

# Accepting Collective Responsibility for the Future

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## ABSTRACT

Existing institutions do not seem well-designed to address paradigmatically global, intergenerational and ecological problems, such as climate change.<sup>1</sup> In particular, they tend to crowd out intergenerational concern, and thereby facilitate a “tyranny of the contemporary” in which successive generations exploit the future to their own advantage in morally indefensible ways (albeit perhaps unintentionally). Overcoming such a tyranny will require both accepting responsibility for the future and meeting the institutional gap. I propose that we approach the first in terms of a traditional “delegated responsibility” model of the transmission of individual responsibility to collectives, and the second with a call for a global constitutional convention focused on future generations. In this paper, I develop the delegated responsibility model by suggesting how it leads us to understand both past failures and prospective responsibility. I then briefly defend the call for a global constitutional convention.



1. Elsewhere, I analyze climate change a “perfect moral storm” that involves all these dimensions (and more). Here I focus on the intergenerational aspect. See Gardiner 2011a.

## I. WHERE ARE WE?

### DESIGN ISSUES

In my view, humanity faces a serious problem of institutional design. This claim may initially seem radical. Yet it has resonance in climate circles, including occasionally among leading figures in the political establishment. For instance, Mary Robinson, United Nations Secretary-General's Special Envoy on Climate Change, former United Nations Human Rights Commissioner and former President of Ireland, once wrote about climate change (Robinson 2008):

*“The scope of these problems – and of the action required to treat them – reach beyond previous human challenges. Yet in the sixteen years since the UNFCCC was signed, global negotiations have proceeded at a glacial pace. We have collectively failed to grasp the scale and urgency of the problem. Climate change shows up countless weaknesses in our current institutional architecture.”*

More bluntly, in the run up to the disastrous Copenhagen climate meeting in 2009, Connie Hedegaard, then Danish Minister for Climate and Energy, and subsequently EU commissioner on climate action, quoted in Von Bulow (2009), said:

*“If the whole world comes to Copenhagen and leaves without making the needed political agreement, then I think it's a failure that is not just about climate. Then it's the whole global democratic system not being able to deliver results in one of the defining challenges of our century. And that ... should not be a possibility.”*

In essence, the problem is that currently dominant institutions do not appear well-suited for addressing serious, paradigmatically global, intergenerational and ecological problems, such as climate change.<sup>2</sup>

How do we explain these shortcomings? In my view, one of the main reasons is structural. Conventional institutions tend to be dominated by short-term concerns,

2. Some maintain that the Paris Agreement changes this situation. However, there remain substantial reasons for concern (e.g., Oxfam et al. 2015; Milman 2015; Anderson and Peters 2016), some of which echo my criticisms of previous agreements (Gardiner 2004; 2011a).

to have an overly narrow focus on economic matters, and not to have been designed with global, intergenerational or ecological concerns in mind.<sup>3</sup> Prominent examples of such institutions include market systems and national governments with three-to-five year election cycles. Notably, in many contemporary societies these institutions have mutually reinforcing effects on each other, and also play major roles in shaping the incentives facing other institutions.

To some extent, the limitations of current institutions are predictable. First, there is a *historical argument*. Presumably, there is a strong tendency for the members of any generation to create, maintain and shape institutions that disproportionately deal with the concerns that face them, here and now, in the present. Consequently, it would not be surprising for the set of institutions that emerges over time to reflect this, and show a tendency to highlight perspectives or problems that substantially crowd out broader intergenerational concerns. Absent deliberate, sustained intervention this would be just what one might expect, historically-speaking.

Second, there is a *strategic argument*. There is a clear temptation for each generation to behave badly with respect to the future. In doing so, it can secure benefits for itself and avoid bearing costs, in ways that seem morally unjustified. Consider two clear threats: the tyranny of the contemporary, and the problem of moral corruption.

The first threat is a general ethical challenge that I call the *tyranny of the contemporary*. To see the worry more clearly, consider a simple (and highly idealized) model. First, imagine a sequence of nonoverlapping generations. Second, suppose that each generation must make decisions about goods that are *temporally dispersed*. One type —‘front-loaded goods’— are such that their benefits accrue to the generation that produces them, but their costs are substantially deferred and fall on later generations. Another type —‘back-loaded goods’—are such that their costs accrue to the generation that produces them, but their benefits are substantially deferred and arise to later generations. Third, assume that each generation has preferences that are exclusively *generation-relative* in scope: they concern things that happen within the timeframe of its own existence (Gardiner 2015).

In such a situation, each generation has some reason to engage in “buck passing”. It can secure benefits for itself by imposing costs on its successors, and avoid costs to itself by failing to benefit its successors. Moreover, absent other factors (such as

3. Note that I argue only that this is one of the main reasons. Other issues, such as the embedded power of fossil fuel interests and other defects of existing institutions in representing current people, also play a considerable role.

moral convictions) this reason may be decisive. Since any given generation is (by hypothesis) concerned only with what happens during its own time, it has a standing concern for intragenerational benefits and costs, but no obvious concern for intergenerational costs and benefits. Buck-passing is thus the default position.

Other things being equal, intergenerational buck-passing raises serious ethical questions. As a matter of substance, each generation is likely to oversupply front-loaded goods and undersupply back-loaded goods relative to reasonable ethical norms.<sup>4</sup> This is clearest in the case of the oversupply of front-loaded goods. It seems unethical for an earlier generation simply to foist costs on a later generation with no consideration for its interests: for instance, without any compensation and without its consent. However, it is also relevant to the undersupply of back-loaded goods. On the (modest) assumption that, other things being equal, any given current generation has an obligation to engage in at least some back-loaded projects, then each generation will fail in its duties to the future if it does not invest in such projects.

The challenge posed by intergenerational buck-passing is also serious from a relational point of view. Later generations are subject to the arbitrary and apparently unaccountable power of earlier generations. This raises basic ethical questions, including questions of fairness, exploitation, domination and political legitimacy.<sup>5</sup> For example, elsewhere I argue that we should worry that buck-passing sometimes amounts to intergenerational extortion (Gardiner and Weisbach 2016, ch. 4; Gardiner 2017a).

The substantive and relational worries are unsettling enough when considering buck-passing by a single generation. However, this is only one part of the problem. First, in a typical tyranny of the contemporary, there is *iteration*. The temptation of buck-passing arises for each subsequent generation as it faces decisions about what to do about temporally dispersed goods. Consequently, the threat is often played out over many generations. Second, this iteration threatens *accumulation*: severe and catastrophic outcomes become more likely as the effects of ongoing buck-passing accumulate in the futher future. Third, this may also lead to *escalation* of the moral problem. As future effects accumulate, they place pressure even on otherwise decent

4. In this paper, I do not defend a particular view on the content of these norms. My aim is to present the problem at a higher level of abstraction, in a way which can accommodate a wide variety of possible views about that content. I will, however, tend to presuppose that our responsibilities to future generations are significant, and that the past 25 years of international climate policy constitute a *prima facie* failure to meet those responsibilities.

