbon dioxide (CO_2) and methane (CH_4) to aerosols, such as sulphate (i.e. SO_2) and non-sulphate aerosols from fossil fuels and aerosols from biomass, carbon monoxide (CO), nitrogen oxides (NO_x), hydroxyl radicals (OH), and tropospheric ozone.

Although the participants could not agree on how to define "methodological and scientific aspects", both broader and narrower definitions being discussed, the meeting effectively adopted the narrower, technical definition by only allowing for discussions of advanced aspects of the calculation model (UNFCCC, 2001b).

In this process, the experts, in line with the SBSTA assignment, strove for objectivity. The traditional view is that hard science is unbiased, or, in other words, apolitical (Oreskes, 2004; Pielke, 2004). Since equity is usually perceived as politicized while physics and maths, for example, are not, discussions of equity fell outside the definition of the subject under discussion. However, excluding one group's perspectives and interests that might challenge another's is indeed political, whether intentional or not. Despite this, framing historical responsibility in apolitical terms effectively excluded all previous discussions of equity. This obviously had implications for the Brazilian drive for consensus, as the procedural rules meant that discussion could no longer directly or openly relate to equity; instead, discussion centred on scientific aspects, relegating equity to the informal discursive field outside the formally sanctioned discourse.

Some noteworthy observations can be made at this point. Issues regarded as important by the Brazilian government were repeatedly put forward as important by the reviewing experts. For example, the original Brazilian proposal downplayed sea level rise and temperature increase rate as indicators of climate change, since they were both regarded as functions of the more important global average surface temperature increase (UNFCCC, 1997a). The experts at the Bonn meeting concurred: the other two indicators were further away from historical emissions sources in the cause–effect chain than surface temperature was, and were thus less important. Still, instead of dismissing this as of secondary importance, the experts put effort into exploring the issue; whether and why this was important (i.e. for other reasons than technical accuracy) was not mentioned in the official documentation (UNFCCC, 2001b). The benefits of simplicity sought in the Brazilian proposal were ignored as well. Brazil had initially wanted a very simple model for the sake of transparency and to enhance the ability of policymakers to understand it (UNFCCC, 1997a); this merit was now, if not lost, at least buried deeply under scientific complexities.

2.4 The technical focus reaffirmed

In July 2001, SBSTA14 asked the secretariat to carry on its reviewing activities, to disseminate information on the issue, to organize yet another expert meeting, and to broaden participation in the subject matter discussions; the secretariat was to report on its findings during SBSTA17 (UNFCCC, 2001a).

One of the issues discussed at Bonn was validation. The secretariat obviously picked up on this idea, making it the main purpose of the next expert meeting; it invited research institutions to participate in a "coordinated modelling exercise" (UNFCCC, 2002b:1) in which any group using simple climate models could participate. In Phase I of the exercise, the models had to correspond to results of more advanced global circulation models. The aim of Phase II was to validate the calculation models against each other using an approved set of parameters to calculate global mean changes in emission concentrations, temperature, etc., that could be ascribed to four specific regions.

As will be elaborated on below, we note that the modelling exercise led to a failure to achieve fairly equal Northern and Southern participation in Bonn. It gathered participants

from thirteen countries, of which only one was a non-Annex 1 country, i.e. Brazil (UNFCCC, 2005).

Following the modelling exercise a meeting was held in Bracknell, UK, in September 2002, which followed the previous pattern of discussing technical issues. Yet, even as the formal discussions confined themselves to technical matters, some unspecified participants cited the absurdity of this focus, given the original purpose of the Brazilian proposal. These voices on the discursive periphery touched on the question of whether the model was not already accurate enough for use by policymakers, and the answer given seems in part to have been "yes". The experts concluded that preliminary "calculations indicate the effects of primary greenhouse gases, such as CO_2, N_2O and CH_4, can be attributed to regional sources" (UNFCCC, 2002a:4). Despite this answer, the experts agreed that the calculation model needed further elaboration; the proposed next stage was Phase III (UNFCCC, 2002a:18), the aim of which was to aim to fine-tune the models so they would better correspond to measured reality.

The suggestions of the experts were adopted, at large, during the SBSTA17 meeting in 2002 (UNFCCC, 2003). Phase III was to be carried out in hopes that it would also include "developing country experts" (UNFCCC, 2002a:5) and "other scientific groups" (UNFCCC, 2002a:20). Furthermore, SBSTA decided to refer the issue to the scientific community.

2.5 Institutionalization: the establishment of MATCH

Following this, the ad-hoc group for the Modelling and Assessment of Contributions to Climate Change (MATCH) was established. This ought to have created opportunities for redefining the "methodological and scientific aspects", but these opportunities were not seized. It was instead decided that MATCH should conduct research in line with the Phase III rhetoric (MATCH, 2003b).

Thus, the establishment of MATCH more or less confirmed the technical definition of the subject under discussion, and, as such, represented the institutionalization of the UNFCCC discourse on historical responsibility. Setting up an institution concerning a discourse is an effective way of achieving discursive closure, i.e. limiting the range of a discourse to protect it from alternative interpretations (cf. Hajer, 1995). In this respect, such an institution cannot function autonomously from its initiators and terms of reference (Barnett and Finnemore, 1999). Despite this (we will return to the matter later), the opportunity to venture into the field of discursivity, i.e. to seek new definitions, was still intended to be in the hands of MATCH (cf. Laclau and Mouffe, 2001).

As was the case at the Bonn meeting, the MATCH meeting saw few Southern participants, this being said to stem from a lack of travel funds. A trust fund to help finance travel costs for Southern experts was discussed, yet, as mentioned by Southern participants at later meetings, travel funds alone would be insufficient to enhance participation (MATCH, 2003a; MATCH, 2004). Since there is a general institutional lack of knowledge-production capacity to support climate change negotiations in many G-77 countries, particularly regarding the associated technical issues, the Southern experts claimed that additional funds for the development of climate models would be needed to make the process truly "inclusive" (MATCH, 2004: 5). Research into participation has demonstrated that this was most likely true, i.e. that disparities in knowledge-production capacity generally limit Southern participation in climate negotiations (cf. Najam, 2004; Linnér and Jacob, 2005).

From our perspective, even addressing this knowledge-generation shortfall is off target. Schooling people in the workings of a closed discourse – i.e. a predefined way of framing an issue – is not the same as promoting an inclusive process. The lack of Southern participation might just as well have been connected with the technical focus as such. Such a focus often obscures connections between the environment and development by hiding disparities in global flows of resources and finance; representatives of the South often hesitate to take on global environmental issues unless these development dimensions are to be openly discussed (Bodansky, 2001). In this case, funding Southern travel, accommodation, and education would have irrefutable value; however, redefining the issue, in particular by broadening the definition to include political–economic perspectives that allow for discussions of equity, would most likely do much more to enhance inclusiveness both in numbers and scope.

