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Global Warming and Our Natural Duties of Justice

A cosmopolitan political conception of justice

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Abstract

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Compelling research in international relations and international political economy on global warming suggests that one part of any meaningful effort to radically reverse current trends of increasing green house gas (GHG) emissions is shared policies among states that generate costs for such emissions in many if not most of the world's regions. Effectively employing such policies involves gaining much more extensive global commitments and developing much stronger compliance mechanism than those currently found in the Kyoto Protocol. In other words, global warming raises the prospect that we need a global form of political authority that could coordinate the actions of states in order to address this environmental threat. This in turn suggests that any serious effort to mitigate climate change will entail new limits on the sovereignty of states. In this book I focus on the normative question of whether or not we have clear moral reasons to bind ourselves together in such a supranational form of political association. I argue that one can employ familiar liberal arguments for the moral legitimacy of political order at the state level to show that we do have a duty to support such a global political project. Even if one adopts the premises employed by the most influential forms of liberal scepticism to the ideas of global political and distributive justice, such as those advanced by John Rawls and Thomas Nagel, it is clear that the threat of global warming has expanded the scope of justice. We now have a global and demanding duty of justice to create the political conditions that would allow us to collectively address our impact on the Earth's atmosphere.

Keywords: Global warming, climate change, global justice, natural duties, political conception, contractualism, intergenerational, political duty, political authority, collective action, public goods, John Rawls, Thomas Nagel

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For Anki and Teo

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Abbreviations

BBC	The British Broadcasting Corporation
CFC	Chlorofluorocarbon
CO ₂	Carbon dioxide
GDP	Gross domestic product
GHG	Green house gas
HCFCs	Hydrochlorofluorocarbons
HFCs	Hydrofluorocarbons
IEA	International Energy Association
IPCC	International Panel on Climate Change
OECD	Organisation for Economic Co-operation and Development
UN	United Nations
UNFCC	United Nations Framework Convention on Climate Change
WTO	World Trade Organization

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Aaron
Uppsala, April 2008

Chapter I

Introduction

Global warming and global ties

If we are born free and equal then we are all born unavoidably bound up with other people. If having freedom means that others should not interfere with our life plans, then each individual's status as free is dependent on others respecting their freedom. Freedom as a moral idea is tightly entwined with limits on what each of us can justifiably do. The declaration that we are all born as equals binds us together because each individual's status as equal is only realised if others treat them as their equal, whatever that entails. Conceptually, freedom and equality must lead to a set of moral claims individuals can legitimately make on others and standards of behaviour that we have moral reasons to accept.¹ However, the main reason for thinking that striving for individual freedom and equality creates a strong connection between people is not conceptual but based in facts about how we are dependent on each other and about the kinds of effects we can have on each other.

We begin life wholly reliant on others and achieving any human goods requires that we are protected, fed, and educated. More broadly we are bound up with other people because of the ways in which humans can help or hurt each other. We can steal from, injure, and kill each other, but we can also protect each other and trade and create with others. A central point of departure in the history of political thought, communicated particularly effectively by Thomas Hobbes, is that in the absence of extensive human cooperation the best we can hope for is basic and probably unpleasant survival over a short life.² As Hobbes makes clear, in conditions where we cannot rely on others to cooperate with us we are faced with the combined hardships

¹ This conceptual necessity does not of course tell us what these claims and standards should be.

² Thomas Hobbes, *Leviathan*, ed. Richard Tuck (Cambridge: Cambridge University Press, 1997), 86-90.

of not being able to trade and work together effectively and of having to be relentlessly on guard for the threat that others' interests will conflict with our own wellbeing.³

Achieving basic human goods such as collective security and reliable welfare, along with the more developed goods of the modern sciences and arts, can only be achieved in a society that is ordered in some way. Individuals are limited in their ability to provide for themselves, protect themselves and their property, and in their ability to enforce the arrangements they make with others. Likewise meaningful freedom and equality can only be achieved in an ordered society. Individuals cannot unilaterally construct a just world around themselves and they cannot unilaterally guarantee that others will treat them with respect.

Many of the goods we tend to associate with a life worth living are those made possible by relatively large and complex societies such as modern states. With the exception of some anarchists, it is widely held among political theorists, economists, and political scientists that when societies become large and complex social cooperation and regulation must to some extent be arranged through political institutions instead of on a face to face basis or through small scale communal norms.⁴ There are a wide range of views on how much political regulation is required and in which realms of interaction the influence of political institutions is necessary. Even so, the claim that goods such as welfare, freedom and equality are goals that inevitably tie us to other people can most often be interpreted to mean that it is through well ordered political societies that these goods can be put into practice. Substantive arguments about social justice couched in terms of freedom and equality are thus part of a larger set of arguments for how we should organize a political order so that its members can have meaningful lives.

In this book I will argue that the problem of global warming is an instance of us being bound together worldwide in the morally distinct way described above. The potential threats to human welfare from our impacts on the environment are the kinds of threats that give rise to the need for us to work together to secure human goods. When I say that global warming has bound us together globally in the same way we are bound together in existing political orders I am appealing to three distinct ways of being interconnected.

First, we are interconnected by the fact that we are together and at a global scale threatening the environmental conditions we all depend on for our welfare. Global warming is simply one example, although a dramatic one, of the fact that we can have negative impacts on others' abilities to secure human goods. Second, we are further bound together by the fact that addressing this threat requires that we act together. The challenges involved

³ Ibid., 170-74.

⁴ A summary of the arguments for why political institutions are necessary in modern societies is presented in Chapter III under the heading 'The collective goods justification of the state.'

in mitigating global warming is an example of how securing human welfare requires dependence on and contribution to collective efforts. Third, because we can only, I will argue, achieve meaningful results through global institutional arrangements that can assure compliance to collective mitigation strategies, we must actively intensify global interconnectedness by entering into a new and global political project.

This third claim amounts to the view that global warming has connected us together politically in some way and is based on both empirical and normative assessments. The empirical assessment follows from research in international relations and international political economy on global warming. Here we see compelling arguments predicting that states will not overcome the global cooperative challenges involved in addressing the threat of climate change through voluntary or weakly enforced international agreements.⁵ This means that achieving significant reductions of green house gas (GHG) emissions, which are thought to be causing global warming, cannot be achieved through international agreements like the Kyoto Protocol that do not have strong systems for compliance.⁶ If this evaluation is correct it is of course not enough to show that we are bound together politically in the way I have suggested above. What is needed is an argument showing that we have decisive reasons to secure the institutional conditions at the global scope through which we could collectively respond to the threat of global warming. It is this later normative problem that will be the central topic of this book.

Theoretical analysis and empirical research in support of the claim that voluntary or weakly enforced international agreements are not likely to result in large scale reductions of total global GHG emissions will be described in some detail in Chapter III. However, it is worthwhile to introduce the basic reasoning behind this perspective before presenting the normative questions this work will address. The reasoning is as follows:

- 1) The International Panel on Climate Change (IPCC) in its most recent report from 2007 predicts that to avoid dangerous levels of climate change we have less than a decade to aggressively redirect powerful trends of *increasing* global GHG emissions and turn them into powerful trends of *decreasing* global GHG emissions.

⁵ This research is reviewed in Chapter III.

⁶ The Kyoto Protocol is the name for an international agreement that commits industrialized countries to cut their emissions of green house gases to, on average, 5.2 % below their 1990 levels by 2012 (there are no emission targets for developing countries). This agreement has been ratified by over 170 countries as of April 2008 (*Kyoto Protocol to the United Nations Framework Convention on Climate Change*, <http://unfccc.int/resource/docs/convkp/kpeng.html>).

- 2) Given this very short time frame, having a realistic chance to achieve the extensive changes thought necessary requires the implementation of public policy that will create market incentives for mitigation or that will directly limit emissions levels.⁷ Here we see increasingly broad support in the academic literature for the view that major reductions in GHG emissions will require policies that can in one way or another put costs on these emissions (i.e. prices for the emission of carbon dioxide (CO₂) and other GHGs).
- 3) The efficiency of these kinds of economic policy instruments both in terms of costs and ability to affect large scale reductions of GHG emissions depends on the coordination of policy structures at the global scope. Without global coordination the costs of achieving large scale reductions in GHG emissions rise significantly. Furthermore, without global coordination the efforts of countries that are reducing their GHG emissions can be undermined by a host of other countries. All countries that currently have significant emissions, are developing a capacity for large scale emissions, or could develop such capacities have the potential to undermine other nations' mitigation efforts.
- 4) Holding down the costs of reductions in GHG emissions is a major factor in motivating action on climate change. Likewise, ensuring that reductions efforts undertaken by some actors are not undermined or made inconsequential by other actors is another central aspect in motivating and sustaining efforts to address the threat of global warming.
- 5) The credibility of a system of coordinated and effective policies at the global scope aimed at generating incentives for GHG emissions reductions requires some system for ensuring compliance to such policies.
- 6) The upshot is that efforts to significantly reduce GHG emissions cannot be achieved through international agreements like the Kyoto Protocol that have very weak compliance mechanisms. At the same time, globally coordinated policy arrangements that generate prices on GHG emissions and entail stronger compliance mechanisms require limiting the sovereignty of states in ways states are not currently limited.

Many would argue that we face an impasse without any clear resolution. Immediate and effective action is necessary and requires a type of global coordination that will limit the sovereignty of states. At the same time when trying to develop proposals for how to respond to this global environmental

⁷ This is not to deny that a wide range of measures at many different scales will have to be adopted if we are to successfully change current patterns of atmospheric pollution.

threat we should take the state system as it currently exists to be an enduring fact about the world. As we will see, this impasse leads some to propose coordination strategies at various scales that do not limit state sovereignty and that have doubtful credibility. Others argue for strategies that can be adopted more unilaterally by states but that have questionable effectiveness. Some argue that we should give up on mitigation and focus instead on adaptation to climate change or even on entirely different problems. But what if we do not take the state system as it currently functions to be an enduring fact about the world?

The central aim of this work is to investigate the implications in justice that follow from the above empirical assessment, and in this kind of normative analysis one must begin by being open to the prospect of large scale social or political change. An implication that stands out following the above empirical assessment for the political theorist is that to realistically overcome the global collective action problems generated by any serious effort to mitigate climate change a supranational form of political authority is required. In other words, what is needed is some global system that could credibly implement and enforce compliance to public policy. These empirical conditions in turn raise a central problem for normative political theorizing on the issue of climate change. Are the reasons we have for acting in response to the threat of global warming, if we have any at all, strong enough to support a duty to accept some new form of global political authority? Ought we to bind ourselves together with others in a global political effort that will limit the self-determination of states to some degree? These questions are the central research problems of this dissertation, and in answering them I make a comparison between the case of global warming and liberal justifications of the state.

I will argue that one can employ familiar liberal arguments for the morally legitimacy of political order to show that we do now have a duty to support a global political project that will allow us to collectively address our impact on the Earth's atmosphere. If one accepts the ideas that human goods are dependent on establishing political orders and that individuals have moral reasons to accept the limits and demands of political society, then one should also accept my claim that the problem of global warming gives rise to similar kinds demands at the global scope. In other words, the grounds on which we could justify the moral legitimacy of states following foundational liberal premises also give us reasons to expand the scope at which we are politically constrained. The nature of the climate change problem has made general justifications of political order applicable to global relations.

There is a great deal of division within liberal political thought over the notion of global justice. Some argue that the demands of social justice traditionally thought to be owed among members of a state are, in part or in whole, actually owed among all individuals everywhere. Others are sceptical of this dramatic broadening of the scope of distributive and political justice

and argue that the demands of social justice remain largely within the confines of existing political communities. I will argue that even if one adopts the premises employed by the most influential forms of liberal scepticism to the idea of global justice it is clear that the threat of global warming has expanded the scope of justice. More specifically, we now have a demanding duty of justice to *create* the political conditions at the global scope that would allow us to take decisive action to limit human induced climate change.

Global *political* justice and the problem of political authority

As we will see (especially in Chapter II), contemporary work in political theory on the issue of justice over state borders has tended to focus on distributive justice and to a lesser extent on political justice.⁸ The drastic contrasts between the chronic poverty afflicting the world's poorer regions and the unprecedented wealth enjoyed in the world's rich regions raises moral questions about the distribution of wealth globally. For similar reasons global economic relations and the fairness of their distributive effects have recently received a great deal of attention as problems of justice. The focus on distributive justice has also been at the centre of normative theorising on the threat of global warming.⁹

Here work has tended to concentrate on questions about how to distribute responsibilities for burdening the costs of mitigating and/or adapting to human induced climate change between more and less developed countries. It is the world's rich states that account for the majority of the GHG emissions currently in the atmosphere and that have enjoyed the lion's share of the economic benefits from the energy use and intensive agricultural production that are the sources of this pollution. At the same time the growth in countries like China and India means that developing regions will soon overtake developed regions in total GHG emission levels. As such, on a go forward basis it is no longer the case that the world's more developed regions can determine future outcomes for this environmental problem.

Another central issue raised by global warming is the question of fairness in the distribution benefits and costs from human productivity between generations. Given our radically increasing capacity for large scale natural resource depletion and environmental pollution the question of what our obligations to future generations are is being asked with growing urgency. Do we have any duties to protect the environment for the sake of people that do not yet exist, and if so what costs or limits to the current generation's consumption/welfare are required by justice?

⁸ See Charles R. Beitz, "Cosmopolitanism and Global Justice," *Journal of Ethics* 9, no. 1-2 (2005).

⁹ See Stephen M. Gardiner, "Ethics and Global Climate Change," *Ethics* 114, no. 3 (2004).

In this work the focus is shifted from the more studied issue of global distributive justice to the less studied issue of global political justice. More specifically, in arguing that global warming has created a duty to support a new supranational form of political authority I must address a pair of classic problems for political and legal philosophy. These are the justifications for political authority and for individuals' political duties within political communities. Traditionally the questions have been 'is the authority exercised by the state morally justified' and 'do residents have duties to obey the law and support the state as a political project?' I reflect on these same problems but instead ask them in the context of human relations at the global scope. The questions become, 'when, if ever, are global forms of political authority justified' and 'can individuals have duties to support the creation of new global political arrangements for the sake of justice?'

I approach the threat of global warming in this way first because this environmental problem raises the prospect that we would need some global form of political order that could coordinate the actions of states in order to address it. As we will see this ends up being a question about whether or not the institution of a global political authority to secure the basic human need for a safe and relatively stable climate can be justifiable. Is climate change the kind of collective problem that could warrant the interference of coercive political institutions? Do we have good reasons to think that states will fail to achieve adequate levels of cooperation and that a supranational arrangement that can enforce a coordinated global strategy is necessary? When the answers to these questions are yes they bring forth a set of normative problems regarding political legitimacy that are in important respects prior to the distributive problems noted above.

If the threat of climate change generates collective action problems that appear intractable independent of some supranational form of political authority then many of the principles of distributive justice we can identify for relations between wealthy and poor states or between generations will require some new political form of association through which they can be realised. This in turn raises the subject political legitimacy at the global scope. What one might call 'the problem of political legitimacy' is the question of whether or not the coercion exercised by a political authority can be *morally justified* to the individuals subject to this authority. It is one thing to say that we would need a global form of political authority to have a reasonable chance at avoiding dangerous levels of global warming, it is quite another to claim that individuals could have duties to support the creation of such a global political project. One of the central problems of political legitimacy I will tackle is whether or not individuals around the world could have political duties that would require them to support a supranational political response to the threat of global warming. Another is the question of at what scope political decisions on how to respond to global warming must be made if they are to count as morally legitimate. Do sovereign states have the le-

gitimacy to independently make public policy on the threat of global warming or must we make decision as a global collective if our policies are to be justifiable to those affected by these decisions?

The traditional problems of political legitimacy remain controversial. Political theorists continue to debate if states could ever secure moral legitimacy for the coercion they exercise over members? Equally as debated is the question of what states must be like to count as morally legitimate and what the source of individuals' political obligations or duties are. It will be necessary to spend some time addressing these problems at the level of general theory in order to advance the argument of this book. Yet the reasoning I will put forth on these topics will aim to add to thinking about political authority and legitimacy by reflecting on these issues for the global scope. Through the case of climate change I will show how one type of argument for global political duties can proceed. The level of ambition is to address these questions by assessing what a commitment to the basic premises and normative positions widely adopted in liberal political thought entail for the case of global warming.

Misgivings about proposals for global political authority

Although there is a greater focus on the notion of global distributive justice in the existing literature the contention that global problems or processes of globalisation call for new global forms of cooperation that may weaken the sovereignty of states is certainly not new.¹⁰ Arguments for such changes are advanced in the name of addressing global poverty and human rights violations, for making global trade and monetary arrangements fairer, to prevent species and habitat destruction, and to prevent wars. The idea of a global form of political authority is sometimes put forward for the specific case of climate change as well.¹¹ However, the fact that we are all affected by global

¹⁰ For some contemporary examples see: Richard A. Falk, *On Humane Governance: Toward a New Global Politics* (Cambridge: Polity Press, 1995), Daniele Archibugi, "Cosmopolitan Democracy and Its Critics: A Review," *European Journal of International Relations* 10, no. 3 (2004), Brian Barry, "Statism and Nationalism: A Cosmopolitan Critique," in *Global Justice*, ed. I. Shapiro and L. Brilmayer (New York: New York University Press, 1999), William D. Coleman and Tony Porter, "International Institutions, Globalization and Democracy: Assessing the Challenges," *Global Society* 14, no. 3 (2000), David Held, "Changing Contours of Political Community," in *Global Democracy*, ed. B. Holden (London: Routledge, 2001), David Held, "Law of States, Law of Peoples: Three Models of Sovereignty," *Legal Theory* 8, no. 1 (2002), David Held and Anthony McGrew, *Globalisation/Anti-Globalisation* (Cambridge: Polity Press, 2002), Thomas Pogge, *World Poverty and Human Rights* (London: Polity Press, 2002).

¹¹ For example see Thomas Pogge, "Cosmopolitanism and Sovereignty," *Ethics* 103, no. 1 (1992): 65-67., Peter Singer, *One World*, 2nd ed. (New Haven: Yale University Press, 2004), 49-50.

conditions and processes of globalisation simply does not amount to an obvious argument for introducing global forms of political authority.

The most noticeable problem with following such reasoning too quickly is that states may be able to secure collective action and implement normative principles within the state system as it currently functions. Moreover, even when there is a strong empirical case for the view that states face a difficult collective action problem that makes it unlikely to achieve sufficient levels of some essential good, e.g. security, there remain a host of concerns that proposals for global forms of political authority give rise to. On balance the idea may not be worth the costs or risks.

For example, a global government even if democratically controlled (assuming global democracy is possible) is nevertheless a form of political authority that is by design highly centralised and distant from individual subjects in terms of the weight of their influence on policy. Immanuel Kant famously argued that this distance would likely lead a world government to become either tyrannical or weak and ineffective.¹² Another concern is that a world state might put pressure on previously self-determining communities to accept locally whatever form of political association that is employed globally, undermining a pluralism of political cultures.¹³ Furthermore, all states are characterised by and engage in what is sometimes called nation building in order to create a common identity among subjects. Such common identities, it is argued, serve to secure support for the collective political projects and standards of social justice among members of states.¹⁴ As such a global state would certainly aim towards creating some kind of common identity among members, which could ultimately undermine cultural diversity more broadly. Strengthening a shared sense of identity at the global scope is not necessarily a threat to cultural difference, but the overall risk being appealed to is that a world government would simply be a tool for powerful states, cultures or elites to control the rest of the world.

Though what I will propose is very far from a global state, the implications of an argument for supranational forms of political authority are far-reaching. Even if the policy area under question is (and could be) limited, the risks involved in any genuinely effective form of global governance are similar to those involved in a global state. In a recent *Financial Times* article the president of the Czech Republic, Václav Klaus, echoed this concern with regards to efforts to coordinate reductions of global GHG emissions. Klaus argues that we can see “the biggest threat to freedom, democracy, the market economy and prosperity now in ambitious environmentalism, not in commu-

¹² See Immanuel Kant, *Kant: Political Writings*, trans. H.B. Nisbet., 2nd, enl. ed. (New York: Cambridge University Press, 1991), 41-53, 93-130.

¹³ See for example Michael Walzer, *Arguing About War* (New Haven: Yale University Press, 2004), 171-89.

¹⁴ Will Kymlicka, *Politics in the Vernacular* (Oxford: Oxford University Press, 2001), 25-30.

nism. This ideology wants to replace the free and spontaneous evolution of mankind by a sort of central (now global) planning.”¹⁵

Klaus’ comments echo familiar allegations. The push to create a global political response to climate change is part of a conspiracy orchestrated by people that value the environment over human welfare, by socialists that want to limit freedom and capitalism, or by western elites that want to control an increasingly powerful developing world. It is not difficult to see the strategic quality of such charges. One makes an assessment of what it would take to successfully address the problem and then one turns the solution into an accusation. This puts those that think we need to address the threat of global warming on the defensive. In the worst case a defensive debater unilaterally takes solutions that would require supranational arrangements off the table. This is a problem because, for example, it is not likely that we can have an effective global carbon tax scheme or a global emissions cap and carbon trading system without some global arrangement that weakens states’ sovereignty. One would expect the need for some system of enforcement to ensure that individual states comply with tax/cap levels. This is because in the absence of credible compliance mechanisms it will be difficult for states to underwrite confidence in such a system (see Chapter III). Yet the possible implications for state sovereignty do not mean that these two alternatives should be ruled out of hand from the outset.

The debate strategies used by those that want to undermine efforts to reduce GHG emissions should not limit serious thought about how to react to the massive environmental challenge we appear to be facing. Nevertheless there is good reason to be concerned with the desirability of global forms of governance that are effective in implementing policies even when individual states attempt to avoid enforcing the policy in their territories. In addition to the imperative concern about whose interests would actually be guiding proposed supranational political arrangements, there should be a concern that global forms of political authority will be embodied by institutions with their own inherent interests and logic.

For example the interests of a political institution and/or its officials may steer it towards trying to expand the reach of its influence beyond what was originally envisioned. A supranational institution limited to climate policy could attempt to reinvent itself once major GHG reductions are achieved so as to continue to exercise influence and authority over states.¹⁶ We must also be concerned about the possibility that even when theory speaks for a supranational arrangement the reality of political compromise in such an institution could give results that are on the whole worse than the sum of varying

¹⁵ Vaclav Klaus, "Freedom, Not Climate, Is at Risk," *Financial Times*, June 13 2007.

¹⁶ For example, one could imagine a shift of focus from the specific task of reducing GHG emissions to promoting sustainable development generally. This would be a much vaguer goal that would give more leeway for the pursuit of public policy in a broad range of areas.

local efforts. Likewise we must consider what a lack of political will among existing agents to support such arrangements means for a normative theory that prescribes such a global political response to human induced climate change. In other words, what will normative theory prescribe to individual agents in the climate change case given a context where others lack the will to cooperate?

Many of the misgivings about the desirability of global forms of political authority have to do with the design of the proposed institutions. Could they be designed to represent the interests of all subjects in both a fair and effective way? Can supranational arrangements be limited to specific policy areas, leaving most meaningful political authority at the state level? Are global forms of political authority feasible at all given the scale at which politics would need to operate at, the diversity of interests and cultures around the world, and the current structure of states and international relations? In the next section I will speak very briefly to these questions of institutional design and feasibility. However, the body of this work will focus on a much more preliminary question. Are there clear moral reasons for supporting a global form of political authority to address the problem of climate change?

Before we can even begin to talk about questions of institutional design we must know if it makes sense to say that we have a moral duty to work together to address our impact on the environment. If we do have such a duty, we must also know if we have a reason to think that accepting the costs and limits of a global *political* solution is morally required. Given conditions where instituting a global form of political authority is feasible, would such a response to the problems raised by global warming be on balance the only or best way to satisfy our duties to others? Simply pointing out that human induced global warming has connected us all together does not amount to an obvious reason to take on some set of demanding duties of justice so that we can reduce GHG emissions.

Note that by *demanding duties of justice* I mean the idea that members of at least minimally just political orders have duties to accept a system of law and order, taxation to provide essential collective goods, a system for wealth re-distribution, and the dictates of democratically guided political institutions. This is a term I will use throughout this book. Also note that the term *demanding duties of justice* indicates the *political* and *distributive* duties of justice we associate with, especially, a liberal democratic state generally and not necessarily all of the duties of justice thought to pertain in specific states.

Liberalism and uncertainty about the demands of global justice

That interconnectedness or interdependence are not obviously compelling reasons to think we have demanding duties of justice in the case of global warming is made apparent in the general debate over what Thomas Nagel

calls “the problem of global justice.”¹⁷ This problem is the philosophical question of whether it makes sense to think that there are in fact standards of global justice comparable to the standards of social and political justice we accept at the state level. Does it make sense to talk about global distributive or political justice at all? Many acknowledge the claim that a just state has a responsibility to ensure that its citizens do not fall below a certain living standard. For example, in a wealthy welfare state citizens would not accept a situation where those people whose earnings are in the bottom ten percent of income are constantly threatened by starvation. At the same time hundreds of millions of people living in the bottom twenty percent of world income suffer from food insecurity and millions die of starvation each year.¹⁸ Wealthy countries do have the capacity to at least dramatically diminish this starvation. Does this mean that the world’s rich have a collective responsibility to ensure that the world’s poor have enough food in the same way a political community has such a responsibility towards its citizens? Such a principle is one example of what one could mean by global justice, but it is not enough to simply point out that we can act collectively to do something to show that we share in a moral responsibility to actually do it.

In the most general terms the global justice literature is characterised by those that claim that we are bound by demanding duties of justice at the global scope and those that argue that it is only given the kind of interconnectedness that is found chiefly within states that it makes sense to talk about social justice. The argument from this dissertation makes a contribution to the global justice literature by advancing a thorough argument for how global interconnectedness can generate demanding duties of global political justice. The argument is developed in a manner that should be compelling for many of those that are sceptical to the idea. In particular the aim is to show that the central tenants of liberal political thought strongly support my cosmopolitan thesis; namely that we have duties to enter into a global political project that would allow us to overcome the existing collective action problems that make mitigation of global warming so difficult to achieve.

Cosmopolitanism denotes a host of views on relations between people at the global scope that have in common the notion that it is possible for each of us to belong to a global community in some way or another. Contemporary cosmopolitan thought is often focused on the following normative ideas: each individual has moral worth, this moral worth is equal regardless of the state or community one belongs to, and these facts generate some more or less limited set of moral standards that are binding on everyone everywhere.

¹⁷ Thomas Nagel, "The Problem of Global Justice," *Philosophy and Public Affairs* 33, no. 2 (2005).

¹⁸ See Food and Agriculture Organization of the United Nations, "The State of Food Insecurity in the World," (Rome, Italy: Food and Agriculture Organization of the United Nations, 2006).

We are, according to cosmopolitans, part of a global moral community. The central argument of contemporary cosmopolitan political thought is that the demands of justice must be decoupled, at least to some degree, from the territorial bounds of the state. Cosmopolitanism is thus a challenge to current practice where we are thought, for example, to have demanding duties of distributive justice (e.g. social welfare programmes) within the state but not over state borders.

Within the global justice literature it is liberal cosmopolitans that have advance the strongest arguments for this expansion of the scope of justice based on new kinds of global interconnectedness.¹⁹ Changes in the intensity and impacts of global trade and other forms of globalisation are thought to create a set of conventions, institutions, and patterns of interaction that constitute, following John Rawls' terminology, a global basic structure.²⁰ This global basic structure must be justified to those affected by it in the same way traditional theories of justice require that the basic structure and institutions of the state must be justified to those who are subject to the state's authority. This in turn means that relations at the global scope can be subject to principles of justice in the same way relations within a state are or should be.

Appealing to changes in how we affect each other over state borders is only one of several ways in which cosmopolitan theories of global justice are advanced, and some alternative views will be described in the following chapter. However, for the purpose of introduction what I want to highlight is that arguing for expanding the scope of justice because of increased interconnectedness fits well with the view that when problems of environmental damage become trans-boundary or truly global in scope this interconnectedness also expands the scope of justice. On this view the territorial limits of states are no longer good touchstones for identifying those to whom we owe demanding duties justice. Furthermore, the system of sovereign states may not have the capacity or the legitimacy to address the environmental impacts we have on each other.

At the same time one often finds dissatisfaction with liberalism among those that argue for standards of global environmental justice. This dissatisfaction is apparent despite the fact liberal cosmopolitans regularly point to environmental degradation and its impacts as one reason for expanding the scope of justice beyond the territorial limits of the state. One of the causes for scepticism towards liberal approaches is that despite what liberal cosmopolitans argue many of the most notable anti-cosmopolitan theories are also

¹⁹ Prominent examples are, Charles R. Beitz, *Political Theory and International Relations*, revised edition ed. (Princeton, NJ: Princeton University Press, 1999), Pogge, *World Poverty and Human Rights*.

²⁰ See Beitz, *Political Theory and International Relations*, 125-69, 98, Thomas Pogge, *Realizing Rawls* (Ithaca: Cornell University Press, 1989), 240-73, John Rawls, *A Theory of Justice: Revised Edition* (Cambridge, MA: Harvard University Press, 1999), 6-7.

advanced by liberals. In what is sometime called ‘green political theory’ one central problem with liberalism is that it does not clearly support the view that trans-border and global environmental problems generate the kinds demanding political and distributive duties of justice that we normally associate with a state.²¹ This work will be particularly focused on addressing this uncertainty about the implications of liberal political thought for the prospects of global justice in the face of the threat from global warming.

The prospect of global environmental justice

Many liberal thinkers view political and distributive justice as largely or even exclusively about relations between people within *existing* coercive political orders, i.e. states.²² On this view individuals and even states may still have certain environmental or even ecological moral duties over state borders. However, such general moral duties might not be demanding enough to support the broad economic, social, and political changes envisioned in much of what is prescribed by those that call for standards of global environmental justice. Such changes entail the kinds of demanding distributive and political duties that liberals tend to associate with standards of justice among individuals *within* a political order, and not with the general moral duties we owe to any individual.

There are many characterisations of liberalism in green political thought that liberals would consider unfair. For example one finds the claim that liberalism entails giving preference to the interests of consumers and markets over other kinds of interests, making sharp distinctions between the public and the private realms, and being concerned largely with individuals’ rights and only secondarily with duties.²³ Each of these supposed features of liberalism is thought to weaken the basis for requiring of individuals that they take full responsibility for their impacts on the environment. However, it is clear that liberal theories of distributive justice are not foundationally committed to maximizing consumption or even economic growth,²⁴ feminist

²¹ Another important reason for dissatisfaction with liberalism is that its premises tend towards anthropocentric principles of justice where the significant of the natural environment consists of its instrumental value to human animals. Here there appears to be a foundational divide between liberal theories of justice and, for example, political ecology.

²² Michael Blake, "Distributive Justice, State Coercion, and Autonomy," *Philosophy and Public Affairs* 30, no. 3 (2001), David Miller, *On Nationality* (Oxford: Oxford University Press, 1995), Nagel, "The Problem of Global Justice," Rawls, *A Theory of Justice: Revised Edition*, Mathias Risse, "What to Say About the State," *Social Theory and Practice* 32, no. 4 (2006).

²³ See Andrew Dobson, *Citizenship and the Environment* (Oxford: Oxford University Press, 2003), Marcel Wissenburg, "Liberalism," in *Political Theory and the Ecological Challenge*, ed. Andrew Dobson and Robyn Eckersley (Cambridge: Cambridge University Press, 2006).

²⁴ Frederic Gaspart and Axel Gosseries, "Are Generational Savings Unjust?," *Politics Philosophy Economics* 6, no. 2 (2007), Rawls, *A Theory of Justice: Revised Edition*, 228-50.

thinkers have shown in compelling ways that a coherent liberalism cannot use appeals to individual liberty/autonomy to blindly support a stark and supposedly 'natural' distinctions between public and private concerns,²⁵ and there does appear to be room within a liberal framework for demanding other regarding duties of justice as first-order concerns, especially following Kantian liberal thought. Still, I think we can in part understand the above concerns as rooted in the correct perception that following a liberal framework it is not yet clear that environmental problems over borders and generations give rise to duties of justice on par with the demanding duties of egalitarian justice liberals argue pertain between citizens of nation-states.

In this work I will take as my starting point an explanation for why one of the most widely held and strongest expressions of liberal anti-cosmopolitanism, what Nagel calls the "political conception of justice,"²⁶ cannot simply be dismissed by cosmopolitans and green political theorists because it may fail to support desired environmental ends. The political conception of justice represents one of the most important challenges to cosmopolitanism generally and is thus a serious challenge to viewing global environmental problems in terms of cosmopolitan justice. The remainder of the work is then dedicated to showing that in the case of human induced global warming the political conception of justice does have clear cosmopolitan implications under current conditions despite what its proponents claim.

The argument I will reach by the end of this book is that if one rejects strong partiality for the interests of the current generation, then the political conception of justice does entail a *duty of justice* to create a new global political project to address the human impact on our climate. If achieving meaningful levels of GHG reductions requires global institutional arrangements designed to overcome exceedingly difficult global collective action problems, then it is only by engaging in this kind of global political project that we *could* choose to act in a way that is not unjustifiably partial to the current generation's interests. In other words, it is only by engaging in a global political project to address global warming that we will be able to avoid allowing our own short-term interests to impose on people all over the world and far into the future damage that will seriously harm the environmental conditions on which human welfare is dependent.

Note that the aim of this book is not to advance a theory on the extent of our duties of justice to future generations in the case of climate change.

²⁵ For an excellent example of this argument see Susan Moller Okin, *Justice, Gender, and the Family* (New York: Basic Books, 1989). For an overview of relevant liberal feminist work on the compatibility of liberalism, feminism and the implications for liberal theory more generally see Ruth Abbey, "Back toward a Comprehensive Liberalism?: Justice as Fairness, Gender, and Families," *Political Theory* 35, no. 1 (2007).

²⁶ Nagel, "The Problem of Global Justice," 120.

Rather, the point I want to make is that one need only accept that we have at least some duties to future generations in order to get demanding cosmopolitan standards of political justice off the ground. More generally the work will show that just as a focus on gender has been used by liberal feminists to demonstrate that a coherent liberalism cannot lazily recognize socially accepted distinctions between the public and the private, a focus on environmental interconnectedness helps us see that liberals cannot simplistically limit the scope of demanding duties of justice to those that share in an existing coercive political order (i.e. a state).

The reader should note a methodological benefit of focusing on one of the most robust forms of liberal anti-cosmopolitan. If one can show that even those that hold the political conception of justice should accept a normative argument for a new global form of political authority in the case of climate change this reasoning will challenge a wide variety of perspectives on justice that are statist in character. By *statism* I simply intend to describe those views that can be contrasted with cosmopolitanism because they hold that nation-states demarcated the scope at which most or all of the demands of justice ought to be realised. As we will see, the cosmopolitan argument I advance for the case of global warming represents a serious challenge to statism because it entails a parallel with the argument in liberal thought generally for why we should have states in the first place.

Because of the effects we can have on each other our ability to achieve human goods at all is dependent on solving a host of collective action problems by creating and/or supporting a political order that can secure essential collective goods such as collective security. On the statist view this is ultimately why states are thought to be necessary and this necessity plays a central role in any argument that tries to show that the authority exercised by states is morally justifiable. Following the political conception of justice there is something distinct about such political orders that give rise to far-reaching demands of egalitarian justice between the individual members of states. I will argue that following the logic of the political conception of justice distinctive kinds of interconnectedness at any scope can give rise to far-reaching demands of political justice. It is through demonstrating a convincing parallel between reasoning that is already incorporated into liberal statist thinking and my argument for a supranational form of political authority that the thesis of this book is able to advance a broadly challenging argument. The idea is that even if we follow what liberals sceptical to the idea of global justice say, the threat of global warming does expand the scope of justice to the global sphere.