5. See, e.g., Bertram 2009; Nolt 2010; Smith 2013. (N.b. I disagree with Smith's characterization of my intergenerational storm.)

later generations to engage in buck-passing behavior. In particular, a later generation faced with severe impacts may (correctly) feel licenced to impose otherwise unacceptable burdens on the further future through a right to self-defense. As a result, taken to extremes, a tyranny of the contemporary threatens a dangerous downward spiral in social conditions, material and ethical.

The second clear threat—the threat of moral corruption—is related. The temptation to pass the buck to the future puts pressure on the ways in which we think and talk about issues in the real world, encouraging us to accept framings that distort our perceptions of moral reality. Specifically, the tyranny of the contemporary threatens to infect our framing of problems, and the theoretical “solutions” that attract us, in ways which facilitate intergenerational buck-passing. Most obviously, we can misdiagnose issues in ways which obscure their intergenerational dimensions.

Elsewhere I have argued that this threat is manifest in the climate case. For instance, the traditional framing of the climate problem in international relations and economics involves nation states facing a conventional prisoner’s dilemma, or tragedy of the commons scenario. Though each government recognizes that it is in the collective interest of all countries to cooperate to restrict emissions rather than not, each also believes that it is in the individual interest of its own country to defect from the cooperative outcome. Since all think the same, they all defect, with the result that all suffer. On the traditional view, then, the problem is one of self-inflicted, self-destructive behavior.

I find this view overly optimistic. For one thing, the traditional framing typically *assumes* that *the government of each state reliably represents the interests of its own citizens in perpetuity*, or at least for many generations into the future. Often this assumption is implicit, and so goes unnoticed. Yet once identified it strikes me as deeply unrealistic. Indeed, arguably, it is so far-fetched that it does not even pass an initial “laugh test” of minimal plausibility. The traditional argument is thus “a wolf in sheep’s clothing”.<sup>6</sup>

For another thing, the traditional view struggles to account for the depth of the failure of past climate agreements, such as Kyoto and Copenhagen. In my view, it is more plausible to think that the defections of governments from serious climate action have nothing to do with the long-term intergenerational interests of their own people, and everything to do with the narrower concerns of the present. If this is correct, the failures of the past do not amount to “self-inflicted and self-destructive” behavior.

6. Note that I am not claiming that all would be well if the laughable assumption turned out to be true.

tive” behavior, but instead involve current actors inflicting risks of severe harm that fall disproportionately on future generations (including of their own people), other countries, and nonhuman nature. In disguising this, the traditional tragedy of the commons analysis is seriously deceptive, and the tyranny of the contemporary closer to the truth.<sup>7</sup>

## PROSPECTS

It is tempting to think that the tyranny of the contemporary is such a deep problem that it cannot be overcome: that our prospects are hopeless. Yet this conclusion would be too quick. One way to see this is to notice that there are multiple potential drivers of such a tyranny, and they have different implications (Gardiner 2014, pp. 302-303). Specifically, the assumption in the previous illustrative model was that “each generation has preferences that are exclusively *generation-relative* in scope: they concern things that happen within the timeframe of its own existence”. However, there are various ways to interpret this assumption, and also less stringent assumptions that would create less pure, but still recognizable, versions of a tyranny of the contemporary. Consider three prominent examples.

The first, most obvious assumption, is generational ruthlessness: each generation is concerned only with its own interests, narrowly construed, and is indifferent to all other concerns, including notably those of future generations and the rest of nature. Some theorists in international relations talk as if something like ruthlessness is true, at least at the level of nation states. Specifically, they think that states act only for the sake of their own national interest, fairly narrowly defined. As noted above, such theorists often (implausibly, to my mind) assume that states pursue their own national interest understood in a robustly intergenerational way.<sup>8</sup> Generational ruthlessness is a harsh assumption. Nevertheless, even it does not imply that all is hopeless. After all, many mainstream strategies to convince current people to act on global environmental problems attempt to do so by showing them that (contrary to their initial impressions) such action is in their (typically short-term and economic) interests. The thought is that “green is good, *for us* (as well as for them)” and this is

7. My diagnosis has proven to have considerable explanatory power over time. See Gardiner 2001; 2004a; 2006, 2011a; 2017b.

8. See also, Gardiner and Weisbach 2016, ch. 3.

sufficient to drive action. This thought is made plausible by facts such as the falling price of renewables, and the indirect costs of fossil fuel consumption (e.g., to health).

Still, such “win-win” approaches have a notable weakness: they are hostage to fortune in notable ways. Most obviously, if it turns out not to be true that “going green” is in the short-term economic interest of current people (and especially maximally in their interests compared to other, browner options), the strategy of accommodating ruthlessness has nothing to say. Less obviously, the bar here is set very high and so not only accommodates, but also encourages extortion (Gardiner 2017a).

A second, in some ways less harsh, diagnosis is that the current generation is driven by *shallowness*, and in particular a fragile and ultimately mistaken conception of self-interest that obscures better and deeper visions. (For instance, classic versions of this diagnosis emphasize an unhealthy emphasis on consumerism, fed by excessive and manipulative advertising.) According to the shallowness account, the tyranny of the contemporary is particularly tragic: shallow conventional values are genuinely self-destructive for us, as well as ruinous for others. If we would only embrace a better (deeper) set of values, we would again find ourselves in a “win-win” situation where green is good for all.

The shallowness diagnosis often fuels responses to environmental problems that advocate alternative “green” lifestyles that highlight the benefits to the current generation of pro-environmental behaviors (e.g., the health benefits of cycling and less meat-intensive diets). Moreover, the diagnosis encourages the (often implicit) optimistic thought that mere recognition of shallowness should constitute a large part of the cure. The current generation, the thought goes, should be highly motivated to seek solutions that enhance its well-being, understood in a suitably enlightened way.

Still, here too there are reasons to hesitate. For one thing, the shallowness approach threatens to presuppose very widespread, perhaps global, agreement on what people recognize to be good for them. Yet such agreement has, historically and philosophically, been hard to come by. For another thing, even if agreement can be found, recognition of our true interests is often insufficient to ensure adequate action. We already frequently fail to do what is best for us, and for a multitude of reasons. (For example, often we fail to eat well and exercise.) Moreover, sometimes the reasons for not doing what is good for us are themselves fairly shallow: for example, often we are simply stuck in our ways, due perhaps to laziness, or complacency, or just being uncomfortable with change.

In my view, both ruthlessness and shallowness contribute to the tyranny of

the contemporary in the case of climate change. There are therefore good reasons to continue to pursue the associated “win-win” strategies to at least some extent. Nevertheless, I believe that a third driver is even more important: *obliviousness*. Here the charge is that conventional institutions are blind, or perhaps hostile, to intergenerational concern.

On this diagnosis, current people may have genuine intergenerational values, including around the strong need to protect future generations from the negative effects of phenomena such as climate change. However, current institutions lack the wherewithal with which to *register* such concern and drive it towards an appropriate impact on policy. Instead, intergenerational concern is largely invisible to existing institutions, or else swamped by other concerns. Consequently, even though people may have genuine intergenerational concern, existing institutions make it appear *as if* the assumption of generation-relative motivation were true. In other words, there is a profound institutional gap between the plausible values of the population and the forces that ultimately drive policy. Unless this gap can be filled, the tyranny looks set to run and run.