When it came to the rest of the discussions at the first MATCH meeting, most topics were in line with what had been debated before. Nevertheless, from the perspective of this article, the single most important finding was also a relatively new one. A research team led by Michel den Elzen from the Dutch National Institute for the Environment had studied the influence of policy choices and scientific uncertainties on responsibility calculations and concluded "that the impact of scientific uncertainties is still limited compared to the impact of policy choices" (MATCH, 2003a: 3).

This again suggests that the scientific basis of historical responsibility, although problematic, is less important when it comes to policy. This focus on policy choices is rather surprising in the context of such a highly technical discourse. If this direction were followed to its logical conclusion, stressing the importance of policy ought to have led to the reintroduction of equity considerations. Discussing policy choices could extend the limits of what can be discussed within technical discourse as a whole.

In the ensuing three meetings, MATCH representatives prepared a number of peer-reviewed articles dealing with, for example, a test of the Brazilian proposal and its scientific uncertainties (MATCH, 2005a; MATCH, 2004). Interestingly, in this process some suggested developing a simple climate change attribution tool for use by policymakers. Such a tool should illuminate policy choices and allow policymakers to test outcomes depending, for example, on the outcomes attained using different timeframes or indicators. The tool would display striking similarities to the Brazilian concept of a simple, workable model. Nevertheless, others objected, claiming that "developing a tool is going beyond what the MATCH group should do and in addition would be politically sensitive" (MATCH, 2005a: 5). In the end, the notion of tool development was rendered more or less moot when MATCH reaffirmed the view that it should not officially undertake it (MATCH, 2005b); the terms of the discourse, once more, blocked a proposal that was controversial in relation to its discursive boundaries.

Notably, the idea was characterized as "politically sensitive" in that it would go "beyond what the MATCH group should do". This indicates a continuation to exclude discussion of equity concerns on the grounds that pure science is essentially separated from social and political objectives. It also indicates ambivalence in the group concerning the appropriate framing of historical responsibility.

The next MATCH meeting, held in March 2006, centred on the need to complete arrangements for the remaining work and investigate possibilities for extending the mandate of MATCH. This created a forum in which the ambivalence became overt; most Brazilian representatives argued that the work on a paper entitled *Attributing a fraction of climate change to a nation's historical emissions* clearly diverged from the original intention of the Brazilian proposal in that, for example, it only reached back to 1990 in

seeking a basis for calculations. They suggested that efforts should instead focus on extending the time scale, fine-tuning historical datasets, and addressing the concept of common but differentiated responsibilities outlined in Article 3 of UNFCCC. One German delegate countered by suggesting that the scope of MATCH be broadened: it should go beyond the Brazilian proposal to include other models as well and provide policymakers with an apolitical analysis of different models. This suggestion was rejected by yet another Brazilian participant on the grounds that MATCH should achieve its original aim before creating new ones (MATCH, 2006). This debate, more then ever before, displayed the discord inherent in the discourse, reflecting the disparities in framing traditionally preferred by the North and South.

It was agreed that continuing these discussions would depend on the reaction of SBSTA24 (MATCH, 2006), to which the group had submitted its results thus far (MATCH, 2006; UNFCCC, 2006a). The MATCH report to SBSTA stressed that the scientific uncertainties are less significant in a policy context, while requesting more time to continue fine-tuning the model and quantifying uncertainties (UNFCCC, 2006a). SBSTA agreed and set a new deadline for the end of October 2007; the issue is expected to be finally discussed at SBSTA28, in June 2008 (UNFCCC, 2006b).

MATCH discussed its new mandate in Cologne, in November 2006, when the issue of including equity in its agenda was brought up. The conclusion was that the new mandate gave MATCH the ability to complete its work but hardly to redefine its scope, for example, by including a paper on equity. This decision did not come easily. The group's researchers from the USA strongly disagreed with MATCH working on equity, a topic that they found too politicized and that would run counter to their mandate to report to SBSTA. The Brazilians, on the other hand, thought that writing a paper on how to interpret the group's findings so that equity issues are taken account of ought to be done. Eventually, it was agreed that some bullet points on equity should be included in the final report to SBSTA27; however, the group would not cover the topic in a separate paper (Friman, 2006). It is thus likely that MATCH will continue to marginalize equity and emphasize science as apolitical.

2.6 Historical responsibility at Montreal and Nairobi: two examples of a live conflict

Even though the Brazilian proposal is no longer an agenda item at COP, its underlying rationale is very much alive in the negotiations. COP11 and the first meeting of the Parties to the Protocol (MOP), held in Montreal in 2005, is one of several instances that exemplify this. In these negotiations, G-77/China at first resisted any talks touching on the future undertakings of developing countries. They emphasized that Article 3.9 of the Kyoto Protocol, regarding future commitments, only referred to Annex 1 countries. It was the rich countries that had caused the present problem, so it should first and foremost be their responsibility to deal with it (Linnér, 2005).

A second example of this living rationale occurred at the second session of the Ad Hoc Working Group on Further Commitments for Annex I Parties under the Kyoto Protocol (AWG), held at COP12/MOP2 in Nairobi in 2006. The Brazilian delegation then presented its original calculations, intentionally using outdated results of historical responsibility modelling to highlight the principles of historical responsibility rather than the science itself (UNFCCC, 2006c). At the same session, the South African delegation

gave a presentation on historical responsibility, using calculations starting in 1950 (UNFCCC, 2006d).

This situation leaves the history of historical responsibility in the UNFCCC hanging. In the backwaters of COP/MOP, where the North–South conflict surfaces in discussions of the rationale underlying the historical responsibility concept, discussions of operational versions of it avoid the "trigger point" of North–South gridlock, i.e. equity (cf. Najam et al., 2003; Lange et al., 2007). The conflict is hidden beneath a biophysical framing that limits Southern participation; however, the conflict now seems to be re-emerging in discussions under the auspices of AWG.

3 Conclusions: Disparities in traditional framing, knowledge production, and global economic exchange

Since 1997, the issue of historical responsibility, as articulated in official UNFCCC documentation, has shifted from discussions of North–South responsibilities in terms of equitable mechanisms for distributing commitments to concentrating specifically on a technically accurate atmosphere–surface calculation model. The issues admittedly overlap: a model is crucial within the framework of a proposal dealing with equity antagonism while seeing solutions in terms of historical responsibility. However, discussion within UNFCCC, as described above, has displayed few signs of permitting any overlap.

All those involved have, one would think, a real and honest interest in forging an inclusive process. Despite these good intentions, however, such a process has not been achieved. The remedy sought has been to assist the South with funding for travel and accommodations, something that has proven to be of only limited usefulness. This article has highlighted another solution, namely, loosening up the technical discursive demarcations relegating issues such as equity to a space outside the formal discourse. After the first UNFCCC expert meeting in Bonn, it was clear that historical responsibility was to be dressed in technical garb; following this the next UNFCCC meeting saw a dramatic drop-off in Southern participation. The UNFCCC talks on historical responsibility, and its confinement of equity, point to links between North–South knowledge disparities, a technical framing, the exclusion of global economic exchange, and constrained Southern participation in discussion processes.