A note on divisible sovereignty

Before giving a chapter by chapter outline for the rest of the book we should pause to observe a problem with any proposal for a supranational form of

political authority limited to one or a few policy areas. Such proposals regularly confront immediate scepticism because they amount to the claim that sovereignty could be divided between states and some global authority. Divisible sovereignty is the idea that it is possible to have states with genuine sovereignty within their territory over most policy areas while for other policy areas sovereignty is located within a global or regional supranational institution.

There are a host of theorists that claim it is possible to create such supranational institutional arrangements,²⁷ but this notion also contradicts the Westphalian model of sovereignty that is often said to describe our current state system. On the Westphalian model, as Stephen D. Krasner notes, "Rulers may be constrained, sometimes severely, by the external environment, but they are still free to choose the institutions and policies they regard as optimal. Westphalian sovereignty is violated when external actors influence or determine domestic authority structures."²⁸ The problem is then that normative proposals for supranational political authority may fail on the simple and familiar criterion of 'ought implies can' if it is the case that we must choose between a state system where individual states have Westphalian sovereignty or a global state that exercises absolute sovereignty. If it is not possible to divide sovereignty then the moral question of whether or not we should accept some limits on state sovereignty to collectively address climate change appears to lose its relevance.

Following the traditional understanding of the Westphalian model sovereign authority over some territory can only be located in one place. When a state's highest political authority does not have supreme and absolute authority over its territory then genuine sovereign authority must either be located in some other actor (e.g. another state) or else there must be a lack of sovereignty authority in the given territory. In practice the theoretical claim that sovereignty must be absolute and indivisible is not born out by empirical evidence.²⁹ Krasner in his widely cited study on the practice of sovereignty finds that,

²⁷ See Archibugi, "Cosmopolitan Democracy and Its Critics: A Review," Barry, "Statism and Nationalism: A Cosmopolitan Critique," Coleman and Porter, "International Institutions, Globalization and Democracy: Assessing the Challenges," Falk, *On Humane Governance : Toward a New Global Politics*, Held, "Changing Contours of Political Community," Held, "Law of States, Law of Peoples: Three Models of Sovereignty," Held and McGrew, *Globalisation/Anti-Globalisation*, Pogge, *World Poverty and Human Rights*.

²⁸ This is a description of external sovereignty. The related internal element of sovereignty is satisfied when the highest level of political authority in a state is a supreme authority, meaning that its authority supersedes all other actors within its territory. Stephen D. Krasner, *Sovereignty: Organized Hypocrisy* (Princeton, NJ: Princeton University Press, 1999), 20.

²⁹ See Stephen D. Krasner, "Compromising Westphalia (Nuclear Issues in Asia)," *International Security* 20 (1995), Krasner, *Sovereignty : Organized Hypocrisy*, Andreas Osiander, "Sovereignty, International Relations, and the Westphalian Myth," *International Organization*

The bundle or properties associated with sovereignty - territory, recognition, autonomy, and control - have been understood, often implicitly, to characterize states in the international system. In fact, however, only a very few states have possessed all of these attributes. Control over both transborder movements and internal developments has often been problematic....the basic principle of Westphalian sovereignty, the autonomy of domestic structures, has frequently been compromised through intervention in the form of coercion or imposition by more powerful states, or through contracts or conventions that have involved invitations for external actors to influence domestic authority structures....Recognition has been accorded to entities that lack either formal juridical autonomy or territory, and it has been denied to states that possess these attributes.... In the international system norms, including those associated with Westphalian sovereignty..., have always been characterized by organized hypocrisy.³⁰

For David Lake, critics that argue that sovereignty must be understood as indivisible “mistake a principle or myth for practice...we have nearly four centuries of experience with ‘slicing and dicing’ sovereignty into many forms.”³¹

There is also a clear body of literature arguing that the authority structures of the states have been significantly altered by processes of globalisation and that state sovereignty is being deeply challenged by transnational forces and actors.³² Yet one need not accept claims about *de facto* destabilization of state sovereignty to advance an argument for global forms of political authority. One can see states as by far the most important political actors and acknowledge a fundamental difference in the authority of states compared to transnational actors and still accept that it is possible to create institutions at the global scope that do fundamentally alter the authority structures of states. Daniel Philpott argues that new institutional developments show that independent states need not have absolute authority in their territories. He says,

It is possible for an authority to be sovereign over some matters within a territory, but not all. Today, many European Union (EU) member states exhibit non-absoluteness. They are sovereign in governing defense, but not in governing their currencies, trade policies, and many social welfare policies, which they administer in cooperation with EU authorities as set forth in EU law. Absolute sovereignty is quintessential modern sovereignty. But in recent decades, it has begun to be circumscribed by institutions like the EU, the

55, no. 2 (2001), Daniel Philpott, *Revolutions in Sovereignty: How Ideas Shaped Modern International Relations* (Princeton: Princeton University Press, 2001), Chapters 1 & 2.

³⁰ Krasner, *Sovereignty: Organized Hypocrisy*, 220.

³¹ David A. Lake, "Delegating Divisible Sovereignty: Sweeping a Conceptual Minefield," in *Delegation Sovereignty: Constitutional and Political Perspectives* (Duke University Law School: 2006), 2.

³² For example see David Held, *Democracy and the Global Order* (Cambridge: Polity Press, 1995), David Held *et al.*, *Global Transformations: Politics, Economics and Culture* (Stanford: Stanford University Press, 1999).

UN's practices of sanctioning intervention, and the international criminal court.³³

Krasner rejects the "hyperglobalist's" claim that state sovereignty has been significantly circumscribed by processes of globalization but accepts that,

The EU which has both supranational authority structures such as the European Court of Justice and the European Parliament, and pooled sovereignty notably qualified majority voting in the Council for some issues is a new new thing. The member states of the European Union are no longer conventional sovereign states even though their voluntary decisions have created the institutional arrangements that have undermined their own sovereign autonomy.³⁴

The message is that creating non-absolute supranational authority structures and pooling sovereignty between states is a choice states could make in designing global institutions.

The kind of supranational political authority I will argue for should be conceived of broadly on a supranational model with a policy space limited to a narrow set of instruments should we choose to act on mitigating climate change. Thus the kind of supranational political authority I have in mind in this work is, for example, a credible global system that could generate global prices on GHG emissions through a tax scheme or through some system of emissions caps, emissions permits and permit trading.³⁵ However, it is beyond the scope of this book to investigate issues of design further than this. Instead I will simply accept as a premise that it is at least possible to have supranational institutional authorities that circumscribe a clearly demarcated component of the sovereign authority states currently have. However, even if this premise is false and sovereignty cannot be divided it is clearly worthwhile for political theorists to investigate the idea that political authority over some policy areas ought to be located at the global scope.

If sovereignty is not so divisible so as to make possible the kinds of supranational institutions proposed, then I am faced with the choice of recommending the maintenance of the state system or the creation a global state. Most theorists that argue for global forms of political authority do not recommend a global state given the concerns listed in the previous section. Yet as conditions change so must our assessment of the desirability of a global state. Thus the more good arguments there are for locating sovereignty over some set of issues at the global scope and the less reasons there are for dis-

³³ Daniel Philpott, "Sovereignty," in *The Stanford Encyclopaedia of Philosophy (Summer 2003 Edition)*, ed. Edward N. Zalta (2003).

³⁴ Stephen D. Krasner, "Globalization, Power, and Authority," in *American Political Science Association Annual Meeting* (San Francisco: 2001), 7.

³⁵ Some may wonder why I call this a global form of political authority as opposed to global governance. The difference in terminology is explained in Chapter II under the heading 'A global natural duty of justice.'

paraging such a development the better the argument for a global state becomes. If in two hundred years cultural and political differences between countries have become negligible the argument for a global state might be improved dramatically.

The claim is certainly not that the problem of climate change takes us a long way towards an argument for a global state, nor am I claiming that we are unavoidably moving towards conditions that will demand or even facilitate the creation of a world government. Rather, I am claiming that political theorists should be continually weighing the arguments for and against this idea because changes in conditions change the kinds of political arrangements normative theory should recommend. Likewise, new conditions change the kinds of political arrangements that are possible.

Even if one could show both that it is not possible to combine supranational institutions with a state system and that no change in circumstances could ever tip the normative balance in favour of a world state, there is still a third reason for political theorists to investigate if there is a normative argument for locating political authority at the global scope. Take for example the question of collective global security. The United Nations (UN) aims to collectively ensure that aggressive war is deterred ultimately by the use of military force via its member states. According to the UN Charter the Security Council should determine when a state does and does not have a right in international law to use military force against another state.³⁶ In practice the UN system does not have the ability to ensure that its decisions are followed. Furthermore, many would argue that it lacks legitimacy to exercise the authority claimed in its charter or that one simply cannot achieve a system of collective security between states in the way envisioned by the founders of the UN. What is clear is that the UN system does not have sovereignty over global collective security policy. However, the normative claim that acts of military aggression must meet the standard of international legitimacy does seem to change the character of international relations.

States may never find themselves subject to a genuine global authority for ensuring collective security, but the fact that an international norm of justification is recognised in international law may compel powerful states to give reasons for their military activity in ways that states do not feel is necessary for other policy areas. The idea is that the kind of normative claims proposed in this work, even if not institutionalised, can change how we relate to each other at the global scope, thus making the investigation worthwhile. The conclusion we should draw is that the normative investigation proposed here does not fail to have relevance on the classic criterion of ‘ought implies can,’ even given a very conservative view on what is politically possible at the global scope.

³⁶ Chapter VII of the United Nations Charter

An outline of the book

The following chapter, Chapter II, begins by introducing some of the central tenants of liberal political thought and why political theory has become increasingly interested in the problem of global justice. I then describe how the case of global warming fits into this literature. This is followed by a more detailed outline of the various theoretical perspectives on the prospect of global standards of justice, both cosmopolitan and anti-cosmopolitan, that are most relevant to this work. Having introduced the problem of global justice and given a review of the current state of thought, I develop a rationale for why the anti-cosmopolitan ‘political conception of justice’ is taken to be the main opponent to my thesis. Finally I look to the established literature on what it would take to offer a convincing justification for the political authority exercised by states so as to lay out a plan for how to go about arguing for a duty to support a supranational form of political authority. This chapter gives the necessary theoretical background for the argument to follow in the rest of the book.

In liberal political thought justifying the demands of political and distributive justice to members of existing states is dependent in broad terms on arguments for 1) the need for political order and 2) individuals’ duties to support such orders. The first issue can be called the collective goods justification of the state, and is based in the claim that we need the state to provide a set of goods that are necessary to virtually all individuals’ wellbeing such as a secure and orderly society and protection of our rights and property. Without a state, it is argued, such goods cannot be provided, will be underprovided, or will not be provided in a just way. Given a successful argument for the need for some system of coercive political order the second issue that arises is how to justify to individuals that they have duties to support such political orders in various ways. In drawing a parallel between the way liberals justify the state to the case of global warming I will address the two kinds of arguments noted above in turn.

In Chapter III I review the standard collective goods justification of the state and then along a similar line of reasoning defend the claim that we would need a global form of political authority in order to be successful in achieving significant reductions in total world-wide GHG emissions. The aim of this chapter is to show that there is an empirically and morally relevant parallel between liberal arguments for why we need states at the domestic scope and the claim that achieving serious mitigation of global warming would require a supranational form of political authority.

After having reviewed the standard collective goods justification of political order in the liberal tradition, I present a theoretical account for why collective action is so difficult to achieve between states in the case of global warming. I also explain the degree to which it makes sense to compare the mitigation of global warming to collective goods we normally associate with

the state like law and order. Finally I review research on the international political economy of global warming, which indicates that in the absence of a credible system for compliance the effectiveness of coordinate global mitigation strategies will be inhibited. Having defended the notion of a need for a global form of political authority following liberal premises, the next stage in the argument is to show that individuals have duties to support such a global political project. This task is divided up into two chapters.

As we will see, justifying political duties at any scope is itself a highly controversial issue. In Chapter IV I defend the theory on the source of our political duties that is embodied in the political conception of justice. Rawls calls this theory “the natural duty of justice.”³⁷ Arguing that members of states have certain political duties requires defending the view that they have *non-voluntary* political duties. This is because the overwhelming majority of people never actively give their consent to the state’s authority in a way that could justify to them having political duties based on their voluntary choices.³⁸ Even if one only considers liberal democratic states, we will see that it is widely accepted in the existing literature that consent cannot be the source of citizens’ political duties in states as they exist today. As such those that want to say that citizens have demanding duties of justice within some existing state but not beyond it are committed to providing a non-voluntarist justification of political duties. Following the natural duty theory we can, at a foundational level, justify demanding political duties to each member of a state by appealing to the fact that *others* need a political order of this kind. Thus even when we do not consent to the state or benefit from it in morally relevant ways, we can still have a duty to support it based on what we owe to other individuals.

I will argue that we also have non-voluntary natural duties of justice to support a global political response to the threat of climate change. In other words, regardless of whether or not we consent to a global political response to the threat of climate change we have a duty to support this kind of supra-national collective political effort. However, before I can advance this claim I must defend the natural duty approach against a set of general objections and alternative theories on the sources of political duties. This is the first purpose of Chapter IV. The second purpose is to show how the political conception of justice entails a view on political duties that is applicable at the global scope as well.

Finally, in Chapter V I bring together the analysis from the previous three chapters to advance the central positive argument of this work. I argue that following the logic behind the claim that individuals have non-voluntary duties to support existing minimally just states, we should also recognise a

³⁷ Rawls, *A Theory of Justice: Revised Edition*, 99.

³⁸ See A. John Simmons, *Moral Principles and Political Obligations* (Princeton, NJ: Princeton University Press, 1979), 57-100.

non-voluntary duty to create and support a new global political project for ensuring compliance to collective decisions on the problem of global warming. Even if those alive today do not have self-regarding reasons to address the threat of global warming as individuals or as a global collective, we do have other regarding reasons that justify taking on demanding and global political duties.

I appeal to two types of other regarding reasons for supporting a global form of political authority in the case of climate change. First, if we do not create the institutional conditions at the global scope that would at least make it possible to prevent dangerous levels of global warming we will end up acting in a strongly partialistic fashion without any meaningful regard for the interests of *future generations*. By failing to create a global institutional arrangement that would give us a realistic chance of mitigating climate change we are indirectly ensuring large scale inaction for the existing generations. This kind of inaction is a form of strong generational partialism and is, I will argue, incompatible with the normative foundations on which the political conception of justice is grounded.

The second other regarding reason for supporting a global form of political authority in the case of climate change is as follows. It is no more legitimate for a political community to unilaterally dictate to their *contemporaries* in the rest of the world its non-support of collective political responses to the threat of climate change than it is for individuals to unilaterally dictate to a domestic political community their non-support of politically ordered society. Thus, in some circumstances existing political communities do not have the moral legitimacy to declare their own independence from obligations to support global political efforts. The claim here is that following the political conception of justice individuals living among members of a specific political community do not have the moral legitimacy to unilaterally declare that they will live as anarchists within the shared territory. This same reasoning can, I will argue, be applied to relations between political communities for the territory they share at the global scope. The conclusion, Chapter VI, gives a summary of the argument in this book, highlights this work's contribution to liberal political thought on the problems of global justice and political authority, notes some limitations of the study, and finally notes how this work may have relevance for other debates in the global justice literature.

Chapter II

Theorising about global political justice

To get a clear picture of how I will argue for a duty to support the creation of a global form of political authority it will be useful to begin by explaining why theorising about social justice is increasingly concerned with justice over state borders. I will then explain how the problem of global warming fits into this thinking about the scope of justice. This background will enable me to set the stage within the global justice literature in more detail by identifying the main opposing views to my normative thesis. Finally I look to normative theory on the problem of justifying political authority so as to develop a strategy for defending the central claims of this book.

Egalitarianism, social justice, and the problem of scope

The central premise driving theory forward in much of contemporary political philosophy is the moral equality of individuals.³⁹ What political theorists mean when they say that individuals are morally equal can be best expressed by noting what its opposite would entail. A belief in inherent *inequality* could amount to seeing the lives of those from a ‘lower’ race, class, gender, or culture as worth less than those of some ‘higher’ ordered group. Only a belief in inherent inequality could justify feudalism, patriarchy and other forms of strict hierarchal social order based in prejudice. It is the belief in the inherent moral inequality between human and nonhuman animals that justifies the pervasive practice of treating nonhuman animals as property and food.

There is widespread disagreement in normative theory over the moral status of nonhuman animals, but there is very little disagreement over the claim that the race, gender, class, or culture a human is born into is not relevant in determining the moral worth of the individual. Morally equality

³⁹ See Ronald Dworkin, *Sovereign Virtue* (Cambridge, MA: Harvard University Press, 2000), Will Kymlicka, *Contemporary Political Philosophy*, second ed. (Oxford: Oxford University Press, 2002).

means that there are no common inherent or circumstantial differences between people that could justify viewing some as valuable individuals that are owed our respect and concern but that could *also* justify treating others as things or as if they had no value at all. The moral equality premise is found in a range of theories of justice that can be described as egalitarian,⁴⁰ and these now dominate mainstream academic thought on the just society.

An intuitive reaction to egalitarianism is to focus on the gap between theory and what has actually been achieved. Equal opportunity is a widely held ideal that enjoys support across the political spectrum in many states. Yet few deny that opportunity remains powerfully linked to the wealth, health and education parents can provide their children. Political equality or equality before the law both enjoy widespread support, but few deny that economic power allows the rich to secure advantages in these spheres. Following even a conservative view on how wealth within society should be shared it is not difficult to identify unfair distribution at some level in nearly every state, if not all. This claim is compelling simply by noticing that many of the world's richest societies continue to fail to make sure that all resident children have adequate food and health care. This gap between principle and reality is even greater if we look at what theorists take to be the practical implications of a genuine commitment to moral equality.

In contemporary political philosophy a popular liberal view on social justice is that treating individuals as moral equals means that their rights, opportunities and access to resources within the political system should not be determined by arbitrary features of the individual beyond one's control. This means that gender and race, for example, are not acceptable grounds for unequal treatment. Some also argue that individuals should be compensated for arbitrary bad luck such as being born into a poor family, disabled, or with few marketable talents.⁴¹ Generally speaking the idea is that a just society limits the degree to which chances of birth dictate how individuals' lives go.

An influential form of liberal egalitarianism in the academic literature is advanced by Rawls. He argues that inequalities in the set of resources all individuals need to pursue their version of the good life should only be allowed when they are to the overall advantage of those in the worst off positions in society. Rawls defends this view in part by employing a hypothetical choice situation he calls the original position. Individuals in a society are to decide how to distribute liberties, opportunities, resources, and burdens among them, but in this choice situation they do not know their own identity.

⁴⁰ Observe that the moral equality premise is strongly associated most of contemporary political theory including, for example, the liberal, Marxist, utilitarian, and libertarian approaches. One cannot therefore assume much about the content of a theory of distributive justice simply by noting that the theory is founded on the moral equality premise.

⁴¹ For a review of what is sometimes called luck egalitarianism see Elizabeth S. Anderson, "What Is the Point of Equality?", *Ethics* 109, no. 2 (1999).

They do not know if they are men or women, of African or Asian decent, homosexual or heterosexual, rich or poor, lazy or industrious, and so on. Rawls argues that once we abstract away from individuals' personal characteristics and thus abstract away from individuals partial interests we can see that they would choose very egalitarian principles of distributive justice. Because they do not know what position in society they will have until after the choice is made, the only way for individuals to make sure that they have access the freedoms, opportunities and goods they need to lead worthwhile lives is to make sure that distribution in society is such that all individuals have access to these goods.⁴²

Rawls thinks that in the impartial choice situation individuals would choose to distribute resource so that the person that ends up in the worst off position is as well off as possible.⁴³ This is because each person in the choice situation may themselves end up in this position. The result is a highly egalitarian society, although not strict equality. What people would impartially choose in the original position is a controversial question as is Rawls' own interpretation of egalitarianism. This debate aside, when considering this thought experiment we are meant to ask ourselves if we are being influenced by our own partial interests as opposed to advancing an objective view about what is in fact just when we defend existing political arrangements that place us in a privileged position. Inegalitarian proposals become suspect because we have good reason to think that in a strictly impartial choice situation people would choose more egalitarian principles.

There are of course numerous proposals for what it would mean to treat individuals with equal concern. Some call for an even more equal distribution of resources than Rawls' theory while others call for far less. Yet what we can clearly see is that both familiar and far reaching visions of equality have clearly not been adequately realised. When we pay attention to these facts it is easy to be pessimistic and view academic talk about justice as utopian and disconnected from reality. At the same time it is no stretch to claim that seeing social justice as about treating people as equals now enjoys unprecedented social and political support.

What were once considered legitimate reasons for denying some people political rights or equal treatment before the law are now considered to be based on offensive worldviews. For example, in many states women's formal access to education and employment and their legal status is now equal to men's. Even though formal equality does not translate into actual gender equality, women's circumstances have been greatly improved in many parts of the world. No state recognizes the treatment of individuals as legal property even though the popular recognition of slavery is not far back in our history (illegal slavery and slave like conditions remain modern problems).

⁴² Rawls, *A Theory of Justice: Revised Edition*, 118-30.

⁴³ *Ibid.*, 65-73, 130-31.

The rise of the democratic welfare state has in many countries altered that character of class structures to the benefit of a great many that do not find themselves in positions of sizeable economic or political power. In many countries where homosexuality used to be a criminal offence the state now officially endorses gay marriage, indicating a clear improvement in legal and social attitudes even though homosexuals continue to be marginalised in many respects.

Despite the gaps between contemporary theories of justice and existing practice the increasing awareness of how class, gender, race, and sexuality shape individuals' prospects and the rejection of such characteristics as morally relevant have made it less acceptable to treat individuals unequally on *these* grounds. Thus, even though we rightly find the pursuit of a just society to be unfinished business, we do see increasing support for the equal treatment of individuals. Within this context the field of political philosophy has pressed forward in drawing implications from the moral equality premise, and in particular there is today a great deal of critical reflection over inequalities that are not obvious to us if we only focus on our own societies.

By accepting as a general principle that all individuals deserve some kind of decent or fair treatment regardless of the way they were born we are forced to question a world where how our lives go is hugely influenced by the arbitrary fact of where we are born. If we are convinced that each child should have an equal opportunity to achieve valuable goals in their lives, the acute disparity in basic security, education, and welfare between wealthy and poor countries forces us to ask 'equal opportunity for whom?' The acute disparity in the basic conditions of life between the world's rich and poor is undoubtedly the kind of inequality a theory of justice must reflect over. As a result there has been an extensive amount of work in recent decades asking what the scope of justice is. If the treatment individuals are owed ought not to be dependent on arbitrary bad luck then should not one's citizenship status also be disqualified as a legitimate determinate of the treatment and consideration individuals are owed from others?

Most can agree that it is unfair at the individual level that the country we happen to be born into has such a significant impact on our quality of life. At the same time the prospect of global egalitarianism can seem far too demanding. Could justice really require that we share our resources with all people in the same way we do or ought to share such resources within the state? One reason frequently appealed to for limiting systems of distributive justice to fellow citizens is that the state as a political project would collapse if everybody in need had access to its benefits. This concern points to the fact that distributive justice within the state is often defended, at least in part, by appealing to the ideas of mutual cooperation, mutual benefit, and reciprocity. Additionally, it is frequently argued that at least to a significant degree the motivation to redistribute wealth within states is possible because members share in a culture and national identity that generates a sense of

solidarity. It is, some argue, too much to expect this kind of solidarity globally.

Cosmopolitans see justice as about giving individuals equal concern regardless of the state they live in. On this view if it is a shared ethnic, cultural, or national identity or contributing to a mutually advantageous cooperative political scheme that explains why demanding duties of justice pertain among citizens but not across borders, then the theory of justice at work is not genuinely egalitarian. Individuals as such are not the basic unit of concern in the theory. The cosmopolitan contends that by limiting the scope of justice to the state one is in effect taking a non-egalitarian position and some unwanted conclusions about justice at the domestic scope follow.

If we do not owe poor people around the world equal concern because this will not benefit us why, for example, should citizens unable to contribute to political society benefit from publicly financed services and protections? Likewise, how can one consistently claim that it is individuals that matter within a certain nation-state while claiming it is the group one belongs to that matters when we think about the demands of justice globally?⁴⁴ The risk involved in appealing to group difference in one context is that consistency could force one to accept what appear to be patently unjust differences in standards of treatment between individuals based on group differences even within the state.

Note however that in the global justice literature few disagree with the claim that there is something deeply morally problematic about the fact that the world's rich do so little to address global poverty when we could prevent a great deal of suffering at only a small cost to ourselves. *Anti-cosmopolitans* that reject proposals for more demanding principles of global distributive justice comparable to those present in the welfare state do not usually do so because they think that outsiders have inherently less moral worth than insiders. Instead, what is at stake is how tightly connected we must be in order for it to make sense to say that there should be demanding duties of social justice between us. We may have clear moral duties to help the world's poor to some degree, but outsiders do not have the kinds of claims to a society's productive resources that its citizens have. It is only citizens that should share in a society's resources as, in some sense, equal partners in a collective project.

Some cosmopolitans accept this way of looking at the problem but argue that the demands of global justice are now much stronger than they have been in the past. This is because global interaction and interdependence, especially economic, increasingly give the world's poor and less powerful legitimate claims to the kind of equal consideration normally associated with

⁴⁴ See for example, Pogge, *World Poverty and Human Rights*, 91-116, Samuel Scheffler, *Boundaries and Allegiances: Problems of Justice and Responsibility in Liberal Thought* (Oxford: Oxford University Press, 2001), 48-65.

standards of social justice in the state. On this view we are so tightly connected with each other due to economic globalisation that it now does make sense to claim that all individuals should share in the world's resources following the principles of distributive justice normally reserved for the state. Those that think that the nation, the state, international institutions or even global patterns of trade are morally relevant in determining the scope of justice argue for what are regularly called 'associative duties.' What I will call *associative cosmopolitans* simply think that there are forms of global interconnectedness that generate demanding duties of justice while *associative anti-cosmopolitans* think that the morally relevant connection is that among members of a state or nation. Those that think that how we are connected with others is not morally relevant in determining the scope of our demanding duties of justice argue for *non-associative duties* and tend to be cosmopolitans.⁴⁵

Climate change and the scope of justice

In a similar fashion to the problem of global poverty, global warming also challenges us to reflect on the scope of justice. Concern about climate change is based in the broad and broadening scientific consensus that we are currently witnessing a dramatic increase in average global temperatures. These increases are thought to be caused by the release of large amounts of carbon dioxide from the burning of fossil fuels and from agricultural activity that produces methane and nitrous oxide (together these three are the most important GHGs).⁴⁶ The Intergovernmental Panel on Climate Change's (IPCC) best estimate from its most recent 2007 report is that by 2100 the global average temperature will have risen from between 1.8°C to 4.0°C⁴⁷ (the full range of estimates is from 1.1 °C to 6.4 °C).⁴⁸ The IPCC states that "warming of the climate system is unequivocal," and that it is at least 90% certain that emissions of GHGs from human activity are causing the changes we are currently observing.⁴⁹

⁴⁵ See Scheffler, *Boundaries and Allegiances: Problems of Justice and Responsibility in Liberal Thought*, 48-65.

⁴⁶ IPCC, "The Physical Science Basis - Summary for Policymakers," in *Climate Change 2007: The Physical Science Basis. Contribution of Working Group I to the Fourth Assessment Report of the Intergovernmental Panel on Climate Change* ed. S. Solomon, et al. (Cambridge: Cambridge University Press, 2007).

⁴⁷ *Ibid.*, 11.

⁴⁸ The lower predictions are for the most optimistic scenario while the higher estimates are for the scenario with the least amount of reduction in fossil fuel intensiveness. Note that the scenarios the IPCC uses for their average global temperature predictions are presented in a set of possible patterns of economic and social developed spanning from more to less environmentally friendly. However in none of these scenarios does the IPCC incorporate any new climate specific policy initiatives for the reduction of GHG emissions.

⁴⁹ IPCC, "The Physical Science Basis - Summary for Policymakers," 8.

Some expected consequences for human wellbeing are increases in river run off and water availability in high latitudes and some wet tropical zones of 10 to 40%, and decreases in already dry regions of 10 to 30% by 2050. Already by 2020, 75 to 250 million people in Africa are expected to suffer from increased water scarcity. Changes in temperature and water availability are expected to reduce the land area suitable for agriculture and shorten the growing season in some African areas. At the same time, “yields from rain-fed agriculture could be reduced by up to 50%.”⁵⁰ Crop yields are also expected to decrease by a third in Central and South Asia, while they can increase by 20% in East and Southeast Asia. The IPCC predicts decreased water availability for those regions dependent on melt water, which amounts to 1/6 of the world’s population.⁵¹ This effect combined with increasing population and economic pressure is expected to have a negative impact on freshwater availability in much of Asia, particularly in the large river basins, which could affect a billion people by 2050.⁵²

One of the most dramatic effects of global warming is its impact on sea levels, which the IPCC expects to rise between 18 and 59cm by the end of the century.⁵³ By 2080 sea level changes are predicted to increase by millions the number of people affected by flooding each year.⁵⁴ More extreme weather events such as heat waves, floods, droughts, and cyclones are forecasted as well, and these events are expected to lead to increased death and disease.⁵⁵ Other health impacts include “increased burden of diarrhoeal disease; the increased frequency of cardio-respiratory diseases due to higher concentrations of ground level ozone related to climate change; and, the altered spatial distribution of some infectious disease vectors.”⁵⁶ Developing regions will tend to be more vulnerable to negative impacts due to a combination of a greater share of the most negative climate impacts, greater dependence on climate sensitive natural systems, and less capacity for adaptation.⁵⁷ Another major impact is the forecast that 20-30% of all plant and ani-

⁵⁰ IPCC, "Climate Change Impacts, Adaptation and Vulnerability - Summary for Policymakers," in *Climate Change 2007: Climate Change Impacts, Adaptation and Vulnerability. Contribution of Working Group II to the Fourth Assessment Report of the Intergovernmental Panel on Climate Change* ed. S. Solomon, et al. (Cambridge: Cambridge University Press, 2007), 10.

⁵¹ Ibid., 7.

⁵² Ibid., 10.

⁵³ This range is from the most to least optimistic IPCC ‘no climate specific action’ scenarios, IPCC, "The Physical Science Basis - Summary for Policymakers," 11.

⁵⁴ IPCC, "Climate Change Impacts, Adaptation and Vulnerability - Summary for Policymakers," 9.

⁵⁵ Ibid., 16.

⁵⁶ Ibid., 9.

⁵⁷ See Ibid.

mal species assessed by the IPCC will be at a higher risk for extinction given an average global temperature increase of 1.5-2.5 °C.⁵⁸

There is increasing debate over whether the IPCC is too conservative in its warnings and it is easy to build much more detailed and thoroughly catastrophic scenarios from the available literature.⁵⁹ Yet, what is important to recognize is that climate change has a real potential to threaten human security and welfare all over the world. This kind of environmental problem is a clear case of a collective problem that is not limited in its territorial scope. What matters for the intensity of global warming is the total amount of GHGs emitted into the atmosphere not where these pollutants are emitted from. One country's emissions affect all countries meaning that both the causes and effects of human induced global warming force us to think about the ways we are interconnected over states borders. The threat to human wellbeing is so large it also seems clear that it is the kind of problem that a theory of justice must address.

The distribution of natural resources and protection of the environment are among the central concerns that constitute our thinking about the conditions necessary for securing human goods. Our use of and impact on the environment within the state clearly impacts on the ability of a society to achieve collective security, productiveness, and even freedom and equality. The distribution and consumption of environmental goods within a given territory can be either fair or unfair, and the need for guiding principles of justice in this realm is strengthened by the fact that we have the capacity deplete or pollute environmental goods in ways that undermine their value to us. Few would deny that it is legitimate for a state to address in terms of justice activities within its borders that could, for example, alter the entire coastline. Likewise, the potential that we could dramatically alter conditions along many coastlines all over the world is the kind of threat to human welfare that a theory of justice must pay attention to.

Global warming plainly raises questions about the territorial scope of justice, but in order to fully understand this problem we must also notice that asking what we ought to do about global warming also broadens the temporal scope of our thinking about justice. Emission of CO₂ from the burning of fossil fuels is a problem because it has a very long atmospheric life and because much more CO₂ is being introduced into the atmosphere than is being removed by natural processes. This means that CO₂ is accumulating in our atmosphere and it is this accumulation from past emissions that is the major cause of warming at any given point in time. These physical facts mean that even if we start to dramatically reduce our output of CO₂ (currently output levels are accelerating rapidly), the concentration in the atmosphere will

⁵⁸ *Ibid.*, 8.

⁵⁹ For a recent article see Richard A. Kerr, "Pushing the Scary Side of Global Warming," *Science* 316, no. 5830 (2007).

continue to rise as will the impact of the green house effect on the global mean temperature.⁶⁰

Limiting increases in the global mean temperature to between 2.0 °C and 2.4 °C above pre-industrial levels requires a long term stabilization of atmospheric CO₂-eq at 445 to 490 ppm.⁶¹ Warming above this level is often claimed to pass a threshold were the most significant impacts from climate change will start to occur. However, achieving this goal would require that emission levels go down 50 to 85% below 2000 levels by 2050, with total global emissions peaking in 2015.⁶² This is a huge challenge given that under current conditions it is expected that demand for energy in 2030 will be 60% higher than in 2000 with the increase in CO₂ emissions levels actually being more than 60% over the same period.⁶³

Achieving the kind of mitigation the IPCC thinks is possible is dependent on us acting now to dramatically reduce emissions because waiting to make emissions cuts would require that we take on even more aggressive cuts later to achieve comparable results. Furthermore, inaction in the near to medium future ultimately increases the levels of warming we are committed to regardless of subsequent GHG reductions.⁶⁴ The important point to notice is that because of the cumulative nature of atmospheric pollution and long time lags before we see the full impacts of mitigation efforts, any costs we take on now will benefit future generations much more than they benefit us. As we will see in the following chapter, in terms of economic cost benefit analysis many researchers would argue that the current generation will not gain economically by investing in global warming mitigation. Looking to Figure 1 we can clearly see the generational aspect of the problem.

⁶⁰ David Archer, "Fate of Fossil Fuel CO₂ in Geologic Time," *Journal of Geophysical Research* 110 (2005), Intergovernmental Panel on Climate Change (IPCC), *Climate Change 2001: Synthesis Report*. (Cambridge: Cambridge University Press, 2001), 16-17.