Some will doubt that the current generation has genuine intergenerational concern, or perhaps sufficient levels of such concern. Though I am optimistic that they do, or can at least be roused so that they do, in the end this is an empirical matter. I will say that genuine intergenerational concern is needed if we are to overcome the *moral* problem posed by the tyranny of the contemporary in climate and other cases. In particular, even if the *practical* problem of climate change were resolved by showing that the interests of the current generation do in fact perfectly align with those of future generations (as the more mainstream responses to ruthlessness and shallowness attempt to do), such a resolution would demonstrate only that the current generation is capable of pursuing its own interests more effectively in situations that turn out *not* to be true instances of the tyranny of the contemporary.

As I said above, in my view, overcoming the tyranny of the contemporary in a case like climate change will require both accepting responsibility for the future, and meeting the institutional gap. I will now propose that we approach the first (accepting responsibility for the future) in terms of a traditional “delegated responsibility” model of the transmission of individual responsibility to collectives, and the second (meeting the institutional gap) with a call for a global constitutional convention focused on future generations.



## II. DELEGATED RESPONSIBILITY MODEL

Let us begin with a basic sketch of the delegated responsibility model (DRM).

### A BASIC SKETCH

Individual agents have moral and political responsibilities.<sup>9</sup> Many can be discharged by individual action. However, others are best discharged collectively, including a large number that can *only* be either fully, or successfully, or adequately discharged collectively. These include many paradigm cases of moral and political responsibility. In such cases, individuals have duties to cooperate with others to discharge their (individual) responsibilities collectively. Typically, this is done through a delegation of authority by the relevant individuals to a collectively-sanctioned institution. This then acts “in their name”. Notably, without delegation, the collective institution lacks authority, and the original responsibility remains with the individuals. Similarly, if a collectively-sanctioned institution is established but fails to discharge the relevant responsibilities, then responsibility returns to the individuals again, to either fix the institution, or to find some other way to discharge the responsibility (e.g., typically by setting up some new institution).

As I interpret it, the delegated responsibility model posits two levels of responsibility. Call these ‘level 1’ (L<sub>1</sub>) and ‘level 2’ (L<sub>2</sub>). We might think of them as the *origin level* and the *delegated (or discharged) level*. On the delegated responsibility model, level 1 (the origin level) is the individual level; level 2 (the delegated level) is the collective level. Hence, the idea of the DRM is that individual agents have L<sub>1</sub> responsibility for action that they then delegate to another collectively-sanctioned agent (or agents) at L<sub>2</sub>, on the grounds that the L<sub>1</sub> responsibilities are best discharged collectively.<sup>10</sup> In paradigm cases, this is because they can *only* be either fully, or successfully, or adequately, discharged collectively, though in practice it is often merely because they

9. For present purposes, I will not distinguish between these categories. Again, my hope is that my current argument is at a higher level of abstraction, and compatible with a wide variety of views about the relationship between these two categories. Moreover, while my own position suggests that they are tightly linked, the details do not seem critical to the general argument being offered here.

10. Such L<sub>2</sub> agents are typically collective agents, but may also be individuals (e.g., if the need for collective discharging rests on a need for joint authorization, rather than for a distinctively collective agent). In addition, such delegation need not imply (and usually does not) that individuals do not retain some responsibilities at the individual level, nor does it imply that there are no new responsibilities for individuals in light of the delegation. For example, individuals may have significant (residual and/or new) responsibilities as individuals to work to sustain L<sub>2</sub> institutions.

are most efficiently, or conveniently, discharged collectively (e.g., because doing so dramatically reduced transaction costs, because relevant institutions already exist for other purposes, etc.).<sup>11</sup> The key point, however, is that collectively-authorized (L2) agents are empowered (and often also created) with level 2 responsibilities to discharge the relevant set of level 1 responsibilities of individuals. Notably, the L2 agents take their authority from L1 agents, and so from individuals. Consequently, individuals remain responsible for their delegation of responsibility to L2. This is part of what it means to say that L2 agents act “in the name” of L1 agents.<sup>12</sup> Their authority is at the delegated level, and therefore must be understood in terms of the delegation from the individuals who have the initial authority at the origin level.

#### STATUS OF THE MODEL

Before exploring the model, allow me to make three clarifications about its status. The first clarification is that although, on my understanding, the delegated responsibility model is a traditional one in Anglo-American political philosophy, this is not to say that it is a secure model. There are many ways in which it may be challenged, some serious, for example by approaches such as Iris Marion Young’s (Young 2013). Ultimately, the model may yet prove philosophically unattractive, or practically unworkable. Nevertheless, the DRM does have considerable explanatory power, both theoretically and when it comes to understanding a number of actual political practices. In what follows, rather than directly defending the model, I will focus on its explanatory power, with an emphasis on what the model might help us understand about global, intergenerational and ecological problems such as climate change.

The second clarification is that much of what I shall be arguing about the DRM is theoretically fairly modest, and should be of interest to a wide range of theorists of many different stripes. In particular, much of the explanatory power of the DRM is not undermined by deeper philosophical questions about the foundations and wider relevance of the model itself. To illustrate this, let me make two points.

11. Sometimes the reason will be that although individual discharging would be the most effective approach, it conflicts with other priorities. For instance, individuals may find such action irksome (e.g., as in the complaint that “socialism would take too many evenings”).

12. My distinction differs from Simon Caney’s contrast between first- and second-order responsibilities for climate change, and addresses different issues (Caney 2014, pp. 10-13). For instance, Caney’s second-order responsibilities are (i) “responsibilities to ensure that agents comply with their first-order responsibilities”, and (ii) include responsibilities to allocate new first-order responsibilities to those who previously lacked them (Caney 2014, p. 13). By contrast, (my) level 2 responsibilities are not focused on ensuring compliance, nor do they concern allocating (my) level 1 responsibilities.

First, accepting the DRM need not imply endorsing an underlying monism about responsibility. The DRM explains how a form of moral and political responsibility works. It need not claim to cover all kinds of moral and political responsibility. For instance, one might accept the DRM only as one part of a more comprehensive, pluralistic account of responsibility.

Second, there is a clear reason to think that a more comprehensive account is needed. The DRM takes the relevant form of individual responsibility as primary, and the relevant collective responsibility as derivative. Still, there is a complication. The delegated responsibility model does not by itself determine from where the original individual responsibility comes. It is a view about the *relationship* between (a form of) individual responsibility and (a form of) collective responsibility, not about the nature of (the relevant) individual responsibility itself. Consequently, it is compatible with a variety of views about the nature of the relevant individual responsibility.

The second point can be illustrated with two salient examples. One class of views takes the relevant sense of individual responsibility to rest on a *prior individualistic account*. For instance, some will likely claim that individuals assume responsibility (in a prior individualistic way) by expressly joining a group that is essentially constituted by a set of norms with the structure of the DRM model (e.g., some voluntary association). On this kind of view, the individual responsibility that is primary within the DRM is (from a wider perspective) itself derivative from a prior individualistic model. So, though allowing for a derivative explanation, such views are “individualistic all the way down”.