Many developing countries are at a disadvantage in international negotiations; they lack scientific and technological capability compared to the larger negotiation groups of richer countries, as well as their access to domestic expertise supporting the negotiators. This holds for international negotiations in general and the climate change negotiations in particular. Two factors contribute to this: first, the expensive investment in equipment and skilled labour needed to be able to conduct research into global warming; and, second, the biophysical focus upheld by the North at the expense of the political–economic framing preferred by the South (Linnér and Jacob, 2005).

The dominant biophysical framing forces researchers to strive for ever greater expertise, especially to program and run equipment, which in turn reinforces the technical framing of the issue. Breaking the Northern hegemony on this self-reinforcing technology–expertise dyad is likely to be very difficult for Southern researchers, as indicated all too well by the treatment of historical responsibility within the UNFCCC. Moreover, equity, an issue that traditionally belongs in a political–economic framing, is definitely not

regarded as particularly important in the biophysical framing. Thus, equity, at least in the context of historical responsibility, has been pushed off the agenda.

As such, the case of historical responsibility constitutes an important lesson to be learned by negotiators in climate talks in particular and in environment, development and trade talks in general: if discussions are to be inclusive, the framing is of paramount importance. We are also inclined to suggest that if the North–South conflict is to be solved, discussions must be inclusive, i.e. any framing of historical responsibility that excludes equity must be redefined. Recalling Najam (2004), lines of North–South conflict centred on different conceptions of equity cannot be wished away. Thus, moving equity to the fore by framing the issue in more political–economic terms would not only complement the biophysical framing and enhance inclusiveness, but would also open up dialogue across the North–South divide – certainly an urgent task if one wishes to strengthen the UNFCCC.

The Brazilian proposal managed to kick-start the operationalization of equity principles when considering historic responsibility. However, when the proposal largely failed to gain support, historical responsibilities become associated with an unsuccessful direction in the negotiations. The Brazilian proposal was referred to an ongoing series of technical reports and meetings, whereas the Kyoto mechanisms were elaborated in practice, policy, and research. However, historical responsibility is again being brought up on the agenda in relation to the burden-sharing of mitigating climate change. The work on extending the Kyoto Protocol beyond 2012 is on the table of the Ad Hoc Working Group on Further Commitments for Annex I Parties under the Kyoto Protocol. In the report from its second session the group states: “Reviewing historic responsibility and present as well as future capabilities can assist in allocating the required overall emission reductions to individuals [sic] Parties. The polluter-pays principle is also relevant in determining the burden sharing” (UNFCCC, 2006e).

The rationale underlying historical responsibility also seems to be reappearing in discussions of how to finance adaptation in the South, as these discussions are again focusing on equity. In this context, the UNFCCC discussion process dealing with the Brazilian proposal, despite its history of excluding equity, could serve as a strong argument *against* referring the issue for more scientific consideration. Calculations of historical responsibility have improved dramatically since 1997. So far efforts to counter the technologically framed objections have been like the hare trying to close the gap between it and the tortoise: time and time again, it can only close half the distance towards meeting the requirements.

Given that scientific uncertainty, compared to the effects of policy choices, plays only a minor role in calculations of historical responsibility, it is difficult to suggest that more research is needed to guide policymakers (cf. den Elzen et al., 2005). This fact could possibly open up discussions of equity, which represent the true Gordian knot of North–South disagreement. As such, the process of discussing historical responsibility could now, in a new turn of events, serve to enhance much-needed dialogue bridging the North–South divide.

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Involvement in outfield land use policy formation, who and why?

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1 Introduction

The paper draws on work in the project "Institutional developments in outfield land – lines of conflict, policies and the issue of justice" financed by the Norway Research Council (NFR 153272). A topic discussed here is: Who has a reasonable claim to be involved in public policy processes leading to a decision on how outfield land should be used? On what claims do rights to be involved rest? A major concern is to discuss the role of property owners, property rights holders and local communities mainly with a reference to national park policy and administration. The paper discusses these issues from a theoretical perspective, and in a fairly exploratory mode. No definite conclusion is intended here, beyond a discussion of relevant perspectives on who should decide and why.

1.1 Property rights

Property rights can be defined as "the capacity to call upon the collective to stand behind one's claim to a benefit stream" (Bromley 1991). This in principle means that property rests on solidarity and thus on an ethical basis and discourse.

1.2 Reasons for addressing property rights

Whereas resource managers throughout the 1990ties increasingly recognised the importance of cooperation and involvement in policy and decision making, the role of property rights have not been given the same attention internationally (Meinzen-Dick *et al* 1999). A parallel situation is found in Norway. What is called for is a discussion on links to be made between land ownership and property rights on the one hand, and involvement in nature management and land use programs on the other. Arguments for addressing property rights are i.e. that property rights (Meinzen Dick *et al* 1999):

1. offers incentives for management
2. will give some basic premises for authorization and control over resources
3. can reinforce foundations for collective action in enforcing a policy

These arguments ensure that those who hold the rights will reap the benefit of a well managed resource or incur loss in case of a mismanaged or misused resource. This has much in common with Soupajärvi's (2003) argument that those living on and off the land are in the best position to manage the land – in her case applied t o the discussion of indigenous communities. Naturally this does not prevent property owners from pursuing behaviours that impoverish the environment – history itself has many demonstrations of that (Pointing 1991). So, for this argument to have validity and claim solidarity and consent from society, restrictions will apply. The intent must be to reap benefits without

misuse, an intent that (1) requires sufficient know-how, and (2) requires the will to apply this know-how. This means that incentives may rest on the status as owner, but the actual behaviour is subject to evolve with know-how and knowledge. It applies more readily to long term ownership, than short term, profit maximizing behaviour from foot-loose capital owners. If best available practice in applying know-how proves insufficient, this belongs to the realm of advancing knowledge and diffusing it into practice, regulations and procedures in society. If by best available practice is ignored, this belongs to the realm of prosecution, by law, politics or other means of regulation and practice altering instruments. Whatever reservation, the core seems valid still: A policy relation between benefit stream and management responsibility will secure an incentive for management. If the resource is seen as somebody else's – e.g. the government – then users will expect the government to do all maintenance and investment, including guarding it against unauthorized use.

A broader reason for the reluctance of the state to involve in transferring rights relates to a version of an altruistic argument: Ownership of many natural resources is required because natural resources are of vital importance to the society as a whole. Ecology has further strengthened this argument with its holistic perspective. The argument then states that since the society as a whole is affected ecologically and in economic externalities by the management of natural resources (e.g. National parks), the question is raised why a particular group of users should be given rights and why not ownership rights should be short-circuited. A figure of thought can be seen in this: National interests' calls for central governance. This might be a valid argument in many policy areas (not least military and national security issues), but is this a valid argument in the realm of ecology? I think not. However – as observed by Meinzen Dick (Meinzen Dick at al 1999), assigning specific rights or long term tenancy may mitigate such concerns.