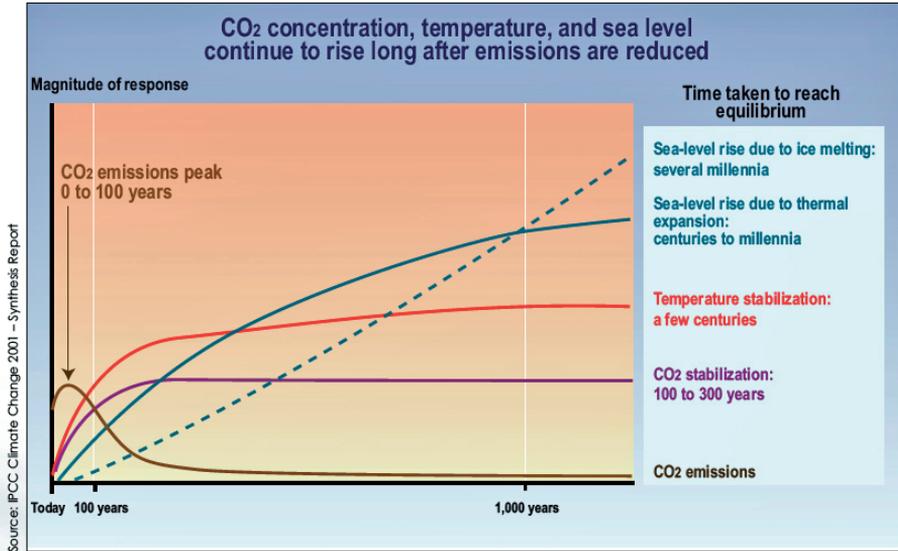
⁶¹ IPCC, "Mitigation of Climate Change - Summary for Policymakers," in *Climate Change 2007: The Physical Science Basis. Contribution of Working Group III to the Fourth Assessment Report of the Intergovernmental Panel on Climate Change* ed. B. Metz, et al. (Cambridge: Cambridge University Press, 2007), 23.

⁶² Ibid.

⁶³ See, International Energy Agency, "World Energy Outlook 2006: Summary and Conclusions," (Paris: International Energy Agency, 2006).

⁶⁴ IPCC, "Mitigation of Climate Change - Summary for Policymakers," 23.

Figure 1: The intergenerational character of global warming mitigation



Source: IPCC, *Special Reports on Emissions Scenarios, Regional Impacts of Climate Change, Land Use, Land-Use Change, and Forestry, Methodological and Technological Issues in Technology Transfer, Aviation and the Global Atmosphere (2nd)* (IPCC Secretariat, 2001), figure 5-2.

What is required is a dramatic response over the short term that is not just about cutting current emissions but that turns around a powerful trend of increasing emissions. At the same time the desired effects in terms of temperature stabilisation occur relatively far into the future, and stabilisation of some of the most important negative impacts arrive in the distant future. Furthermore, although more and more studies conclude that the costs of mitigation are clearly outweighed by the gains when measured over periods spanning several centuries, the point in time at which the benefits of aggressive mitigation efforts outweigh costs could be quite far into the future.⁶⁵ If such is the case mitigation efforts will be a net economic cost for existing agents. This temporal aspect of the global warming problem leads to some clear questions about how we should think about justice across generations.

The idea of intergenerational justice like that of global justice follows quite naturally from individualistic and egalitarian theories of social justice. If we owe each individual some level of concern simply because of their status as our moral equals then there seems to be at least a good case for the idea that we owe future generations some moral concern as well. On its face

⁶⁵ See for example, Y. Okan Kavuncu and Shawn D. Knabb, "Stabilizing Greenhouse Gas Emissions: Assessing the Intergenerational Costs and Benefits of the Kyoto Protocol," *Energy Economics* 27, no. 3 (2005).

it would be odd to claim that all people living today matter a great deal while the people that we have every reason to think will exist in the future do not matter at all. With our relatively new found technological capacity to dramatically worsen future environmental conditions for life on earth (e.g. through nuclear war or unsustainably depleting environmental goods) we now face the prospect of a few wealthy regions and a few wealthy generations consciously imposing huge costs on the rest of the world and on future people. This has lead philosophers to ask how we ought to distribute the costs and benefits of resource depletion and economic productivity over generations. If we ought to give equal concern to individuals what must we do, if anything, for future generations?

As we have seen I will argue that there is now a duty to create a new form of political authority at the global scope so that we can both make collective decisions on how to address the problem of human induced global warming and credibly enforce these decisions. In developing this argument I will appeal to both the global and intergenerational aspects of the global warming problem. However, before explaining how I will argue for this position it will be helpful to give a more detailed sketch of approaches to the problem of global justice relevant to my thesis.

Review of the global justice debate

The purpose of this section is to place my argument in relation to a set of dominant approaches to the problem of global justice that are committed to the moral equality premise. Those theories that adopt this normative premise must address the seeming discrepancy between the norm that it is individuals that matter in a theory of justice and the norm expressed in existing practice where we owe compatriots demanding duties of justice but not outsiders. The perspectives outlined below are classed along two dimensions. The first dimension is whether the theory sees demanding duties of justice as generated when we are associated with others in some morally relevant way or if moral equality is on its own thought to be sufficient to generate such demands of justice (non-associative). The other dimension is whether the scope of justice is viewed to be global/transboundary (cosmopolitan), or if it is viewed to be largely limited to the state (anti-cosmopolitan).

The result is a focus on three general perspectives: *non-associative cosmopolitanism*, *associative cosmopolitanism*, and *associative anti-cosmopolitanism*. One could imagine several views that could be placed into the category of *non-associative anti-cosmopolitanism*, which I do not include. One example is the view that individuals do not have duties of justice to any other individual regardless of whether or not they reside in the same state or not. In general this fourth category will be characterised by scepticism to the idea of justice at a foundational level or alternatively to the idea

that individuals are moral equals. Both of these views are strongly rejected by liberals, but it is beyond the scope of this book to defend theorising about justice against these kinds of scepticism.

Although I am chiefly concerned with the idea of global political justice, the easiest way to sketch the central approaches in the global justice literature is to report on how various theories relate to the prospect of global distributive justice. There has been extensive analytic focus on the problem of global poverty and on how to think normatively about economic relations between states. It is on these questions that we find more developed proposals for what justice at the global scope is. Even though it is necessary to focus on distributive justice in presenting the existing literature we will still be able to identify general reasons for defending some view on the problem of global justice over another.

Non-associative cosmopolitanism

Following non-associative cosmopolitanism the simple fact that we share an equal moral status with others is sufficient to generate demanding duties of distributive justice.⁶⁶ The implication is that we are bound by principles of distributive justice that apply globally and it is not shared political institutions, economic interaction, interdependence, a shared culture or any other limited form of group identification that gives rise to such duties. On the strict version of non-associative cosmopolitanism it is *only* our shared moral status that should be considered in working out principles of distributive justice and all individuals should be subject to the same standards of distributive justice regardless of where they live. On the moderate view our shared moral status generates demanding duties of distributive justice that apply to all individuals, but at the same time there can be separate systems of distributive justice that apply to members of, for example, a state because they shared in a cooperative political system.⁶⁷

Global utility maximisation

The clearest example of non-associative cosmopolitanism comes from utilitarian thinkers because the utilitarian does not see the problem of global justice as a special case distinct from other questions of morality or justice.

⁶⁶ Note that I am only interested in those approaches to the problem of global justice committed to the premise that the inherent moral worth of each individual is equal. This entails rejecting some forms of realist scepticism about global justice that are based in a general scepticism about the existence of moral standards. For developed criticisms of sceptical realist approaches to the problem of global justice see Beitz, *Political Theory and International Relations*, Allen Buchanan, "Beyond the National Interest," *Philosophical Topics* 30, no. 2 (2002), Pogge, *Realizing Rawls*, Pogge, *World Poverty and Human Rights*.

⁶⁷ Simon Caney, "International Distributive Justice," *Political Studies* 49: 975-76.

The existence of separate states, individuals' identifications with different nations or cultures, and any other associations individuals have do not, on their own, tell us how we ought to distribute valuable goods. These groupings are only significant to the degree that they contribute to or detract from the goal of maximizing utility, usually measured following some metric of wellbeing. For the utilitarian the simple fact that all individuals share an equal and inherent moral worth necessitates counting each individual's wellbeing equally in working out what justice demands of us.

Peter Singer argues that a commitment to moral equality requires of individuals that they give assistance to others whose life is threatened. One may have to ruin their Armani suit to save someone from drowning or let a newly purchased and uninsured Porsche be destroyed by an oncoming train to save a baby left on the tracks.⁶⁸ Yet once we accepted the intuitively appealing arguments for taking on these costs Singer points out that we are daily faced with the choice to save many people from death due to starvation and disease by donating amounts that are much less than we spend on our own luxurious lifestyles. Utilitarianism does not aim at strict equality of resources or even wellbeing. Still, given that nearly three billion people live in conditions of extreme poverty while one billion live in conditions of unprecedented affluence, any serious attempt to maximise human wellbeing in current conditions will require the world's wealthy to redistribute significant resources to the world's poor.⁶⁹

Cosmopolitan libertarianism

Libertarianism and especially Robert Nozick's entitlement theory⁷⁰ has clear cosmopolitan implications. If justice means that we must above all respect each individual's liberty and negative rights, then the libertarian might object to the existing state system because it tenaciously restricts the free movement of people, especially from poor to wealthy regions.⁷¹ A focus on just entitlements at the global scope could support arguments for radical global redistribution depending one's historical analysis of existing global disparity and on whether or not one begins from the premise that the physical world

⁶⁸ See Peter Singer, "Famine, Affluence, and Morality," *Philosophy and Public Affairs* 1, no. 3 (1972), Singer, *One World*.

⁶⁹ For examples of utilitarian approaches to the problem of global justice see: Richard J. Arneson, "Consequentialism vs. Special-Ties Partiality," *Monist: An International Quarterly Journal of General Philosophical Inquiry* 86, no. 3 (2003), Richard J. Arneson, "Do Patriotic Ties Limit Global Justice Duties?," *Journal of Ethics: An International Philosophical Review* 9, no. 1-2 (2005), Robert E. Goodin, "What Is So Special About Our Fellow Countrymen?," *Ethics* 98 (1988), Singer, "Famine, Affluence, and Morality," Singer, *One World*, Peter K. Unger, *Living High and Letting Die: Our Illusion of Innocence* (Oxford: Oxford University Press, 1996).

⁷⁰ See Robert Nozick, *Anarchy, State, and Utopia* (New York: Basic Books, 1974).

⁷¹ Onora O'Neill, *Bounds of Justice* (Cambridge: Cambridge University Press, 2000), 129.

was originally unowned, collectively owned, or owned in equal shares.⁷² In general what we owe to others is not determined by the fact that we share in some institutional arrangement; instead institutional arrangements must be designed to ensure that all individual's rights to self-ownership are not violated.

Non-associative global egalitarianism

Liberal egalitarian theories of justice have traditionally tended to view distributive justice as applicable between individuals that share in a collective political project like the state. However, some liberal egalitarians maintain that our shared moral status on its own generates demanding duties of distributive justice independent of institutional arrangements. Joseph Carens argues that "Citizenship in the modern world is a lot like feudal status in the medieval world. It is assigned at birth; for the most part it is not subject to change by the individual's will and efforts; and it has a major impact upon that person's life chances."⁷³ The implication of this analogy is that justice requires the elimination of the effect of citizenship status on life chances.

One specific recommendation is that the country we are born into ought not to dictate the opportunities we have to pursue a variety of goods such as careers, lifestyles, education, wealth, etc....⁷⁴ To the degree that a system of separate states frustrates the individual's entitlement to equality of opportunity non-associative egalitarian cosmopolitanism will call for new global institutional arrangements.⁷⁵ Another argument is that there is no good reason to limit impartial reasoning about distributive justice to those that belong to the same state.⁷⁶ Any such limitation would privilege the status-quo of institutional boundaries while these same boundaries should be viewed as arbitrary when it comes to each individual's moral worth.

A common argument based on these premises is that we should aim to maximise the position of those in the worst-off position globally following

⁷² For a succinct assessment of libertarian cosmopolitanism see Charles R. Beitz, "International Liberalism and Distributive Justice: A Survey of Recent Thought," *World Politics* 51, no. 2 (1999).

⁷³ Joseph H. Carens, "Migration and Morality: A Liberal Egalitarian Perspective," in *Free Movement: Ethical Issues in the Transnational Migration of People and of Money*, ed. Brian Barry and Robert E. Goodin (London: Harvester Wheatsheaf, 1992), 26.

⁷⁴ See Simon Caney, "Cosmopolitan Justice and Equalizing Opportunities," *Metaphilosophy* 32, no. 1/2 (2001), Darrel Moellendorf, *Cosmopolitan Justice* (Boulder, Colorado: Westview Press, 2002), Chapters 3 & 4.

⁷⁵ See Caney, "Cosmopolitan Justice and Equalizing Opportunities," 114, Joseph H. Carens, "Aliens and Citizens: The Case for Open Borders," *Review of Politics*, no. 49 (1987).

⁷⁶ David A. J. Richards, "International Distributive Justice," *Nomos* 24 (1982).

Rawls' egalitarian theory of distributive justice within the state.⁷⁷ This would entail radical changes such as sweeping transfers of wealth from developed to developing regions, continuous redistribution at the global scope, and implementation of an institutional scheme with enough authority to implement redistribution at the global scope. Like with utilitarianism, the global implications following from egalitarianism under current conditions tend to be very demanding. Yet liberal egalitarianism is principally committed to maintaining *relative* equality between individuals and could thus be more demanding than most other proposals over both the short and long term.

Human rights as global positive duties

Another perspective on the problem of global poverty has been to argue that we all have a duty to ensure that human rights to basic needs or to capabilities are satisfied.⁷⁸ Broadly speaking a human rights approach will have a notion of 1) what human rights are and 2) who has a duty to ensure their satisfaction. When it comes to 2) the question is if states should be chiefly responsible for guaranteeing their citizens' human rights or if wealthy states and individuals have positive duties to help ensure that every individual's rights are satisfied regardless of where they live? The later view is clearly distinct from current practice even though one could argue that wealthy states and their citizens appear at least to be more open to the idea of positive duties to provide for the basic needs of the global poor and address situations where states fail to protect their citizens' human rights.⁷⁹ A theory of justice commitment to promoting human rights around the world may only argue that we ought to do what we can when it is not a significant cost to our own interests.⁸⁰ Alternatively some are for establishing institutional arrangements that will ensure human rights satisfaction for all.⁸¹

Associative cosmopolitanism

For this second group of theories demanding duties of distributive justice comparable to those that exist in a just state are only generated when we are

⁷⁷ This is a rejection of Rawls' own view where demanding duties of distributive justice apply only between individuals that share a political order. See, John Rawls, *The Law of Peoples* (Cambridge, MA: Harvard University Press, 1999).

⁷⁸ On the capabilities approach and global justice see Martha Craven Nussbaum, *Frontiers of Justice: Disability, Nationality, Species Membership* (Cambridge, Mass.: Harvard University Press, 2006), 273-315.

⁷⁹ One might for example view the reasoning behind the UN Millennium Development Goals in this way (see <http://www.un.org/millenniumgoals/>)

⁸⁰ Allen Buchanan, "Recognitional Legitimacy and the State System," *Philosophy and Public Affairs* 28, no. 1 (1999).

⁸¹ See Charles Jones, *Global Justice: Defending Cosmopolitanism* (Oxford: Oxford University Press, 1999), 66-69, Henry Shue, "Mediating Duties," *Ethics* 98, no. 4 (1988).

interconnected in some morally significant way.⁸² Associative cosmopolitans argue that global conditions do demonstrate the kind of interconnectedness that is required. This theoretical perspective tends to follow in a liberal egalitarian tradition, especially the work of Rawls, where equal treatment means equal treatment within an institutional scheme. Following this tradition it is not any inequality or any instance of unfairness that gives rise to standards of distributive justice but rather inequalities that can be traced to the effects of legal, social and political structures. Several liberal cosmopolitans employ Rawls' basic structure concept meaning "the way in which the major social institutions distribute fundamental rights and duties and determine the division of advantages from social cooperation,"⁸³ while others employ a weaker standard of morally relevant association.⁸⁴

Basic-structure cosmopolitanism

On this view there are a global set of conventions, agreements and institutions⁸⁵ that determine the distribution of valuable goods, burdens, and claims. The global basic structure is in need of justification to affected individuals because it is comparable in moral significance to the state's basic structure and because it produces unjust inequalities.⁸⁶ For example, Beitz and Thomas Pogge have both argued that due to the level of modern economic globalisation we can no longer claim that state boundaries demarcate independent systems of social cooperation. Given these new conditions, they argue that the Rawlsian original position ought to apply to all of the world's people as individuals deliberating on how this global basic structure should be designed.⁸⁷

The distributive implication, as Pogge puts it, is that "we can justify our global institutional order only if we can show that the institutional inequalities it produces tend to optimize (against the backdrop of feasible alternative

⁸² This perspective is not opposed to the idea that our shared moral status is sufficient to generate some moral duties to address the needs of the global poor. However a distinction is made between the moral duties we owe to any individual and the more demanding duties of justice owed to those with whom we are associated in some morally relevant way.

⁸³ John Rawls, *A Theory of Justice* (Cambridge MA: Harvard University Press, 1971), 7.

⁸⁴ Onora O'Neill's argues that all one needs to get a notion of global distributive justice off the ground are the facts that individuals are inherently vulnerable and needy combined with the fact that global trade is characterised by wide disparity in the power or relative bargaining positions of individuals and states. O'Neill, *Bounds of Justice*, 140.

⁸⁵ For example the UN General Assembly and Security Council, the World Trade Organization, the International Monetary Fund, the World Bank, and a host of international agreements and praxis for collective security, trade, disease control, and environmental protection.

⁸⁶ Pogge, *Realizing Rawls*, 255-59.

⁸⁷ Beitz, *Political Theory and International Relations*, 129-54, Pogge, *Realizing Rawls*, 256-60.

global regimes) the worst social position.”⁸⁸ Critics argue that it seems counterintuitive to say that in the absence of economic interaction the global rich have no distributive obligations to the global poor while once these two groups *voluntarily* enter into a trade agreement that is mutually beneficial (even if the terms are much better for the stronger partner) the relative inequality suddenly has profound distributive implications. Qualifying the argument by requiring significant and extended cooperation also seems counterintuitive. Imagine we have one poor region with limited global trade and another poor region that has more significant and extended trade with a wealthy region. Why should this second and potentially better off poor region be the beneficiary of a system of wealth redistribution and not the first region?⁸⁹

The liberal anti-cosmopolitan argues that if in the absence of economic interaction there is no positive duty to redistribute resources and nothing about economic interaction on its own leads to requirements of distributive justice, then economic relations cannot suddenly generate demanding duties of global justice.⁹⁰ Alternatively, non-associative cosmopolitans argue that we have an intuitive reservation about the relevance of economic interaction because it is not levels of trade but rather inequality itself that gives rise to global distributive demands.⁹¹ Note however, that what Beitz and Pogge have in mind is not simply some level of economic cooperation that triggers global distributive justice.

Beitz argues that globalisation not only “involves a pattern of transactions that produce substantial benefits and costs; their increased volume and significance have led to the development of a global regulative structure.”⁹² The argument is that because the global economic order entails rules that benefit some and disadvantage others it does make sense to require that these benefits and costs are distributed fairly among all those that operated within the regulatory system (i.e. distributive justice). Pogge in his more recent work emphasises how the existing global basic structure harms people living in

⁸⁸ Pogge, *Realizing Rawls*, 247.

⁸⁹ See Blake, "Distributive Justice, State Coercion, and Autonomy," especially 289-94, Mathias Risse, "Do We Owe the Global Poor Assistance or Rectification?", *Ethics and International Affairs* 19, no. 1 (2005), Mathias Risse, "How Does the Global Order Harm the Poor?", *Philosophy & Public Affairs* 33, no. 4 (2005).

⁹⁰ Note that rejecting distributive justice as appropriate to the global trade regime does not entail rejecting the idea that this regime ought to be subject to principles of justice. For an anti-cosmopolitan and liberal theory of a just trade regime see Mathias Risse, "Fairness in Trade," (John F. Kennedy School of Government, Harvard University, February 2006).

⁹¹ For a version of this argument from a liberal perspective see Simon Caney, "Global Interdependence and Distributive Justice," *Review of International Studies* 31 (2005), and for one from a utilitarian perspective see Richard J. Arneson, "Global Justice, Cosmopolitanism, and the Severe Demand," in *Annual Meeting of the American Political Science Association* (2004).

⁹² Beitz, *Political Theory and International Relations*, 148.

poor countries, and how the global rich are morally implicated in this harm by supporting an unfair basic structure that is to their own benefit. The emphasis on harm allows Pogge to argue that addressing the conditions of the global poor should be at the top of our moral 'to do list.' This is because the negative duty not to harm is widely viewed in liberal theory as more easily justified and likely stronger than the positive duty to assist strangers.⁹³

Pogge also argues that a national economic order is justifiable to its members only if two criteria are met, 1) the "rules can be changed without violence by the will of a majority that is affected by these rules" and 2) "avoidable life-threatening poverty" is prevented.⁹⁴ According to Pogge, a global economic order must satisfy at least one of these two criteria if it is to have any chance of being justifiable to individuals, while the current global basic structure fails on both counts. Note however that it is doubtful that Pogge thinks that an economic order is justifiable if it does no more than prevent death due to poverty. Instead his more recent arguments should be understood as an attempt to show that even if we take only the most minimal requirements for justifying a basic economic structure we must accept the normative argument for major reform of global economic relations to better serve the interests of those in the worst off positions.⁹⁵

Associative anti-cosmopolitanism

Associative anti-cosmopolitanism is the central line of thought from within the liberal tradition among those that think that demanding duties of justice are only morally necessary between citizens of a state. Much of this work falls under what Beitz calls "social liberalism." This is the view that each state is responsible satisfying its citizens' claims to social justice, and over borders it is relations between states not individuals that are of interest. Principles at this scope are about ensuring the conditions that allow states to provide for their citizens free from unjustified external interference.⁹⁶ Note that this perspective is still compatible with the idea that we have humanitarian duties to all others because we are moral equals, and many argue for very demanding duties of this sort. What is rejected are standards or egalitarian social justice applied to the global scope.

⁹³ See Pogge, *World Poverty and Human Rights*, 91-116.

⁹⁴ *Ibid.*, 96.

⁹⁵ See Thomas Pogge, "Real World Justice," *Journal of Ethics: An International Philosophical Review* 9, no. 1-2 (2005).

⁹⁶ Beitz, "International Liberalism and Distributive Justice: A Survey of Recent Thought," 271.

The Law of Peoples

Rawls' in his *The Law of Peoples* argues that global justice consists of those principles that would be agreed to between *peoples* on impartial terms. Thus, he proposes two separate original positions, one between individuals to identify principles of justice for the domestic basic structure and one between all liberal and decent illiberal peoples⁹⁷ for the international basic structure. Peoples would, according to Rawls, agree to the following list of principles:

1. Peoples are free and independent, and their freedom and independence are to be respected by other peoples.
2. Peoples are to observe treaties and undertakings.
3. Peoples are equal and are parties to the agreements that bind them.
4. Peoples are to observe a duty of non-intervention.
5. Peoples have the right of self-defense but no rights to instigate war for reasons other than self-defense.
6. Peoples are to honor human rights.
7. Peoples are to observe certain specified restrictions in the conduct of war.
8. Peoples have a duty to assist other peoples living under unfavorable conditions that prevent their having a just or decent political and social regime.⁹⁸

Rawls rejects outright the proposition made by Beitz and Pogge that his brand of liberal contractualism should lead one to recommend implementation of a global systems of distributive justice.⁹⁹

For Rawls the inappropriateness of global distributive justice is based, broadly, on two arguments. First he claims that it is the domestic basic structure and not the global basic structure that is chiefly responsible for a country's level of wealth and for the institutional distribution of benefits and burdens that have a meaningful effect on individuals' lives. Because the global basic structure does not play an important role in either of these two realms there is no need, Rawls argues, to justify it to individuals. Yet, because the global basic structure does potentially affect a peoples' interest in self-determination it must be justifiable on impartial grounds to peoples.¹⁰⁰ Rawls' theory on just relations between peoples will be described in much more detail in Chapter V. However, one can summarise a second argument for not treating the global basic structure like domestic one's that follows from Rawls' concern with the interests of peoples.

On Rawls' account a global system of distributive justice is problematic because it could limit the self-determination of peoples and could also result

⁹⁷ For the definition of decent illiberal peoples see Rawls, *The Law of Peoples*, 64-70.

⁹⁸ *Ibid.*, 37.

⁹⁹ *Ibid.*, 113-20.

¹⁰⁰ *Ibid.*, 61-62.

in the imposition of liberal standards of justice on all peoples. Rawls considers such outcomes as unjust because he argues that in international relations we must be prepared to respect some reasonable pluralism about how to organise political society. Just as a liberal state must make room for individuals' illiberal but reasonable conceptions of the good, international society must make room for a plurality of reasonable views about the good political system (i.e. liberal and decent non-liberal peoples).

Rawls' second argument against global distributive justice does not mean, as some critics have proposed, that he thinks that poor non-liberal peoples would prefer not to get wealth transfers from rich liberal states.¹⁰¹ Rawls' point is a general one about what it means to respect peoples' political autonomy, and it does appear to be a strong argument if we start with the premise that an international theory of justice should take the interests of peoples to self-determination to be of primary concern. To see this we need only think about what the institution of a global system of distributive justice would entail from the perspective of different peoples.

Liberal peoples would not readily accept large scale distribution to poor states for the sake of the global worst off if receiving states institutionalised an illiberal hierarchy of human value that systematically placed women or minorities in the worst off position. It seems more plausible that support for global distribution of resources in wealthy liberal states would actually depend on their being at least institutionalised pressure on illiberal states to give their citizens a liberal standard of equal concern. Furthermore, even though illiberal peoples might accept a liberal system of global distributive justice when they are one of the beneficiaries, they might reject the system if they were to be one of the benefactors. This kind of double standard would not be acceptable to other peoples. As such, implementing a global system of distributive justice would put pressure on illiberal political systems to adopt liberal standards of justice both globally and domestically. Thus, it does seem appropriate to suggest that a system of global distributive justice could threaten a pluralism of political cultures and the political autonomy of peoples.¹⁰² For this reason I find that Rawls' critics do better when they simply

¹⁰¹ See Charles R. Beitz, "Rawls's Law of Peoples," *Ethics* 110, no. 4 (2000): 693-4, Allen Buchanan, "Rawls's Law of Peoples: Rules for a Vanished Westphalian World," *Ethics* 110, no. 4 (2000): 708-15, Caney, "Cosmopolitan Justice and Equalizing Opportunities," 129, Thomas Pogge, "An Egalitarian Law of Peoples," *Philosophy and Public Affairs* 23, no. 3 (1994): 208-11, Kok-Chor Tan, *Justice without Borders: Cosmopolitanism, Nationalism and Patriotism* (Cambridge: Cambridge University Press, 2004), 77-78, Leif Wenar, "Contractualism and Global Economic Justice," *Metaphilosophy* 32, no. 1/2 (2001): 88.

¹⁰² For an interpretation like that advanced here explaining why Rawls sees the interests of peoples as entailing *principled* limits to ideas like global distributive justice see Samuel Freeman, "The Law of Peoples, Social Cooperation, Human Rights, and Distributive Justice," *Social Philosophy and Policy* 23, no. 01 (2006).

challenge his principled defence of illiberal political cultures and abandonment of individualism at the global scope.

The political conception of justice

This is a form of non-cosmopolitan social liberalism that does not incorporate Rawls' analogy between toleration of individuals' illiberal conceptions of the good and illiberal political cultures. As Nagel puts it, one can follow Rawls' "political conception" of justice were egalitarian distributive justice is something that exists between individuals only when they share in the kind of strong political association embodied by the state in a way that still sees individuals, not peoples, as the basic unit of concern.¹⁰³ On the political conception what is centrally relevant to a theory of justice is that the state represents a coercive legal system that encompasses society's political, social and economic institutions. This system, Michael Blake notes, "differs from mere ground rules of voluntary cooperation, since the legal system is able to do something distinctive—to use coercive force in determining what entitlements and holdings will be defended and held."¹⁰⁴ Even if there is a global basic structure with institutions and conventions that regulate global trade, there is no global coercive political authority that must be justified to all individuals. Distributive justice is activated within states only as part of what is needed to justify the non-voluntary and coercive nature of the state to individuals as moral equals.

It is important to notice how this approach emphasises the coercive nature of the state as the source of claims and burdens within a system of distributive justice instead of fair reciprocity in any kind of cooperative venture. Founding principles of distributive justice on reciprocity is often taken to lead to a problem for non-cosmopolitan egalitarians. Reciprocity is one clear non-communitarian way to argue for limiting claims and burdens of justice to a specific group when we only have the morally relevant exchanges with group members and not outsiders. Limits on the scope of our reciprocal duties are not due to giving outsiders less moral consideration but rather due to having different kinds of relations with different groups of people. However, using reciprocity to limit the scope of justice by appealing to simple resource exchange and cooperation in society does not clearly support the idea that distributive justice applies in the state but not beyond it.

First, those who contribute few resources or none at all within a state do not appear to have a basis on which to make claims to equal concern in determining the distribution of their society's wealth. Reciprocity based in simple economic/social cooperation tends to undermine the defence of egali-

¹⁰³ Nagel, "The Problem of Global Justice," 135.

¹⁰⁴ Michael Blake, "International Justice," in *The Stanford Encyclopaedia of Philosophy (Fall 2005 Edition)* (2005).

tarianism in the domestic scope. At the same time resource exchanges exist over state borders. Thus appeals to this kind of reciprocity do not appear to succeed in limiting the scope of justice to the domestic sphere. The political conception of justice avoids these problems because it does not tightly tie individuals' claims in distributive justice to simple resource exchange and cooperation.¹⁰⁵

On the political conception of justice it is each individual citizen's status as subject to and, in some sense, author of the non-voluntary and coercive authority of the state that explains why they are owed equal consideration in assessing the terms of distributive justice within political society.¹⁰⁶ Citizens of states are expected to accept the authority of the state so as to secure this large scale cooperative scheme, the provision of collective goods, and the political order that is need to make the former two possible. It is the sum of individual members' support for the state and its dictates that is ultimately the source of political order. All those that benefit from the state depend on their fellow citizens to underwrite this system of coercive political authority. It is this kind of interdependence that gives rise to the demand that each individual should be given equal concern in determining the fair distribution of the goods and burdens produced by this system of cooperation.

What we end up with is an argument based in fair reciprocity among those that underwrite the state's authority combined with an argument about what *individuals* are owed as moral equals in order to justify to them the limits on their liberty involved in political society. The political conception thus emphasises the Rawlsian argument that justice is about relations in specific types of political institutions. What is deemphasised is Rawls' view that the interests of peoples and protecting their self-determination gives us decisive reasons to limit the scope of justice to existing political communities. Why the political conception of justice is a particularly strong challenge to liberal forms of associative cosmopolitanism will be explained in more detail in the following section. However, I will first round off this sketch of the global justice debate with another form of anti-cosmopolitanism that does focus on the interests peoples in rejecting demanding duties of global justice.

Anti-cosmopolitan liberal nationalism

This group of non-cosmopolitan theories of justice stress Rawls' second anti-cosmopolitan argument, namely that justice at the global scope should be about the protection of national self-determination for decent political cultures. This view is not in conflict with liberal principles according to what is sometimes called *liberal nationalism* because a liberal system of social justice is dependent on individuals enjoying a distinct culture and sharing a

¹⁰⁵ Blake, "Distributive Justice, State Coercion, and Autonomy," 289.

¹⁰⁶ Nagel, "The Problem of Global Justice," 128-30.

national identity within their political community.¹⁰⁷ Individuals, it is argued, can only make meaningful choices from within a specific cultural context and a sense of shared identity is necessary for the enjoyment of individual autonomy.

David Miller argues that national belonging is not morally arbitrary but rather morally central to the question of distributive duties. There are other regarding moral duties at the global scope such as the duty of assistance, but our duties of justice to co-nationals take priority and are much more extensive than any duties we owe to outsiders. Miller's appeal to national identity rather than simply coercive institutions gives him a straightforward argument for why we ought not to create global political arrangements that bind all together in a common system of distributive justice. Any such global system would undermine legitimate partiality for co-nationals, which in turn would undermine the preconditions for the realisation of liberal social justice. National community and a shared identity are necessary conditions for solving "collective action problems, to support redistributive principles of justice, and to practice deliberative forms of democracy."¹⁰⁸ Furthermore, because individual autonomy is dependent on a cultural context there is a universally justifiable argument for partiality to the interests of co-nationals.¹⁰⁹

I will conclude this review of the global justice debate here. There are of course many other perspectives that are not introduced in this short review (e.g. Marxist perspectives). I have focused on approaches to the problem of global justice that I take to be most relevant to the normative questions raised by the threat of climate change and to the liberal thinking on social justice that my thesis departs from.

A cosmopolitan political conception of justice

I will argue for a duty to create a new form of global political authority with a mandate to adopt and ensure compliance to policy responses to the threat of global warming. The normative argument on which this prescription is based is that human induced climate change has connected us to others at the global scope in a way that gives rise to demanding duties of global justice. Thus, the argument is a form of associative cosmopolitanism. Note however that I do not make the negative argument that it is only when we are associated in a certain way that duties of justice can arise. Instead I focus on sim-

¹⁰⁷ For arguments in defence of liberal nationalism see Will Kymlicka, *Multicultural Citizenship* (Oxford: Oxford University Press, 1995), Kymlicka, *Politics in the Vernacular*, David Miller, "National Self-Determination and Global Justice," *Citizenship and National Identity* (Cambridge: Polity Press, 2000), Miller, *On Nationality*, Yael Tamir, *Liberal Nationalism* (Princeton, NJ: Princeton University Press, 1992).

¹⁰⁸ Miller, *On Nationality*, 98.

¹⁰⁹ See Miller, "National Self-Determination and Global Justice."

ply making one type of positive argument for a global associative duty of justice. In defending this position I set out from the debate described above between associative cosmopolitans (e.g. Pogge and Beitz) and associative anti-cosmopolitans (e.g. Rawls, Nagel, Blake, Risse) over the conditions under which there can arise demanding duties of global justice.

My strategy, like that of many associative cosmopolitans, is to demonstrate that the kind of interconnectedness that we have at the state level and that gives rise to a set of demanding duties of justice is also present at the global level. However, I do not try to defend the idea of global associative duties by pointing to the expansion of global cooperation or international institutional bonds. Instead I advance the familiar Kantian position that when our fates are bound up with each other's agency in ways that motivate the need for political institutions, respecting others as moral equals can give rise to a duty to join with others in coercive political projects.¹¹⁰ Thus it is not the fact that there is a fairly weak global attempt at cooperation to address global warming (i.e. the Kyoto Protocol) that is generating demanding duties of justice. Instead it is a set of reasons for collective action that exist independent of existing institutional arrangements and independent of whether or not we are currently cooperating. What this way of reasoning amounts to is the claim that on a proper understanding of the political conception of justice the theory is not nearly as anti-cosmopolitan as its proponents claim.

How the political conception of justice can be cosmopolitan even when we do not share in coercive political institutions at the global scope is, I will show, made clear in the global warming case. Addressing the threat from global warming requires that we tackle a set of exceedingly difficult global collective action problems both between states and between generations. It is these facts and the nature of the potential impacts from global warming that give rise to a duty of justice to create a new global political project to address the human impact on our climate. This argument parallels the argument in liberal thought generally for why we should have states in the first place. Namely, that because of the effects we can have on each other our ability to achieve human goods at all is dependent on solving a host of collective action problems by creating and/or supporting a political order that can secure essential collective goods such as collective security. Following the political conception of justice there is something distinct about such a political order that gives rise to far-reaching demands of justice.¹¹¹ I will show that following the normative ideals embodied in the political conception of justice we can also have demanding duties of justice among those with whom we *ought* to share thick political institutions.