Another class of views, however, will likely take the individual responsibility that is primary within the DRM to derive from *a prior form of collective responsibility*. So, for example, some will claim that one has individual responsibilities for ensuring basic security in one’s own nation because one is a member of that nation (e.g., because one was born into it). Here, the primary responsibility from the point of view of the DRM is individual responsibility, but that individual responsibility is itself predicated on (a) group membership, and (b) an understanding of what it is to be a member of such a group that makes the DRM model and its invocation of individual responsibility appropriate. On such views, the individual responsibility cited by the DRM is in one sense a “conduit” between different forms of collective responsibility.

These examples show that, in terms of the terminology of levels, some views of responsibility will marry the DRM with a further view about the origins of level 1 responsibility. Some of these will argue that their view justifies positing further levels

below L<sub>1</sub> to account for this. Usually, this will be through the signaling of a ‘level zero’ (L<sub>0</sub>), though perhaps some will want to go deeper. Similarly, other views may elaborate on the DRM by positing levels beyond level 2 (e.g., level 3, level 4). One reason that this more complex structure may emerge would be if it takes an initial delegation to a L<sub>2</sub> entity for it to be understood that further institutional structure is needed but this does not replace the need for the initial L<sub>2</sub> entity. For example, one might imagine the creation of a number of L<sub>2</sub> entities at the local level, where this leads to a recognition that a national level institution is also needed, and in a way which does not involve a replacement of the L<sub>2</sub> (local) entities, but rather a supplement at a new level 3.

My third and final clarification concerns my own background view. While most of the argument I will be giving relies only on a modest endorsement of the DRM, takes no position on more general or foundational issues, and so should be of interest to a wider range of theorists, it nevertheless seems wise, in the spirit of full disclosure, to signal that I am sympathetic to a rival position to those just mentioned, and one that takes the relevant individual responsibility to be primary in a stronger sense. Specifically, I take the relevant kind of individual responsibility to be *foundationally sited in individuals simply in virtue of their moral agency*. In other words, responsibility is not sited in individuals because (for example) they have *acquired* responsibility in other ways, such as through their choices, or being members of groups, or becoming entangled in various forms of other relationships, whether causal, moral or of some other kind. Instead, on the view I have in mind, agency itself has its price. A heavy part of this price is the assumption of agency responsibility, the sort of moral and political responsibility that one has simply in virtue of being a moral agent in the first place.

Though I will not defend this approach in this paper, I will make two remarks to give a sense of where my version of the agency view is coming from and what motivates it. The first remark is that the agency view as I understand suggests a general outlook on humanity’s situation in dealing with a challenge like climate change. At the most fundamental level, we are seven billion (or so) individual agents who find ourselves together facing a common challenge on this planet that only we can address and in some sense must address together. On this outlook, our basic situation is one of “we’re all in this together (as agents)”.

To adopt this outlook is not to deny that, looked at conventionally, our existing agency is structured through countless historical and current social practices, and

these limit our actions in various complex ways. Nevertheless, in my view the basic situation remains. In particular, though the conventional structures are deeply socially embedded and in many ways resilient to change (to good and bad effect), they retain much of their force due to *our ongoing support* of existing practices, support that is both practical and theoretical. In other words, the continued status (and therefore effects) of existing structures is largely contingent on our endorsement of them, as individuals and collectively. Consequently, a key part of the challenge facing us is how to understand their strengths and weaknesses, and what is at stake in changing them if they prove to be inadequate.

The second remark is that the “we’re in this together (as agents)” view fits into a broader starting-point that elsewhere I call the *Perspective of Humanity* (Cf. Gardiner 2011b):

*“The basic position of human individuals is that of members of a recently-evolved species on a small planet in an otherwise inhospitable solar system, amidst a vast, and currently unreachable universe. At present, the only viable (e.g., adequate, accessible) home for the human species and for all (known) others is the planet on which we reside. However, humans have attained unprecedented power over the planet, and now have the ability to influence profoundly the basic physical and ecological systems that support life as we know it, and especially for the worse.”*

In my view, this claim captures fundamental facts about our situation that must be respected by moral and political theories. These facts pose questions about how we are to understand ourselves and how we are to act. Moreover, it is natural to think that such questions are fundamental to social and political philosophy, in the sense that our responses to them *frame and limit* the answers we may give to other pressing social and political questions, such as how we are to live our own lives, and what we owe to contemporaries of our own species.

Though I signal the view and the perspective, I will not pursue them in more detail here. Fortunately, I suspect that little of what I have to say in the rest of this paper depends on them, and that proponents of other views can still accept the DRM, and its explanatory value. Still, I signal these background positions to forestall certain kinds of questions – generally questions that ask why I am so strongly emphasizing the DRM, and not pursuing the topic in a way that proponents of the other

two classes of position may prefer or expect, since they believe they have “deeper” individualistic or collectivist accounts on which to draw.

### III. EXPLANATORY VALUE

Let us turn now to the explanatory value of the DRM. I will identify five areas where the DRM is illuminating: in explaining silence, unfamiliarity, inhibition, evasion and dystopia.

#### SILENCE

The first two areas (silence and unfamiliarity) involve a challenge that is often posed to responsibility in situations like climate change. In a general form, the challenge is memorably described by Dale Jamieson (1992, p. 149), who says:

*“Today we face the possibility that the global environment may be destroyed, yet no one will be responsible. This is a new problem.”*

Jamieson thinks that our ordinary conceptions of moral and political responsibility fail to find traction when it comes to global environmental problems. Commonsense morality and the theories that rely on it are *puzzlingly silent* on these important issues.

There are a number of reasons for Jamieson’s claim, and I discuss many of them extensively elsewhere (Gardiner 2011c; Jamieson 2013; Gardiner 2013). Here, however, I will focus on just one: the idea that commonsense morality faces deep difficulties when serious ethical problems are created by us just “getting on with our lives” (Jamieson 2013, p. 42), or actions that are “usual” (Sinnott-Armstrong 2005). Jamieson glosses this point by saying (2014, p. 148):

*“Most of the time we do not subject what people do to moral evaluation. This may be because we consider most of what people do to be “their business”, belonging to a private sphere that is beyond the reach of morality. Or it may be because we regard most of what people do to be permissible. ... Various moral theorists would like to dislodge this way of seeing things, but nevertheless this is more or less how most of us see things most of the time.”*

In my view, one appeal of the DRM is that it has considerable explanatory power when it comes to making sense of the worries expressed by Jamieson and others<sup>13</sup>, yet without succumbing to the general skepticism about responsibility that some of their remarks suggest.<sup>14</sup>

Let us begin with the general challenge of ‘no one is responsible’. The DRM gives rise to two natural explanations of the ongoing policy failures with respect to climate change, and other intergenerational issues (Gardiner 2011c). According to the first, the DRM implies that *level 2 (delegated) responsibility has been assigned to national governments*. Although the initial level 1 (origin level) responsibility rests with individuals, they have delegated authority to their national governments to deal with global environmental problems. However, national governments are failing to discharge their L2 responsibilities; hence, they are subject to (moral) criticism. Consequently, national governments must rise to the challenge, and individuals (because of their L1 responsibility) must urge them to do this. If this project fails (and arguably it has failed in the climate case, at least for a good part of the last 25 years), then the attempt to delegate responsibility has been unsuccessful. Thus, we remain at L1, where individuals have the responsibility to find another way to solve the problem, presumably through another attempt to establish effective institutions. We might add that both individuals and national governments share in the responsibility for such failures, particularly insofar as failure was reasonably predictable, and especially if it was a calculated failure (e.g., for purposes of wasting time) (Gardiner 2004; 2011a).