Why should a need to mitigate exist? The government often lack capacity to enforce state property regulations on extensive resources as outfield land. This does hardly present a serious problem as long as e.g. nature conservation by a "no go"-policy is enforced as is the case in National Park policy and appurtenant legal instruments (The nature conservation act). But in situations where state land use policy is combined with an intention to exploit resources for development, this concern gets pertinent. This is increasingly the case in national park policy in Norway, where attempts are being made in some quarters of the state to encourage exploitation of national parks in local development strategies, primarily in relation to tourist and recreational industries. For this to happen, the state will have to "roll back" from the present "no-go" and "hands-off" management regime in national parks, and somehow transfer partial control and rule over national parks in cooperation with local communities and entrepreneurs.

To have control over rights to resources include the right to harvest an income from the land and the resources in question. This will have the potential to strengthen motivation and ability for collective action, as revenues are generated to cover expenses and generate a profit as a consequence of management efforts. These are all necessary conditions in a local development process – involving people.

1.3 Involvement

"Involvement" - meaning 'to engage as participant ' - in public policy decision making is something constitutionally guaranteed in a democratic society. "We" are all parts of a complex that makes up civil society and regulates access to public policy decision making, all according to democratic ideals. Whatever these are involvement is a key

feature, a central value, something so intimate tied to the idea of democracy that the one cannot be thought without the other. Compared to other ideas of decision making and effectuation, thé core point in democracy could probably be formulated around an imperative of involvement. Involvement mediated by elected representatives is in relation to direct involvement something of a derivate, as a practical way to mediate involvement and not to substitute involvement. Involvement stands out as a core value.

It is a bit surprising then that in a democracy like the Norwegian one – and we share this oddity with other western democracies - 'involvement' it is today something of a buzz-word in natural resource management. Rhetorical disputes between various conflicting groups in outfield land use on "who owns nature" are regularly popping up. It is seen in disputes between urban based conservation movements (e.g in disputes on conservation of large carnivores) and rural based farmer groups. So, to take a rhetorical stance: One the one hand we have ecological knowledge that says that there really does not exist patches of land or species that are self-contained. All connects to all, so we all should have a say in land use. Ecology, we could say, have *de facto* defined nature *in toto* as a common. One the other hand, someone does own patches of land, and are *de jure* in their right to decide more than those not owning? In outfield land issues, what should be given priority? Who should be involved, how and to what extent?

1.4 "Rolling back the state"

Past decades have seen policy shifts in management of outfields (Meinzen-Dick and Knox 1999, 2000). A general trend may be seen in these reforms (Scheberle 2004) that can be summed up as "a rolling back the state"[2]. Subsumed under this "rolling back" are both capitalist interests and reformist movements in public administration aiming at developing the idea that a decision should be devolved to the lowest appropriate level. A number policy reforms may take place where government on all levels reconfigure and transfer rights and responsibilities. Meinzen-Dick and Knox (*op. cit.*) makes a distinction between:

- 'Deconcentration' as transfer of control to lower levels of central government.
- 'Decentralization' as transfers from central to local government.
- 'Devolution' as transfers from government to non-governmental user groups at the local level. 'Privatization' as transfers to from governmental sector to private sector (individuals and organisations).

Deconcentration and decentralisation are vertical transfers of power between levels in government. Devolution and privatization represents a horizontal dimension in transfers from government to non-government. Such units are accountable to members or owners. Neither NGO's nor private entities can be taken to represent others than their members. Meinzen-Dick et al (2002) sees a trend of subsidiarity – the idea that decisions should be devolved to the lowest appropriate level – common in these system reconfigurations.

[2]This expression of the state "rolling back" is used in discourses with a liberalist and free trade flavour – e.g. by Seldon (Robinson 2004) - a prophet of Thatcherism. By late twentieth century, Seldon was a powerful exponent of classical liberalism, helping to stimulate its revival. He had a long-standing advocacy and commitment to free-market reforms and includes his earliest, barbed criticisms of the 'welfare state'. I am not taking a classical liberalist stance in this work, but rather freely using (and tweaking?) illustrative concepts.

In a situation with growing pressure to exploit outfield resources more efficiently it may well be the case that certain strategies in reforming governmental control makes good sense. But efficiency is only a part of the picture, sustainability is more fundamental. And equity and justice in time and space enters into any ideas about sustainability, and thus are major concerns on par with efficiency to. Some strategies in land use issues, as decentralisation and devolution policies, transfer control from central government "outsiders" to "locals" directly affected. Decentralisation and devolution thus on the one hand coincides with increased awareness on public participation and on democratization (Wondollec and Yaffe 2000, Hertz 2001, Pilger 2002, Fiorino and Budiansky, 1995). On the other hand, as more people crowd together in cities, both these strategies very often means that power is transferred from city folks, to ever more sparsely populated rural communities. So, is that fair? Who is to be involved how and on what principles in land use issues?

1.5 Voting and owning as two phenomena providing a basis for involvement: voting in the community tradition and owning in the property rights tradition

Different institutions are founded on voting and owning. Being a property owner and being a citizen are two different functions or conditions around which different institutions are erected. These institutions relates to the underlying phenomena somewhat like physical science instruments relates to the underlying physical phenomena. For instance, the sidaa tradition of arctic reindeer herders as in the Sami tradition is one settlement of a property tradition which should – analytically – be perceived on par with the settlement of property tradition in the form of modern western society property laws. The underlying phenomena can be «released» in institutions in different ways.

The citizen as an autonomous political "entity" pursuant on the principle of "one man, one vote" - regardless of property, race, and gender and so on – is fundamental in democracy. From this a structure of parliamentary government emanates, as do a system of public law regulating access to and involvement in political decision making processes, welfare institutions and in general issues regarding redistribution of wealth. In Norway at least, these issues can hardly be separated from the invention and development of modern democratic government, and especially establishment of local government authority in 1837 and a new local government act delegating public law authority to a local executive committee of the local council. Ideals of justice and rights, and formulation of representation and institutions that operate within this governmental tradition, are all meant to reflect this basic principle.

But there is another principle of government operating in parallel – and sometimes in confrontation - with the community tradition. We could call this the "property rights tradition"- confined here to issues related to land ownership. This means that property rights involve rights holder, the others and institutions to back them up. Property rights are generally divided into classes; most common in nation states are (1) public – held by the state, (2) common – held by a group or a community of users, and (3) private – held by persons and / or legal persons (e.g. companies). The basic principle when formulating distribution of power within the property rights tradition is a geometric allocation according to the amount of property rights possessed. Within the property rights tradition it is *en face* considered fair that a person that own more should have a larger access to decision making and wealth distributed. It is also considered fair that a person with property rights should be able to decide on land use issues according to own appraisals

and interests. Discretion for a common good will apply in most societies, but the particular framing will vary. The particular structure and content of property laws should be considered as instruments applied to deal with underlying phenomena - namely land property – and not as the phenomena itself. In modern societies curtailment of property rights must be enforced within the frame of the legality principle, stating that everything is allowed unless it is stated as non-allowable by law. Expropriation or curtailment of property rights is legal with reference and submit to law. Curtailment of property rights are done both with reference to property rights held by others, and with reference to the common good. Curtailments of property rights are not static, but its framing reflects technological, economic, cultural and moral development in society.