¹¹⁰ See Immanuel Kant, *The Metaphysics of Morals*, trans. Mary J. Gregor (Cambridge: Cambridge University Press, 1996), 121-22, Jeremy Waldron, "Special Ties and Natural Duties," *Philosophy and Public Affairs* 22, no. 1 (1993).

¹¹¹ Nagel, "The Problem of Global Justice."

Why the political conception of justice?

Those that reject the moral significance of existing borders or institutions in determining the scope of demanding duties of justice will of course be receptive from the outset to the claim that the norm of state sovereignty may need to be weakened if this is necessary to address serious global environmental problems. However, if I can successfully make a case for demanding duties of justice at the global scope following the normative premises accepted by associative anti-cosmopolitans I will have proposed an argument that should be compelling or at least challenging for a number of perspectives that are sceptical to the idea of global justice. More importantly, the political conception of justice is one of the most important challenges to liberal cosmopolitanism and thus to the cosmopolitan thesis of this book. This is because it appears to succeed in justify limits on the scope of justice along what are admitted to be arbitrary political boundaries, and because it defends this anti-cosmopolitanism based on premises and arguments widely shared by liberals. The familiar liberal principles employed in the political conception of justice are: 1) individualism, 2) reciprocity, and 3) voluntarism.

Individuals as the foundational concern in theories of morality or justice

The political conception departs from contemporary contractualist theories of justice of the sort advanced by Rawls, Thomas Scanlon, Brian Barry, Nagel and Beitz.¹¹² In general terms contractualism tries to weigh individuals' partial interests against the recognition that from an impartial perspective each individual matters equally. The goal then is to identify some reasonable balance between partial interests and moral concern for others.¹¹³ As such, the political conception of justice does not deny demanding duties of global justice by claiming that standards of justice are simply an expression of national, culture, or racial bonds. Individuals are the basic unit of normative analysis. The argument from the political conception is that any time individuals share in a set of political institutions that have the authority to dictate the terms of social cooperation (as is the case with states) demands of social justice apply.¹¹⁴

¹¹² See Brian M. Barry, *Justice as Impartiality* (Oxford: Oxford University Press, 1995), Charles R. Beitz, *Political Equality: An Essay in Democratic Theory* (Princeton, NJ: Princeton University Press, 1989), Rawls, *A Theory of Justice: Revised Edition*, T.M. Scanlon, *What We Owe to Each Other* (Cambridge, MA: Harvard University Press, 1998).

¹¹³ Thomas Nagel, *Equality and Partiality* (Oxford: Oxford University Press, 1991), 10-20, 41-52.

¹¹⁴ Note that Rawls himself does in part tend towards an anti-cosmopolitanism based on accepting different standards of justice for different cultural contexts, leaving some room for the abandonment of individuals as the basic unit of analysis. As we have seen, in his international theory Rawls argues in terms of the interests of peoples. I will focus on those arguments that do not follow Rawls in the principled defence of illiberal political cultures but do follow in

Reciprocity

The force of the political conception is in that it offers a liberal defence for having different normative standards between individuals within a state compared to those for relations over state borders. On this view we owe moral consideration to all others, which entails humanitarian duties. However, demanding duties of justice apply only among those that share in a coercive political order like the state. Actually satisfying humanitarian duties would certainly require the world's rich to do much more than they are today for the world's poor.¹¹⁵ Still, this humanitarianism does not require that outsiders be treated as if they had claims that are equal to those of insiders when determining how to distribute liberties, rights, opportunities and resources available in any given political society. On the political conception this distinction does not violate liberal principles because it is fairness and reciprocity among those that must accept the coercive nature of regulation within the state that gives rise to demanding duties of justice. *This kind* of fair reciprocity simply does not apply between members of different states because they do not share in a coercive political structure.

In general the appeal to reciprocity is powerful because it is a central part of the standard argument within liberal political thought for why we should accept demanding duties of justice within the state.¹¹⁶ On this view the duties of citizenship are rightly viewed as demanding, but these demands can be motivate in terms of fair reciprocity for the goods political society provides and the contributions fellow citizens make to help secure these goods. Because the argument for reciprocity gets off the ground as soon as individuals contribute their part to underwriting the political authority of the state (i.e. by accepting this authority), it is able to coherently defend egalitarian standards of distributive and political justice among nearly all the state's members while at the same time excluding non-members from equal claims with this system of justice. This is justifiable simply because individuals outside of the state are not asked to underwrite a state's political authority or to accept its dictates *in the same way* insiders are.

the Rawlsian notion that principles of justice are chiefly about what is owed to individuals in certain kinds of political contexts. I focus on the more universalistic liberal versions of the political conception of justice because, as I will show in Chapter V, the Rawls' theory of international justice does not sit comfortably with his general theory of political legitimacy.

¹¹⁵ Rawls suggests that the international community has a duty to assist peoples within failed states to make sure that they have institutional structures needed for a stable political order and system of justice. Satisfying such a responsibility is very demanding in the conditions that exist in failed states. Nagel suggests that the demands of meeting our minimal humanitarian duties to others in a world as unequal and full of poverty as ours could make justice "a side issue" (Nagel, "The Problem of Global Justice," 118.).

¹¹⁶ See George Klosko, *Political Obligations* (Oxford: Oxford University Press, 2005), Chapters 1-5.

Following liberal premises there is no good reason for why some individuals should be given more consideration than others in determining how the benefits of such an order should be distributed. Furthermore, of necessity the dictates of the state are not voluntary for any individual member. Some standard of egalitarian justice among members is necessary to justify the coercive and non-voluntary nature of the state to individual subjects. On this view we all have a negative moral duty not to undermine the states people depend on but we do not have positive political duties to support each political community in the same way members have such a duty within their own society.¹¹⁷ Thus the kind of reciprocity appealed to in the political conception of justice does not arise between individuals over borders.

Cosmopolitans often note that some contemporary forms of global governance, such as the World Trade Organization (WTO), impose limits on what states can do, and that these arrangements are more extensive than simple treaties between states. The WTO is characterised by compliance mechanisms that are underwritten by most of the world's states, although we must note that the implementation of penalties (i.e. trade sanctions) for WTO rules violations are not imposed collectively but by the state(s) that win a complaint hearing against another state via the WTO's Dispute Settlement Body.¹¹⁸ Associative cosmopolitans take the development of the modern global trade regime to be one clear example for how global institutional conditions are similar enough to those within states to give rise to similar standards of justice. However in defending different stands between these two realms the political conception of justice is pointing to *actual differences* between states and global institutional arrangements as the morally relevant ones for when demanding duties of justice are appropriate.

Nagel notes that arrangements such as the WTO are "set up by bargaining among mutually self-interested sovereign parties," and that it is states that are responsible to their citizens for the content of such agreements not the global institution.¹¹⁹ The implication is that demanding duties of egalitarian justice arise only in "a form of organization that claims political legitimacy and the right to impose decisions by force, and not to a voluntary association or contract among independent parties concerned to advance their common interests."¹²⁰ But what is the difference between claiming political legitimacy over individuals and a collective of states that claim to have the legitimacy to demand of member states that they comply with a set of international rules? The claims of WTO member states are certainly based in principles of fair reciprocity.

¹¹⁷ Waldron, "Special Ties and Natural Duties," 8-15.

¹¹⁸ See Annex 2 of the WTO Agreement: Understanding on rules and procedures governing the settlement of disputes.

¹¹⁹ Nagel, "The Problem of Global Justice," 138.

¹²⁰ *Ibid.*: 140.

The difference is that the claim to political legitimacy means that the state is thought to have the moral authority to use coercive force to ensure that individual residents do what is required of them so as to secure the political order members depend on (e.g. obey the law and pay taxes). On this view, within states or at least in just states individual subjects have a political duty to support the collective political project and states have political legitimacy in exercising sovereign authority to secure this support. Attempts at non-support (e.g. disobeying the law) are failures to satisfy the political duties one owes to fellow members. I will spend much more time working out these ideas and objections to them in Chapter III, but what is important to note here is that the WTO does not claim for itself this kind of political legitimacy.

Compliance in the WTO is about making sure members follow the agreements they chose to make with other states and to act in the spirit of the agreement. There is no pretence of moral authority to use coercive force so as to ensure that all states 1) support the collective project in the first place or 2) continue to support it. Even though it is enormously costly for a state, non-support of the WTO does not give other participating states a legitimate reason to use coercion and states can unilaterally choose to exit the WTO.¹²¹ There is no political duty on the part of states to support the WTO beyond what is embodied in the agreements they have already made. A state's citizenry does not fail in some political duty owed to the international community by not supporting the WTO as a political project, although we can say that participating states have committed themselves to follow the terms of exit within the agreement.

The heart of the difference between states and the WTO is thus not the presence of compliance mechanisms as such, since both do engage in disciplinary instruments in securing rule following. Rather it is the combination of a system of compliance with that claim that individual subjects have political duties to support the collective political project. This stronger form of membership is descriptive of what is expected from citizens of a state but is not, it is argued, descriptive of the principles on which the WTO is based. Of course it may be the case that this distinction it is not factually correct. It may be the case that as a collective the states that make up the WTO take themselves to have the moral authority to do more than ensure compliance to agreements but to also coerce in the name of universal support for the political project. If this is empirically true of what the WTO member states actually do then those that advance the political conception of justice would have to agree that demanding duties of justice pertain in this arrangement. Yet there does seem to be a clear element of voluntarism in the WTO that is not present in the state, and a clear difference in the content and means of the WTO's compliance system. By pointing to actual and morally relevant dif-

¹²¹ Members may leave the WTO on six month's notice (WTO Article XV).

ferences between domestic basic structures and the global basic structure the political conception of justice challenges all forms of cosmopolitanism based on the likeness of global conditions to domestic ones.

Voluntarism

We can now see that the third way in which the political conception challenges liberal cosmopolitanism; namely because the theory is not *in principle* anti-cosmopolitan. If we had supranational forms of political authority it would also make sense to talk about global standards of justice.¹²² However, Nagel makes it clear that global forms of political authority must exist prior to any suggestion of demanding duties of global justice. He says,

Justice is something we owe through our shared institutions only to those with whom we stand in a strong political relation.... Furthermore, though the obligations of justice arise as a result of a special relation, there is no obligation to enter into that relation with those to whom we do not yet have it, thereby acquiring those obligations toward them. If we find ourselves in such a relation, then we must accept the obligations, but we do not have to seek them out, and may even try to avoid incurring them....the requirements of justice themselves do not, on this view, apply to the world as a whole, unless and until, as a result of historical developments not required by justice, the world comes to be governed by a unified sovereign power.¹²³

If we were to choose to create a global form of political authority there would also be demanding duties of justice at the global scope, but this choice could not itself be required by justice. States may have very good reasons for creating global forms of political authority, but a political society rightly exercises self-determination when it comes to decisions on expanding the scope of political obligations (e.g. as has been the case with the EU member states).¹²⁴

Those that advance the political conception of justice must provide a non-voluntarist justification for the associative political duties individuals are thought to have within states. This is because the overwhelming majority of people never actively give their consent to the state's authority in a morally relevant way.¹²⁵ The position is one of non-voluntarism for existing states (or at least those states that are minimally just) but voluntarism for any new institutional arrangements of this kind.¹²⁶ Treating the two cases differently

¹²² Blake, "Distributive Justice, State Coercion, and Autonomy," 289-94, Risse, "What to Say About the State."

¹²³ Nagel, "The Problem of Global Justice," 121.

¹²⁴ Risse, "What to Say About the State."

¹²⁵ See Simmons, *Moral Principles and Political Obligations*, 57-100.

¹²⁶ Nagel thinks that it is more likely that supranational forms of political authority would be imposed on us through war or otherwise than that we would voluntarily choose such an arrangement. Nagel, "The Problem of Global Justice," 145-47.

does appeal to the liberal view that our obligations to others should be founded, as far as is possible, on voluntary consent.

A central characteristic of liberal political thought is the high value placed on individual liberty and as a result liberals adopt a presumption in favour of individual freedom from coercion. This presumption causes a problem for justifying the state because states are necessarily coercive. Liberals have appealed to a range of consent based justifications for the state in order to reconcile the combined commitments to liberty and the need for political order. If individuals consent to the authority of the state then the coercion involved in the political order is not a violation of individuals' liberty or autonomy. Justifications of states along these lines have been offered by appealing to direct, tacit and even hypothetical consent. As we will see in chapter III, such attempts fail to amount to a successful *consent* based justification of states *as we know them*, and there is no pretence to a consent based justification of the state following the political conception of justice. But this does not mean that voluntarism is abandoned.

Nagel argues that the "search for legitimacy can be thought of as an attempt to realize some of the values of voluntary participation, in a system of institutions that is unavoidably compulsory."¹²⁷ To do this one appeals to justifications for political order that aim to show that it would be unreasonable to choose not to have coercive political orders, "even though the choice cannot be offered."¹²⁸ The difference at the global scope is, according to the political conception, that the choice to limit political legitimacy to the state or expand it to supranational institutions actually can be offered. Political obligations within existing states cannot be based in voluntarism but in making political association as voluntary as possible we should accept that further expansions of the scope of our political duties should be based on the voluntary choices of individuals through their political communities.

A global natural duty of justice

By advancing the argument that there is a moral duty to create and support a new global political project to address the problem of human induced global warming I have committed myself to a non-voluntarist argument for global political duties that derives its moral force from something other than reciprocity. If we have under current conditions a duty to create a new form of political authority at the global scope we must have this duty independent of what we do or do not consent to. Furthermore, if there is now a duty of justice to create such a supranational political authority it cannot be a reciprocal duty for two reasons.

¹²⁷Nagel, *Equality and Partiality*, 36.

¹²⁸Ibid.

The first reason is that reciprocal political duties are duties that are only owed within political orders we have benefited from in some way. This is why fair reciprocity is thought to generate demanding duties only within the state in which we have membership and why we do not have nearly as extensive positive duties to support the functioning of other just states as we have in our own state.¹²⁹ Because there currently is no supranational political institution to address the problem of global warming we cannot logically have a reciprocal political duty to support such a project.

Second, even if there were such a supranational arrangement those in the current generation could not have a reciprocal duty to support it because we could not benefit from it in the morally relevant way. Normally the idea that an individual subject has a duty based in fair reciprocity to obey the law and pays taxes is dependent on the individual receiving things that they benefit from in a self-regarding sense. I now have a duty to help support my state's public education system because I once benefited from it and continue to indirectly benefit from its existence. But in the case of global warming any costs we take on now to address the problem, including the costs involved in creating a supranational political authority, will not lead to comparable benefits for us in terms avoided climate change. The benefits from acting to address global warming cannot generate a fair play reciprocal duty because almost all of what we can do today is for the benefit of future generations. Thus the only way to get the argument for the proposed supranational political authority off the ground is to appeal to some kind of non-reciprocal duty that is largely other regarding.

As I have explained in this chapter, if either the argument for limiting the scope of justice based on reciprocity within existing political orders or for voluntarism in expanding the scope of our political duties to others are true, my contention that we can have a duty to enter into supranational political project to address the problem of global warming is undermined. However, I will show that once we have a better understanding of the reasoning employed to support non-voluntary duties within the state it becomes obvious that we cannot simply rule out the possibility of non-voluntary and other regarding duties to create political institutions at the global scope. Non-voluntarism for existing institutional arrangements but voluntarism for any institutional arrangement that does not yet exist is as position that will not hold given the normative commitments embodied in the political conception of justice. Rawls himself makes it clear that following the contractualist justification of the state on which the political conception of justice is based non-voluntary political duties cannot rest solely on an argument from fair reciprocity. This line of reasoning has implication beyond the state.

¹²⁹ See, Klosko, *Political Obligations*, 75-92.

The claim I will advance is that global warming has activated what Rawls calls the “natural duty of justice.”¹³⁰ This duty “requires us to support and to comply with just institutions that exist and apply to us. It also constrains us to further just arrangements not yet established....”¹³¹ Rawls advances this argument because he comes to realise, rightly I think, that received benefits cannot justify to individual members the kinds of political duties they are thought to have in non-voluntary states. Instead one must appeal to a natural duty at a foundational level to account for all members having non-voluntary political duties within these kinds of political orders.¹³² Natural duties are moral duties we owe to others that are not based in some commitment we have voluntarily taken upon ourselves or in obligations generated due to benefits we have received from the efforts of others. For example, we have a natural duty not to be cruel to others. A natural duty of justice is a specific occurrence of such duty and is a non-voluntary and other-regarding duty to enter into or support a political order because *others* depend on these political institutions to secure essential goods.

This reasoning will be explained in detail in Chapter IV. However what is important to notice here is that if justifying non-voluntary political duties in existing states does not rely solely on consent or reciprocity but also rests on non-voluntary and non-reciprocal other regarding duties then one cannot simply point to the lack of a global form of political authority to rule out the possibility that we could have global duties of justice under current conditions. If the natural duty of justice is foundational in justifying to individuals that they ought to accept the demands of political society within the state then we must at least be open to the prospect that this same natural duty could generate duties to support the creation of new, even global, political projects. I will use the natural duty theory of political duties to argue that the problem of global warming has generated a *global natural duty of justice* to support a global political project that could address the human impact on the atmosphere.

Before moving on to the next section it is worth pausing to notice why I argue for global political duties and not just a system of what is now commonly called *global governance*, i.e. an international system of agreements charged with coordinating states efforts to achieve common goals. For example, the WTO system coordinates global trade policy and is, many would argue, one of the strongest forms of global governance given its comparatively strong system for ensuring compliance among member states. What I propose is something more than what we find in the WTO because I do not only argue that we need an international agreement with a compliance system that will limit state sovereignty. I also argue that even though we do not

¹³⁰ Rawls, *A Theory of Justice: Revised Edition*, 99.

¹³¹ Ibid.

¹³² Ibid., 99-100.

currently have this kind of supranational arrangement political legitimacy already resides at the global scope.

On my thesis non-support for the institutional conditions from which we could mitigate global warming amounts to a failure to satisfy our duties to others. In other words, political legitimacy for the issue of global warming can only be fully realised at the global scope and this makes the issue one of global justice instead of international coordination. When I argue for a global form of political authority as opposed to global governance I am indicating this normative distinction. The problem of climate change has shifted some part of what states could previously have legitimate political authority over to the global scope.

The compliance scheme in a global political effort to address the threat of climate change could be quite similar to that of the WTO, although likely more collective in character than the practice of letting individual states impose trade sanctions on partners found to be in violation of WTO rules. States could underwrite such a global political effort with various forms of coordinated trade sanctions. The most important difference from the WTO following the political conception of justice would be at a normative level. Non-support on the part of individuals and their political communities for the project of intensified coordination of global trade rules is not on the political conception an example of moral failure to satisfy what is owed to others in global relations. However, non-support of global efforts to address climate change is considered to be this kind of moral failure following the interpretation I will offer.

Does this in turn mean that states could legitimately use coercive trade sanctions or even military force to compel non-cooperating states to join the global political project I am proposing against their consent? I will not be able to address this question in this work and can only indicate that I cannot imagine a plausible justification for the use of military force. The case for economic sanctions is probably less clear cut, but it must be stressed that the argument from this book cannot be taken to indicate answers to such question one way or another. What should be emphasised is that my argument is focused on a specific kind of normative issue that despite raising the above kind of questions is clearly delimited from it. The aim of this book is to demonstrate that the problem of climate change has generated conditions at the global scope that give rise to demanding duties of global justice. More specifically the aim is to show that those liberals that are sceptical to the prospect of global justice in the absence of global forms of political authority ought not to be sceptical in the case of global warming. Thus the point I want to make is that in this case we do have duties to create a global form of political authority and that these political duties of justice are not founded in consent or reciprocity.

How to justify political authority and political duties

In this section I outline a general approach to for showing when political authority is morally justified and for when we have political duties to support a coercive political system. To do this we must look to the well established body of thought on the justification of the state. It is here that we can identify what kinds of arguments would amount to a justification for some form of political authority and for political duties to support or create such an authority. I will then outline how I will apply these standards of justification to the global warming case.

Political philosophers should ask themselves two distinct questions in thinking about whether the political authority of a state can be morally justifiable. Can we justify the need for a state and do individuals have duty to obey the state? These two questions are often conflated in discussions on the moral foundations or lack there of for the authority exercised by political institutions and it is quite natural to do so. As soon as we ask if the state is justified we must ask ourselves, 'justified to whom.' However, we cannot simply assume that a successful normative argument for why we need the state also shows that individual subjects have a duty to obey the state. Nor is a successful rejection of the claim that individuals have political duties enough to show that the authority exercised by the state is not morally justified.

Interestingly the dominant academic view increasingly appears to be that following liberal premises the vast majority of individuals do not have political obligations within existing states. This position is based on the normative assessment that individuals could only have obligations to obey the state by voluntarily consenting to its authority and that states as we know them are non-voluntary for most subjects.¹³³ Following such an assessment individuals do not have a clear moral reason to obey the dictates of the state *because it is the state that gives them*, although we can have other moral reasons to do what the state dictates.

Even among those that do not think that individuals have political obligations within states many maintain that the state can still be morally justified in using coercion. One version of this argument is that although one does not have a duty to obey the state it would be wrong to obstruct a just state exer-

¹³³ See Allen Buchanan, "Political Legitimacy and Democracy," *Ethics* 112, no. 4 (2002), William A. Edmundson, "State of the Art: The Duty to Obey the Law," *Legal Theory* 10, no. 4 (2004), Leslie Green, *The Authority of the State* (Oxford: Clarendon Press, 1988), Leslie Green, "Who Believes in Political Obligation?," in *For and against the State*, ed. John T. Sanders and Jan Narveson (Lanham, MD: Rowman & Littlefield, 1996), Christopher W. Morris, *An Essay on the Modern State* (Cambridge: Cambridge University Press, 1998), Joseph Raz, "The Obligation to Obey the Law," in *The Authority of the Law*, ed. Joseph Raz (Oxford: Clarendon Press, 1979), A. John Simmons, "Justification and Legitimacy," *Ethics* 109, no. 4 (1999), Simmons, *Moral Principles and Political Obligations*.

cising legitimate authority.¹³⁴ Given this possibility and the current nature of the academic debate we have good reason to keep the justification of the state and the justification of political duties separated. Advancing just one kind of justification will not be viewed as a compelling argument for the other kind of justification given the current state on thought on this subject.

Defining political duty

Before continuing with the issue of how to go about justifying political order and political duties it is important to first explain what I mean when I say that someone has a political duty to obey the state. On the definition I will use one has a political duty to obey the state when there is at least a *prima facie* duty to obey. This means that we have a duty when there is a strong presumption in favour of obeying even though we allow for the possibility that other moral considerations can, in specific cases, override the requirement to support the state.

The idea of a *prima facie* political duty is based on the intuition that when a state dictates something that is deeply immoral, such as killing off a group of innocent residents, one cannot be morally excused for supporting the policy simply by pointing to one's general political duty to support the state. Others insist that individuals can only be said to have genuine political duties when they have a duty to obey the state in a content independent fashion, i.e. regardless of what it dictates. The concern here is that if subjects are justified in disobeying the state based on personal assessments on whether or not they should obey then we have undermined to some extent the idea that individuals have reason to obey the state simply because it is the state that dictates something. The problem is that contingent obedience appears to ultimately undermine the moral authority of the state to use coercion or the threat of coercion to ensure that an individual subject obeys even when he does not think he ought to.

Joseph Raz in his important work on authority argues that,

the normal way to establish that a person has authority over another person involves showing that the alleged subject is likely better to comply with reasons which apply to him (other than the alleged authoritative directives) if he accepts the directives of the alleged authority as authoritatively binding and tries to follow them, rather than by trying to follow the reasons which apply to him directly.¹³⁵

¹³⁴ For examples of attempts to defend the legitimacy of the use of political authority by a just state despite the absence of political obligation see: Buchanan, "Political Legitimacy and Democracy," David Copp, "The Idea of a Legitimate State," *Ethics* 28, no. 1 (1999), Rolf Sartorius, "Political Authority and Political Obligation," *Virginia Law Review* 67, no. 1 (1981), M. B. E. Smith, "Is There a Prima Facie Obligation to Obey the Law?," *The Yale Law Journal* 82, no. 5 (1973).

¹³⁵ Joseph Raz, *The Morality of Freedom* (Oxford: Oxford University Press, 1986), 53.

Raz's project asks when if ever I am better able to act on reasons I have by accepting a political authority's directives as authoritative for me in a content independent fashion. The questions of interest for this work are a bit different. What I ask instead is whether or not we can have non-voluntary duties to accept the demands of justice within existing states (i.e. political duties). Likewise, can we have non-voluntary duties to create coercive political institutions that *ought* to apply to us? If there are other regarding natural duties of justice to accept the demands of political society my conclusions are centrally relevant to Raz's question about authoritativeness. Natural duties of justice are one class of reasons for action that individuals have. However, one can theorise about the existence of these kinds of reasons for accepting political duties without having to give definitive answers on Raz's question about content independence and a political institution's status as authoritative for individual subjects in this sense.¹³⁶

It is because I do not aspire to contribute to the debate over content independence and authoritativeness that I simply define having a political duty as *at least* entailing that one has strong moral reasons to obey the dictates of the state *because it is the state that makes them*.¹³⁷ This clearly leaves an opening for the *prima facie* conception of political duties. If leaving such an opening means that I have not provided an accurate definition of political duty we

¹³⁶ For a more developed account for how addressing the question of political duties differs from addressing the problem of authoritativeness see Buchanan, "Political Legitimacy and Democracy."

¹³⁷ Raz is a strong advocate of the popular view that individuals can only be said to have a political duty/obligation to obey the state when they have reason to obey directives independent of their content (see Raz, *The Morality of Freedom*). If one only has a *prima facie* reason to obey it remains true that when the state makes a grave mistake or deeply unjust claims on its subjects our moral commitments to others can require of us that we not obey certain directives. On the Razian view such a duty to disobey would show that we did not in fact have a political duty in this case because the states directives were not authoritative for us. However, following Raz's definition of what counts as political duty we run the risk coming to the conclusion that no individuals *could* have political duties because it is impossible for beings like us to accept the dictates of the state in a content independent fashion, because it would be irrational to do so, or because it would be morally wrong to do so. This is obviously a problem in terms of the suitability of the definition as such, and the above considerations often cause problems for theorists that want to follow Raz's definition. For example, Thomas Christiano claims that "the acceptance of the democratic directives as reasons must be content independent, since it is the willingness to accept a democratic decision as binding even when one disagrees with it that is required by justice," but then moves on directly to argue that there "are, of course, limits to this reasoning that ought to be acknowledged. First, if a law is deeply unjust then no matter how democratically the decision has been made, the citizen does better to violate it unless he must merely go along on pragmatic grounds," (Thomas Christiano, "Justice and Disagreement at the Foundations of Political Authority," *Ethics* 110, no. 1 (1999): 181-82.). However, we obviously cannot have it both ways; we cannot think that we have a decisive duty to obey the dictates of a democratic state in a content-independent way except for when we judge that we ought not to.

can still say with confidence that having a duty to obey the state except given extra ordinary and weighty overriding moral considerations is something much more than not having a duty to see the state's commands as generating any special reasons to obey at all. Thus, if it can be shown that we have such a duty to support the creation of a supranational political authority we will have demonstrated that we have a demanding duty of global justice even if the terminology I use is rejected.

The two tasks of justification

John A. Simmons offers an informative distinction that can be used to clarify what it would take to 1) justify the need for political order and 2) to justify that individuals have political duties within such an order.¹³⁸ He argues that when we try to justify political authority we are trying to show that "some realizable type of state is on balance morally permissible (or ideal) and that it is rationally preferable to all feasible non-state alternatives."¹³⁹ Once this issue is settled we still must ask when, if ever, individual subjects have a moral obligation or duty to support and obey a *particular* political authority. Simmons calls this second issue the problem of moral legitimacy and says a state's legitimacy is,

the complex moral right it possesses to be the exclusive imposer of binding duties on its subjects, to have its subjects comply with these duties, and to use coercion to enforce the duties. Accordingly, state legitimacy is the logical correlate of various obligations, including subjects' political obligations.¹⁴⁰

The first line of argumentation examines what it is about what the state does and how it does it that makes it a candidate for having moral legitimacy. What is required here is an argument that shows that we need the state in some morally relevant way. The second line of inquiry asks what it is about the relationship between individual subjects and the state that generates for an individual subject a moral duty or obligation to accept the dictates of the state. Here the question is what, if anything, could justify the claim that individuals ought to obey the dictates of some actual state.

In general Simmons' distinction is a useful one for organising the various kinds of arguments a liberal justification of political authority and individual political obligations/duties must employ. However, notice that Simmons claims that "political obligation" is the "logical correlate" of a morally le-

¹³⁸ Simmons offers this distinction in protest against the way many contemporary liberals, especially those influenced by liberal contractualism, tend to assume that when *the form* of political authority in a state is justifiable then the actual exercising of this authority by a state must also be morally legitimate. In other words, citizens' owe obedience to this actual state.

¹³⁹ Simmons, "Justification and Legitimacy," 742.

¹⁴⁰ *Ibid.*: 746.

gitimate political authority. As we will see in Chapter IV, Simmons thinks that we only have political obligations if we perform some act that indicates our informed consent to a specific political authority.¹⁴¹ Thus, what Simmons is really saying is that informed consent is the logical correlate of the state's moral legitimacy. However, the claim that we only have political obligations when we consent to an authority is a normative argument. Logic cannot show us that these are correlated and what is required instead is an argument for why individuals can only have political obligations if they consent to them.¹⁴² I will argue for non-voluntary duties to obey the state and will use the term *political duties*, leaving the term *political obligations* for voluntarist justifications of state authority. What we want to investigate is whether morally legitimate political authority is the *normative* correlate of political obligation (consent), political duty (natural duty), or not correlated at all.

Another modification is also in order. When Simmons says that justifying a state involves showing that it is rationally preferable to all non-state options he is appealing to a public goods justification of the state. This will be described in some detail in the following chapter. However, it is enough here simply note that the public goods justification is based on the claim that certain cooperative goods central to human wellbeing can only be achieved if there is a political authority that can ensure that cooperation is a dominant strategy for most individuals, ultimately through the use of coercion. The theory of public goods uses the familiar assumption in economic theorising that one of the central motivations agents have is rational self-interest, and boils down to the idea that individual self-interest gives most a reason to want some set of goods that can be produced through cooperative social order. However, in the absence of political institutions self-interest also undermines effective cooperation in large scale societies.

What is important to note here is that there is no moral argument flowing from this economic analysis of the state that demonstrates that the only kinds of goods we need the state for are those that are *rationally* preferred by *each* individual in this self-interested way. One could imagine such a normative argument but when defining the tasks involved in justification we must at least allow for the possibility that needing the state means needing it to provide collective goods that are vital for most individuals' wellbeing. This opens the possibility to argue that we can justify political duties by also appealing to what is reasonable in moral terms instead of relying exclusively on self-interested reasons.

¹⁴¹ Simmons, *Moral Principles and Political Obligations*, 14.

¹⁴² Simmons' conclusions do appear to have sneaked into an otherwise important analytic distinction. This does not detract, as we will see, from the strong normative arguments he offers for the claim that justifying political duties to individuals is dependent on showing that they have consented to political authority.

With these two small modification of Simmons' original distinction we have now clearly identified two distinct tasks involved in developing a normative argument for the moral legitimacy of some system of political authority. First it is necessary but not sufficient to show that there is some collective good we need the system of political authority for, such as collective security, because the good cannot be provided adequately without such political institutions. Second we must show that individuals have a 'moral ought' to support and obey the system of political authority. In arguing for a new form of political authority at the global scope I will for each of these tasks first review liberal justifications at the state level, particularly those favoured by proponents of the political conception of justice. I will then draw a parallel to the case of global warming.¹⁴³

The first task in the process is fairly straight forward. I begin in Chapter III by outlining the collective goods argument for why we need a state and then argue that a similar collective goods argument applies at the global level for the case of mitigating human induced global warming. Research on how to provide what are often called global public goods covers a broad range of global collective action challenges that exist across state borders. For many of these challenges it is not regularly argued that global forms of political authority are required to provide the good. However, I do defend the view that achieving meaningful reductions in GHG emissions is 1) a global public good and 2) is hampered by the kind of collective action problem that requires a global system for assuring compliance to collective policy initiatives. Undertaking the second task of justifying political duties to support such a global political project is more complicated.

Defending the natural duty theory of political duties

Here my strategy will essentially be the same as with justifying the need for political authority in that I will draw a parallel between political duties within a just state and my argument for a global natural duty of justice. However, in arguing for these political duties it will be necessary to spend more time addressing the preliminary question about why we should think that individuals have political duties at any scope. The idea of non-voluntary political duties is itself highly controversial and requires that the problem be tackled in two separate chapters.

As we have seen, my argument for non-voluntary and other regarding moral reasons to accept the costs involved in creating a global political system will be based in the notion of a natural duty of justice. This is the idea that treating others as moral equals requires that we accept political duties within the state. I argue that following this theory we can also be morally

¹⁴³ Note that to simplify the analysis I will only develop this parallel in relation to just states leaving aside the more complicated question of political duties within unjust states.

required under certain conditions to support the creation of a political authority that ought to apply to us. In debates over the source of political duties in the state the natural duty of justice faces a host of powerful criticisms, particularly from voluntarists and those that think that political duties are foundationally based in principles of fair reciprocity. In Chapter IV I argue that neither the voluntarist nor the reciprocal fairness arguments are sufficient at the level of general principle to justify political obligations or duties (i.e. within state or otherwise). Instead, I argue that we can only justify such duties by including an appeal to a natural duty of justice.

The aim of defending the natural duty approach against objections from voluntarism and reciprocity has two main purposes. One is that I will be able to use this discussion to argue against general liberal scepticism towards global justice from those that advance different theories on the source of political duties. As we have seen, some of the most convincing forms of liberal scepticism to the idea of demanding duties of global justice are based in the ideas that such duties could only be generated by voluntary consent or that such duties could only arise once the same kinds of reciprocal relations that exist between citizens of a state come into existence at the global scope. The argument from Chapter IV cuts off these kinds of objections to the prospect of global justice at the level of general theory. If I can show that natural duty is a foundational justification for political duties at the state level then simply noting a lack of consent or fair reciprocity at the global scope will not be enough to show that we do not have demanding political duties at the global scope. The second central aim is to highlight how the political conception of justice is committed to the natural duty theory given the way it justifies political duties within states. By establishing this point Chapter IV provides the foundation for the argument to come in the following chapter.

In Chapter V I argue that based on the principles embodied in the political conception of justice we can still have global political duties even in the absence of existing institutions, consent, and relations of reciprocity comparable to those that exist in the state. In other words, those that hold the political conception of justice cannot simply rule out the possibility that we could have duties to support the creation of new forms of political order at the global scope that ought to apply to us. The reasoning I will advance here is quite straight forward. Because the political conception of justice is committed to the idea of a natural duty of justice and because this duty is about what individuals owe to each other give certain kinds of interconnectedness, the political conception of justice must at a conceptual level be open to the prospect of a global natural duty of justice. This logical and conceptual necessity of course does not in any way show that we do have global natural duties of justice in the climate change case or in relation to any other aspect of human relations at the global scope. However, it is only once this point about the theoretical underpinnings of the political conception of justice is established that I will be able to move on to the culmination of my argument where I

show that this theoretical possibility for a global natural duty of justice has become a reality in the case of global warming. Thus, in the second half of Chapter V I advance two distinct moral reasons for why existing agents (individuals and their political communities) ought to accept the demanding cosmopolitan duty of justice to support a supranational form of political authority in the case of global warming. These two reasons are based in respect for future people and respect for our contemporaries as moral equals.