According to the second natural explanation, the DRM implies that *no one has been assigned level 2 (delegated) responsibility*. On this view, national governments were not designed to deal with global, intergenerational, and ecological problems such as climate change. Hence, the assignment of responsibility to them is unwarranted, and

13. My claim is that the DRM provides one illuminating explanation. I do not claim that it is the only possible explanation, nor do I try (here) to defend it against alternatives.

14. An anonymous reviewer objects (1) that Jamieson’s point is about moral responsibility, (2) that moral and political responsibility are “apples and oranges”, but (3) that my approach mixes moral and political responsibility to generate its explanatory power, and so (4) does not address Jamieson’s primary underlying concern, which the reviewer takes to be “precisely (a) that no single agent might be to blame for climate change and (b) that no agent might be clearly identifiable as morally responsible”. I agree with at least some versions of (1) and (3), but do not think this is a problem, since I am not convinced by robust versions of (2). (Also, Jamieson explicitly objects to political responsibility as well in some places, so (1) is not as pertinent as it may initially appear.) In addition, as I understand it, my approach does address relevant versions of (4). Although the reviewer may be right that it does not do so within Jamieson’s framework as such (or the reviewer’s), I am not sure why that is a persuasive objection, rather than (say) an advantage of my (allegedly rival) framework.

perhaps also unfair.<sup>15</sup> (This view is the one that most resonates with Jamieson's claim that "the global environment might be destroyed, yet no one will be responsible".) According to the DRM, then, responsibility remains solely at level 1 (the origin level). Having proceeded no further, individuals bear responsibility, since no attempt to delegate was made, or all such attempts were unsuccessful, resulting in no level 2 assignment of responsibility at all. Either way, the level 1 responsibility remains.

In summary, taken together these two explanations seriously blunt the initial force of the general challenge. There is no theoretical mystery here; let alone one that presents a dramatically new problem for moral and political philosophy.<sup>16</sup>

### UNFAMILIARITY

Let us turn then to the more specific version of the 'no one is responsible' worry: that climate change and problems like it fail to register with commonsense morality because they involve our "going about our everyday lives", or indulging in merely "usual" actions or activities, or are insulated from moral criticism by a background social convention of most things not being morally accessible. Let me make three points in response.

The first point is that this worry appears to miss the mark, since the delegated responsibility model supplies a natural explanation. This explanation takes the form of an error theory. If we understand "going about our everyday lives" and the "usual" within the proper political context supplied by the DRM, the worry rests on a confusion. Specifically, part of the point of the DRM is to assign delegated (level 2 and higher) responsibilities in ways that help to *define* "the usual", including by partly determining the extent of our individual freedoms to "go about our everyday business" without undue burdens. In other words, the notions of "the usual" and "going about our everyday lives" to which the objection appeals are *not prior* to the DRM and its delegation of L2 (and higher) responsibilities, but are instead bound up with that

15. Though there is some truth to this claim, it should be noted that most political actors have acted as if the role did belong to them and they were competent to discharge it, rather than (for example) declaring to their constituencies that the topic was outside of their purview, or advocating for fundamentally new or different institutions. Given this, some responsibility remains (cf. Gardiner 2011c).

16. Does my account beg the question against Jamieson, since it presupposes that individuals have responsibility at L1? I think not. (At least, it does not beg the question any more than presupposing that there is no such responsibility.) As we shall see, most of the explanatory power comes from the DRM model as such, not from the simple assumption of individual responsibility. For instance, the DRM provides a useful *error theory* as to why concerns about a lack of individual responsibility might initially arise even if such responsibility is actually present. (See below.)



assignment. Consequently, appeals to those notions are dubious in situations where the attempt to delegate has failed, including when no attempt to assign L2 responsibilities has even been made.

The second point is that it is not clear that a more demanding account of individual responsibility is so implausible, either at the level of the usual or more foundationally. In fact, it seems that demanding ideals may already be there, lurking in background conceptions of how political responsibility is supposed to work.

Consider a more standard case than climate.<sup>17</sup> Suppose there is a breakdown in basic security in a neighboring city in one's own country. For example, suppose one lives in Sacramento and the security forces in San Francisco are wiped out in a terrible terrorist attack. Who would have the responsibility to deal with it? Presumably, in the first instance it is the city and state governments, and (failing that) the government of the United States. Why? On the delegated responsibility model, it is because they already have delegated authority to act "in our name" to ensure basic security. However, what if all these efforts to delegate fail? Would the rest of us be off the hook? On the delegated responsibility model, the obvious answer is 'no'. Primarily, each of us would have some responsibility to try to get existing institutions to live up to the responsibilities delegated to them, and (if this turns out to be hopeless) to establish new ones to replace them.<sup>18</sup> Secondly, we would also have a responsibility not to thwart good efforts to achieve these goals, but to cooperate with them. For instance, we should not try to benefit from the lawlessness by sending in looting parties, or making deals with potential looters on the black market.

Would each of us also have a personal responsibility to "get armed and go West" in order to police the streets of San Francisco ourselves? In practice, I doubt that it would come to that. Uncoordinated individual action would be a pretty poor way of addressing the real problem, and come at a very high cost. If we got to the point where average individuals had seriously to consider packing rifles and flak jackets, an awful lot would have to have gone wrong. Moreover, there would also have to be a good chance of making a meaningful difference, and the prospects for better solutions would have to be bleak.

Nevertheless, in principle, if all other efforts towards better solutions failed, and if we could plausibly make a real and positive difference, the idea of robust person-

17. These next two paragraphs are adapted from Gardiner 2013.

18. The wider burden may initially fall on Americans. However, under a number of circumstances the 'us' would extend to a wider global public.

al responsibilities is not so strange, especially as a stop-gap measure until a better response could be put in place. Indeed, assumptions of personal responsibility are often made in such circumstances. For example, when communities develop response plans for predictable disasters, such as earthquakes in high risk areas, they often assume that individuals must initially pick up the slack, at least until a more effective collective response can be made.

If this is correct, on a plausible interpretation of the delegated responsibility model, the reason that this kind of individual responsibility seems unfamiliar is not that there is a *conceptual* problem with individual responsibility, but that focusing on the individual's personal behavior seems the wrong way to tackle the problem actually being faced, or at least so far down the list of serious options that it is a poor focus for action. Instead, in the cases with which we are most familiar political responsibility seems much more central.

Still, none of this implies that a demanding notion of individual personal responsibility is not already implicitly present in our lives, embedded in background assumptions about the way our society is supposed to work, and so, in a sense, constituting one part of the "usual". On the contrary, though normally "invisible" in daily life, robust forms of personal responsibility do persist in many contemporary societies as an important part of their organizational structure. Common examples include: jury duty, the draft, mandatory national service, and so on. Consequently, such responsibility is in fact more visible than the initial objection acknowledges. Severe circumstances expose it more clearly to the light, but they do not create a "new" problem.