The property rights traditions reflect and exercise another territorialisation than the community tradition. The community tradition operates within the territorialisation represented by municipalities whose borders define the spatial limits of jurisdiction and authority. Municipalities do not own territory, but exercise a set of civil rights jurisdictions based on public law. The property rights is based on ownership and/or rights to land and its resources as the fundamental unit of exercising and spatially delimiting jurisdiction. Regulations are defined in private law. These two territorial arrangements – municipality vs property and land owner – are in principle non-congruent. Any parcel of land owned may or may not be embraced by more than one municipality.

The community tradition operates with the citizen as thé homogeneous scaling unit for citizen involvement. The property rights tradition operates with the scope of property referring to an owner as a scaling unit for owner involvement. Any one citizen may be both a community member and a land owner or holder of property rights. All within a nation are community members according to the community tradition. This means that some citizens are land owners and/or hold property rights referring to a delimited area and resources system. This provides an expanded basis or foundation for assessing their stakeholder status versus a stakeholder that has no «membership» as holder of property rights. This will have to be reflected in how issues like justice and fairness in environmental management and policy should be addresses and evaluated.

Perhaps at no time in the past quarter of last century have the strategic challenges, opportunities and choices involved in balancing common good and wealth against individual rights been more visible, conflict ridden and litigious than when property rights have been curtailed for the benefit of environmental common good. Curtailment means that property right owners have had their economic outcome reduced, from land they own, work on and invest in. In establishment of national parks this is often seen. It is also seen in enforcement of a large carnivore policy, where the access to land as a resource for grazing is reduced or even cut off. In Norway – as in other countries (Wise 2004) – disputes over the fairness of these environmental and natural resource regulations is often seen and is today mostly viewed as a permanent tension. In Norway it is often seen in pubic debate disputes between farmers' organizations and urban conservations and environmental protection groups (NGO's) etc. There has also been a fair amount of court cases where property rights owners institute legal proceedings against the state enforcing environmental and natural resource regulations.

Who has a legitimate 'stake' in a policy, for example in a National Park policy or an outfield area with grazing, forestry and recreational infrastructure (second homes, tracks and so on)? Following Mikalsen and Jentoft (2001) citing Mitchell *et at* (1997) two core questions are posed in stakeholder theory:

– A normative question of how to identify and rank stakeholders and how to involve them?

– An empirical question of salience, who steps forward and under what conditions?

A combination of these two approaches prepares a ground for discussing *de facto* involvement (who, how and with what success – as a matter of fact) versus a *de jure* perspective of a *de facto* involvement or lack of involvement (who should be involved, how should who be involved, how should success be decided and so on).

Referring to the holistic approach in ecology ultimately "everybody" has a stake in the management of nature. Of course, a decision making system that includes "everybody" cannot operate efficiently. Ecology itself comes to rescue to a certain degree through the concept of an ecosystem. Ecosystems are dynamic, open, interactive (pseudo)systems with a size that vary according to purpose. This provides a basis for making a certain sorting or classifying of stakeholders. Those inside the ecosystem(s) in question directly interacting with resources in question can be separated from those outside. Further, we may sort those inside dependant on a continued or sustained harvesting of the resource in question (for example indigenous herding people, or traditional family farming and forestry systems, second home owners), from those contingently dependant (forestry entrepreneur firms with a foot-loose investment behaviour, land developer entrepreneurs or firms first harvesting forest resources and then develop touristic resorts – or something like that) or not dependant at all (tourists).

In business literature that originally coined the term 'stakeholder', a analogues distinction has been made between primary and secondary stakeholders referring to the relevance to a firms economic interests. Primary are those whose decisions and behaviour directly link to the prosperity of the firm (investors, customers, suppliers and so on). Those linking indirectly to the prosperity of the firm, are secondary (media, consumer organisations and so on).

Links may be transitive or intransitive. A stakeholder link is transitive if stakeholder is in position to influence and be influenced by a development in the system. A stakeholder link is intransitive if the relation only carries influence in one direction; it is a "one way street" of influence and risk exposure.

Translating the economic perspectives in the business policy approach to an ecological perspective in a biological policy approach, a parallel distinction can be made between primary and secondary stakeholders. Primary stakeholders directly "tap into" resources in focus, in either a transitive or an intransitive relation, and thus directly link to the success or failure of the ecosystem management aspirations for any given institution or actor. Secondary stakeholders indirectly, in either a transitive or intransitive relation, influence the same resources, and thus indirectly link to management aspirations. Relations stakeholder have to the environment and which constitute their role as primary or secondary, may be of any combination of two types: (1) Physical relations (cause-effect-relations, technology and so on) or (2) social relations (action – reaction type relations, power and influence and so on). This sum up to a structure of sorting stakeholders, something like this:

Table 1.1 *A structural grouping and sorting stakeholders in outfield land use policy.*

Primary stakeholder				Secondary stakeholder			
Physical system		Social system		Physical system		Social system	
Transitive	Intransitive	Transitive	Intransitive	Transitive	Intransitive	Transitive	Intransitive
Examples of stakeholder profiles or characteristics related to an outfield area with grazing, herding, forestry and a recreational use (second homes, a resort)							
Traditional forestry and grazing and herding.	Harvesting abiotic resources (mining, gravel, sand, hydro power)	Policy makers and effectuators. All actors involved in non-relocatable extractive and interactive natural resource use.	Actors involved in relocatable extractive natural resource exploitation.	The citizen as dependant on sustainability.	The "foot-loose" recreational occasional fisher or hunter. The tourist.	Civil society ultimately delivering legitimacy.	Outsiders, urban people as a group. The tourist.

The classification in the table provides information regardless of actual behaviour, and holds no information on whether a stakeholder is salient or dormant, latent or retired for some reason (the situational dynamics). Mitchell *et at* (1997) have developed a classification of stakeholders (for firms) based on scores on a three dimensions of salience: power, legitimacy and urgency. In this approach structural and situational dynamics are treated in a blend. Mitchell distinguishes between stakeholders that

1. are legitimate, stakeholder claims have a normative (legal or moral) foundation
2. are powerful, stakeholders are in a position to be part of the deliberations leading up to a decision or in the actual voting or decision
3. are urgent, stakeholders have advanced their interests and need to be addressed immediately by management

To be a stakeholder in this scheme, stakeholder claims have to be legitimate (A) or the stakeholders have to be in a position to exert power over the actual decision making (B). Urgency (C) relates to the actuality of the claims. Mitchell then identifies three groups with a decreasing degree of saliency to the firm:

1. definitive stakeholders if A, B and C are all present
2. expectant stakeholders if either two of the three conditions are present
3. latent stakeholders if either one of the three conditions are present

Mitchell's message – and indeed the general message in stakeholder theory - is that firms should widen their attention span beyond the definitive and most salient stakeholders in their pursuit of success – and success have a fairly unambiguous economical meaning in business. This message has to be reinterpreted when stakeholder theory is adapted to meet requirements in civil society management and policy affairs in general, and outfield environmental issues in particular. In the latter case:

1. Firm success is not an overarching goal, neither is the success of any one institution with a functions in creating and implementing "their" policy of ecosystems interactions. If success at all is a viable concept in this situation, it must address the overall success of several regimes operating and interaction with the ecosystems in question (Skjeggedal et al 2001, 2004).