Note that there is an enormous body of literature on the problem of justifying political duties. Covering the entire field is beyond the scope of this book, and I am forced to make some strategic choices on the views that are important for me to address. In Chapter IV we will see that the standard liberal arguments to establish political obligations or duties within states are based in consent, fair reciprocity, or natural duty, and that they have all faced serious challenges. Many working on this problem argue that the liberal tradition has failed to offer a compelling theory to resolve the problem of political duties, while several positions have emerged that try to reform and rebuild on traditional arguments. I have selected what I take to be an important contemporary voluntarist theory, Simmons' *philosophical anarchism*, and an important contemporary theory based in reciprocity, George Klosko's theory of *presumptive benefits and fairness*.¹⁴⁴ By defending the natural duty theory against the challenges advanced by these two approaches I will be able to address the main criticisms of my approach to the problem of political authority. In what follows I will briefly explain why I will not address one additional approach to the question of political duties that has also gained considerable attention; namely what is called the non-correlativity thesis.¹⁴⁵

Problems with the non-correlativity thesis for the question of new institutions

The non-correlativity thesis is the view that a political authority can have the moral legitimacy to exercise authority even though individual subjects do not have corresponding political duties. This could mean that the state has a liberty right to issue commands and coerce subjects into obeying while it does not have a claim right to expect acceptance of its dictates as legitimate.

¹⁴⁴ On philosophical anarchism see, Simmons, *Moral Principles and Political Obligations*, and Simmons, "Justification and Legitimacy." On fairness see George Klosko, "Presumptive Benefit, Fairness, and Political Obligation," *Philosophy and Public Affairs* 16 (1987).and Klosko, *Political Obligations*.

¹⁴⁵ On non-correlativity see, Kent Greenawalt, *Conflicts of Law and Morality*, Clarendon Law Series (New York: Oxford University Press, 1987)., William A. Edmundson, *Three Anarchical Fallacies: An Essay on Political Authority*, Cambridge Studies in Philosophy and Law (Cambridge ; New York: Cambridge University Press, 1998)., and Morris, *An Essay on the Modern State*.

The non-correlativity thesis could also mean that subjects do not have a duty to support a morally legitimate state, but neither can they interfere with the state's efforts to exercise its authority (i.e. when the state acts in a way that is just or, at least, not unjust).¹⁴⁶

The non-correlativity thesis is a fairly convenient approach to take if one does not want to accept the more radical position of philosophical anarchism, i.e. that political obligations can only exist in genuinely voluntary political orders, while at the same time one accepts the popular position that there is no fully compelling argument for the view that all members have political duties in non-voluntary states. Following the non-correlativity thesis it is not necessary to establish political obligations in order to show that non-voluntary states can be morally legitimate. I will not spend any time going through the arguments for the non-correlativity thesis but will instead suggest that it cannot help us answer questions about whether or not we have a non-voluntary duty to create a political order.

On first sight one would expect the non-correlativity thesis to hold that it could be possible for a morally legitimate form of global political authority to come into existence but that we could not have a non-voluntary duty to create this kind of political order. One would not expect the non-correlativity thesis to support the idea of a non-voluntary duty to actively create a certain kind of political order because if we had reasons for such a positive duty to create a political authority the same reasons would certainly also entail a non-voluntary duty to actively support this same political order once established (i.e. as opposed to simply not interfering with it).¹⁴⁷ However, there is a problem with this way of reasoning.

If some existing political authority is *morally legitimate* in the sense that it legitimately exercises coercion even though individual subjects do not have political obligations, this must be because we need this political order on moral grounds. If we did not have some compelling normative argument based in human need for having a system of coercive political authority it would not make any sense to claim that the coercive nature of the state can be morally legitimate. Given this analysis one would expect that following the non-correlativity thesis we would need a just political order to be re-created should unfortunate circumstances lead to its dismantlement. It is this proposition that creates a problem for the non-correlativity thesis.

If Sweden was to fall into anarchy those that think that the current Swedish state has morally legitimacy but that Swedes do not have political obligations within this system could not simply be indifferent to that fact the territory moved from political order to anarchy. If they were simply indifferent to

¹⁴⁶ See especially Greenawalt, *Conflicts of Law and Morality*, 47-61., Edmundson, *Three Anarchical Fallacies: An Essay on Political Authority*, 7-70.

¹⁴⁷ This reasoning depends on the assumption that the created political order continues to be the kind of order we had reason to create in the first place.

the prospect of anarchy then it would be unintelligible to say that the Swedish state's authority was legitimate on moral grounds. If there is some moral reason for thinking having a state is a good thing we are forced to ask ourselves whether or not we have a duty to re-create this order should it disappear. What could those that adopt the non-correlativity thesis say?

If the answer is that we do not have a duty to re-create the political order we bring into doubt the reasoning used to argue that a just state can be morally legitimate in exercising authority. If the reasons for thinking the state is a good thing are not weighty enough to warrant re-creation it is difficult to comprehend how it could be weighty enough to make it morally legitimate in the first place. If we instead answer yes to the re-create question this brings into doubt the reasoning used to argue that individuals do not have duties to support a morally legitimate political order. How could it be that we have a duty to reconstitute the state but not a duty to support it once we do? Without saying anything more we can already see that there is some important doubt about whether or not the non-correlativity thesis can make sense once we move away from the assumption that all we need to think about is existing and just political orders.

I will not attempt to go furtherer in addressing the non-correlation approach in this book. All I want to make clear here is that while the non-correlativity thesis might be a convenient middle ground approach, it is fairly unhelpful once we apply it to the problem of whether or not individuals can have a duty to support the creation of a political order that is deemed necessary for advancing the cause of justice. One should also note that if I can show that there is a natural duty of justice to create a new supranational form of political order with a mandate to enforce a coordinated policy on global warming I will have dealt a significant blow against the non-correlation thesis. This is because I will have shown that there can be a non-voluntary duty to create a political order. If this is true I will have also improved the argument for the idea that one can have a non-voluntary duty to actively support an existing political order.

Summation

This chapter has introduced how the case of climate change fits into contemporary debates over global justice and has reviewed some of the central lines of argument in this literature. We have seen how the problem of global warming raises question about the territorial and generational scope of justice. I have also classed dominant perspectives on the idea of global justice along two criteria: 1) do standards of justice arise through associative relations or non-associative relations (i.e. shared moral status alone), and 2) under current conditions do we have demanding duties of justice at the global scope or are the demands of justice largely limited to the state level (i.e.

cosmopolitanism vs. anti-cosmopolitanism)? Given that my thesis departs from the way in which the problem of climate change has intensified global interconnectedness I focus specifically on the debates between *associative cosmopolitans* and *associative anti-cosmopolitans*. The question in general raised by these two perspectives is what kinds of interconnectedness generate demanding duties of justice. The specific question I address in this book is whether or not the problem of climate change has interconnected us in a way that generates demanding duties of global justice.

In answering the question I have chosen to focus on the political conception of justice. Those that adopt the political conception are sceptical to the prospect of global justice but at the same time it is an individualist theory that does recognise the arbitrariness of existing political borders from the perspective of the individual. Limits to the scope of justice are thus not defended by appealing to the *inherent* values of national identities or communal norms. The political conception does not limit the scope of justice to the state by conceiving of the interests of groups of people as ends whose moral value takes priority over the value of individuals outside of the group. Instead, when defending limits to the scope of justice the political conception identifies associative differences between individuals in their relations at the global scope and those among members of states as morally relevant in determining the scope of our demanding duties of justice.

The argument against cosmopolitanism advanced following the political conception is that any time individuals share in a set of political institutions that have the authority to dictate the terms of social cooperation, as is the case with states, demands of social justice apply. These kinds of political associations give rise to standards of fairness and reciprocity among individual members that can justify at least the basic and common political and distributive duties of justice we normally associate with a liberal democratic welfare state. More precisely the idea is that the state's claim to morally legitimate political authority over members and its use of coercion are what justify both the idea that members of political communities owe each other egalitarian duties of political and distributive justice and the idea that it is non-egalitarian humanitarian standards that constitute the demands of morality at the global scope. In the later case it is the lack of the right kind of political associations that explains why more demanding political and distributive duties of justice do not apply.

Because the political conception offers a highly individualistic challenge to cosmopolitans it is not nearly as susceptible to charges of failing to treat individuals as ends in themselves, which has traditionally been the central way in which cosmopolitans have rebuffed liberal forms of anti-cosmopolitanism such as liberal nationalism. In fact, as we have seen those that adopt the political conception of justice regularly appeal to principles of reciprocity and fairness among individuals that are central to a wide range of egalitarian liberal theories of justice. As such, I have argued that the political

conception of justice represents one of the most important challenges to cosmopolitanism generally and thus to the cosmopolitan thesis I advance in this book. Second, I argued that there is a methodological benefit of developing my thesis from within the theoretical framework employed by those that advance the political conception of justice. If I can show that in the case of global warming the political conception has clear cosmopolitan implications, then this argument should be compelling to a broad range of liberal forms of scepticism towards the idea of global justice. Note however that I do not advance what I have called a cosmopolitan political conception of justice simply because it has some strategic methodological advantages. Rather, I take contractualism to be an exceptionally compelling approach to questions of social justice generally and aim to address what I view to be problems with the way several prominent contractualist thinkers have interpreted this theory for questions of global justice.

Finally, I have laid out a strategy for justifying a supranational form of political authority and duties to support the creation of such an authority. Here I have followed Simmons' work which has been critical of some overly simplistic ways in which liberals have attempted to justify political authority. With some necessary modifications to Simmons' original distinction, I have proposed a two staged strategy for justifying the moral legitimacy of a global form of political order to address the threat of human induced climate change. Justifying to individuals the moral legitimacy of existing political orders or the moral necessity to create some proposed political order is dependent on 1) showing the need for political order and 2) demonstrating that individuals' have duties to support a particular political order or to create a particular political order.

In the first stage one must show that a system of political order is necessary to provide a set of goods that are essential for most individuals' wellbeing and that the goods in question cannot be provided, will be underprovided, or will not be provided in a just way without a political order. I will argue in the following chapter that providing the good of a stable climate (i.e. mitigation of global warming) is like the collective goods regularly appealed to by liberals in justifying the state. Environmental protection at this scale is central to securing human wellbeing while the good of global warming mitigation cannot be provided without some system that can ensure compliance to coordinated policies at the global scope (i.e. some form of global political authority).

Given a successful argument for *the need* for political order the second issue that arises is justifying to individuals that *they* have duties to support such a political order. In advancing this second stage of my thesis I have argued that it is necessary to begin by focusing on general theories on political duties. To do this I propose to demonstrate that individuals can have non-voluntary duties, i.e. duties not based in consent, to support existing political orders (Chapter IV). More specifically this discussion will serve to support

the natural duty theory of political duties that is embodied in the political conception of justice. I have suggested above that the reasoning used to show that individuals can have non-voluntary political duties in existing states can also support my claim that individuals have duties to support a new global political project to address the threat of climate change. Thus, once I have defended the natural duty theory of political duties at the level of general theory I will in Chapter V argue that the threat of global warming generates comparable natural duties of justice at the global scope. On my interpretation the political conception of justice has clear cosmopolitan implications in this case, namely that under current conditions we can have demanding duties of global justice. Defending this second move will complete the second stage of the argument I have outlined in this chapter.

Chapter III

Collective goods, political order, and global warming

In this chapter I will argue that the collective goods reasoning traditionally employed by liberals to justify the need for the state can also be employed to justify the need for political order in the case of global warming. The main objective is to show that there is a normatively relevant similarity between the cooperative challenges involved in providing, for example, law and order at the domestic level and the good of climate change mitigation (i.e. the reduction of GHG emissions and the stabilisation of global warming trends). Like with law and order at the state level, achieving the good of a stabilised climate requires that we act collectively and in this case at the global scope. However, if it is not realistic to expect adequate collective action independent of some system of political authority that can assure compliance to coordinated policy among the relevant agents then it may be possible to justify a supranational form of political association to address the threat of global warming.

To begin it is worthwhile to repeat the basic logic behind the idea that similarities between domestic and global collective action problems can be relevant to theories of global justice. A justification for the state that is common in liberal political thought is that the state is needed to secure collective security and basic welfare. There are many other kinds of justifications offered for why we need the state, but the appeal to security and welfare appears to be necessary at a foundational level to get a liberal argument for the state off the ground. In other words, the state's role in securing welfare and security are at least necessary to justify the coercive nature of political order and to justify to individuals that they ought to support political society in various ways. What then should liberals that think that political order can be justified say when states fail to secure these goods either independently or multilaterally through international agreements? What can we say when there is a need for political organisation to ensure collective security or welfare at the global scope but states appear to be unable to provide these goods?

The kind of cosmopolitan thesis I advance in this book is based broadly on the reasoning that if the state is at a foundational level justified based on its ability to provide security and welfare then this same reasoning can be used to justify the need for instituting supranational forms of political authority when states fail to secure these goods. The claim is certainly not that it simply follows automatically from state failure to provide some global good that a supranational arrangement is justifiable. Rather the argument is that from a liberal perspective there is no *inherent* reason for why the justification of political order applied at the state level could not also under certain conditions justify political order at both narrower and broader scopes than existing states.

The idea is then that if one can show that a supranational form of political authority is needed to avoid the potentially huge negative impacts on human welfare expected from global warming, then one has at least shown that some necessary conditions for justifying such a global political project are present. Demonstrating the significantly stronger claims that such a global form of political authority is morally justified and that we have duties to support such a development requires of course much more argumentation. For example, these stronger claims are dependent on showing that we have some decisive normative reasons for creating the institutional conditions that would make mitigating global warming possible.

I will not try to show in this chapter that we do in fact have decisive moral reasons to support a collective global effort to mitigate climate change, nor will I even try to show that political order can be morally justified at the state level. These normative issues will be addressed in Chapters IV & V, and I will limit myself in this chapter to the first task of justifying political authority. As was noted in Chapter II the first task for defending my cosmopolitan thesis for the case of global warming requires showing that we would need a supranational political arrangement to be able to mitigate this environmental threat. I will for the most part in what follows simply present the reasoning behind the view that this is in fact the case. In a sense I simply assume for the purposes of this chapter that mitigating global warming is an essential good in order to make it intelligible to ask if we could achieve it through weakly enforced international agreements or if we would need some stronger supranational political arrangement.

Note however that I am forced to go a bit further than this in order to satisfy the task of justifying the need for political order on liberal premises. In order to suggest that there is some kind of parallel between the collective goods arguments regularly offered to justify the need for the state and the case of climate change it is necessary to reflect over the different kinds of reasons individuals have for action that could both make global warming mitigation a collective good and that also make achieving the collective good difficult due to collective action problems. There are many goods that require extensive human cooperation but do not warrant the interference of

coercive political institutions. This can be because the good in question is either not so important that we can justify using coercive political institutions to provide it or because the good can be adequately provided independent of political institutions. In order to justify the need for the provision of some collective good through political institutions it is important to show that individuals have reasons to see some outcome as an essential good and that it makes sense to expect that individuals acting independent of some system of political order will fail to adequately provide the good in question. In the case of global warming there is some difficulty in drawing a direct parallel to at least some of the standard liberal arguments for the state.

For example, when justifying the need for state provision of law and order to individuals one often finds the claims that law and order will not be provided in an adequate fashion without a state even if individuals act rationally and that all or nearly all individuals benefit from their being a state run system of law and order. This is the familiar Hobbesian appeal to individuals' rational self-interest in justifying to them that they ought to accept the costs and limits of coercive political authority in a given territory. Rational self-interest generates some collective action problems in securing social order and rational self-interest also gives individuals reasons to accept political arrangements designed to resolve these collective action problems. In the case of global warming it is not clear that one can motivate the need for political order in this way.

The efforts we in the current generation make to mitigate global warming will not translate into the stabilisation of global warming trends over our lifetimes. Instead the largest share of benefits from our efforts will be incurred by other people far into the future. As we will see, this leads to some problems in trying to *characterise* what kind of collective action problem, if any, is in fact generated by the threat of global warming. Most importantly one may not be able to appeal to the full range of reasons for accepting political order that tend to be advanced in liberal arguments for why we need states. This is a problem because, as we will see, it is the nature of the collective action problems we face that are foundational to arguments in the liberal tradition for justifying the need for political institutions to mediate certain aspects of human interaction. Despite these problems one can still, I will argue, justify the need for political order at the global scope in the case of global warming following the commitments widely adopted by liberals. I will show that there is enough of a similarity between the justification of political order typically adopted in liberal thought and conditions in the case of climate change to get the cosmopolitan thesis of this book off the ground.

I begin the chapter by giving a brief summary of how the need for the state is normally justified following liberal theoretical premises. I will then develop the argument that one can justify the need for political order at the global scope in a comparable way for the case of global warming. To do this I present and interpret theoretical and empirical research on the prospects for

collective action to mitigate climate change. Here I look specifically to research on the international political economy of global warming mitigation. This research suggests that the main difficulty in securing a global arrangement that could effectively achieve the levels of emissions reductions deemed necessary by the IPCC is the lack of a credible system to assure compliance to such international arrangements. From the perspective of political theorising a central implication of this empirical assessment is that we would need a supranational form of political authority should we have decisive reasons to act collectively in response to this threat. This assessment in turn gives rise to the larger question about global justice that is addressed in the following chapters. Could we have duties of justice to support this kind of global political project?

The reader should note that in the current chapter I explain and defend a central set of perspectives on the prospects for collective action to address global warming. Thus this chapter presents an empirical underpinning for the rest of the study that is derived from existing work in international relations and international political economy on global warming mitigation. My own analytic contribution is in part providing the reader with a better understanding on what it means to have a collective action problem in the case of global warming and in part highlighting the normative implications of various results from economic and political analysis on this problem.

The collective goods justification of the state

The collective goods justification of the state is based in the claim that without a state a set of collective goods that are necessary for most individuals' wellbeing cannot be provided, will be underprovided, or will not be provided in a just way. The reasoning behind these kinds of claims has a long tradition in political theory, but we find an early modern and well developed expression of this view in Hobbes' work with John Locke, David Hume and Adam Smith being other prominent thinkers that have seen the function of the state in this way.¹⁴⁸ According to Hobbes, it is only by empowering an absolute Sovereign and thus creating a strong political authority that there is any hope for achieving those human goods that are made by possible by exchange, cooperation, and community.¹⁴⁹

¹⁴⁸ For a succinct explanation of the collective goods justification of the state as it has been employed in political theory see Russell Hardin, "Economic Theories of the State," in *Perspectives on Public Choice*, ed. Dennis C. Mueller (Cambridge: Cambridge University Press, 1997).

¹⁴⁹ Hobbes, *Leviathan*, 86-90, 170-74.

Locke is more optimistic than Hobbes about what is possible politically within the realm of reasonable risk aversion for anarchy, but the central theme of Locke's justification of the state is that we need a

settled, known law, received and allowed by common consent to be the standard of right and wrong, and the common measure to decide all controversies between them: for though the law of nature be plain and intelligible to all rational creatures; yet men being biased by their interest, as well as ignorant for want of study of it, are not apt to allow of it as a law binding to them in the application of it to their particular cases.¹⁵⁰

We need the state so that we can create an "indifferent judge, with authority to determine all differences according to the established law," and an institutional structure that can "back and support the sentence when right, and to give it due execution..."¹⁵¹ Without a state Locke argues that individuals could not be assured of the protection of their rights and property, and the condition of constantly being in danger of attack would undermine their ability to enjoy human goods. It is law and order, i.e. the functions of legislation, adjudication, and enforcement, together with basic security and the enforcement of individuals' rights that come first to mind in describing how the state is justified, especially in the social contract tradition. Over the past 40 years this line of reasoning has become more formalised in what is often called the study of *collective action*.¹⁵²

Public goods and the economic theory of the state

The collective goods provided by the state are now often described as public goods because they must be provided through collective action and are non-excludable, meaning that the amount I contribute to the good's provision does not affect the degree to which I can enjoy the good.¹⁵³ If a state provides national defence and I avoid, illicitly, contributing to the tax system that supports defence spending I still enjoy this good. Public goods are also defined as being non-rivalrous. This means that my enjoyment of national defence does not affect your ability to access the same good. This can be contrasted with rivalrous consumable products like foods where my use does prevent you from being able to consume this same product.¹⁵⁴

Table 1 provides a basic classification of the different kinds of goods along the excludability and rivalrousness parameters.

¹⁵⁰ John Locke, *Two Treatises of Government and A Letter Concerning Toleration*, Shapiro, Ian ed. (New Haven, Conn.: Yale University Press, 2003), 155.

¹⁵¹ Ibid.

¹⁵² Mancur Olson, *The Logic of Collective Action; Public Goods and the Theory of Groups* (Cambridge, MA: Harvard University Press, 1965).

¹⁵³ Ibid.

¹⁵⁴ Another way to define public goods is as non-excludable and indivisible.

Table 1: Public goods and common pool resources

	Non-rivalrous	Rivalrous
Non-excludable	<p>Public goods</p> <p>Defence, law and order, weather forecasts</p>	<p>Common pool resources</p> <p>Fish stocks, maintenance of the atmosphere's protective functions</p>
Excludable	<p>Club goods</p> <p>Patented knowledge (legal exclusion), cable television (technical exclusion)</p>	<p>Private goods</p> <p>Food, computers, cars</p>

Following the logic of collective action we should expect those goods where access cannot be efficiently excluded to be underprovided or not provided at all in the absence of coercive political institutions. The idea is that one needs the coercive instruments employed by a political authority to ensure cooperation among large groups of people when individuals' rational choices in markets do not secure the provision of public goods.¹⁵⁵

In the standard example of national defence any single individual's non-contribution does not undermine the ability of the community to provide defence and as a result any self-interested and rational agent has an incentive to free-ride by avoiding their share of the cost while letting other's pay. The individual agent reasons that because national defence will be provide even if he does not pay his best option is to try to avoid paying, i.e. he will still benefit from national defence despite his own cheating. Yet if each individual reasons in this way and there is no state to ensure that individuals contribute to the collective good we can expect that national defence will be badly under funded. In the absence of a state even if there a many individuals that have a strong interest in providing the good they will worry that any contribution they make will be undermined by others' free-riding, and even a relatively small number of non-cooperators could undermine the system.

Provision of a public good is said to have the structure of a prisoners' dilemma. Even though all players prefer that the good should be provided collectively over the option of non-provision each player's best option, regardless of what others do, is to attempt to free-ride on the efforts of others by avoiding contributing their share of the cost. The state's role is to assure that

¹⁵⁵ Richard Abel Musgrave, *The Theory of Public Finance: Study in Public Economy* (New York: McGraw-Hill, 1959).

the collective project will not be undermined and it does this by using sanctions in such a way that contribution becomes a dominant strategy for most members of the society. Free-riding need not undermine human cooperation in many circumstances but the logic of collective action is concerned with free-riding and cooperation of the kind we find in complex modern societies among large groups of people. The basic idea is that individuals acting on their own rational interest will fail in some cases to secure what is collectively rational unless there are coercive political institutions that make cooperation the dominant strategy for most actors.¹⁵⁶

Normative requirements in liberal collective goods thinking

The theory of public goods as it is used in contemporary liberal political thought incorporates the rationalist logic of economic theories of the state but also entails a host of normative claims that are not always immediately apparent. The most obvious underlying normative position is that securing individuals' welfare and rights protection is important.¹⁵⁷ There are also some less obvious underlying normative assumptions at work in the way liberals use the public goods theory. Liberals sometimes argue that some good must be provided through the state because provision through a voluntary scheme does not ensure that all that want and/or need access to the good actually get it, or because the good would not be provided in a morally acceptable way.

For example, markets may be able to successfully provide protection services that cover a large majority of residents in a territory in an excludable fashion. On a strictly economic analysis the good would not be a public one. However, ensuring that *all residents* have access to some sufficient and comparable level of protection may require state provision of the good. Thus it is the normative requirement for universal provision that gives provision of security services a public goods character. Because liberals do not usually adopt a strictly economic theory in arguing for the need for the state I will refer to the collective goods justification of the state instead of a public goods justification, although I will incorporate both terms as appropriate in what follows.

For many collective goods that appear to be pure public goods there are clear prospects for non-state provision,¹⁵⁸ and there are those that take this

¹⁵⁶ Olson, *The Logic of Collective Action; Public Goods and the Theory of Groups*, 9-16.

¹⁵⁷ Russell Hardin, "The Normative Core of Rational Choice Theory," in *The Economic World View*, ed. Uskali Mäki (Cambridge: Cambridge University Press, 2001).

¹⁵⁸ See for example: Richard Cornes and Todd Sandler, *The Theory of Externalities, Public Goods, and Club Goods*, 2nd ed. (Cambridge: Cambridge University Press, 1996), Russell Hardin, *Collective Action* (Baltimore: Johns Hopkins University Press, 1982), Elinor Ostrom, "How Types of Goods and Property Rights Jointly Affect Collective Action," *Journal of Theoretical Politics* 15, no. 3 (2003).

evidence to undermine the need for non-voluntary and coercive political authority at a more fundamental level.¹⁵⁹ Yet, these findings rarely represent a serious challenge to the claim of interest here; namely that we do in fact need political order to provide a set of essential collective goods. For example, security and social order services can be provided in relatively excludable ways, but the private provision of law and order in the absence of a state will either be unstable or very much like a coercive state.

Nozick famously argues that private protection services in conditions of anarchy naturally move towards monopoly because as long as there are many protection agencies of relatively equal strength there is a risk for conflict between them and insecurity for the clients of these firms. This gives individuals incentives to coordinate around one dominant agency.¹⁶⁰ Yet, when there is a monopoly over the provision of law and order we get neither the efficiency gains nor voluntarism normally associated with markets, making it difficult to see the advantage of having a for-profit supply.

Samuel Freeman puts forth the liberal perspective well when he says,

Political power is held in trust, as a fiduciary power; those who occupy political offices act in a representative capacity, for others' benefit. Since it is held in trust, political power is not to be exercised for the benefit of the person who occupies political office. So far as political power is contractual, then, it is not based in a mutually beneficial bargain between ruler and ruled.¹⁶¹

When protection services are provided through a market in conditions of anarchy the services are founded exclusively in a series of mutually beneficial contractual agreements meaning that there will not be "any place for political society, a 'body politic' that political authority represents in a fiduciary capacity.... People's rights are selectively protected only to the extent they can afford protection and depending on which services they pay for."¹⁶²

¹⁵⁹ See Randy E. Barnett, *The Structure of Liberty: Justice and the Rule of Law* (Oxford: Oxford University Press, 2000), Bruce Benson, *The Enterprise of Law: Justice without the State* (San Francisco: Pacific Research Institute for Public Policy, 1990), Anthony De Jasay, "Freedom from a Mainly Logical Perspective," *Philosophy: The Journal of the Royal Institute of Philosophy* 80, no. 314 (2005), Robert C. Ellickson, *Order without Law: How Neighbours Settle Disputes* (Cambridge, MA: Harvard University Press, 1991), Tibor Machan, "Fishkin on Nozick's Absolute Rights," *Journal of Libertarian Studies* 6 (1982), Jan Narveson, *The Libertarian Idea, Ethics and Action* (Philadelphia: Temple University Press, 1988), Murray Newton Rothbard, *For a New Liberty* (New York: Macmillan, 1973), David Schmidtz, *The Limits of Government: An Essay on the Public Good Arguments* (Boulder: Westview Press, 1991), Michael Taylor, *The Possibility of Cooperation* (Cambridge: Cambridge University Press, 1987).

¹⁶⁰ Nozick, *Anarchy, State, and Utopia*.

¹⁶¹ Samuel Freeman, "Illiberal Libertarians: Why Libertarianism Is Not a Liberal View," *Philosophy and Public Affairs* 30, no. 2 (2001): 121.

¹⁶² *Ibid.*: 148.

A for profit protection agency with a monopoly on power does have an interest in providing real protection so as to allow their clients to be productive and able to pay high rates, but they also have an interest in exploiting customers by maximising what they have to pay for protection.

Some deny that private provision would lead to monopoly,¹⁶³ but with many agencies competing for customers and territory one would expect either continual conflict or cartel building between agencies.¹⁶⁴ This first option is literally not an example of large scale collective security, while the second option is not much better, if at all, than monopoly. Here we see one clear example of how the public goods justification of the state as it is used in liberal political thought is bound up with normative criteria on the *way* a good should be provided.

It is also doubtful that such a non-state scheme could provide protection to all those who want it within any given territory. Imagine a handicapped person that is unable to create a surplus of resources and is also unable to deter and enforce violations of his rights. This person will not be able to pay for protection services or threaten protection agency clients, and as a result for profit protection agencies will not have any incentive to include handicapped persons in the protection scheme. Even more problematic, the stronger the protection agencies become and the more successful they are at gating out non-clients the more able bodied people that are unable to pay the protection premiums effectively become handicapped in relation to clients. The very poor, like the physically handicapped, cannot expect protection from either each other or from private protection agencies and their clients.

Of course, we can simply argue that it is wrong for any individual to violate another's rights regardless of whether or not they belong to a protection agency. However, it is difficult to see why a private protection agency that is motivated by profit would have an interest in taking responsibility for addressing violations against non-clients that do not represent a threat to clients. These conditions are not acceptable following liberal premises and the rejection of such a relationship between individuals and a system of social order contributes to the justification of a state system where all individuals benefit from collective security within any given territory. This normative position is an example of how demands of distributive justice can sometimes lie beneath the use of what appears to be public goods reasoning to justify the state. Providing collective security does give rise to collective action problems but not necessarily only because another form of provision is inefficient in relation to the preference satisfaction of a set of individuals. Non-state provision of a collective good can be rejected by pointing to collective

¹⁶³ David D. Friedman, *The Machinery of Freedom: Guide to a Radical Capitalism* (New Rochelle, NY: Arlington House, 1978).

¹⁶⁴ Tyler Cowen, "Law as a Public Good: The Economics of Anarchy," *Economics and Philosophy* 8, no. 2 (1992).

action problems because other forms of provision fail to satisfy some normative standard.

Common pool resources

Let us now look at the management of common pool environmental goods. The logic of collective action tells us that the only way to ensure sustainable use of valuable but non-excludable resources is through a political authority that can coercively control access to the resource, tax usage, or parcel out ownership to private interests in such a way that there will be incentives to invest in long-term sustainable usage. Common pool resources, like fish in a sea all have access to, create a “tragedy of the commons” prisoners’ dilemma. Individuals have unrestricted access to a valuable common resource and have an interest in maximising their personal use of the resource. Maximising resource use would require exploiting it at a sustainable level, but the individual users are unable to cooperate with each other to achieve this social optimum. Instead each agent chooses to maximise his own short-term usage and together they destroy the commons by, in this example, over fishing the sea.¹⁶⁵

Regardless of whether or not others choose to exploit the resource at a sustainable level any individual agent maximizes her own interests by exploiting the resource at a much more aggressive rate. Even if most individuals would not choose to free-ride on a fishing industry operating at a sustainable level, in the absence of some system for ensuring that the vast majority do fish sustainably rational agents will, together, over exploit the resource. Likewise, in the case of pollution it is arguable that there are often weak or no mechanisms in the market for getting companies and consumers to pay for many of the negative environmental externalities they produce, which necessitates the intervention of political authorities.

However, there are a wide range of different common pool resources and clear evidence that sustainable management is possible for some resources through market forces or voluntary non-state arrangements.¹⁶⁶ Yet realizing these more voluntary approaches requires that the group of potential users is well-defined, that they have relatively similar interests in the resources so that they can coordinate on a common set of rules about how, when and how much to use the resource, and that there is direct contact between those with access to the resource to facilitate rule making, monitoring and enforce-

¹⁶⁵ Garrett Hardin, "Tragedy of the Commons," *Science* 162 (1968).

¹⁶⁶ Elinor Ostrom, Roy Gardner, and James Walker, *Rules, Games, and Common-Pool Resources* (Ann Arbor: University of Michigan Press, 1994)., Richard Cornes and Todd Sandler, "Are Public Goods Myths?," *Journal of Theoretical Politics* 6, no. 3 (1994).

ment.¹⁶⁷ Obviously these conditions do not exist for large complex groups that have varying interests in resources when they lack the ability to directly monitor each other. When these latter conditions hold for problems of pollution, e.g. air pollution, it will also be difficult to address such environmental degradation without systems of political authority.

Some problems with the idea of well ordered anarchy

Some reject this way of reasoning generally and argue that there are clear ways to provide social order independent of a coercive state. There are, on this view, many opportunities to cooperate with others over the provision of goods that are normally thought to have a prisoners' dilemma logic given repeated interaction between the relevant agents.¹⁶⁸ Players faced with a long set of opportunities to cooperate can employ various strategies, the most famous being "tit for tat,"¹⁶⁹ where continued cooperation is dependent on others choosing a cooperative strategy. If a player tries to free-ride on others' cooperation they will be punished in future opportunities to cooperate, which is to their disadvantage. Michael Taylor argues that this kind of signalling and learning over many interactions can lead players into stable cooperation.¹⁷⁰ The implication is that we do not need a state to resolve collective action problems.

However, as we have seen, the conditions under which these conclusions hold speak against seeing these results as providing a genuine alternative to the state. For example, each player must be able to know if each of the other players cooperated or not in their previous interaction.¹⁷¹ As societies become larger and more complex it becomes too costly, too risky, or simply impossible to prevent free-riding in the fashion described by anarchists.¹⁷² One could argue that the analysis thus far should not move us to accept non-voluntary political orders but instead to abolish states and establish small scale anarchist communities in their place. Yet it is hard to see what is attractive about this option.

¹⁶⁷ For empirical and theoretical research on the prospects for non-state provision of common pool resources see Elinor Ostrom, "Collective Action and the Evolution of Social Norms," *Journal of Economic Perspectives* 14, no. 3 (2000), Elinor Ostrom, *Governing the Commons: The Evolution of Institutions for Collective Action* (Cambridge: Cambridge University Press, 1990).

¹⁶⁸ De Jasay, "Freedom from a Mainly Logical Perspective," 206-16, Taylor, *The Possibility of Cooperation*, Chapter 3.

¹⁶⁹ Robert M. Axelrod, *The Evolution of Cooperation* (New York: Basic Books, 1984).

¹⁷⁰ Taylor, *The Possibility of Cooperation*, 85-88.

¹⁷¹ *Ibid.*, 61.

¹⁷² See Klosko, *Political Obligations*, 42-46., Morris, *An Essay on the Modern State*, 93-98.

These kinds of ordered anarchist communities must be small so that all members can have close social contact with each other.¹⁷³ As such the collective benefits we can expect from social order are rather limited. One suspects that such small scale communities will fail the test of preferability for most, but even if this was not the case moving towards such communities is probably utopian given the sheer numbers of people living today and the threats of hostility from outsiders.¹⁷⁴ Furthermore, it is far from obvious that small scale anarchy represents an improvement from the perspective of individual liberty.