The third point is that the feeling of unfamiliarity is predictable, especially in cases where delegation is perceived to be highly effective in other domains of life (Gardiner 2011c). In particular, some who endorse the DRM will also hold wider conceptions of political philosophy that embed a familiar socio-political ideal. According to this ideal, effective institutions should discharge as many ethical responsibilities as possible for citizens, so that individuals do not have to worry about such responsibilities, but become maximally free to engage in their own pursuits (subject to external constraints set out by the system). However, on this ideal, success tends to breed elimination of responsibility in personal life. Consequently, the more effective a social system is (or is perceived to be) at discharging responsibilities in general, the more demanding any significant unmet responsibilities will seem. In other words, for those used to broad freedoms to pursue their own ends without worrying about

wider responsibilities, the emergence of a serious failure to discharge is likely to be deeply jarring: the issues will seem very unfamiliar and the nature of the responsibilities extreme. Yet this may say more about the past successes of the DRM than current or future failures.

We can conclude that the DRM seems highly effective in countering the initial force of the “no one is responsible” and “getting on with our lives” objections. Still, there is more to be said. The DRM has additional explanatory force when it comes to understanding other obstacles to action. The issue of L<sub>2</sub> assignment of responsibilities raises several uncomfortable possibilities. In many circumstances, actors will be tempted to take advantage of the DRM in a variety of (often interconnected) ways. Sadly, this temptation appears especially salient in the case of climate and other global and intergenerational responsibilities, when the threat of moral corruption is high.

#### INHIBITING

Let us begin with the thought that a lack of level 2 responsibility assignment, or at least of effective assignment, will be highly convenient for some actors in some circumstances. Suppose, for instance, that some actors do not want to see some problem solved. (These actors can include both L<sub>1</sub> agents and L<sub>2</sub> agents established for other purposes, such as discharging other L<sub>1</sub> duties.) The DRM suggests several ways of inhibiting or disrupting the process so that effective delegation does not occur. Consider just three likely strategies.

We might call the first strategy ‘internal structural sabotage’. Actors may manipulate specific L<sub>2</sub> responsibility assignments in the relevant domain so that they are ineffective. For instance, they may facilitate agreements that are highly voluntary, with weak incentives, accountability and enforcement mechanisms. For example, in the climate case, consider the structure of the Kyoto Protocol and the initial form of the Paris Agreement (Gardiner 2004; 2011a).

The second strategy is ‘external structural sabotage’. Actors may arrange L<sub>2</sub> responsibility assignments for *other* issues in such a way as to create powerful L<sub>2</sub> agents in those (other) domains that oppose effective L<sub>2</sub> assignments in the area in which they wish to prevent action. For instance, L<sub>2</sub> actors from other domains (such as national governments or corporations) may prevent collective organization from forming in the relevant area (e.g., global environmental protection), they may ensure that any new L<sub>2</sub> actors are so weak that they cannot perform their function (e.g., the

UNFCCC), or they may work to undermine those actors once they are in place (e.g., by establishing international trade agreements that prevent trade sanctions, and so inhibit strong environmental regulation).

We might call the third strategy, ‘smokescreen’. Actors may create “shadow solutions” that present dangerous illusions of progress that serve mainly to distract attention and political will from more effective action. Elsewhere I argue that this is a sadly plausible concern about much of the history of international climate policy (Cf. Gardiner 2004; 2011a).

#### EVASION

The fourth area where the delegated responsibility model has explanatory value is when it comes to what we might call ‘the problem of evasion’, where existing actors aim to make certain claims on them disappear. For one thing, they may manipulate L2 responsibility assignments so that they are simply absolved. A live example of this in the climate case would be the tendency for actors perpetually to push deadlines for action into the further political future, beyond the political lifetimes of the actors currently responsible (Cf. Gardiner 2011a, chapters 3-4). For another thing, existing actors may manipulate the basic understanding of L1 responsibility so that even the claim of responsibility disappears. One specific strategy that seems highly effective is that of acting as if L2 assignments (including categories and agents) are fundamental, and thereby rendering L1 responsibility invisible. A more common strategy perhaps is for states in particular to oscillate between (a) invoking a conventional DRM for global affairs quite generally, (b) protesting that they are trying but defeated by the bad intentions of other L2 actors, yet (c) arguing that they do not have a specific L2 responsibility in this area, and are not particularly capable of solving the problem. In this “cunning wheeze”, most (or at least most powerful existing L2 agents) bemoan the general situation, blame everyone else, and quietly enjoy the benefits of the status quo. No one takes the *vital steps* of loudly (d) urging that the key issue might be the need for new institutions, or (e) insisting on the persistence of our L1 responsibilities in the absence of such institutions.

## DYSTOPIA

Fifth, the delegated responsibility model also has explanatory value in understanding wider dystopia. A natural objection to the idea of lingering L<sub>1</sub> responsibility at the individual level is that it seems deeply unrealistic and unfair in the world as we currently find it. Most people living ordinary lives are likely to protest: “How can it be *my* fault? In our world, I cannot be said to have any individual authority that is delegated or even respected. Others have the power, not me.” Jamieson himself may make a robust version of this claim when he says in passing: “[H]uman action is the driver, but it seems that things, not people, are in control ... Our corporations, governments, technologies, institutions and economic systems seem to have lives of their own” (Jamieson 2014, p. 1).

The DRM can explain the force of this alienation of the individual from responsibility at L<sub>1</sub>: other actors (L<sub>1</sub> and/or L<sub>2</sub>) have inhibited the individual’s ability to discharge his or her normal L<sub>1</sub> responsibilities, through blocking L<sub>2</sub> delegation for that agent, perhaps in multiple areas. In such cases, the fact that many individuals leading ordinary lives feel powerless may be no accident. In extreme scenarios, others have so arranged the social world that they have usurped power and thereby effective responsibility for these issues from such individuals. On my agency responsibility account (as on many others), this counts as a *central moral and political wrong*. Notably, the DRM does a reasonable job of describing how that wrong can be understood.

Our discussion so far has suggested that the DRM has considerable explanatory power, both in theoretical terms and when it comes to the real world example of climate change. It remains to ask what the implications of this discussion are for what is to be done.

## IV. A GLOBAL CONSTITUTIONAL CONVENTION

We have identified three major roots of the tyranny of the contemporary: ruthlessness, shallowness and obliviousness. The third and in my view most serious – obliviousness – rests on an *institutional gap* when it comes to registering and acting on intergenerational concern, and possibly also an *implicit hostility* of existing institutions designed with very different and conflicting aims. The DRM delivers an initial account of how we should understand our responsibilities in light of this gap, and the

agency responsibility view provides one kind of more specific understanding of the structure of those responsibilities.