2 Success in institutional efforts is an ambiguous – even poly-semantic – goal. Mitchell's three dimensional space of legitimacy, power and urgency will have to be reinterpreted to better meet the situation and problems encountered in assessing the success of addressing environmental issues in outfield natural resource exploitation and protection with several regimes present. In a reinterpretation justice and legitimacy will have to deal with all stakeholders dependent on the ecosystems in question. Adaptability will have to address the ecological demands in natural resource exploitation beyond any one given regime. Power and efficiency will have to be assessed in decision making and policy effectuation across several regimes within an outfield area. This complicates understanding of success.

Mikalsen and Jentoft (2001) have adapted Mitchell's approach to discuss public interests in fisheries management. Fisheries management is different for firm management, and the need for a reinterpretation of Mitchell's concepts have to be dealt with. One point of importance, is that a firm, even if it is conceived as a "political coalition", certainly cannot be conceived as a coalition committed to the rules, norms and obligations of local and central government towards the citizen or the land owner or property holder. Even as a "political coalition", a firm remains a firm, with a prime goal of gain and profit.

Concepts must be "translated" as we move from the world of firms to the world of government. Mikalsen and Jentoft attack this task by redefining the concept of 'stakeholder':

> "In the case of fisheries management, the concept of "stakeholder" seem to imply that groups other than users (i.e. Fishers) have a legitimate right to be consulted before decisions are made" (Mikalsen and Jentoft 2001).

As seen, entering the world of ecosystem management – and ecosystems are commons - necessitates a distinction between users and stakeholders which presents no problem to Mitchell. In Mitchell's business setting this distinction is without much relevance, Mitchell is simply trying to appoint actors of importance for economic success. In Mikalsen and Jentoft's setting the distinction between a user and a stakeholder in open commons is highly relevant and politically difficult and controversial, especially to the extent that the distinction sets up a divide between those not given access to decision making processes, and those who are given access. This is a question of norms and legitimacy of another order than contributing to economic success, which ultimately have to be rooted in the ideals of democracy itself.

Another problem is the meaning of the concept of 'a manager'. Identifying the management for whom a stakeholder is or should be salient, is a different problem in relation to a firm. In relation to management in for example fisheries management "*we need to ask whether there is in fact a 'manager' in this case*" (Mikalsen and Jentoft 2001)? Mikalsen and Jentoft argument to solve this is somewhat surprisingly to put the management issues in the business-world on equal footing with the policy issues in civil society. The strategy is based on a set of premises whereby the firm and the business world is made more equal to political institutions in the civil world. The argument runs like this:

> "The "firm" or "manager" is seldom a single formal institution but rather a network of public and private participants. Most management regimes are not top-down hierarchies but fairly complex constellations of private interest groups and government institutions. ... the modern firm (should be

> regarded) as a "political coalition" of interests groups with conflicting demands and expectations. Thus, the role of management is not confined to the exercise of owner interest ... it also includes the organisation of transactions of ... autonomous actors" (Mikalsen and Jentoft 2001)

This is an interesting argument in the face of globalisation and commercialization as it is discussed in the introduction. With some 50 of the world's 100 largest economies belonging to firms, several of them involved in the exploitation of the world's natural resources, anyone worried about power and democracy issues in natural resource politics might find a consolation in a view that the firm operates a "political coalition", as core units in regimes forging private and public interests. And on this basis Mikalsen and Jentoft concludes that "*Obviously, fisheries management systems is well depicted by this model"* (Mikalsen and Jentoft 2001). From there on Mikalsen and Jentoft discuss user and/*versus* stakeholder issues in civil society fisheries management applying Mitchells concepts from the business world. This works satisfactory as long as fisheries are viewed from a "pre-ecology" strictly sectorial perspective. This is also when fisheries apparently resembles a large firm. In this model it makes sense to divide users and stakeholders along Mitchell's dimensions. It also makes good sense to perceive the fisheries management system as a political coalition "*rather than an hierarchical organisation*" with "*the state, not as an exalted and neutral governor, but as a key stakeholder in its own right*" (Mikalsen and Jentoft 2001) within this model. This "updates" a more simplistic and hierarchical modelling of "sectorial rule", somewhat based on the same arguments as was introduced initially in the discussions on modelling various relational patterns in the apparatus.

But this model is actually outdated by ecology, a fact Mikalsen and Jentoft also acknowledges. What ecology does are two things:

- Undermines any idea of "sector by sector management with blinkers" in natural resource issues.
- It delivers a basis for a legitimate claim for all users to have a say in natural resource exploitation issues.

The first point means that the various sectors active in natural resource and land use management are connected in physical event chains propagating through ecosystems. The various sectors are thus irreducibly tied up in action/reaction–pattern. This leaves us with a complex of regimes addressing management in a complex of ecosystems. It also means that any idea of "the state" as an actor (stakeholder or manager) has to be abandoned in favour of "the polyphonic state actors" that has a function in several regimes. The various state actors in regimes are presented with a problem of coordinating voices and actions across regimes on par with other actors in regimes.

The second point means that ecology delivers a physical basis for the normative claim any citizen can raise towards regimes responsible for exploiting a natural resource. What is important is that this ecologically rooted claim has a physical basis whereby exploitation of one resource is linked to the physical well being of – in principle – everyone. This is of course an extreme way of stating the claim, and in practical policy making and effectuation more pragmatic approaches has to be taken in evaluating the claims. And this picture of a complex of regimes confronted with a complex nature may appear stultifying, but it is within this mesh that users and stakeholders must be sorted out in a manner that is conceived just and still efficient.

From this discussion two sets of distinctions are relevant to involvement and stakeholder issues:

1 The relevance of distance or spatial location relative to the land management issues at hand: This is normally an issue that enters the debate on local vs central government within the community tradition in management regimes in land use and area protection in particular. The core argument to be addressed here is to what extent does proximity to areas in question provide a strengthening or weakening of any community members access to decision making processes? Should «locals» have more of a say than others?

2 The relevance of property rights and the extended or additional normative issues or claims that flows from this tradition. This is not a proximity issue, but a question of what rights and claims to a fair and just treatment follows from holding property claims and how these should blend into management regimes.

Table 1.2 *Four categories of stakeholder claims based on a distinction between a community tradition and a property rights tradition in distributing civil rights and assessing involvement and fairness claims.*

Stakeholder claims emanating from a:		*Community tradition* - ***strength of claim rests on the strength of the argument that voter proximity creates a preferential position toward the general voter***	
		"Local"	Non-local
Property rights tradition - strength of claim resting on the nature (extent) of property claim which in itself can display a variety of forms (from servitude on another persons land, to «extreme» private access areas)	Property claims	**I** Strong stakeholder claims – resting on an extended claims basis. Involvement claims as voter with proximity (a «local») and as property rights holder.	**II** Moderate to strong stakeholder claims – as voter challenged by the argument of proximity, and as property rights holder
	No property claims	**III** Moderate to weak stakeholder claims – resting on the argument of voter proximity – on being a «local».	**IV** Weak stakeholder claims – The general citizen in the community tradition – involvement claims as a voter.