Proving that anarchy can be ordered entails proving that social relations in anarchy can be regulated in a way similar to how relations are regulated through political institutions within the state but without an organisation that uses coercion against individual members. From the perspective of the individual born into an ordered anarchy its rules and the scope of the community's authority are not obviously more voluntary than those of a state. The choice to follow the communal order or, ultimately, to suffer the loss of the means for survival due to the organised non-cooperation of the rest of the community cannot be described as voluntary. Even if individuals are freer in an ordered anarchy to stop contributing to collective projects than they are in a state, this is not the kind of choice an individual that questions one or a few of the anarchical community's rules can view as a real opportunity to exercise his liberty. Instead the individual accurately experiences social rules backed up by the threat of organised non-cooperation as coercive. Furthermore, there is good reason to expect that the demands on the individual to conform to social standards of behaviour in an anarchical community will go beyond what is needed to secure social order and will be unattractive from the perspective of liberty.¹⁷⁵

The above gives us a general picture of the reasoning underlying liberal arguments for why a system of political order is needed to secure the collective goods of large scale social cooperation. In what follows I will argue that should we have decisive reasons to prevent global warming this collective project also requires the creation of a global institutional system that can assure compliance to policy aimed at protecting the atmosphere as a global collective good.

¹⁷³ Morris, *An Essay on the Modern State*, 74-80.

¹⁷⁴ Robert A. Dahl, *Democracy and Its Critics* (New Haven: Yale University Press, 1989), 46-47, Morris, *An Essay on the Modern State*, 78-80.

¹⁷⁵ Morris, *An Essay on the Modern State*, 77-78.

Mitigating global warming - the prospects for collective action

The atmosphere is a commons, meaning that there is open access to its benefits and all are free to deplete these benefits through pollution. Maintaining a stable climate has the structure of a public good because agents cannot be excluded from the benefits that follow from efforts to protect the resource from depletion. Reducing GHG emissions is sometimes called a summation public good in the economics literature. This means that the global warming mitigation gains from reducing GHG emissions by one metric ton from any specific emitter are exactly the same as the benefits from one metric ton of reduced pollution from any other emitter. What is important is the sum total of emissions reductions not who makes these reductions. Minimizing human induced climate change requires dramatic reductions in GHG emissions, while mitigation efforts create free-rider problems where non-contributors can benefit from others' GHG reductions without taking on costs themselves. Thus, it is often argued that human induced climate change is representative of a tragedy of the commons collective action problem.¹⁷⁶

Note that mitigating climate change can be thought to match the conditions of a pure public good better than some other global public goods. For example controlling the global spread of infectious disease can be a weakest link good. In this situation all those parties that can have an affect on global conditions must participate in preventing spreading of the disease because otherwise the good of public health will not be adequately provided for all. This may change the incentive structure of actors such that voluntary agreements between states are effective in providing the good (e.g. one might see voluntary wealth transfers from richer to poorer states that will ensure that all countries engage in sufficient disease prevention measures). Other global public goods have a best-shot structure, such as the discovery of a cure for a disease. Once the good is provided by one party it is provided for all, i.e. the knowledge for how to cure a disease but not necessarily access to treatment. For these kinds of goods it can be the case that there is no need for cooperation because some agent has an interest in unilaterally providing the good even if others will free-ride on their efforts.¹⁷⁷

Reducing GHG emissions means forgoing the economic benefits associate with energy consumption, and energy consumption is powerfully linked to the wealth enjoyed by developed countries and development goals around

¹⁷⁶ See Stephen M. Gardiner, "The Global Warming Tragedy and the Dangerous Illusion of the Kyoto Protocol," *Ethics and International Affairs* 18, no. 1 (2004), Stephen M. Gardiner, "The Real Tragedy of the Commons," *Philosophy and Public Affairs* 30, no. 4 (2001).

¹⁷⁷ Todd Sandler, *Global Collective Action* (Cambridge: Cambridge University Press, 2004), 108-17.

the world.¹⁷⁸ Thus, even if a country wants to achieve the benefits of limiting global warming all states and their citizens have clear self-interested reasons for avoiding the costs of emissions abatement and free-riding on the efforts of others. **Fel! Hittar inte referenskölla.**, taken from Todd Sandler's *Global Collective Action*, is a simple model of an international agreement to reduce GHG emissions by 10%. Compliance to the agreement is represented as an n-player prisoners' dilemma.

Note that Sandler simplifies the problem by making each country's effect on the climate equal, but the point of the table is merely to highlight the supposed basic challenge to achieving effective cooperation between states within such an international agreement. In this game the cost of emissions reductions for each nation is 8, and taking on this cost results in a benefit of 6 going to each one of the nations (including the contributing nation).

Table 2: A simple model of the international mitigation collective action problem

	Number of GHGs-reducing nations other than Nation i							
	0	1	2	3	4	5	6	7
Nation i does not cut GHGs by 10%	0	6	12	18	24	30	36	42
Nation i does cut GHGs by 10%	-2	4	10	16	22	28	34	40

Source: Todd Sandler, *Global Collective Action* (Cambridge: Cambridge University Press, 2004), 23.

The values in the bottom 'cooperation' row are always less for Nation i than those in the upper non-cooperative row. Nation i 's best strategy is always to defect from cooperation and free-ride on the efforts of others regardless of how many other countries reduce emissions. If no other nation cooperates, Nation i will not cut emissions because the cost is 8 while the payoff is only 6 resulting in a net loss of -2. If only one other nation cuts emissions Nation i can free-ride on these efforts by avoiding contributing a cost of 8 but gaining a benefit of 6 from Nation 1 for a net gain of 2 compared to the cooperation strategy.

No matter how many cooperating players there are there is always an incentive to free-ride, and each nation has the same incentive structure resulting in a Nash equilibrium where none of the players cuts emissions (the out-

¹⁷⁸ United Nations Development Programme (UNDP), *World Energy Assessment: 2004 Update*, Jose Goldemberg and Thomas B. Johansson, eds. (New York: UNDP, 2004).

ermost box on the upper left hand side of **Fel! Hittar inte referenskölla.**). But in this model it is also the case that the payoff for cooperation is huge. For a cost of 8 each nation can optimally secure a benefit for themselves of 48 leaving them with a total net-benefit of 40 (the outermost box on the lower right hand side). Resolving the collective action problem results in a total net benefit and social optimum of 320 (8 x 40). If just two nations cooperate each get a net benefit of 4.

On the above view, the nature of the collective action problem is such that if states do enter into voluntary agreements to manage this global commons actually achieving cooperation will be difficult because there is no global political authority that can make free-riding an unattractive strategy. Even if it is collectively rational to cooperate it is not individually rational to do so for any of the parties to the agreement. This incentive structure will, following the standard public goods reasoning, undermine the self-enforcement of the agreement.

Is mitigation a collective good for existing agents?

In order to say that ensuring the provision of some good gives rise to the kind of collective action problem that could justify the need for a system of political order one needs to at least satisfy two conditions. One must show that individuals have reasons to cooperate in pursuit of the good in question and that it is unlikely that the good will be adequately provided without some system of political authority. This chapter focuses on the argument that voluntary international accords between states are not likely to produce adequate levels of global warming mitigation (i.e. the second condition). Yet, in order to suggest that the difficulties involved in securing cooperation on global warming mitigation strategies are comparable to the collective action problems liberals appeal to in justifying the state it is necessary to also show that individuals *could* have reasons to pursue global warming mitigation. Is the mitigation of climate change really a collective good and is it the kind of good that could generate a collective action problem among existing agents?

Following the logic presented in Table 2 one might want to argue that the mitigation of climate change is clearly a collective good and that securing it clearly generates a collective action problem. As it is presented above the gains from mitigation compared to the 'do nothing' scenario are so large that there is an obvious parallel between the collective goods justification of the state and the case of global warming. Because the environmental damage expected from global warming is so extensive we can say that mitigating human induced climate change is an essential human good. Furthermore, because efforts to mitigate global warming have the structure of a pure public good ensuring adequate provision of this good calls for some system of supranational political authority to alter the conditions that make voluntary cooperation between states ineffective. This is the Hobbesian argument for

why rational agents should see a system of political authority as necessary; namely to guarantee collective security because all other human goods are dependent on security.

As we have seen, liberals usually go beyond Hobbes' rationalistic economic justification of the state to include moral reasons for why we should accept the demands of a political order. Still, this does not entail a rejection of the Hobbesian argument for the state but rather normative additions to it. In other words, virtually all liberals that think political order is justifiable appeal to both rational and moral reasons in advancing such a justification.¹⁷⁹ If the picture painted above on the nature of the collective action problem we face is accurate many if not most liberals would see this as a sufficient to justify, in general terms, the idea that one would need some system of supranational political authority to resolve the collective action problem. In other words it would make sense to think that global warming is the kind of problem that could warrant the interference of political institutions at the global scope, although additional arguments would still be required to show that all things considered we ought to pursue the good of global warming mitigation in this way.

Objections to the suggested comparison between securing public goods (e.g. commons) among individuals living in a specific territory and the case of global warming are not likely to be based on the view that the environmental threat is just not serious enough to warrant such a comparison (i.e. if one accepts the predictions offered by the IPCC). Instead objections are much more likely to be based on the argument that states could find ways to cooperate to address the threat of climate change without having to institute some *additional* form of political authority at the supranational level. When the payoffs for cooperation are significant we should be much more optimistic about the likelihood that sovereign states will be able to successfully provide global public goods. I address reasoning along these lines for the case of global warming later in the chapter. However before moving on to this problem it is important to address a more basic difficulty in making a theo-

¹⁷⁹ Among those thinkers that can be classed as liberals but do not have this tendency to appeal to both rational and moral justifications of the state we find, for example, David Gauthier who tries like Hobbes to justify political obligations by exclusively appealing to rational reasons individuals have. David Gauthier, *Morals by Agreement* (New York: Clarendon Press, 1986). We also find a host of more or less anarchist approaches by theorists that do not think that states can be morally legitimate. As has been noted my ambition in this book is not to convince those that doubt that political order can be justified at any scope that it could be justified at the global scope in the case of global warming. Instead, I have limited myself to the task of showing that those liberals that think political order is justifiable at the domestic scope should also accept my argument for some form of global political order in the case of climate change. I will however address problems with both Gauthier's approach and the approach of a relevant anarchist position in Chapter IV.

retical case for the idea that efforts to reduce the human impact on the atmosphere entails a collective action problem.

The first thing to note is that the collective action problem depicted in **Fel! Hittar inte referensskälla.** does not incorporate one of the main reasons for why it would be so difficult to get states to live up to agreements that would entail major cuts or limits to their GHG emissions. This is that the payoffs in terms of the current generation's economic interests from a policy of GHG emissions reductions are more than likely negative. As a result those that exist today have an economic interest in *avoiding* costly GHG emissions reductions both individually and collectively. This in turn makes it implausible to draw a parallel to the Hobbesian economic rationale for why individuals should see the need for political order as justifiable. If the current generation's economic self-interest is clearly not served by cooperating to reduce GHG emissions then it seems difficult to justify to them that they need some system of political order for the sake of their own welfare. In fact one cannot say that the current generation faces a collective action problem at all if we adopt the Hobbesian approach to justification. The threat of global warming is a intergenerational problem and this fact has important implications for how one can and cannot justify the need for a global political project to address our impact on the Earth's climate. To see what affect this has on how we can characterise the collective action problems generated by the threat of global warming we need to have a clear understanding of the intergenerational structure of this threat.

The intergenerational structure of the global warming problem

Climate change is caused by the accumulation of GHGs in the atmosphere and one of the most important GHGs is CO₂. The huge expansion in the burning of fossil fuels over the past century is causing the global mean temperature to increase because CO₂ has an average atmospheric life time of between 200 and 500 years, which in turn leads to accumulation and an increase in the atmospheric concentration of CO₂.¹⁸⁰ A significant portion of emitted CO₂ will remain in the atmosphere for several thousands of years.¹⁸¹

Much of the climate change we will experience in our lives times is due to accumulation of past GHG emissions, and the current generation will not suffer significant consequences from the pollution it will add to the total atmospheric GHG accumulation while it does enjoy the benefits of energy consumption. Furthermore, even if the impacts and costs on human wellbe-

¹⁸⁰ Archer, "Fate of Fossil Fuel CO₂ in Geologic Time," IPCC, *Climate Change 2001: Synthesis Report*, 16-17.

¹⁸¹ Archer argues that because such a large percentage of CO₂ emissions will have an atmospheric life time measured in thousands of years, for policy purposes we can say that 25% of CO₂ emissions remain in the atmosphere forever. See Archer, "Fate of Fossil Fuel CO₂ in Geologic Time," for his specific estimates.

ing from climate change become significant the current generation at any point in time cannot improve their own circumstances to any significant degree by reducing emissions because it is the long term accumulation of GHGs that is determinative of the strength of the human impact on the greenhouse effect. This means that limits and reductions on the current generation's GHGs emissions will almost exclusively benefit future generations.¹⁸² As a result Stephen Gardiner argues that climate change entails an "intergenerational" collective action problem in addition to the "intragenerational" one.¹⁸³ However the question is what kind of collective action problem is it and does it provide some basis on which to say that political order is justified?

In a tragedy of the commons collective action problem the parties have shared mutual self-interest to get off a path that will ultimately lead to the destruction of the environmental good in question. In a commons problem modelled on a standard prisoners' dilemma each agent has a short-term interest in over-fishing a common pool fishery when others are also over-fishing. However they also have a long-term interest in the institution of some system that could insure that nearly all agents fish at sustainable levels. This is because each agent has more to gain from being able to continue to exploit the common resource over the long term at sustainable levels than they have to gain from more extensive exploitation over the short-term. This picture of an agent's interest is not representative of the situation for any specific generation in the case of global warming.

In general terms individuals do not have self-interested economic reasons to take on the costs that would result from effective policies to radically reduce GHG emissions (of course *some* existing agents may have such interests). This in turn certainly affects the degree to which states see themselves as having self-interested reasons to do something about climate change if we say that the interests of existing agents have a greater effect on the policy of states than the expected interests of agents far off into the future. Let us look more closely at the claim that the economic costs of mitigation for the current generation will outweigh the economic benefits *for the current generation*.

In a recent cost-benefit study of global mitigation policies measured in terms of consumption Kavuncu and Knabb find that keeping total yearly CO₂ emission at year 2000 levels would,

cost the generation born in the year 2000 approximately 8% more, in terms of lifetime consumption, than the no control case....The costs are even larger for

¹⁸² This remains true as long as there are no workable ways to remove CO₂ from the atmosphere or other ways to compensate for the effect of GHGs on the climate. See Stephen M. Gardiner, "A Perfect Moral Storm: Climate Change, Intergenerational Ethics and the Problem of Moral Corruption," *Environmental Values* 15 (2006).

¹⁸³ Ibid, Gardiner, "The Real Tragedy of the Commons," 403-04.

the generation born in 2070 under the control policy. In fact the generational costs continue to increase until the year 2105. The generations that actually benefit from the stabilization program are not born until sometime in the distant future. From our simulation results, for the intermediate damage case, we do not see a positive NCE(t) measure until the year 2315.¹⁸⁴

The above is just one estimate of when the payoffs from a conservative mitigation effort will arrive.¹⁸⁵ However, it helps to highlight that the current generation does not have a self-interested economic interest in addressing climate change making the collective action problem fundamentally more difficult to resolve than a situation where one can appeal to agents' self-regarding welfare interests to at least some degree in trying to achieve cooperation.

One might think that this claim about the lack of a benefit from mitigation efforts is empirically wrong given recent economic analyses that show huge returns from immediate investments in reducing GHG emissions. The most well known example is *The Stern Review on the Economics of Climate Change*. This report, commissioned by the United Kingdom's treasury department (HM Treasury), finds that stabilising the concentration of GHGs in the atmosphere within the range the IPCC recommends for avoiding the most serious impacts of global warming would cost an average of 1% of yearly total global gross domestic product (GDP) (this average is stated as 1% of global GDP by 2050 in the report). At the same time it is expected that if we do nothing the cost in terms of global warming impacts not avoided will amount to between 5% and 20% of global GDP at the end of this century and thereafter.¹⁸⁶

Following the Stern Review a cost-benefit rational clearly calls for immediate action to mitigate human induced climate change. There has been important academic criticism of the *Stern Review*. The main concerns are that the report chooses cost and benefit estimates selectively to strengthen the case for mitigation and that the discount rate and time frame in Stern's economic model have large effects that further overstate the case for mitigation.¹⁸⁷ In general intergenerational cost-benefit analyses like that advanced

¹⁸⁴ Kavuncu and Knabb, "Stabilizing Greenhouse Gas Emissions: Assessing the Intergenerational Costs and Benefits of the Kyoto Protocol," 379-80.

¹⁸⁵ As we have seen, the IPCC claims that keeping global temperatures below 2.4% would require emission levels to drop from 50 to 80% below 2000 levels by 2030.

¹⁸⁶ Nicholas Stern, *The Economics of Climate Change: The Stern Review*. (Cambridge: Cambridge University Press, 2007).

¹⁸⁷ Partha Dasgupta, "Comments on the Stern Review's Economics of Climate Change" (Department of Economics, Cambridge University, 2006), William D. Nordhaus, "A Review of The Stern Review on the Economics of Climate Change" (Yale University, 2006), Richard S. J. Tol, "The Stern Review of the Economics of Climate Change: A Comment," *Energy & Environment* 17 (2006), Richard S.J. Tol and Gary W. Yohe, "The Stern Review: A Deconstruction," (University of Hamburg, 2007).

in the *Stern Review* are very sensitive to the choice of discount rate, and this rate is ultimately based on normative assumptions about how to weigh losses in GDP today *in terms of welfare* against future GDP gains. Such studies are also sensitive to the time horizon over which the cost-benefit analysis is modelled.¹⁸⁸ As a result we do have reason to question the highly positive case the *Stern Review* makes for significant and immediate action (see note 183). However, it is much more important to observe for the purposes of my argument that if we only try to evaluate what the most welfare efficient pol-

¹⁸⁸ The underlying normative assumptions that affect the choice of key parameters in economic models are often poorly worked out and difficult to ascertain while they at the same time have an enormous impact on what is viewed to be the most efficient level and timing of investment in mitigation efforts. The difference between a low and high discount rate is the difference between prescribing immediate and significant mitigation versus gradual and mild mitigation or no mitigation at all. Stern uses a discount rate of 0.1%, much lower than the 3% rate used by Nordhaus, one of the most prominent economists working on this problem. The discount rate is determined in part by what economists call the 'pure time preference' of consumption, which simply means the preference for consumption now over consumption in the future. Stern adopts 'utility based discounting' where welfare is valued as equal between generations meaning zero discounting. This is based on the view that the positive discount rates usually used in the market place or by governments (e.g. at 2-10%) can only be justified when it is roughly the same people that will be affected by the choice to invest in future welfare or to consume now raising current welfare. In cases like climate change where the choice is between our welfare and the welfare of other people in the future a positive discount rate amounts to viewing our own welfare as more important than that of other people. The slightly positive rate of 0.1% is arrived at by taking into consideration the risk of human extinction. The second determinate of the discount rate is the declining marginal benefit of extra consumption. On this factor a choice of positive discounting is taking into consideration the expectation that future generations will be richer in real terms than we are. The idea is that richer people get less benefit in terms of welfare gains from comparable percent gains in wealth (i.e. consumption) than poorer people. Here Stern chooses not to discount for declining marginal benefit. This choice improves the case for mitigation but is much harder to support on the supposed utilitarian reasoning he adopts. Those economists that object to the Stern Review's low discount rate usually argue that it leads to absurd results where the current generation is expected to taken on huge costs for the sake of future generations' welfare even if the improvements for the future are slight. This happens especially when benefits in the future are enjoyed by several generations, as is the case with mitigating global warming. In the *Stern Review* the possibility that low discounting will result in recommendations for huge investments today to secure marginal benefits over several generations is hidden somewhat by setting the time frame of the model to 200 years, which again needs to be motivated on normative grounds. At the same time, market style high positive discounting cannot be justified simply by noting that this practice and avoids counter-intuitive results. High positive discounting also leads to the counter intuitive notion that our welfare is more important than future people's welfare. However one chooses to deal with the issue of discounting the implications are to a significant degree normative. One is often left with the impression that economists are manipulating the discount rate on parameters of time preference and declining marginal utility and making choices about the time scale of the model so as to produce results that match their moral intuitions. At the same time they are not directly taking on the established normative debates over what can and cannot be justified intergenerationally, which undermines the prescriptive relevance of economic choice theory.

icy is over several generations we miss completely how the intergenerational structure of the problem can affect the prospects for global cooperation. Even if cost-benefit analyses like the *Stern Review* accurately prescribe large scale mitigation as the most welfare efficient policy option over several generations they do not tell us what the best cost-benefit option is from the perspective of a single self-interested generation.

By looking at the problem for the perspective of each generation we can reason about the kinds of incentives the current generation and each coming generation will have with regards to reducing GHG emissions. Thus it is very useful to present a cost-benefit analysis such as the one offered by Kavuncu and Knabb, which does not engage in weighing of the welfare value of consumption over time and between different generations. The figures given by Kavuncu and Knabb's simply explain what effects a mitigation policy would have on consumption levels at various points in time compared to what consumption levels would be in a do nothing scenario.¹⁸⁹

Given that for the current generation the costs of mitigating climate change outweigh the benefits the collective and individual payoffs of choosing the cooperative strategy within the international mitigation treaty represented in Table 2 are negative, i.e. a net cost. The corresponding strategic situation gives us a Nash equilibrium of not reducing emissions which also is the social optimum for a self-interested and rational generation. Thus what we should expect following public goods reasoning is that even if states agree to an international mitigation policy that would entail large cuts in emissions the effectiveness of the agreement would be undermined by ef-

¹⁸⁹ One might think that these cost-benefit results indicate that it does not make much sense to do anything about climate change. However, even on conservative cost-benefit estimates we can still expect a net gain from emissions reductions over the very long-term if we expect that large human populations will continue to flourish for thousands of years (W. R. Cline, *The Economics of Global Warming* (Washington, D.C.: Institute for International Economics, 1992), Aubrey Meyer and Tony Cooper, *A Recalculation of the Social Costs of Climate Change* (London: The Global Commons Institute, 1995), William D. Nordhaus and Joseph Boyer, *Warming the World* (Cambridge: MIT Press, 2000), Stern, *The Economics of Climate Change: The Stern Review*.) Furthermore, any normative argument based solely on cost-benefit analysis will simply highlight some central problems with the way many economists conceptualise these issues. We get things wrong when we take welfare as the only parameter and we get things terribly wrong when we take consumption to be the only parameter of welfare. For example, it is wrong to take it as a given that because the future will be richer it is OK to impose on them a host of climate problems as long as the costs on them are less than the costs would be for us to prevent that damage. This simply assumes that if given a choice the future would choose higher consumption levels instead of a better climate. We also cannot focus on consumption levels alone because we need to consider the loss of certain climate conditions that cannot be brought back by future generations and the risk that the effects of climate change can be much more severe than we predict. Future generations may have higher consumption levels but we will have limited their consumption choices. Economists will have a very difficult time putting a dollar figure on these kinds of problems, while they must certainly play a huge role in our assessments about what to do.

forts to free-ride and various forms of non-participation as long as there was no credible system of compliance built into the system. Even more troublesome, Gardiner notes that given a situation where past generations have not engaged in significant mitigation “The same reasoning will apply to each future generation as it comes into being. However much it may deplore the effects of the previous generations decisions on it, each generation will face the same decision situation with respect to generations later than it.”¹⁹⁰ The nature of the problem is such that if each generation acts on its rational self-interest we will be stuck on the path of inadequate action and the human race will behave in a way that will dramatically worsen the environmental conditions for its own wellbeing.

The above analysis is not as easily comparable to the kind of collective action problems that are thought to justify the need for coercive political arrangements as it may appear at first. This is because it does not seem to make much sense to say that humanity faces a collective action problem. Humanity is not an agent that can cooperate with some *other* agent. Meanwhile, existing agents such as individuals or states that can actually encounter cooperative challenges do not seem to be faced with the likes of a prisoners’ dilemma or some kind of assurance problem in the case of climate change. Existing agents in general do not have clear self-regarding interests for cooperating because the expected welfare benefits will be incurred by other people in the future. At the same time, it is precisely an interest in the welfare benefits associated with cooperation that are usually highlighted when one appeals to a prisoners’ dilemma or some assurance collective action problem in justifying the need for political order on Hobbesian grounds.

The implication one could draw is that existing agents simply do not face the kind of collective action problem that could give them reasons to accept the interference of political institutions. The argument for a global political authority to address the threat of global warming does not even get off the ground because we cannot identify any interests or reasons existing agents have that could justify *to them* that *they* need such an arrangement. In response to this conclusion one might argue that states, unlike individuals, have self-regarding interests that span several generations. From a state level perspective we can still justify the need for political order following Hobbesian reasoning.

It seems at least plausible to characterise the interests of states in this way because they regularly plan investments and projects in ways aimed at securing some interest in the future. Current members do not clearly gain personal welfare benefits from such efforts. If we accept for the sake of argument that states are agents with interests that span several generations, the fact that benefits from GHG emissions reductions arrive far off into the future does not mean that existing agents necessarily lack rational self-interested reasons

¹⁹⁰ Gardiner, "The Real Tragedy of the Commons," 404.

to want to secure cooperation. States may have such interests, which means that global warming mitigation can still be depicted as a pure global public good, i.e. a tragedy of the commons collective action problem. As such it would still make sense to justify the need for political authority on Hobbesian grounds. One can imagine a host of empirical objections to this line of reasoning but we need not address these here. There is a normative objection that makes an argument based on the intergenerational interests of states somewhat unattractive for the task of justification as it has been set up in this chapter.

Justifying a supranational political order based on the interests of states as described above entails expecting of existing individuals that they accept certain limits on their liberty for the interests of the state as opposed to accepting the demands of political order for their own interests and/or the interests of other members of their communities. Treating the interests of states as ends that take priority over the interests of individuals is not compatible with individualist theories of justice. Egalitarians see individuals as ends in themselves and as a result must reject a justification of political order where individuals are thought to simply be of instrumental value to the states that rule over them. It is the state that is thought to be instrumentally value to members and not *visa versa*. This means that utilitarians and liberals, for example, do not have access to the argument that states have intergenerational interests in avoiding damaging climate change when they try to justify the need for a supranational political authority. This in turn means that liberals will be hard pressed to find a way to justify the prospect of coercive political arrangements for the global warming case on Hobbesian grounds.

There is a third way to justify the need for political authority that both takes into consideration the intergenerational structure of the global warming problem and that can be acceptable following the premises widely adopted in individualistic theories of justice. This is to argue that we have other regarding moral reasons to address the threat global warming. Following this argument we could justify the constitution of some system of political authority on Lockean grounds by arguing that the protection of individuals' natural rights is dependent on the institution of an order that will leave intact the natural conditions all individuals depend on and have a right to. In a similar fashion one could appeal to Kantian/contractualist grounds by arguing that treating others as our moral equals requires that we make a serious effort to mitigate climate change and secure the environmental conditions all individuals' welfare is dependant on. The clearest way to incorporate such Lockean or Kantian moral arguments for action would be to appeal to what we owe to individuals in the future.

Appealing to moral reasons for action does appear to be a workable way to argue that the difficulties in getting existing agents to cooperate to address the threat of global warming represents a collective action problem *for these agents*. This is because the collective goods arguments for the state within

liberal tradition commonly go beyond Hobbes' rationalist economic justification and incorporate moral reasons for accepting political order. If existing agents have moral reasons to avoid seriously damaging the environmental conditions future people's welfare is dependant on, then they are faced with one of the kinds of collective action problems that are used to justify the need for the state within the liberal tradition.

I adopt this third approach in advancing the thesis of this book, but the point of the current section is not to show that we do in fact have moral reasons for action of this kind. Instead the aim is simply to show that it can make sense to see the difficulties in securing cooperation to address global warming as a collective action problem. As such the moral claim I have made thus far is very weak. Still, one might object to this weak claim by arguing that the appeal to other-regarding moral reasons for action introduces some new line of reasoning that is not found among the common arguments within the liberal tradition for why we need the state. In this tradition one invariably finds the argument that we should accept the state because of the benefits it affords us in terms of our own welfare and never exclusively because of the benefits it affords to some other people. It is not however the case that I have introduced some new way of justifying political order. The problem is instead that appeals to moral reasons for accepting a system of political order are regularly presented alongside self-regarding reasons for wanting a certain good. This can make it difficult to distinguish between the various kinds of reasons appealed to within the liberal tradition for why we need systems of political order.

Take for example the collective good of law and order. As we have seen, the need for a system of political authority that provides this good is justified in part following a public goods rationale that appeals to each individual's interest in the benefits associated with a unified political system of law and order. However, one also finds the argument that each individual should be afford the good of security within a given territory even if they cannot threaten anybody else's security and cannot contribute resources to the system of law and order. This argument for universal inclusion in a system of law and order does not follow a public goods rationale. We do not have self-regarding welfare interests in including such individuals in a system of law and order. However, we do have other regarding moral reasons to do so. This gives us an additional reason for the public provision of law and order over market based provisions, but it is a reason that is independent from the Hobbesian argument for the state (i.e. economic public goods reasoning).

We should note that there is a great deal of uncertainty on the level and timing of impacts from climate change and on the costs and effects of various mitigation and adaptation strategies. It could, for example, turn out that existing individuals do have self-regarding interests to reduce total global GHG emissions or that the generation after ours has such an interest. If these conditions pertained one might be able to justify a global political project to

address this threat on Hobbesian grounds by appealing to individuals direct interests or to their indirect interests via some kind of overlapping-generations rationale. However, I will not reflect over these more favourable conditions for drawing a comparison between the justification of the state and the global warming case here. Instead I will take it to be more plausible and more representative of current cost-benefits analysis to argue the existing agents do not have self-regarding welfare interests in reducing their GHG emissions (i.e. I adopt an empirical point of departure that makes it *more* difficult to defend the cosmopolitan thesis of this book). Even so we have seen that it can still make sense to justify the need for some system of supranational political order to address this threat following liberal premises.

It is now clear how I think one could argue that global warming is as a collective problem for existing agents. However, I have used the term ‘collective action problem,’ and this may still cause confusion without further explanation. Since I am not adopting the Hobbesian justification of political order it must be further explained why we should expect that free-riding would undermine voluntary efforts to provide the good of a stable climate to future generations. In what way am I making a comparison to the collective action problems normally used to justify the state? In what way can we say that a moral reason for existing agents to address the problem of climate change result in *them* having a collective action problem?

Do existing agents face a collective action problem?

If I can show:

- a) that it is not likely that existing agents will be able to cooperate through voluntary agreements to protect our climate because what is required is some way to ensure compliance to costly policies and
- b) that existing agents have decisive moral reasons to cooperate in protecting the climate, then
- c) it follows that existing agents indirectly have some strong reasons to create a global system for ensuring compliance to costly policies.

In other words, one could offer a moral justification to existing agents for the global political duty defended in this work.

Establishing a) is what is centrally important for Chapter III, and establishing this point in a way that can be used to advance a normative thesis is not particularly dependent on definitional issues like ‘what does and does not count as a collective action problem.’ Still there remains a question about why we should at a theoretical level think that achieving cooperation in this case is comparable in some way to the collective action problems often appealed to in justifying the state. Such a comparison is implied in the text so

far but not spelled out. In explaining I will present three scenarios on how likely it is that we will see large scale global cooperation on a collective mitigation strategy. These are: 1) the pessimistic scenario, 2) the optimistic scenario, and 3) the unrealistic scenario.

The pessimistic scenario

Because of the intergenerational structure of the global warming problem the likelihood that we will see meaningful global cooperation to reduced GHG emissions is less than for standard state level public goods. This is because it is largely future generations that will benefit from the current generations efforts. The claim that the cooperative problem in the global warming case is more difficult than the standard public goods case should *not* be taken as an attempt to introduce some new line of reasoning in formal game theory on what the most difficult kind of collective action problem is.

In formal game theory a prisoners' dilemma is the most difficult kind of collective action problem because although the parties would, if given such a choice, prefer to have the results from general cooperation over the results from general non-cooperation, there is no way to maintain a stable cooperative strategy between players without some outside interference. Normally we expect such a preference for the results from cooperation to at least make it more likely that individuals will be able to successfully agree to some type of cooperation. Yet in the prisoners' dilemma it does not appear to make a difference. Provision of goods like national defence or law and order are thought to have a prisoners' dilemma structure, which plays a central role in justifying the need for coercive political institutions to secure cooperation in providing such goods. In the case of global warming the point I want to highlight is that we have less reason to think that existing agents will in fact have preferences for the expected outcomes from effective cooperation to mitigate the human impact on the climate than is the case for public goods like law and order. This is because their own welfare is not improved by such cooperative efforts. The implications for how difficult it is to secure cooperation in the climate change case follows logically.

If we are trying to secure cooperation so as to provide something that is considered to be a good, for one reason or another, it is easier to do so if the agents in question have self-interested reasons to want the outcomes expected to follow from cooperation. It is harder to secure cooperation if they do not have self-interested, i.e. egotistical, reasons to want the good but instead expect that cooperation will be a cost for them in relation to their self-regarding welfare interests. In a standard collective goods case like national defence agents have an interest in free-riding but they also have self-interested reasons for wanting the introduction of political institutions that can make cooperation in general stable. In the global warming case cooperation is simply a cost in relation to self-interest.

We may have a convincing normative argument for the view that existing agents ought not to seriously pollute the atmosphere and that they ought to collectively provide the good of a stable climate for future generations. However, in a pessimistic scenario where individuals taken as a whole have a strong tendency to act on their partial interests and not for weighing in the interests of others they will follow their welfare incentives to *avoid* the mitigation outcome. In these circumstances we should not expect voluntary global accords to be effective. In fact, it is only logical to expect it to be highly unlikely that agents will see themselves as having reasons to support international agreements or the creation of political institutions that could secure global cooperation.

If we have a clear normative argument showing that agents ought to do something about global warming and a clear empirical argument showing that they must cooperate with each other to achieve results, then we can say that it is a problem that they do not want to act collectively. But can we say that this is a collective action problem? Following the definition of a collective action problem in formal game theory the answer is no, and it is even more wrongheaded to suggest that they have a collective action problem that is more difficult to resolve than a standard prisoners' dilemma. Instead what one should say is that there is no more of a collective action problem in the case of global warming than there is in the case of trying to get two people to cooperate in riding a tandem bicycle off of a cliff. However we must be careful to note that this conclusion is not correct if it is supposed to indicate some normative standard for when agents ought and ought not to do something.

There is nothing internal to formal game theory that can tell us when non-cooperation ought to be considered a problem *on normative grounds*. Formal game theory simply adopts *as a premise* that agents have a collective action problem when they have preferences that would be better served by cooperation but that can also make it rational for them to act uncooperatively individually. However, in normative theory one cannot argue that X does not have a reason to keep his promises because X does not want to keep his promises, while Z does have a reason to keep his promises simply because Z wants to keep his promises. One could of course imagine a normative argument that did say this, but such a claim would have to be based on more than the simple empirical fact that X does not want to keep his promises. Yet, in formal game theory it is absolutely correct to say that X does not have reasons to keep his promises and Z does if these are in fact their informed preferences. This is not a criticism of game theory; instead the point is that formal game theory does very little *on its own* to help us in developing normative arguments one way or another when the question is 'ought X do Y.'¹⁹¹

¹⁹¹ In fact formal game theory does not even show that individuals ought to do something when this satisfies their preferences.