A natural upshot of this diagnosis of the problem is that individuals retain L<sub>1</sub> (origin level) responsibilities to come together to support (i.e., create and sustain<sup>19</sup>) new L<sub>2</sub> (delegated level) institutions that will effectively fill the institutional gap, and do so in a way that is appropriately integrated with other aspects of agency (such as institutions with different L<sub>2</sub> responsibilities (or higher) as well as other individual responsibilities at L<sub>1</sub>). Questions then arise as to what the new institutions would look like, how they would fit into such a revised system of agency, and how to develop an achievable path towards both. Such questions would be demanding enough even if we had robust theories to guide us. However, our task is made more difficult by the fact that this is not so: we do not know in advance precisely what the best, or even adequate, versions of appropriate institutions or a revised system of agency would look like. Instead, we must proceed largely without such knowledge. Rather than straightforwardly applying robust theories, we must instead forge an ethics of the transition that moves us towards a better world without knowing in advance the precise destination (Gardiner 2011a).

#### UNDERSTANDING THE PROPOSAL

In this context, my proposal is that we should initiate a call for a global constitutional convention focused on future generations.<sup>20</sup> Let me explain. By ‘we’ here, I mean existing agents with responsibilities at L<sub>1</sub>, L<sub>2</sub> and other levels, including concerned individuals, interested community groups, national governments and transnational organizations. By ‘initiating a call’, I intend the procedural suggestion that we should (a) provoke and promote a call to action, that (b) seeks to engage a range of actors, that is based on (c) a claim that they have or should take on a set of responsibilities, and (d) a view about how to go about discharging those responsibilities. By “a global constitutional convention”, I have in mind a constitutional convention akin to that convened in Philadelphia in 1787 “to address the problems of the weak central government that existed under the Articles of Confederation”, and which led to the

19. Among other things, the reference to sustaining makes clear that there may, and in most cases are likely to be, further and residual responsibilities for individuals even given the delegation to new institutions.

20. The next three paragraphs draw on Gardiner 2014. Other proposals for intergenerational institutions tend to be focused on nation-states (e.g., Read 2012; Gonzalez-Ricoy and Gosseries 2016).

establishment of the US Constitution and the structure of federal government that persists to this day.<sup>21</sup> Our global constitutional convention would be convened to address the institutional gap surrounding concern for the future. Insofar as possible and prudent, it would do so without unnecessarily prejudging the outcome, whether in form or content.

The key components of my convention proposal can be understood in standard ways, as follows. First, I understand a *convention* to be “a representative body called together for some occasional or temporary purpose” and “constituted by statute to represent the people in their primary relations”. Second, the purpose of the convention is to establish a *constitutional system* in the minimal sense of “a set of norms (rules, principles or values) creating, structuring, and possibly defining the limits of, government power or authority.” Third, the *instigating* role of the convention would be to discuss, develop, make recommendations toward, and set in motion a process for the establishment of such a constitution. Fourth, the convention would take as its *primary subject matter* the need to adequately reflect and embody intergenerational concern, including through the protection of future generations, the promotion of their interests (e.g., their rights, claims, welfare, etc.), the discharging of earlier generations’ duties with respect to them, and so on.

I take this proposal to have several attractive features. To begin with, it is based in a deep political reality. It responds to the seriousness of climate change, and to persistent political inertia surrounding more modest initiatives. It calls attention to the heart of the problem (e.g., the failures of the current system, the need for an alternative, and the background issue of responsibility). It acknowledges that climate is only one instance of the tyranny of the contemporary, and we should expect others over the coming decades and centuries.<sup>22</sup> Moreover, though the proposal is ambitious, it is not alienating. Not only does it not succumb to despair, but it also does not needlessly polarize from the outset (e.g., by leaping to specific recommendations about filling the institutional gap). In addition, it acknowledges the existence of fundamental difficulties and anxieties, but uses them to start the right kind of debate, rather than to foreclose it. As such, in my view it is a promising candidate to serve as the subject of a wide, overlapping political consensus, at least among those with intergenerational

21. <https://history.state.gov/milestones/1784-1800/convention-and-ratification>

22. Within the perfect moral storm analysis, my focus is on global, intergenerational and ecological instantiations of the storm. However, the intergenerational aspect, represented here through the tyranny of the contemporary, can also manifest itself independently of these other features of the perfect moral storm.

concern. We might then turn to more specific conceptions of how to develop the proposal for a global constitutional convention that seek to support, refine and build on such a consensus. I have more to say about that project elsewhere.<sup>23</sup> For now, in order to clarify the basic proposal, let us turn to three initial objections.

### WORLD GOVERNMENT?

One obvious initial objection to the proposal is that it is an overt appeal for an extremely powerful, highly centralized and overarching “world government” that would effectively subsume all other forms of government. Many appear to find the idea of this kind of centralized authority disturbing and perhaps outright offensive. However, whatever one thinks on this question, it is a misreading of my proposal to think that it mandates “world government” understood in this way.

The purpose of the convention is to consider how to establish “*a set of norms* (rules, principles or values) creating, structuring, and possibly defining the limits of, government power or authority.” The proposal for a global constitutional convention itself aims, as far as is possible and prudent, not to prejudge the outcome of that deliberation. It certainly does not presuppose that a highly-centralized world government would emerge. Indeed, it envisions that a central question facing the convention itself will be how to develop a broader system of institutions and practices than is currently in place, that will, on the one hand, be capable of and likely to produce effective action (and so reflect some desirable features of a powerful and highly centralized global authority), but also, on the other hand, allow for the significant preservation of existing institutions to serve as a bulwark against the excesses of any newly created ones (e.g., by neutralizing the standing threats posed by any new bodies, through methods such as the traditional separation of powers, “anti-power”, etc.). How this question is answered is not seriously prejudged merely by proposing a global constitutional convention to address it.

### UNDEMOCRATIC?

A second initial objection is that a global constitutional convention and any institutions that might flow from it would be inherently undemocratic (or, more neutrally, politically illegitimate or unrepresentative), especially because they would un-

23. See Gardiner (2014) for discussion of guidelines for the global constitutional convention.



dermine the sovereignty of conventional nation states, and thereby obstruct the will of current peoples.

As a theoretical objection, this worry strikes me as misguided. In particular, it appears to get things backwards. The motivating idea for the global constitutional convention is that *there is an existing institutional gap that itself leads to an inappropriate and undemocratic global system*. Consider three essential points.

First, according to my diagnosis, people's legitimate intergenerational concerns are currently not being appropriately signaled or represented by current institutions. Therefore, the DRM implies that the current system is defective and that we have a responsibility to address this defect.

Second, part of the problem is that current institutions, designed for other (L<sub>2</sub>) purposes, risk *usurping* the role that should be played by good intergenerational institutions. They therefore obstruct effective responsibility assignment (from L<sub>1</sub> to L<sub>2</sub>) by individuals, impede the moral project of responsible agency for such individuals, and thereby undermine their own (L<sub>2</sub>) authority. Consequently, *the real threat to democratic values here is that current institutions threaten to confound the "will of the people" properly understood*. As a result, and contrary to the initial objection, successfully filling the institutional gap (with new or adjusted L<sub>2</sub> institutions) would *improve* the political legitimacy of the overall institutional order. It would pay due respect to concerns that current (as well as past and future) people have but which are underappreciated and often thwarted by existing arrangements. In particular, to the extent that the sovereignty of nation states as currently organized illegitimately impedes such concerns, some adjustment to that sovereignty may be necessary.