The table carves out 4 classes of stakeholders. The distinction between being a «local» or not is intended as a political one referring to the political meaning of spatial belonging. It is in that respect fairly concise, and often lumped together with other features of being a «local» - as the right to vote in local elections. Being a «local» do have effect on the stakeholder status to the extent the argument of proximity is appreciated in the actual setting of a running process.

The distinction between have or have no property rights, is normally legally based. But, in the context of the outfields, property rights may rest on tradition, on custom, on historically but contested claims, on membership in or belonging to a culture or ethnic group and so on. This makes property rights a less clear cut criteria in outback management and policy matters than one initially might imagine. Property rights as a

basis for stakeholder involvement often are open for assessment and controversy, especially in cases where historical or customary rights are in question, or in cases where servitude rights are involved. Such emblematic cases are often present in outback policy issues involving indigenous people.

1.6 Indigenous communities and the struggle for empowerment as property rights holders.

The distinction between the community tradition and (land) property rights holder traditions, and the subsequent argument that this provides an extended and stronger basis for stakeholder involvement claims in policy making and execution, is important in discussing how nation states have colonized outfields or the outback. The general picture is familiar enough: In its initial formation period governmental structures, and later nation states have in several instances colonised indigenous territories. Colonisation meant introduction and/or reformulation of a (land) property rights tradition, effectively alienating indigenous people from their land and its resources (Olwig 2004). This was the case with the Sami people in the fenno-scandinavian peninsula throughout the 18th and 19th century. Then, as civil society and a universal right to vote developed into the 20th century, indigenous people where included formally on par with the general population and became «normal» members in the community. We could sum up this development as "morphing" indigenous communities into the nation state community tradition. Of course – what is lost in this transition is membership in the property rights tradition of the modern nation state. According to the table above, this meant degradation from strong stakeholder claims to weaker ones. In nature protection area policy formation and execution this traditionally (1950ties, 60ties and 70ties) meant a degradation to position III in a context where the strength of the proximity argument counted for much less than what is up for discussion in present time. Today the weight of this argument is under debate and have had an increasing importance throughout the 90-ties and onwards. We will return to this in more detail in the case studies and the entailing discussion.

But – and again referring to the preceding table - what is equally important to the issue of «locals» and whether they should have a privileged status as stakeholders versus non-local citizens (voters), is the question of being re-incorporated into the property rights regime. International conventions – especially Indigenous and Tribal Peoples Convention, 1989 (No. 169) - address this issue of re-establishing indigenous people as property rights owners. Since mid 1980ties this has very much been an issue in Norway where the Sami people as an ethnic group is claiming ownership to colonized and presently state owned land in the most northern part Norway, the county of Finnmark. So what we have here is a transition – a process where the issue is an incorporation of indigenous people's rights within the frame of contemporary property rights regime as a settlement of the infringement of rights experienced by indigenous people in a colonization process. What causes considerable political debate in Norway – as in other countries - is that this transition seems to imply inserting an inequality between one ethic group and «the rest» of the population in the area, and the nation for that sake. This is experienced as unfair and unjust when viewed from the community tradition – the one man one vote tradition. And for some it may appear as – in this case - the Sami people are claiming ownership from a situation where they have none, and thus wants to introduce inequality in deciding the distribution of resources. From within the community tradition this is a flagrant breach of principles of fairness and justice built-in in this tradition. But such a perspective can quite easily be contested. As discussed earlier, the community tradition is only one of the pillars that democracy is resting on. Within the property rights tradition nobody

oppose the general principle that owner decides more that a non-owner. And if the Sami-claim to land property rights and a corresponding policy making and execution regime is perceived as a claim advanced as a property owner, then there is nothing unjust or unfair in that claim. The process should then be understood as one which aims to settle an unjust morphing in a colonization process, and bring *de jure* arrangements in accordance with the *de facto* situation that the Sami people have been the rightful owners all along. My point here is that what is considered fair and just in this situation totally depends on what set of equally important principles of fairness and justice in democracy you apply.

1.7 Two levels of involvement: Consensus and collaboration

Calling for “involvement” in outfield management could with some suspicion be considered a tactical grip in an otherwise hierarchical natural resources management apparatus (Wondollec and Jaffee2000). So, “involvement” becomes the political correct buzzword to pass around. But what is passed around then? In this paragraph a final aspect will be considered before summing up and attempting a synthesis, the aspect of consensus and cooperation and what meaning can be attached to these concepts, politically and communicatively.

According to critical theory of communication, by involvement is meant nothing more than (organizational) stakeholders' free expression of ideas that may or may not affect managerial decisions. Through involvement, even consensus may be reached. Consensus is then understood as an agreement achieved through discussions whereby a hybrid solution is arrived at between parties in a dispute, normally comprising of concessions made by the parties, and to which all parties then subscribe unanimously as an accepted resolution to the issue or disagreement. Consensus – as defined here – do *per se* not presuppose negotiation of power relations. Consensus is achievable within what is labelled “complementary communication” - that is an interchange based on differences in power. Consensus is different from decisions reached through voting or an individual or body making a unilateral decision. Not too much should be subsumed under the concept 'consensus'. In real life terms – as in establishment of national parks - consensus is reached in situations where there is no sharing of authority to settle and implement agreements. Knowing this, less empowered stakeholders may well choose to act strategically and downgrade the importance of consensus building (Brox 2001). For the same reason, the most empowered actors may choose to overplay the importance of the consensus reached. It should therefore be noted that an agreement reached through consensus may not satisfy each participant's interests equally or receive a similar level of support from all participants.

By collaboration is understood a process where parties with similar interests work together, negotiate mutual roles and share resources to achieve joint goals, but doing this while maintaining separate identities. Collaboration partly presupposes another set of relations between parties involved and partly goes one step further than consensus. Relations between parties in collaboration are one with “similar interests” in a very practical sense of similarity. It relates to parties that in practical life (can) have mutual roles and do share resources. Collaboration goes one step further than consensus by presupposing sharing authority – not least to implement - as well as consensus. 'Collaboration' has an intrinsic quality of importance to issue of involvement, a quality that is external in 'consensus'. Collaboration presupposes proximity, spatially or thematically. For someone to collaborate (that is share authority to implement – being

involved in how, when to, and actually put into effect what is decided) actors must be on location where and when collaboration is taking place. Collaboration thus more than just tweak hierarchical systems of governance, in important ways it may contradict hierarchical modes of administrative behaviour when it comes to actual collaboration.