What then does this mean for the definitional issue in regards to what counts as a ‘collective action problem?’ In conditions where existing agents do not demonstrate preferences to provide future generations the good of a stable climate we cannot say that they face a collective action problem. However, we could say that global warming is a problem for which agents have moral reasons to act collectively. This later formulation will make sense if one can provide an argument showing that existing agents have decisive moral reasons to cooperate in mitigating global warming.

The optimistic scenario

Let us now imagine a more optimistic scenario where existing agents do come to have relatively strong preferences for providing future generations with the good of a stable climate (i.e. they come to have preferences based on the moral conviction that it would be wrong to destroy the environmental conditions future generations will be dependent on). In such a situation we find a problem of free-riding. This is because individuals’ self-interested reasons for polluting have not magically disappeared. They still have reasons to pollute, namely their own economic welfare is best served when they can continue to pollute. For an individual agent that has both a preference for providing the good of a stable climate to future generations and an economic welfare based preference for polluting, the optimal outcome from their perspective is that others stop polluting (i.e. others provide the good) while they themselves free-ride on these efforts. This is optimal for the individual because they can continue to enjoy the benefits associated with polluting while others ensure that the good of a stable climate is provided to the future. Here we see that the problem has a prisoners’ dilemma/pure public goods structure. Individuals free-ride because they cannot be excluded from collective efforts, and this in turn means that adequate levels of cooperation are difficult to maintain. In the optimistic scenario we can say that agents face a collective action problem comparable to those used to justify the need for the state.

The analysis above is true if we accept a view of human nature in which people are strongly motivated to do things that benefit themselves in some way. The claim is not that people are only motivated by self-interest but rather that this is one of the central motivations individuals have. Accepting the liberal argument for why we need the state entails accepting this view of human nature because otherwise one could not point to free-riding problems to justify the need for coercive political institutions at the state level. If people were not strongly motivated by self-interest such free-riding would not be prevalent and would not undermine more voluntary forms of social order and public good provision at the domestic scope. Thus those that think the state is justifiable following liberal premises should also accept that free-riding will in fact be a problem in the optimistic scenario described above.

Given the lack of self-interested reasons for action our theoretical expectations should be that states could not achieve a dramatic reversal in GHG emissions trends through largely voluntary international agreements like the Kyoto Protocol. Even if individuals and states did have some strong preferences to do something about climate change, the problem would still have the character of a tragedy of the commons collective action problem. The difficulties in achieving effective cooperation to prevent the worse effects of global warming are thus similar to the difficulties involved in providing collective goods like law and order. What is worse, it is not even collectively worth the cost to live up to the demands of an international agreement that would entail large cuts in GHG emissions. This further undermines the likelihood that international accords with weak compliance mechanisms will result in meaningful levels of mitigation. Thus we should have a theoretical expectation that the good of global warming mitigation will be at least underprovided through voluntary international agreements (note that in the following sections of this chapter I will introduce further support for this assessment from existing research).

The fact that existing agents do not have self-interested welfare reasons for action that are pulling them in the direction of cooperation, as is the case in standard public goods reasoning, does mean that achieving cooperation is potentially more not less difficult than it is in the standard public goods scenario. This claim is still not an attempt to introduce some new reasoning into game theory on how difficult a strictly defined collective action problem can be. Rather the point is that when we find ourselves somewhere between the pessimistic and optimistic scenario we have added reasons to doubt the effectiveness of voluntary global accords. As such the most optimistic scenario we should accept is that given enough moral motivation for action it could be possible to secure widespread global cooperation to address the threat of global warming. However, an effective arrangement could not be achieved without some institutional system aimed at credible collective compliance to coordinated policies that could help existing agents overcome their global collective action problems.

The unrealistic scenario

One might argue that if individual agents' preferences for providing future generations the good of climate change mitigation are strong then they must be willing to take on costs to achieve this end. When agents are willing to take on costs in this way we should not expect free-riding to be a problem in securing cooperation, which in turn means that agents do not face a collective action problem at all. Free-riding is about efforts to avoid taking on costs, but if we take agents to be strongly morally motivated to do something about climate change they already have a willingness to take on costs not an

interest in avoiding them. This way of reasoning amounts to an unrealistic scenario.

If individuals' self-interested preferences for free-riding in a cooperative situation can undermine collective efforts despite the fact that a collective effort best serves each agents' over all self-interested preferences, why would we expect individuals' self-interested preferences for free-riding to *not* undermine collective efforts that only serve their other regarding moral preferences? The unrealistic scenario seems to depend on the view that it is possible for agents to simply look beyond their own self-interest when they have a strong moral argument for contributing to a collective effort. Yet if we justify the state because not enough agents can look beyond their individual short-term self-interest even though the collective effort will in the long-term best serve each agent's welfare interests, it seems contradictory to claim that a global form of political authority is not needed because agents can simply act in the welfare interests of others without being affected by their own short-term welfare interests.

The unrealistic scenario does describe a situation that is not a collective action problem. However, it is also based on a view of human nature that would make it difficult not only to justify a global form of political authority but any form of political authority. As such, those that think the state is justifiable but not global forms of political authority cannot simply appeal to the unrealistic scenario and claim that political institutions are not necessary to achieve cooperation in the global warming case. It is inconsistent to deny that we currently face a global collective action in the case of global warming while still appealing to collective action problems for the production of public goods like law and order to justify the state.

In my view we now find ourselves somewhere between the pessimistic and optimistic scenarios. I do think existing agents have a preference to provide the future the good of a stable climate. However, existing agents' concerns for the interests of future others may not weigh heavily against their partial interests in their own short-term economic welfare. This would best explain the adoption of weakly demanding global accords like the Kyoto protocol that have very weak compliance mechanisms. If we do currently find ourselves somewhere between the pessimistic and optimistic scenario it seems to me to be more accurate to describe the cooperative challenges we face as collective action problems. Yet, the argument here is not dependent on demonstrating how strong agents' preferences for providing future generations with environmental goods are in relation to their own economic welfare interests. Rather the point is that if we are to secure large scale and effective global cooperation to reduce our impact on the climate we must approach the optimistic scenario. At the same time it is not reasonable to think that we could arrive at the unrealistic scenario. Thus the theoretical expectation I am advancing is that cooperation is possible, but only if we overcome some difficult global collective action problems.

The argument provided thus far defends characterizing the cooperative problems generated by the threat of global warming as a collective action problem, and this is the term I will use in the remainder of this work. One might complain at this point that I have taken the reader on an awfully roundabout path merely to confirm what economic theory and common sense told us from the outset. I can only agree. We have travelled quite far simply to arrive back to viewing the mitigation of global warming as having a public goods or tragedy of the commons structure. However, we can now see the intergenerational structure of the global warming problem, the role other regarding reasons for action must play, and that we should not expect securing cooperation to provide the good of a stable climate to be easier to do than for public goods like law and order but potentially more difficult.

The remainder of this chapter will review existing research to assess the plausibility of the above theoretical assessment and the implication that follows from it; namely that providing the global collective good of a stable climate will require some supranational system to enforce coordinated policy at the global scope. Yet before moving on to this review it is worth pausing to examine a final and familiar critique of the claims offered thus far. The objection is that the global collective goods argument employed above is based on a faulty analogy with the domestic collective goods justification of the state.

The domestic analogy

Proposals for global forms of political order are often accused on making a faulty domestic analogy. The analogy is that states need a supranational form of political order to achieve some collective good for the same reasons individuals need a system of political order to secure similar collective goods. The implication of the analogy is that states and relations between states are like individuals and relations between individuals. The first suggested problem with the analogy is that empirical evidence does not support the view that states have the same kinds of difficulties in achieving order/collective action independent of an overarching political order as individuals do within a given territory. The other problem is that it is not accurate to suggest that the solutions to generating order and certain kinds of collective action between individuals at the domestic scope can be applied to relations between states at the global scope.¹⁹² It is worth noting where this analogy is not apparent in this work, where it is apparent, and what implications this entails for the over all normative thesis I advance.

I will argue that we need some supranational system for enforcing global policies that could for example generate a credible scheme of global prices

¹⁹² See Hidemi Suganami, *The Domestic Analogy and World Order Proposals* (Cambridge: Cambridge University Press, 1989), 9-23, 165-96.

on carbon emissions. However this position does not commit one to the view that it is as difficult for states to adequately provide collective goods in the international sphere independent of a coercive global political order as it is for individuals to do so in large scale societies without a state. The argument of this work is only dependent on the claim that *in the case of global warming* it is not likely that states will be able to achieve adequate cooperation without some system for monitoring and enforcement of collective policies at the global scope. It is not necessary in defending my thesis that the reason for this be some close parallel between what individuals can accomplish and what states can accomplish in terms of collective action with other like agents. There is of course a parallel in the sense that the argument points to collective action problems both at the domestic and global levels. However, it obviously cannot be the case that an argument fails based on a faulty domestic analogy as soon as one claims that there are collective action problems at the global scope. That would amount to a denial that we ever face such collective challenges, which is patently false.

One might instead argue that the domestic analogy involved in this work is problematic largely because it *prescribes* a new supranational political arrangement with credible enforcement instruments. Robert O. Keohane and Joseph S. Nye argue that it is just not likely that peoples “in some two hundred states will be willing to act on the domestic analogy for well into the new century.”¹⁹³ The proposal for global forms of political authority is faulty because it is,

state structures, and the loyalty of people to particular states, that enable states to create connections among themselves, handle issues of interdependence, and resist amalgamation.... Hence, world government during our lifetimes seems unlikely, at least in the absence of an overwhelming global threat that could only be dealt with in a unified way.¹⁹⁴

I will defend the view that global warming could very well be the kind of overwhelming threat Keohane and Nye allude to.¹⁹⁵ Furthermore, the overarching argument of this work is a cosmopolitan one about the applicability of certain duties of justice as the global scope. The willingness for action or lack thereof does not obviously affect the plausibility of this type of normative argument.

The view to be defended is that the justification that can be offered to individuals for why they should support the state also seems to justify the conclusion that individuals ought to support the creation of a global political

¹⁹³ Robert O. Keohane and Joseph S. Nye, "Introduction," in *Governance in a Globalizing World* (Washington, D.C.: Brookings Institution Press, 2000), 13-14.

¹⁹⁴ *Ibid.*, 13.

¹⁹⁵ Note that the argument I advanced is based on the notion of divisible sovereignty and not on a world state or federation, which weakens the domestic analogy at least to some degree.

project to address the threat of climate change. This is what Hidemi Suganami calls a “logical deduction from a normative proposition asserted to be valid in any human context, domestic international, or otherwise,” which is not an example of a faulty domestic analogy.¹⁹⁶ For example, a theory on the moral reasons to keep promises can be applied at the domestic and global scopes and to individuals and states without making a faulty analogy.¹⁹⁷

There of course remains the problem of whether or not we could implement supranational political institutions with comparable functions to domestic political institutions. Still, the supposed faulty logic of the global political prescription is based on the assessment that there is a lack of political will to create the kind of supranational arrangements proposed. It is clearly not a compelling *normative* argument to suggest that some moral demand on X to do Y does not apply simply because X does not want to do Y. If people are not willing to support a political solution this may have an impact on our assessments of what a specific individual or even political society ought to do given this broader moral failure. However, such considerations would not entail a move away from the general view that individuals ought to support a global political solution.

The political economy of global warming

Economic analysis increasingly points to the conclusion that the costs of investment in mitigation now and/or over the medium term are outweighed by the benefits associated with avoiding the warming that will occur over the next century and beyond if we do not make such investments.¹⁹⁸ There is significant disagreement among economists on the most efficient level and timing of investment in mitigation.¹⁹⁹ Still, many of the major studies in cost-benefit analyses are predicting not only overall pay-offs from mitigation but also that the costs are relatively low or at least manageable.²⁰⁰ At the same time, the message coming for economic research is that such an efficient effort to mitigate global warming will require a common, coordinated and a

¹⁹⁶ Suganami, *The Domestic Analogy and World Order Proposals*, 25, 146.

¹⁹⁷ *Ibid.*, 25.

¹⁹⁸ Cline, *The Economics of Global Warming*, W. R. Cline, "Meeting the Challenge of Global Warming," in *Global Crises, Global Solutions*, ed. B. Lomborg (New York: Cambridge University Press, 2004), William D. Nordhaus, "The Challenge of Global Warming: Economic Models and Environmental Policy," (New Haven, CT: Yale University, 2007), Nordhaus and Boyer, *Warming the World*, Stern, *The Economics of Climate Change: The Stern Review*.

¹⁹⁹ For example see Nordhaus, "The Challenge of Global Warming: Economic Models and Environmental Policy," Stern, *The Economics of Climate Change: The Stern Review*.

²⁰⁰ IPCC, "Mitigation of Climate Change - Summary for Policymakers," Nordhaus, "The Challenge of Global Warming: Economic Models and Environmental Policy," Stern, *The Economics of Climate Change: The Stern Review*.

nearly global system for putting prices on green house gas (GHG) emissions, especially for CO₂.²⁰¹ Without such coordinated global policies the costs of mitigation will rise dramatically and the prospects for avoiding dangerous climate change will be considerably worsened.

The most compelling research on the political economy and international relations of climate change points to the conclusion that states will not be able to implement an effective and coordinated global policy that directly sets deep emissions cuts or that generates efficient global prices on GHG emissions through voluntary or weakly enforced international agreements like the Kyoto Protocol.²⁰² Here the evidence points to a lack of incentives for states and the current generation as a whole to take on the costs created by policies that would meaningfully reduce GHG emissions.²⁰³ Correspondingly, this research suggests that even given a global agreement on mitigation policies it is not plausible that states will take on the direct and indirect costs involved in implementing a credible system of compliance to costly mitigation policies.²⁰⁴ Yet, it is precisely a credible system for monitoring and compliance that is central for the successful implementation of the kind of agreement that is cost effective enough to have a chance at success.

The basic idea is that incentive structures are such that the effectiveness of mitigation agreements are undermined when there is a lack of strong enforcements mechanism. If this is true we would expect any treaty actually achieved to be hampered by non-participation, very weak emissions targets, failures to meet targets, delaying of emissions cuts to the future, and a lack of enforcement mechanisms, which are typical criticisms of the Kyoto Protocol. In further assessing research on this problem it will be useful to look at existing experience in terms of the ability of international agreements between states to provide comparable environmental public goods.

²⁰¹ IPCC, "Mitigation of Climate Change - Summary for Policymakers," Nordhaus, "The Challenge of Global Warming: Economic Models and Environmental Policy."

²⁰² Scott Barrett and Robert Stavins, "Increasing Participation and Compliance in International Climate Change Agreements," *International Environmental Agreements: Politics, Law and Economics* 3 (2003), Michael Finus, Ekko van Ierland, and Rob Dellink, "Stability of Climate Coalitions in a Cartel Formation Game," *Economics of Governance* 7, no. 3 (2006), Gardiner, "The Real Tragedy of the Commons," Jon Hovi and Ivar Areklett, "Enforcing the Climate Regime: Game Theory and the Marrakesh Accords," *International Environmental Agreements: Politics, Law and Economics* 4 (2003), Sandler, *Global Collective Action*.

²⁰³ Scott Barrett, *Environment and Statecraft: The Strategy of Environmental Treaty-Making* (Oxford: Oxford University Press, 2003), Scott Barrett, "Kyoto Plus," in *Climate-Change Policy*, ed. Dieter Helm (Oxford: Oxford University Press, 2005), Gardiner, "The Real Tragedy of the Commons," Sandler, *Global Collective Action*.

²⁰⁴ Barrett and Stavins, "Increasing Participation and Compliance in International Climate Change Agreements," Christoph Böhringer and Michael Finus, "The Kyoto Protocol: Success or Failure," in *Climate-Change Policy*, ed. Dieter Helm (Oxford: Oxford University Press, 2005).

Experience from existing global accords

So far we have a fairly pessimistic theoretical picture of the possibilities for mitigating global warming,²⁰⁵ but it may be objected that real world efforts to produce global public goods undermine the analysis above. There are two clear strategies in the existing literature for demonstrating that this is not so in the case of global warming. The first is to compare climate change to protection of the ozone layer, another environmental good that in theory appears to be a pure public good. States have been able to significantly curb ozone depleting emissions and have been able to implement a successful international agreement, the Montreal Protocol, in the absence of transnational system of political authority to enforce abatement targets.²⁰⁶ Highlighting differences between the two cases supports the claim that a strategy for global enforcement is needed if significant reductions of GHG emissions are to be achieved. The second strategy is to show that the actual behaviour of states, in particular with regards to the Kyoto protocol, does in fact coincide with what we would expect given the theoretical analysis above.

Global warming is not the new ozone

What were the factors that made collective action to reduce ozone depleting emissions possible and that are not present in the case of global warming? First, twelve countries accounted for 78% of emission when the Montreal

²⁰⁵ For theoretical and empirical assessments on the limited possibilities for voluntary agreements to result in significant reductions in GHG emissions see generally, Alberto Ansuategi and Marta Escapa, "Economic Growth and Greenhouse Gas Emissions," *Ecological Economics* 40, no. 1 (2002), Mustapha H Babiker *et al.*, "The Evolution of a Climate Regime: Kyoto to Marrakesh and Beyond," *Environmental Science & Policy* 5 (2002), Scott Barrett, "Managing the Global Commons," (International Task Force on Global Public Goods, 2005), Barrett and Stavins, "Increasing Participation and Compliance in International Climate Change Agreements," Böhringer and Finus, "The Kyoto Protocol: Success or Failure," Finus, van Ierland, and Dellink, "Stability of Climate Coalitions in a Cartel Formation Game," Hovi and Areklett, "Enforcing the Climate Regime: Game Theory and the Marrakesh Accords," Todd Sandler, "Global and Regional Public Goods: A Prognosis for Collective Action," *Fiscal Studies* 19, no. 3 (1998), Todd Sandler and Roger D. Congleton, "A Game-Theoretic Analysis of Carbon Emissions," in *The Political Economy of Environmental Protection: Analysis and Evidence* (Ann Arbor: University of Michigan Press, 1996).

²⁰⁶ See especially Scott Barrett, "Creating Incentives for Cooperation: Strategic Choices," in *Providing Global Public Goods*, ed. Inge Kaul and *Et al.* (New York: Oxford University Press, 2003), Scott Barrett, "Critical Factors for the Successful Provision of Transnational Public Goods," (Stockholm, Sweden: Secretariat of the International Task Force on Global Public Goods, 2004), Barrett, "Kyoto Plus," Gardiner, "The Global Warming Tragedy and the Dangerous Illusion of the Kyoto Protocol," Gardiner, "A Perfect Moral Storm: Climate Change, Intergenerational Ethics and the Problem of Moral Corruption," Sandler, *Global Collective Action*, Chapt. 10.

Protocol was ratified²⁰⁷ and the numbers of economic activities associated with CFC emissions were limited. Just a few firms were responsible for a very large percentage of all production in the US, the largest emitter, and this meant that there were fewer parties and interests that needed to be satisfied and organised to produce a working agreement.²⁰⁸ Following standard theories of collective action one expects better prospects for success given fewer actors to coordinate.²⁰⁹ One of the most important contributions to the success of collective action on ozone depletion was that the US estimated that they would benefit from unilateral reductions of their emissions, and Belgium, Canada, Norway, and Sweden followed the US in imposing unilateral bans on CFCs early on.²¹⁰

Because the US took a leadership role in reductions the incentives for others to follow increased. Having the biggest polluter take the leadership role raises other countries' confidence that their efforts will not be undermined by non-cooperating actors that have larger effects on total pollution levels. Both the cost-benefit structure and the ability to motivate vested interests were helped by the availability of replacement technologies (e.g. HCFCs and HFCs). These alternatives made significant emissions cuts economically feasible, practicable and of commercial interest, all of which helped support the conditions for political acceptance of deep emissions reductions in developed countries. Because several developed countries calculated that they had an interest in cutting CFC emissions they were willing to make concessions and transfers to developing countries in the negotiation process to assist them in taking up new technologies. Correspondingly, developed countries that wanted to reduce CFC emissions also had incentives to use the threat of trade restrictions to influence non-members to the treaty.²¹¹ These policies entailed commitments to take on costs directly or indirectly to facilitate the broad adaptation of control measures and essentially changed the structure of the game into one of coordination around a specific collective solution, i.e. transfer to a new technological standard.²¹²

Another key factor that favoured voluntary agreement between states to curb depletion of the ozone layer is that measurable recovery of the ozone layer was expected to arrive by 2025 with benefits from recovery arriving

²⁰⁷ World Resources Institute, *World Resources 1992-93* (Oxford University Press, 1992), as cited in Sandler, *Global Collective Action*.

²⁰⁸ Sandler, *Global Collective Action*, 217.

²⁰⁹ See *Ibid.*, Chapters 2 & 10.

²¹⁰ Barrett, "Critical Factors for the Successful Provision of Transnational Public Goods," 24.

²¹¹ Barrett and Stavins, "Increasing Participation and Compliance in International Climate Change Agreements," 365.

²¹² Barrett, *Environment and Statecraft: The Strategy of Environmental Treaty-Making*, 221-30.

already in 2050.²¹³ This fact combined with a much more favourable cost-benefit expectation than in the case of climate change over the short to medium term means that the ozone problem does not involve the same kind of intergenerational challenge we face for climate change. Had the benefits of mitigating ozone depletion been far off into the future collective action would have been much more difficult to achieve.²¹⁴

One might argue that small a sub-group of high polluting countries could reduce GHG emissions enough to either unilaterally significantly mitigate future impacts or to facilitate global coordination around an aggressive abatement strategy. However, there are many more large players with deep economic interests in the burning of fossil fuels than was true in the ozone case. Developing countries currently account for 39% of world emissions and the International Energy Agency predicts that they will be responsible for three-quarters of the increase in total CO₂ emissions that will occur between 2004 and 2030. Developing countries will

overtake the OECD as the biggest emitter by soon after 2010...China alone is responsible for about 39% of the rise in global emissions. China's emissions more than double between 2004 and 2030, driven by strong economic growth and heavy reliance on coal in power generation and industry. China overtakes the United States as the world's biggest emitter before 2010. Other Asian countries, notably India, also contribute heavily to the increase in global emissions. The per-capita emissions of non-OECD countries nonetheless remain well below those of the OECD.²¹⁵

As Gardiner points out, cooperative efforts on GHG mitigation are particularly vulnerable to being undermined when there are non-cooperating parties that have or potentially have a capacity to pollute at significant levels because of technical capacity or because they have a large population.²¹⁶ The relevant interests for non-cooperation and the capacities to undermine the efforts of others are widespread in the case of global warming.

Still, it is clearly not necessary to incorporate all countries in a global scheme in order to succeed in mitigating climate change. Countries that currently do not have significant GHG emissions, that have small populations, and that have little capacity for industrial expansion will not have an impact on agreements other states make. Yet countries with such characteristics are not influential internationally meaning that they do not generally have an impact on global collective actions problems and that they have little oppor-

²¹³ It is now expected that somewhere between 2030 and 2070 the ozone will recover to 1980 levels. See Patrick L. Barry and Tony Phillip, "Good News and a Puzzle: Earth's Ozone Layer Appears to Be on the Road to Recovery," (National Aeronautics and Space Administration, 2006).

²¹⁴ Sandler, *Global Collective Action*, 219.

²¹⁵ International Energy Agency, "World Energy Outlook 2006: Summary and Conclusions."

²¹⁶ Gardiner, "The Real Tragedy of the Commons," 412-13.

tunity to not follow standards adopted by the rest of the international community. As Gardiner puts it, "the focus on partial compliance is thus at best misleading."²¹⁷

A second argument is that states can create incentives for both participants and non-participants to accept significant emissions targets by including in the next climate treaty a commitment to both make transfers to developing countries and to use trade sanctions against defectors and non-treaty countries that emit above the agreed to levels.²¹⁸ Trade sanctions are one way to employ coercive economic mechanisms in achieving cooperation at the global scope, and may be a necessary tool in the design of a global system for coordination and enforcement of policies for achieving aggressive GHG reductions targets. Yet, sanctions have to be relatively mild in voluntary international agreements to give states reasons to both enter into and remain within the agreement. Sanctions are also costly to coordinate and impose, meaning that the implementation of sanctions itself becomes a public good subject to free-riding.²¹⁹

Following the logic of collective action we can say that in order for the threat of sanctions to be credible in a voluntary agreement like the Montreal or Kyoto Protocols it must be both collectively and individually rational for the relevant parties to impose them.²²⁰ To be optimistic about the ability of states to use trade restrictions in the context of an international environmental treaty we need to find that at least one of the two criteria are met. However, for the case of climate change it is neither collectively nor individually rational in the self-interested sense for any given generation to voluntarily employ severe trade restrictions to motivate significant GHG reductions.

Sanctions must be harsh enough to change behaviour, but damaging trade sanctions on countries that have significant enough production to negatively impact mitigation efforts will almost certainly also harm cooperating parties, undermining the credibility of sanctions.²²¹ Furthermore, unlike in the ozone case some key players expect that the costs of abatement outweigh for them the benefits over both the short to medium term.²²² There is also a great deal of uncertainty about the effects of climate change, and some states may actu-

²¹⁷ Ibid.: 413.

²¹⁸ See J.E. Aldy, P.R. Orszag, and J.E. Stiglitz, "Climate Change: An Agenda for Global Collective Action" in *The Timing of Climate Change Policies* (Pew Center on Global Climate Change, Washington, DC: 2001).

²¹⁹ For a review of the expected difficulties for enforcing a global climate treaty following from a game theoretical analysis see Hovi and Areklett, "Enforcing the Climate Regime: Game Theory and the Marrakesh Accords."

²²⁰ Böhringer and Finus, "The Kyoto Protocol: Success or Failure," 265.

²²¹ Barrett and Stavins, "Increasing Participation and Compliance in International Climate Change Agreements," 362-65.

²²² Sandler, *Global Collective Action*, 224.

ally calculate that they stand to benefit potentially creating the need for transfers in the agreement.²²³ Unlike with CFCs, GHG emissions are related to all sectors of the economy and this means that any strategy must address the interests of a vast array of actors (i.e. countries, provinces and states, industries, companies, and individual consumers) making collective action much more difficult.

Another scenario is one where most countries have some incentive to reduce their emissions because they can reach a threshold where a few major and non-cooperating emitters' decisions to continue to pollute or not will in fact determine whether or not we can achieve the collective benefit of mitigating human induced global warming. The idea is that the game is not a prisoners' dilemma because countries have an added incentive to cut their emissions even when several large and/or high polluting countries are not.²²⁴ If the threshold is reached the non-cooperation large emitters will be a great deal more likely to stop polluting because what they choose will actually determine whether or not negative climate consequences will be avoided. This is sometimes called a "step good"²²⁵ or a "weakest link"²²⁶ good. Climate change is a summation good but some have suggested that summation goods can be changed into a step good with the introduction of assurance contracts where signatories agree to provide the good should a certain threshold of participation be achieved.²²⁷

In fact this is part of the strategy used in agreements like the Montreal and Kyoto protocols, but in the absence of a system for enforcement to guarantee that signatories accept the terms we must ask what incentives there are to honour such a global assurance contract. States reserve for themselves the right to unilaterally exit the Kyoto treaty meaning that there is nothing that prevents signatories from choosing a free-rider strategy once the large emitter's are on board. In general there are many difficulties with trying to turn n-person summation goods into step goods,²²⁸ and it is unlikely that a few countries could aggressively pollute the commons generating significant competitive advantages for themselves over any extended period of time without forcing those other countries trying to create cooperation incentives for key polluters back into the logic of a prisoners' dilemma.

²²³ Ibid., 224-25.

²²⁴ For the theory of threshold effects see Malcom Gladwell, *The Tipping Point: How Little Things Can Make a Big Difference* (Boston: Little, Brown & Company, 2000), Thomas Schelling, *Micromotives and Macrobehavior* (New York: W.W. Norton, 1978).

²²⁵ Hardin, *Collective Action*, 55-61.

²²⁶ Sandler, *Global Collective Action*.

²²⁷ Schmitz, *The Limits of Government: An Essay on the Public Good Arguments*.

²²⁸ Morris, *An Essay on the Modern State*, 89-92.

Kyoto as evidence for the expected under provision of mitigation

Another complaint against the dreary description of the challenges involved in addressing global warming is that it is in obvious opposition to the international reality of cooperation. The Kyoto Protocol has been ratified, after all, by a majority of the world's states. This is true but as empirical evidence the Kyoto Protocol tends to support the pessimistic view not the optimistic one. If it is true that the problem of climate change leads to collective action problems that tend to undermine attempts at cooperation between states we would expect an international treaty to be hampered by non-participation, very low emissions targets, delaying of emissions cuts to the future, and a lack of enforcement mechanisms. Each of the expectations is descriptive of the current climate treaty.

The United States (US) is the largest single emitter of GHGs and withdrew from the protocol in 2001, demonstrating a non-cooperative strategy. Australia followed the US in leaving the agreement (after a change of government Australia ratified the Kyoto Protocol in December of 2007), and other countries, particularly Russia, re-negotiated their commitments downgrading their targets. Developing countries including one's that will increasingly have a major impact on climate change such as China and India have refused to accept emissions limits. Non-participation means that the actual reductions we can expect from Kyoto are somewhat limited, but we should also note that we have seen a watering down of the original reduction targets for participants as well.

A conservative estimate is that the Kyoto commitments for Annex I countries have been downgraded to a 2% cut from 1990 levels, and Nordhaus (2001) estimates that the emissions reductions will only result in a 0.8% decrease from the do nothing scenario.²²⁹ We do not yet know what the actual impacts of Kyoto will be, but we do know that the level of emissions reductions following from the Kyoto Protocol are low and very low compared to what the IPCC expects in necessary. Furthermore, these low impacts should be understood in the context of the time it took to actually reach a binding agreement. The Framework Convention on Climate Change (FCCC) was initially adopted during the 1992 Earth Summit with 188 countries ratifying the agreement, but it was not possible to bring into force a binding agreement until Russia ratified the Kyoto Protocol in 2004.²³⁰

Thinking about these delays must also be considered in the context of the IPCC's claim that stabilising human induced global warming at levels low enough to avoid the more serious negative impacts would require over the

²²⁹ William D. Nordhaus, "Global Warming Economics," *Science* 294 (2001). Another study that expects very marginal actual reductions, if any at all, from the Kyoto protocol is Babiker *et al.*, "The Evolution of a Climate Regime: Kyoto to Marrakesh and Beyond."

²³⁰ For a summary of the process leading up to the Kyoto Protocol see Barrett, *Environment and Statecraft: The Strategy of Environmental Treaty-Making*, 366-73.

near term that emissions be reduced 50-85% below current levels by 2050. At the same time, even if the Kyoto commitments are achieved the International Energy Agency (IEA) predicts that energy demand will have increased by 60% between 2002 and 2030, with fossil fuels meeting 85% on this demand. Total global emissions of CO₂ are expected to have increased by *more* than 60% over the same period!²³¹

Getting as many states as possible to accept the agreement has been bought at the cost of keeping 'reduction' targets low. Likewise, the Kyoto protocol has a very weak set of sanctions and the parties can simply opt out of the agreement three years after implementation.²³² Those that fail to meet their 2008-2012 targets will be required to take on an additional 30% of emissions reduction above the emissions targets set for 2013-2017. However,

there is no procedure for enforcing the compliance agreement. Second, the emission limits for the second control period have yet to be negotiated. A country that worries that it may not be able to comply in the first control period may thus hold out for easy targets in the second control period—so that the punishment, if triggered, doesn't actually bite. Finally, and perhaps most importantly, a country can always avoid the punishment—by not ratifying a follow-on protocol for 2013-2017, or even by withdrawing from the Protocol at a later date.²³³

Weak sanctions and sanctions that arrive only in the future are also what one would expect when the current generation does not suffer the consequences of its pollution while it enjoys the benefits of energy consumption. We need to ask ourselves what motivations there will be in the future to accept the sanctions associated with previous inaction.²³⁴

The problem of state sovereignty

We have identified clear theoretical and empirical reasons for thinking that the climate change problem is not less problematic than the coordination problems used in the liberal tradition to motivate creating political society but at least as problematic if not more so. When negative environmental externalities from economic activities are widely dispersed territorially and temporally and there are no political institutions that can ensure that states will internalise the environmental costs of economic growth we should expect the relevant actors to continue producing these costly environmental

²³¹ See International Energy Agency (IEA), *World Energy Outlook 2004* (Paris: IEA, 2004).

²³² Böhringer and Finus, "The Kyoto Protocol: Success or Failure," 272.

²³³ Barrett, "Managing the Global Commons," 8-9.

²³⁴ Gardiner, "The Real Tragedy of the Commons," 403-04.

externalities.²³⁵ The chief barrier we have identified to a programme of aggressive global GHG emissions reductions is the lack of a global system for enforcing emissions targets or coordinated global instruments to put prices/costs on GHG emissions.

In essence what we find by looking at international political economy and international relations work on these problems is a wearing conflict between two central research results pulling in opposite directions. These are that mitigation is worth the effort and that it is plausible to make a large difference to future environmental conditions without seriously undermining our own welfare given a globally coordinated strategy. At the same time such an efficient global strategy is not likely to be achieved in the kinds of international agreements states produce. As a result we find a myriad of proposals that try to incorporate lessons from both results. Examples of some broad approaches include: improving on the existing Kyoto Protocol, club approaches that call for limiting negotiations to the top polluters, multiple-club approaches that abandon the grand coalition strategy in favour of several regional and/or sub-group treaties, domestic strategies where policies and instruments are applied only within states that in turn try to coordinate their domestic policies, and those that argue for the abandonment of emissions targets and price instruments altogether in favour of investment in technological research and agreements on climate friendly technology standards.²³⁶

These policy prescriptions are serious compromises in view of the analysis on the nature of the collective action problems generated by efforts to mitigate global warming. They either cannot adequately address the need for coordinate policies and incentive structures or cannot adequately address the need for compliance mechanisms to achieve the proposed coordination.²³⁷ These kinds of policy proposals do however make sense when one takes the political constraints associated with the state system as a necessarily enduring fact about global conditions.²³⁸ It is also telling that those proposals that do see enforcement to be paramount in order to implement a global plan for

²³⁵ See A. Ansuategi and C. Perrings, "Transboundary Externalities in the Environmental Transition Hypothesis," *Environmental and Resource Economics* 17 (2000).

²³⁶ See Joseph E. Aldy, Scott Barrett, and Robert N. Stavins, "Thirteen Plus One: A Comparison of Global Climate Policy Architectures," *Climate Policy* 3, no. 4 (2003), Joseph E. Aldy and Robert N. Stavins, *Architectures for Agreement: Addressing Global Climate Change in the Post-Kyoto World* (Cambridge: Cambridge University Press, 2007), Barrett and Stavins, "Increasing Participation and Compliance in International Climate Change Agreements."

²³⁷ See especially Barrett and Stavins, "Increasing Participation and Compliance in International Climate Change Agreements."

²³⁸ See Aldy, Orszag, and Stiglitz, "Climate Change: An Agenda for Global Collective Action," 14 & 23-28, Barrett, *Environment and Statecraft: The Strategy of Environmental Treaty-Making*, Barrett, "Kyoto Plus," Barrett and Stavins, "Increasing Participation and Compliance in International Climate Change Agreements," Böhringer and Finus, "The Kyoto Protocol: Success or Failure," Gardiner, "A Perfect Moral Storm: Climate Change, Intergenerational Ethics and the Problem of Moral Corruption."

reducing GHG emissions tend to recommend a focus on investment in technological solutions instead of political solutions.²³⁹ One of the main benefits of this alternative approach is that once economically feasible alternative technologies are available a smaller group of states that are large players on the international stage will have much better opportunities to try to get the rest of the world to coordinate around these more sustainable sources of energy by unilaterally adopting them.