Third, more generally, the objection requires further elaboration. One concern is that it presupposes a monolithic view of sovereignty – that the people must have just one, all-powerful representative (or L<sub>2</sub> agent), and this must be the nation state—that is unattractive and runs counter to many existing systems and practices. Though neither the DRM nor the global constitutional convention proposal rule out such a monolithic structure, they also do not assume that one is required. Instead, they allow for the possibility of more pluralistic models, whereby individuals may delegate their L<sub>1</sub> responsibilities to a number of institutions at L<sub>2</sub> (or higher). These may be distinct entities, or overlapping, or related in other complicated ways. They may be further unified in a monolithic overarching structure, but they may not. Importantly, often there are reasons to discourage too much unity, such as when there is a need for checks and balances. For example, federal systems such as the United States divide

responsibilities within the federal government, and also between the federal government and state and local authorities. *Each institution in the system is seen as a legitimate representative of the people*, often responsible for distinct but overlapping L2 responsibilities. None is seen as compromising the “sovereignty of the people” simply in virtue of its existence, nor merely because it may sometimes come into conflict with other L2 institutions. Instead, each institution represents some legitimate aspect of the will of the people (and their L1 responsibilities), and has its own legitimate sphere of influence, including when that sphere overlaps with the spheres of other L2 institutions.

### UNFEASIBLE?

A third initial objection is that the proposal for a global constitutional convention is (perhaps laughably) unfeasible given the world as we currently know it, and especially on a time frame relevant to successfully addressing a problem like climate change. I have a number of responses.

Let us begin with the specific concern about the time-frame. First, it is worth noting that, as serious as the climate problem is, the proposal for a global constitutional convention is aimed not just, or even primarily, at climate change, but at a much wider challenge of which climate change is but one instance (i.e., the tyranny of the contemporary in particular, and the perfect moral storm more generally). Hence, the proposal would have an important purpose even if it did not contribute to solving the climate problem, but instead helped to forestall further intergenerational problems in the future.

Second, the proposal is not intrinsically antagonistic to other processes that might help in the climate (or other) cases, and may even facilitate such processes. For instance, enthusiasts for the current Paris Agreement may still continue to support the existing UNFCCC process as part of a two-track approach, where one track is the UNFCCC and the other is the global constitutional convention. Indeed, in my view progress on the global constitutional convention promises to make substantial action within the UNFCCC process more likely and more robust.

Third, we should be evenhanded and compare proposals on a level playing field. In particular, if the timeframe is an issue, one should not forget that the main rivals to the proposal for a global constitutional convention have not so far proved quick at producing action. In the climate case, the UNFCCC process has already taken more than 20 years. (Recall Mary Robinson’s observation that “global negotiations

have proceeded at a glacial pace”). Moreover, many continue to criticize the current ambition and structure of the Paris agreement, calling its approach much too modest, and pressing for further evolution over the next decade or so (Cf. Oxfam et al. 2015; Anderson and Peters 2016). At the time of writing (November 2016), the recent election of the Trump Administration in the United States has underlined the fragility of the Paris approach.

Still, fourth, and most importantly, we should question the implicit assumption that the call for a global constitutional convention necessarily involves a commitment to a very long process. For instance, the US constitutional convention took place over only a few months, and its recommendations were ratified and implemented within a few years. With real political will, and the sense that a global constitutional convention may actually produce effective institutions, similarly fast results may be achieved even allowing for the necessary due deliberation.

This brings us to broader issues of feasibility. Again, I will make just a few points. First, we should recognize that notions of political feasibility are often highly treacherous. In my lifetime, many things said to be politically infeasible (the fall of the Berlin Wall, the peaceful collapse of Apartheid in South Africa, the election of the first black US President) have come to pass, and on a timescale far shorter than mainstream understandings of political reality would allow. As some people like to say, sometimes one reaches social and political “tipping points”. After decades of relative inaction, we may be getting closer to one on climate and this may facilitate the proposal for a global constitutional convention. This may be so even if in the short-term the prospects for robust action become more bleak. Such deadlock may make the institutional problem even clearer.

Second, evenhandedness in comparing proposals is an issue here as well. For instance, the main alternative proposal to emerge recently is that of geoengineering—grand technological interventions into the global climate system, such as stratospheric sulfate injection (‘SSI’). Notably, the pursuit of SSI is often motivated under the idea that a back up plan or ‘Plan B’ is needed in case conventional climate negotiations fail, or do not deliver action quickly enough (Fragniere and Gardiner 2016). Yet the ‘back up plan’ rationale seems to provide at least as much reason to push for a global constitutional convention, especially as it is arguably more socially and technically achievable.

To push this point home, we might note that the ‘back up plan’ rhetoric for geoengineering remains curiously popular even when it comes to promoting “magical”

technologies: technologies that do not yet exist, and are not very close to existing, especially on the scale needed. Some critics, for example, complain that current IPCC pathways towards 2 degrees Celsius “require massive deployment of Biomass Energy with Carbon Capture and Storage (BECCS)”, when there is “a distinct lack of evidence to determine whether BECCS is technically feasible, economically affordable, environmentally benign, socially acceptable and politically viable at a material scale” (Kruger et al. 2016). Moreover, elsewhere I argue that there is no escape from the institutional questions: even minimally decent forms of geoengineering (and also many indecent but perhaps morally tolerable forms) will also require significant institutional reform of the kind that the global constitutional convention is intended to address (Gardiner 2011a).

The third point about broad feasibility is that the proposal for a global constitutional convention at least has the virtues of highlighting the depths of the current structural problems, challenging us to confront them directly in an appropriately serious venue, and yet being comparatively open and initially minimalist about the precise content of what should emerge. Moreover, critically, the real obstacles that would need to be overcome are those likely to arise for *any* proposal that may *actually make a crucial difference*. Consequently, while we should acknowledge that deep pessimism about the proposal for a global constitutional convention is easy to understand, especially in the face of the tyranny of the contemporary and other lurking defects of current institutions, we cannot afford to give in to it. The key issues highlighted by the proposal for a global constitutional convention are *just those that must be addressed* if we are to confront the challenge that faces us, and so discharge our responsibilities.

## V. CONCLUSION

I have argued that we face an ongoing failure of the global political system in dealing with paradigmatically global, intergenerational and ecological problems, such as climate change. Existing institutions tend to crowd out intergenerational concern, and thereby encourage the live threats of a tyranny of the contemporary and a corruption of the discourse. Though such threats have several sources, I focused on the institutional gap around the issue of registering intergenerational concern.

My general approach has been to say that meeting these threats will require both accepting responsibility for the future and filling in the institutional gap. In order to understand the first (accepting responsibility), I proposed a traditional delegated

responsibility model of the transmission of individual responsibility to collectives. I then developed the delegated responsibility model by suggesting how it leads us to understand both past failures and prospective responsibility. For the second (filling the institutional gap), I proposed that the current generation should take responsibility by initiating a call for a global constitutional convention focused on concern for future generations. I then briefly defended this proposal, in part by rejecting three initial objections, that the proposal is an overt call for heavily centralized world government, that it is inherently undemocratic, and that it is unfeasible. Though my proposal is only a first step and requires further discussion, my current aim is simply to open that important debate.<sup>24</sup>

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