Based on the two feature sets (1) property vs. community and (2) consensus vs. collaboration, it is possible to carve out involvement strategies in management of the outbacks. The sets generate the following table:

Table 1.3 *Some involvement strategies in outback policy issues based on set of «soft-assessment» hypothesis on what is «fair», «sufficient», «debatable».*

		Frame of involvement	
Actor status		Consensus	collaboration
With property rights		**I** An insufficient involvement strategy. This position in based on the argument that membership in the property rights tradition supports a claim to be part of an expanded involvement strategy, i.e. Consensus is insufficient.	**II** A required involvement strategy. This position in based on the argument that membership in the property rights tradition supports a claim to be part of an expanded involve-ment strategy, i.e. cooperation.
Community / voter	.. and a “Local”	**IIIa** A fair involvement strategy to include locals in consensus seeking.	**IVa** Debatable involvement strategy.
	... and an “Outsider”	**IIIb** Provides no ground for inclusion in consensus seeking.	**IVb** Provides no ground for collaboration.

The feature sets refers to (1) actor status and (2) frame of involvement in outfield management. Actor status deals with actors either being community members or not qua voters in the affected area or/and actors holding property rights. Voting and eligibility is sensitive to location. Only registered inhabitants in a municipality are entitled to vote and/or be elected in local elections, only registered inhabitants in a regional county council domain are entitled to vote (or be elected) in county council elections and so on. In outfield management, being an “outsider” or a “local” matters, and this difference is reflected in rights to vote and to be elected.

Frame of involvement refers to the framework for the process, whether it is geared to achieve consensus among parties or if it presupposed that parties will share authority to implement whatever is decided according to some formula of who does what. In total this creates 2 boxes, where one has a subdivision:

IIIa Being "local" means that you are inhabitant in the "field of fire" for the outfield policy in question. Simply following from the fact that you are a citizen and given the community tradition, it is fair that you have a say in policy formation. So this position is based on the proximity argument.

IVa It is another level of involvement to be invited to collaborate, even if you are an inhabitant with your established community rights as a voter and are in the "field of fire" for the outfield policy in question. This position is based on a doubt as to if the proximity argument is strong enough to support the rational for a general claim to be included in cooperate? It may deliver a rational for supporting claims of certain subgroups (for ex. hunters, cross country skiers and so on) to be invited to cooperative involvement.

IIIb It provides no ground for inclusion in consensus seeking policy making processes in outfield management matters, if the only foundation is being a citizen with rights to vote and be elected somewhere outside the area (and its immediate influence). Neither the proximity nor the property rights arguments applies.

IVb Referring to IIIb, this foundation certainly does not provides ground for collaboration.

This does not mean that only "locals" are entitled to do politics locally. Politics is an open system, but rules and means are different depending on the constituency an actor belongs to. Holding property rights provides another foundation for exercising political rights and power. As property rights owner an actor normally are eligible to a set of political institutions otherwise not open to the general citizen. These are institutions typically organized to secure property owner interest in outfields. These institutions - The Norwegian Forest Owner Association, Norges Fjellstyresamband and Norges Almenningsforbund to mention a few - are political institutions playing an important part in political and policy making processes. Eligibility is *de facto* based on property rights. The general citizen is within quota rules admitted in some of these institutions with reference to the right to open access. This is a property right and not a civil right as such. It is a property right to roam distributed to everybody residing in Norway. A right of access is configured differently in other countries. In some countries this right to roam the countryside is restricted. In UK for example, restricted by laws of trespassing "*holding us in its grim thrall throughout our country*" (Shoard 1999).

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Attachment

Workshop 1:
Authority, Responsibility and Justice in Environmental Politics

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Many of today's most pressing environmental problems share one important characteristic: they are cross-boundary, i.e., they disregard political and geographical borders. Obviously, this is challenging for several reasons. One is that present legal and political institutions have no effective reach beyond the nation-state. The same is the case with most political authority. Furthermore, the border crossing character of many environmental problems is also ethically challenging. What is a fair distribution of the burdens required to mitigate and adapt to e.g., climate change, chemical pollution and over use of marine resources and/or to make society less vulnerable to its' consequences? And perhaps even more difficult: Who has the responsibility to take action - those causing the problems or those in risk to suffer from the devastating effects? The papers in this section are discussing environmental problems from such points of view as authority, responsibility and distributive justice.

Workshop 2:
Urban Sustainability

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Workshop 3:
Sustainable Mobility

- Societal Trends and Planning Challenges

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Sustainable development is a concept few would disagree with at a general level, but is contested when put into actual practice. How is sustainable urban development discussed, defended and even coopted by actors in urban development? What is the actual urban development compared with the ideal? How useful are models and ideals in environmental policy-making? Urban governance in the Nordic countries has been marked by deregulation, privatisation and market solution. At the same time ecosystem management and the need for cross-sectoral and cross-boundary institutions have been underlined. What are the challenges, constraints and opportunities following from these trends in urban regions? New technology and urbanisation (both in terms of land-use and life-style) represent transport changing drivers with possibly environmentally friendly consequences. A new societal and political preoccupation with climate, energy and health issues might promote a more sustainable mobility pattern. However, the 'sustainable mobility' conceptualisation demands integrative policy measures and analytical planning tools to grasp – and communicate - the relationships and reduce the sustainable mobility complexity - across its causes, changes and consequences. The papers discuss the challenges, constraints and opportunities following from trends in urban regions and various societal (economic, political, social and cultural) drivers as important "policy and planning" challenges for a more sustainable mobility.

Workshop 4:
Internationalisation of the Environment:

The local perspective

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“Think globally, act locally” is a slogan from the Brundtland-report twenty years ago. Since then several Nordic as well as other European cities and local communities have responded to this call for local action. Local Agenda 21 highlighted local responsibility for sustainable development through decentralisation and participation. Meanwhile, the internationalisation of environmental policies has resulted in international agreements and regimes influencing and constraining local policies and action on specific topics. International expectations and demands (EU-directives as one example) might constrain the autonomy of local governments in developing a local policy for sustainable development, but they can also represent opportunities for local action. The papers discuss how local and regional governments face these challenges to local governance of combining the demands from above with the expectations from below.

Workshop 5:
Environmental Governance and Policy Implementation

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Throughout the Nordic countries both the debate about, and the practice, of institutional arrangements and processes can be characterised by decentralisation, deregulation, privatisation and marked. Consequently the relationship between public authorities and private actors (business, NGOs etc) are being reshaped: Processes of *government* have been seen as transformed into *governance* which mean that a wider range of actors may be participating and simplistic hierarchical models are being abandoned. The papers address how these changes effect the implementation of environmental policy: Which actors are involved? Whose interests are served? Whose knowledge is included and whose is excluded? Why do particular perspectives on environmental change become so entrenched in policy?

Workshop 6
The Legitimacy and Effectiveness of Global Environmental

Governance

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Debates about sustainable development are increasingly dominated by questions of how to secure values such as participation, representation, accountability and legitimacy in global environmental governance. The participation of non-state actors, such as business and civil society, is regarded as critical for the effective implementation of sustainable development policies in the EU, UN and various multi-level governance arrangements. The transformation of political authority through the emergence of new forms of post-sovereign power (such as private governance and public-private partnerships), makes an assessment of the effectiveness and accountability of these networked governance structures important. How can democratic legitimacy, participation and accountability be secured without compromising effective environmental governance and well-functioning policies? The workshop includes papers on the creation of more effective and legitimate multi-governance arrangements in various policy domains.