In this study I do not take the maintenance of state sovereignty as a premise in the prescriptive analysis but propose the creation of a supranational form of political authority that changes the authority structures of existing states. The mandate of this global political arrangement would be to design and enforce policy on the mitigation of global warming. In the absence of widespread voluntary transition to environmentally friendly technology in existing markets it seems that imposed GHG emissions reductions or prices that create genuine incentives to conserve and to invest in new technology are necessary policy instruments. This is because even if we are confident that we can develop commercially viable energy alternatives these efforts will require extensive political will and economic and institutional change. In order to understand why I defend such a political proposal we can identify three central objections to the argument. Addressing these will help to make it clear why a supranational form of political authority is thought to be needed in the morally relevant sense necessary to get the normative thesis of this book off the ground.

Too much reliance on rational choice theory

The first objection is that the analysis relies too much on game theory, which in turn is based on the assumption that agents are only motivated by rational self-interest. In reality we have other moral motivations that must greatly improve the prospects for cooperation. After all the only reason we are interested in the problem in the first place is because of the widespread concern over the environmental damage we are imposing on the future. Furthermore, if the rational self-interest assumption were a true reflection of our actual motivations there would be little benefit from creating a global form of political authority because we would not use this institutional structure to cooperate on costly mitigation programmes. This objection misunderstands how results from research in international political economy are used in the analysis.

The argument I advance is about what it is possible to achieve in the absence of political institutions designed to assure cooperation. It is argued that the self-interested reasons we do have for inaction will undermine the effec-

²³⁹ Barrett and Stavins, "Increasing Participation and Compliance in International Climate Change Agreements," Sandler, *Global Collective Action*.

tiveness of trying to use voluntary interstate accords to mitigate global warming despite the kind of political authority that can be exercised by sovereign states. What is lacking is a supranational system that can secure compliance. This argument does not amount to a denial that people are motivated by other regarding reasons for action. It is other regarding moral reasons that must be appealed to in motivating people to support a new global political project to address the human impact on our climate. The argument is instead that in the absence of the appropriate political institutions the conflict between self-interested reasons for inaction and other regarding reasons for action will undermine attempts to address this problem.

The objector might counter that instead of showing the need for a supranational political arrangement the analysis simply shows that we are not currently being moral enough. What is needed is a change in our attitudes and not some global form of coercion. However, the point of the game theoretical analysis was to argue that addressing global warming entails solving a very difficult set of collective action problems that are at least as difficult as those used to justify the need for the state. One can of course argue that all we have to do is change our preferences so that we can cooperate through voluntary arrangements. However, if we can simply change our preferences and implement a just and voluntary programme for mitigating climate change why could we not also have voluntary and just social orders in the territories now governed by states? The argument that we can resolve collective action problems like those generate by the threat of climate change simply by choosing to emphasise moral preferences actually has anarchist implications that the objector either does not intend or that entails a radical view on social order that is not particularly compelling.

The charge of utopianism

The second objection moves in the opposite direction and argues that the proposal I offer relies too much on individuals' moral motivation to accept the kind of supranational arrangement I propose. Although we should not expect voluntary international agreements like Kyoto to result in meaningful levels of mitigation, global forms of political authority are not realisable and we should focus on more realistic options. In particular one finds several arguments along these lines that call for a focus on technical solutions and/or adaptation. In addressing this objection we should first note that there are broadly four different strategies to pursue in order to avoid the most dangerous impacts from global warming:

1. Sovereign states achieve meaningful collective action via voluntary mitigation agreements.
2. The discovery and/or implementation of system changing technological solutions.

3. Successfully learning to adapt to global warming.
4. States secede some of their sovereignty to overcome their collective action problems and use collective politics to affect large scale GHG emissions reductions.

Based on the analysis above 1 is going to seriously underperform. Approach 2 appears to be a second best proposal, but it is not clear why this is supposed to be less utopian.

Note that the argument for a supranational form of political authority is not in opposition to a technical solution. If we choose to reduce our impact on the climate it will be to a significant extent through technical and organisational change and innovations. Few expect that the developed world will be willing to move far away for the kinds of benefits we can currently associate with high levels of energy use or that developing countries will be willing to forgo these kinds of welfare gains. At the same time, the analysis that collective action between states cannot be achieved through voluntary means is based on a broad argument that individuals, companies, industries, and states do not have compelling enough self-interested reasons to invest in mitigation efforts. This means that under current conditions there is a lack of incentives for acting now to take on the costs of the technological and infrastructural change that is thought to be necessary to avoid dangerous levels of warming. Thus it is odd to on the one hand accept the argument that voluntary international agreements will not lead to significant reductions in GHG emissions and then to argue on the other that we should rely on technological innovation.

One could imagine some unexpected technological advance that markets would shift to simply out of economic self-interest. The hope is that new technology will be so commercially attractive that it will cover or at least severely reduce the costs of radically changing the energy structure of our economies and appeasing vested interests. But the discovery of such a magic bullet technology is not clearly less utopian than the prospect of a supranational political authority.

Alternatively, the proposal might be limited to an argument for state investment in existing alternative energy sources and new energy sources. Surely such investment is both necessary and will help facilitate technological change. Still it seems unrealistic to expect a level of state investment that could, on its own, change incentive structures within markets if we do not think that wealthy states are willing to unilaterally take on the costs of significant GHG emissions cuts. Rather, the goal must surely be to harness market forces in order to get the broad scale global transitions in energy sources that are necessary. It seems reasonable to expect that markets will adopt alternative energy sources and invest in low carbon innovations in much more extensive ways than is currently true when there are high enough costs associated with GHG emissions (e.g. through emissions taxes or by

way of emissions caps and trading of credits). Such market focused measures are particularly important given the short time span over which changes must arrive in order to keep global warming at the lower end of predicted temperature increases.

The third option is based on the view that we will not be able to avoid severe impacts from global warming and that the best way we can help those in the future is through economic growth and investments in adaptation. If we accept economic cost benefit analyses showing strong negative impacts far into the future from more severe levels of warming, then this proposal simply entails accepting substantial costs for future people. One could argue that given economic growth and innovation we will be able to avoid a large share of these predicted costs through adaptation. This question is an important area of environmental and economic analysis in its own right, and clearly adaptation is something we must invest in given that we are already committed to some levels of global warming. However, given uncertainty about both the effects of global warming and our coping capabilities we do not know how well we will be able to adapt to global warming. Furthermore, efforts to avoid global warming by reducing GHG emissions will benefit all of the world's regions while adaptation will take place locally, and it is no less utopian to expect wealthy states to devote significant amounts of their own resources towards adaptation in poorer regions. The adaptation approach would likely entail imposing disproportionate costs on poor regions that face the impacts of global warming before they achieve the growth experienced in more developed countries.

Option 4 is certainly technically feasible in the sense that we understand relatively well how to use policy measures to create market incentives for GHG emissions reductions. Still implementing a global system for assuring compliance to effective policy efforts may not be probable because of the problems of political will and workability noted in the introduction of this book and that follow from the analysis above. However, we can see that the other options also appear utopian in important ways at this shifts the debate somewhat.

Global warming represents an enormous challenge and our response to it either now or in the future will also have to be considerable. In thinking about our options we must be aware that it is expected that by 2050 the world's population will have increased from six to nine billion, global GDP will have more than tripled from today's \$35 trillion, and total global CO₂ emissions will be nearly 100% higher than current levels following current trajectories.²⁴⁰ At the same time the IPCC is calling for global CO₂ emissions to be reduced to by 50-85% below 2000 levels by 2050. The challenge ahead involves reversing and decoupling powerful trends that are tightly bound up with each other over an extremely short period of time. The scale of the task

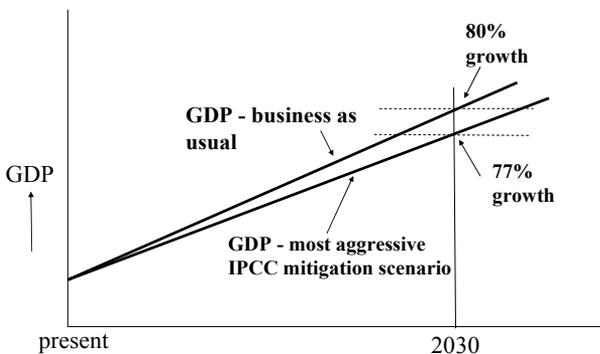
²⁴⁰ Bank World, *The Road to 2050* (Washington, D.C.: World Bank, 2006).

and the speed with which it must occur combined with the expected consequences of inaction do speak for the intervention of coercive political institutions should we want to address this threat.

The low cost of mitigation and moral motivation

The final objection agrees that we need a globally coordinated policy to radically reduce global emissions, and it also agrees that this will be a net cost for the current generation and in the near to medium future. However because these costs are so low we do not face the intractable collective action problem described above. Instead given both the low costs of mitigation and the widespread public concern over global warming the prospects for voluntary international agreements are good. In support of this view we can recall the cost estimates from the Stern Report and point to the IPCC's Working Group III summary report "Mitigation of Climate Change" released in May of 2007. Here the IPCC predicts that we can achieve its most aggressive plan for reducing GHG emissions at a yearly cost of only 0.12% of global GDP, which amounts to a 3% reduction of global GDP by 2030 compared to a business as usual scenario (Figure 2).²⁴¹

Figure 2: The effect of a 0.12% reduction in global GDP growth



These cost estimates do appear low when we think of them in terms differences in GDP growth trajectories.

The IPCC predictions are very new and there is not yet sufficient critical review of these findings. However, what we can say is that in making these assessments the IPCC assumes a global carbon price that will create incentives for greater energy efficiency, adoption of low carbon technologies, infrastructural commitment to alternative energy sources, and further innova-

²⁴¹ IPCC, "Mitigation of Climate Change - Summary for Policymakers," 16.

tion. Thus, the IPCC emphasises the importance of a carbon trading and/or carbon taxes that generate such incentives on a global scale.²⁴² Crucially, the report states that

models use a global least cost approach to mitigation portfolios and with universal emissions trading, assuming transparent markets, no transaction cost, and thus perfect implementation of mitigation measures throughout the 21st century...Global modelled costs will increase if some regions, sectors (e.g. land-use), options or gases are excluded.²⁴³

This means that the IPCC's position is that once there is a global scheme that sets at prince on GHG emissions the costs of mitigation will be more than manageable. However as soon as we move away from this model the costs of mitigation rise, probably very significantly.²⁴⁴ Thus we clearly cannot make the conclusion that because costs are low we do not need a global scheme. Rather the conclusion to draw is that given a global scheme costs will be low.

The recommendation for a system in which we have global prices on GHG emissions is exactly in line with the argument of this chapter. Achieving the low costs predicted is dependent on the interference of political institutions in markets to create incentives for mitigation. Achieving this by way of global limits on emissions through a system of permits and trading and/or taxes on emissions as two of the most important instruments requires a global policy on emissions and a global system for assuring compliance to the system. In this regard a BBC report on final changes to the wording of the Working Group III report just prior to publication is telling. The article reports that,

reference to a "global" carbon market became merely an "international" market, and a reference to the importance of "regulatory and financial incentives and international co-operation" in climate policy was removed altogether, with approval for the effectiveness of "voluntary agreements" inserted instead.²⁴⁵

A political retreat from the implications of the IPCC's findings and changes in the words we use cannot hide the implications of the IPCC's findings. What these changes do indicate is that states appear to continue to have strong interests in protecting the existing norms that guide international relations. Sovereignty continues to be a barrier to our ability to address the threat from global warming.

²⁴² Ibid., 28-29.

²⁴³ Ibid., 11.

²⁴⁴ Nordhaus, "The Challenge of Global Warming: Economic Models and Environmental Policy," 174.

²⁴⁵ Richard Black, "Climate Curbs: Who Will Buy?", *BBC News website*, 4 May 2007.

What if states do a much better job than expected?

Obviously the argument that global warming can give rise to a duty to support a global political project that will limit the sovereignty of states is very sensitive to the empirical fact of the matter with regards what political and institutional conditions are necessary to achieve meaningful mitigation of global warming. The idea that global warming generates a natural duty of justice could be undermined already at the empirical level before even beginning to address the normative issue. If states show themselves to be able to address this threat independent of global arrangements that can credibly enforce compliance to coordinated policies we would not have a global natural duty of justice to accept limits on state sovereignty.

I will not defend the empirical claim further, and we will not know the empirical fact of the matter until sometime into the future. For these reasons one should conceive of my overall thesis as a study on the normative implications of one of the central perspectives within existing research on what the empirical fact of the matter is. Note however that the general normative argument that we could have natural duties of justice at the global scope to support supranational political arrangements is not as sensitive to the empirical fact of the matter in the case of climate change. This normative argument is more general and amounts to the claim that *given* certain kinds of collective action problems at the global scope over certain kinds of threats to human wellbeing a duty to support global forms of political authority can arise.

Summation

This chapter has addressed the first of the two main tasks identified as necessary to defend the position that global warming has generated a natural duty of justice. As we have already seen, climate change threatens the basic security and welfare of humanity while there are very strong incentives to pollute instead of cooperate in reducing GHG emissions. This threat is the kind of environmental problem for which we could justify the interference of coercive political institutions. Furthermore, it would be difficult under current conditions to achieve a significant reduction in total emissions at the level envisioned by the IPCC by way of an international agreement with no or very weak enforcement mechanisms, such as those of the Kyoto Protocol. Given these two empirical assessments we can say that we need the proposed supranational political project in order to have a reasonable chance at succeeding with cooperative aims to address our impact on the climate.

We have seen that for liberals the state is justified, in part, based on its ability to provide security and welfare. Because it appears that states may very well fail to secure these goods either independently or multilaterally through international agreements for the case of climate change the logic of

the liberal justification of the state forces us to ask if we ought to create a supranational form of political authority that could help us avoid the huge negative impacts on human welfare expected from global warming. This question arises because there does not appear to be some inherent reason for why the general liberal justification of political order cannot be applied to political projects at scales both narrower and broader than existing states. The empirical assessment outlined in this chapter on the prospects for global collective action to achieve global warming mitigation establishes a necessary condition for justifying such a global political project. Namely, that we have good reason to expect that we would need a global form of political authority in order to achieve the dramatic levels of GHG emissions reductions the IPCC argues are necessary over the very short time frames the IPCC estimates we have to avoid dangerous levels of global warming.

Even though the liberal political conception of justice is anti-cosmopolitan in the sense that it rejects the idea that under current conditions individuals have demanding duties of global justice, it can accept the claims above. It can accept that global warming is the kind of collective problem for which one could justify the interference of political institutions and it could even accept the view that really doing something about this problem would require a political project at the global scope that would alter the authority structures of existing states. As Nagel argues, "Globally there are a number of ways in which greater international authority would be desirable.... Global public goods like atmospheric protection and free trade could obviously benefit from increased international authority." However, he goes on to argue that "An authority capable of carrying out these functions and imposing its decisions would naturally be subject to claims of legitimacy, pressures toward democracy, and pressures to apply standards of justice in the distribution of burdens and benefits through its policies."²⁴⁶ The problem with this is that on the political conception of justice a state's members "are not morally obliged to expand their moral vulnerabilities in this way."²⁴⁷

According to Nagel the only way out of this conflict is to try and invent a form of global governance that lies somewhere between international agreements and a supranational form of political authority. This is because the later will give rise to legitimate demands that the arrangement be subject to standards of political and distributive justice comparable to those in the state. If we cannot have a duty to take on arrangements that entail such a broad expansion of our duties of justice, we must invent a different kind of arrangement. Nagel does not see any solution along these lines because any move towards a form of global governance that entails a credible system for securing compliance from states to collective global endeavours will give rise to legitimate claims of justice among subjects comparable to those that

²⁴⁶ Nagel, "The Problem of Global Justice," 144-45.

²⁴⁷ *Ibid.*: 144.

members of states have on each other.²⁴⁸ Alternatively peoples could simply consent to a supranational political project which would make it legitimate, but they could not have a duty to do so.

The dilemma Nagel highlights demonstrates the force of the political conception of justice because it shows how it challenges cosmopolitan theories on two fronts. It challenges the cosmopolitan view that we have demanding duties of justice independent of the kind of political relations that exist between individuals within the state, and it challenges the view that we could have duties to enter in comparable political relations at the global scope. Most cosmopolitan theorists have contested the political conception on the first front but in this work I take on the second argument.

In this chapter I have shown that we have good reason to think that a central element of ‘doing something about climate change’ entails working towards and/or supporting global political and institutional arrangements that are aimed towards devising credible strategies for enforcement of coordinated mitigation policies. At a normative level this would require that we accept some weakening of state sovereignty. However, on the current interpretation of the political conception of justice it is only consent to such an arrangement that could make the proposed expansion of our demanding duties of justice legitimate under current conditions. The upshot of this view is that we cannot have a duty of justice to solve the global collective action problems generated by the threat of climate change.

I will argue that even following the political conception of justice we already now have a duty to support a global political response to the threat of climate change that would alter the authority structures of states. In other words, we do now have demanding duties of global justice independent of existing institutional arrangements domestically or globally. Obviously one cannot point to consent or reciprocity in arguing that we have such duties. The question is then what reasons do I suppose we could give to show that agents ought to enter into a global political project following the normative commitments embodied in the political conception of justice. This is the second necessary task in defending my thesis and will be the subject of the next two chapters.

²⁴⁸ Ibid.: 145.

Chapter IV

Defending the idea of a natural duty of justice

Thus far I have defended the claim that we would need a supranational form of political authority in order to act collectively to address the threat global warming. Conditions at the global scope with regards to climate change are the kinds of conditions that are necessary in order to justify the need for some system of political authority following liberal premises. We are now moving on to the second task of justification, namely identifying reasons for why individuals ought to support this type of political project.

The initial step in this second task is to examine the justifications offered by liberals for political duties within the state. This chapter will show that neither consent nor fair reciprocity is foundational in justifying to individuals that they have non-voluntary political duties. In particular, I will show that the political conception of justice rightly relies on the notion of ‘a natural duty of justice’ to justify political duties. As we will see, a natural duty approach amounts to the idea that in order to treat others as our moral equals we must under certain conditions accept a set of demanding political duties. Once the arguments in this chapter are established I will be able to take the second necessary step for justifying global political duties in the case of climate change. In Chapter V I move on to argue that following the political conception of justice one cannot simply appeal to what a political community consents to or what duties of reciprocity individuals have in assessing whether or not the problem of climate change has expanded the scope of political justice. Even if in the absence of active consent to a global political project and even give a lack of direct benefit from such an arrangement, treating others as moral equals can require of us that we support a global political effort for mitigating global warming.

It is important to note that the purpose of this current chapter is not just to identify how the political conception of justice argues for non-voluntary political duties in existing states. There is also a second aim, which is to throw into doubt generally the typical theoretical views on political duties used by those liberals that reject cosmopolitanism; namely appeals to con-

sent and fair reciprocity.²⁴⁹ To achieve these two aims much of Chapter IV is focused on showing that a workable liberal defence of non-voluntary political duties is dependent on a justification that points to the interests that *others* have in the maintenance of a just political order. In other words, a liberal defence of political duties cannot rely solely on self-interest, consent, fair reciprocity or any combination of the three. In order to justify non-voluntary political duties within states as they exist today one must at a foundational level appeal to a natural duty of justice. This does not mean that self-interest, consent and fair reciprocity play no role in a liberal justification of political duties. The claim is only that they cannot justify political duties independent of natural duty reasoning.

Defending the natural duty of justice as the foundational source for individuals' political duties also requires that I address and rebuff voluntarism. The voluntarist argues that we could have a state system in which individuals' political obligations are genuinely voluntary, i.e. based on actual consent to the state's authority. Such a proposal amounts to the view that the non-voluntary systems we have today are not necessary and could be replaced by voluntary states. If this were true both the general natural duty theory and the specific application of it to the case of global warming would be highly implausible.

It is worth recalling here why defending the natural duty of justice against competing theories is important for the over all argument of the book. As the political conception is usually interpreted we do not have demanding duties of global justice because there are no coercive global political institutions. The strength of this form of anti-cosmopolitanism is that it limits the scope of justice by appealing to a notion of fair reciprocity that only exists among members of a state. Appeals to fair reciprocity are also common in liberal thinking about why we should obey the state and support a domestic system of distributive justice. Furthermore, the political conception of justice rejects the notion that we could have a non-voluntary duty to expand the scope of political and distributive justice. This argument appeals to a second common concept in liberal thinking, namely that our associations with others should be, as far as is possible, based in voluntary consent. For these reasons alternative perspectives on the source of individuals' political duties based in consent and reciprocity are the most important challenges to my cosmopolitan thesis. By defending the natural duty of justice from the challenges mounted by voluntarists and fairness theorists and the level of general theory I am also able to cut off arguments that could be employed by a wide range of liberals against my cosmopolitan thesis. Namely, that we could only have

²⁴⁹ However it should be clear that challenging the grounds anti-cosmopolitan liberals typically appeal to does not show that every instance or even most instances of liberal anti-cosmopolitanism are not defensible.

global duties of justice given consent or given certain kinds of reciprocal relations at this scope.

If political duties in existing states cannot be justified to individuals simply by appealing to fair reciprocity or consent, the lack of the 'right kind' of reciprocity or consent at the global scope does not rule out the possibility that we could have global political duties. If other regarding duties can give us a reason to accept demanding duties of justice within the state it becomes clear that we could on the same reasoning have non-voluntary duties to support political orders that are not yet established, even at the global scope. This chapter is dedicated to showing that it is other regarding duties and not consent or fairness that are foundational in justifying to individuals their state-level political duties. The next chapter is dedicated to developing the argument that these same other regarding duties can generate global political duties in the case of global warming.

I will begin this chapter by giving a summary of the traditional liberal approaches to justifying political obligations or duties. For each I will explain why these are widely held to fail to offer an adequate justification. I then move on to what I take to be two important contemporary theories based in consent and fair reciprocity and defend the natural duty approach against these competing views. Note that in developing these arguments this chapter focuses almost exclusively on political duties within the state because it is here that we find developed theories. In the following chapter the general argument for natural duties of justice will be applied to the case of global warming.

As was noted in Chapter II, I have limited my reasoning on political duties to the natural duty theory and its main opponents. As such the discussion to follow does not attempt to fully address debates over political duties in political theory. Nevertheless, this chapter goes into some detail in relation to several technical points on the problem of political duties. This will both take some time and will draw us away from the focus on global issues the rest of the book is dedicated to. I will throughout the chapter pause to summarise why specific arguments are relevant to the overall thesis of the book. Still, the discussion to follow is rather long given that I will be taking on one of the most central and classic problems in political theory. The task requires both a review of where the literature stands today and an extensive treatment of my own arguments in order to be convincing. This places a certain amount of burden on the reader to keep in mind the reasoning I have already offered for why it is important for advancing my cosmopolitan thesis to address current debates over the source of political duties. Before moving on to the main body of the argument it will be helpful to first break down the justification of political duties into two more specific problems.

The problems of demandingness and particularity

First, we must explain why individuals should accept the demanding duties of justice that we normally associate with states. Note that the aim here is not to justify any state but rather liberal democratic states as the best candidates from a liberal perspective for having moral legitimacy. This does not mean that the argument to follow denies that one could have political duties within illiberal political communities, but only that I leave this more complicated question aside for the purposes of this chapter. Neither is the intent to argue for the moral legitimacy of whatever actual liberal democratic states do but rather those features of a political society that we would expect to be present in any just liberal democratic state. For example a system of law and order, a state backed system of individual rights and private property, taxation to provide collective goods, some system of distributive justice (e.g. welfare and opportunities), and democratically guide public institutions. What we are looking for are normative reasons that support the claim that individual subjects have obligations or duties to accept the kind of public regulation and demands of justice we would normally expect to find in a political order with the aforementioned features. I will call this *the problem of demandingness*.

One might object to the description of political society as demanding since it is its benefits to human welfare that are foundationally central to its justification. However, even if we can justify the need for a system of political order on the grounds that most individuals benefit from these types of political arrangements, all such systems use institutionalised coercion. Individuals in states as we know them are for the most part subject to the state's authority through no choice of their own, and the absence of individual choice to this type of coercive arrangement is itself an example of demandingness. Furthermore, even though we expect that most individuals will benefit from political order generally, in any realistic political order nearly all individuals will also be compelled to accept specific laws and instances of coercion that they do not benefit from.²⁵⁰ Likewise, although democratic government is widely held to be the form of government that is most beneficial to most citizens it nevertheless requires that individuals subject themselves to the will of others in ways that inhibit their liberty. The burdens of distributive justice are also clearly demanding for many. Thus, it is appropriate to describe the burdens of justice on the individual within an actual state as demanding even though we recognise the benefits of this arrangement.

A second question that must be answered is why we are thought to have demanding duties of justice in some specific political community where we

²⁵⁰ It also seems implausible to claim that *every possible individual* will benefit more from participation in a just political society than from the absence of political society. Given the enormous diversity, actual and potential, between how human lives can go it seems much more appropriate to claim that the vast majority of individuals do better where people are organised in political communities.

enjoy citizenship status. What reasons are there for believing that our political obligations or duties within ‘our own’ state should be considered more demanding than duties to support any just state or our moral duties to any individual regardless of citizenship status? The same question in the converse is what could explain that our claims in justice against others are stronger within ‘our state’ than they are generally. This question is often called *the problem of particularity*.²⁵¹

Conventional justifications of political duties in liberal thought

Given the individualistic underpinnings of liberalism and its presumption in favour of individual liberty from coercion, what arguments do liberals typically appeal to in order to justify the coercive nature of political order within the state? In this section we review familiar arguments within liberal political thought for the source of political duties and the main problems with these approaches.

Rational self-interest

As we have seen, on Hobbes’ account individual subjects should view themselves as having political obligations within actual political orders even though they never consented to the creation of this order or to the authority of the state. The source of political obligations on Hobbes’ account is that individuals recognize that they would have consented to creating such an order in a state of nature if they were given a real chance to do so.²⁵² The answer to the problem of demandingness is supposed to be that it is in my own self-interest to take accept these demands given that I benefit much more from political order than its absence. But can rational self-interest give each individual a reason to obey political authority once a political community is established? When I have an interest in not obeying and can avoid the risk of punishment would not I actually cease to have a political obligation to obey following the argument from rational self-interest? Correspondingly, would not the state’s dictates cease to have moral legitimacy for me when they are not in my self-interest?²⁵³

²⁵¹ Klosko, *Political Obligations*, 12.

²⁵² In the state of nature as Hobbes describes it the choice between creating *a state* or not could not arise. See Jean Hampton, *Hobbes and the Social Contract Tradition* (Cambridge; New York: Cambridge University Press, 1986).

²⁵³ If there is a sovereign that can make disobeying too costly a strategy for every individual in every decision then the challenge above may be dissolved following Hobbes’ reasoning.

Hobbes calls this a fool's challenge, and argues that breaking laws or not living up to agreements when punishment is not a risk still leaves one vulnerable to the insecurity of the state of nature because such a strategy signals to others in the community that you cannot be trusted.²⁵⁴ Other's rational self-interest will leave the fool isolated and vulnerable. David Gauthier famously takes this Hobbesian line and argues that even when it is directly utility maximizing for me to defect from my political obligations I have a more long term interest in being deposed to keep agreements and obey the directives of the state. I have a self-regarding interest to signal to others that I am an "eligible partner" within political society. This signalling is to my long-term benefit while the opposite signal is to my great detriment.²⁵⁵ Rational self-interest thus generates a self-interested form of reciprocity among members of a state, and this in turn gives each member reason to support and obey the state. However, as has been noticed by several commentators, the individual will encounter situations where she can break covenants and disobey authority without affecting the degree to which others see her as eligible partner in political society, especially within a large scale political order.²⁵⁶

Sometimes it really will be in my self-interest to ignore political authority and to break agreements because I will be able to do so without seriously risking punishment or being seen to be untrustworthy. We cannot accept Hobbes' reply to the fool if it amounts to the claim that every person in every conceivable situation does have a self-interested reason to obey political authority and keep agreements. Such a view is nothing more than a denial that free-rider problems exist.²⁵⁷ It is beyond the scope of this paper to examine what Hobbes actually intends,²⁵⁸ but what we can clearly say is that

Yet, this is a deeply implausible description of any system of political order we might find ourselves subject to, even if we imagine a highly authoritarian state.

²⁵⁴Hobbes, *Leviathan*, 101-03.

²⁵⁵ Gauthier, *Morals by Agreement*, chapter 6.

²⁵⁶ See for example Allen Buchanan, "Justice as Reciprocity Versus Subject-Centered Justice," *Philosophy and Public Affairs* 19, no. 3 (1990): 240.

²⁵⁷ A. Zaitchik, "Hobbes' Reply to the Fool: The Problem of Consent and Obligation," *Political Theory* 10 (1982): 246-47.

²⁵⁸ Hobbes does argue that reasonable people want to live under peaceful conditions where keeping covenants and accepting the limits of political society are accepted as natural law. He says, "That every man, ought to endeavour peace as far as he has hope of obtaining it;" and that one "be willing, when others are so too, out of the desire for Peace and necessity for self-defense, to lay down the right to all things...." These laws "oblige in foro interno: that is to say, they bind to a desire they should take place: but in foro externo; this is, to the putting them in act, not always." In other words it is not rational to act on the reasons provided by natural law in the state of nature because they lead to self-destruction (Hobbes, *Leviathan*, 110.). However, it does not seem likely that natural law is intended by Hobbes to be some other-regarding moral reason for action each individual has (see Hampton, *Hobbes and the Social Contract Tradition*, 27-57, 89-96.).

to provide an adequate reply to Hobbes' fool one must appeal to something other than each individual's self interest in each situation.

Not every act of free riding can undermine society. However, to say that it is morally legitimate for me to disobey whenever I have an interest in doing so and do not risk punishment does undermine the idea that I have political duties within a system of political authority. Alternatively, to say that I have an obligation or duty to obey a political authority even when it is not in my own self interest because otherwise society would be unworkable is the same thing as saying that I have some other-regarding normative reason to obey. As we will see in the rest of this section the other regarding reasons liberals usually appeal to are, keeping commitments to arrangements one has consented to, doing one's fair share in a reciprocal political relationship, and supporting political order because others need it. What does seem clear to most liberals is that a theory based solely on rational self-interest is potentially a candidate for justifying the need for a state but it is not a candidate for establishing that individuals have duties to accept the kinds of universal and demanding political obligations we associate with membership in a state.

Consent

The main difficulty for a liberal theory of political duty is that states invariably limit individuals' liberties and impose on them laws and demands which they may object to. Liberal arguments aiming to justify the moral legitimacy of political authority must show that genuine concern for individuals' moral equality and liberty is central to the theory and for this reason consent, direct or tacit, has traditionally been used to explain why individuals ought to accept a set of political obligations within the state. Consent is a likely candidate because it is able to answer both the problems of demandingness and particularity in straight forward ways that clearly respect the individual's moral status.²⁵⁹

If we consent to political authority we have a clear understanding of why the individual should be viewed as having an obligation to obey. They have freely chosen to subject themselves to the authority of the state and have a moral obligation to accept the demands of political society that flows from their informed acceptance of the terms for access to the benefits of political society. We also have a clear understanding of why the individual in question has an obligation to some particular political community. Each individual only has political obligations within the political system(s) he has consented to. Likewise, a political authority can only legitimately demand fulfillment of political obligations from consenting subjects.²⁶⁰

²⁵⁹ Klosko, *Political Obligations*, 12.

²⁶⁰ Note that a liberal consent based theory for the state's moral legitimacy is dependent on a notion of moral permissibility. The institutions of political society and the exercising of po-

Despite the benefits of the consent approach it is quite clearly not a feasible approach in establishing political obligations in states we find ourselves subject to or, many would argue, any realisable political system. Direct consent does not work for states as we know them because the overwhelming majority of people never actively consent to them but are instead born into their citizenship status in some state. Locke famously argued that simple residence in a just state's territory means that we have given our tacit consent to the state and that we are therefore "obliged to obedience to the laws of that government..."²⁶¹ Following Locke, residence in a country means that we enjoy the security and protection of our rights and property, and if we accept these benefits of the political society we incur voluntary political obligations through our choice to remain in the state. However, Simmons argues convincingly that for an act to count as consent, direct or tacit, it must be given intentionally, knowingly, and voluntarily.²⁶² These requirements do not appear to be met for those born into their citizenship status, nor does it seem plausible to call continued residence in a state genuine tacit consent in states as they currently operate.

The most obvious problem with the idea of tacit consent is that states as we know them have sovereign authority over a certain territory and do not seek consent for the scope of this authority. David Hume asks, "Can we seriously say, that a poor peasant or partisan has a free choice to leave his country, when he knows no foreign language or manners, and lives from day to day."²⁶³ Emigration need not be as dangerous as it is for the peasant to undermine the idea of residence as tacit consent. Simmons notes that "Most men will treasure home, family, and friends above all things," and these bonds to a specific community within a certain territory are themselves not chosen.²⁶⁴ States have sovereign authority over a certain territory but do not even attempt to seek consent for the scope of this authority, while individuals have never had the opportunity to give their consent, direct or tacit, to the territorial scope of states.²⁶⁵ Thus, if consent is supposed to be the basis of legitimate authority we can rightly counter, as Christopher Heath Wellman argues, that existing states have "no right to insist that citizens must play by the state's rules or leave" the territory.²⁶⁶ If on the other hand the territorial

litical authority must satisfy the standards of moral equality that give rise to the idea that we ought to join with others to leave the state of nature so as to create the conditions in which each individual's rights can be protected.

²⁶¹ Locke, *Two Treatises of Government and a Letter Concerning Toleration*, 153.

²⁶² Simmons, *Moral Principles and Political Obligations*, 77.

²⁶³ David Hume, "Of the Original Contract" in *Hume's Ethical Writings* ed. A. Macintyre (London: Collier, 1970), 263.

²⁶⁴ Simmons, *Moral Principles and Political Obligations*, 99-100.

²⁶⁵ *Ibid.*, 57-74, 95-100.

²⁶⁶ Christopher Heath Wellman, "Toward a Liberal Theory of Political Obligation," *Ethics* 111, no. 4 (2001): 736.

scope of an existing state is morally legitimate, “the state’s imposition is not justified in the simple fashion that consent theorists advertise.”²⁶⁷

It is not only that we are forced to accept political duties within states and that we do not have an exit option from these duties that would not also force us to actually move to a new territory, we are not even free to simply choose which state we want to be a member of in the existing global state system. For Simmons the only conclusion a consent theorist can draw is that existing states do not exercise morally legitimate authority over the vast majority of subjects. This is because actual consent, direct or tacit, is the only way to show that any individual has demanding political obligations within a specific political community.

As we will see, Simmons argues that we could make states voluntary in a morally relevant way if individuals were given a genuine exit option from these collective political projects that would not require that they leave the territory. What is clear already here is that consent is not a compelling basis on which to justify to individuals political duties within states of the form we know today. What I will make clear in my comments on Simmons’ proposal for a genuinely consensual political order is that this is also not a workable alternative. The problem here is that a genuinely consensual relationship must give members’ a robust right to exit on relatively free terms over the course of the relationship, while an attempt at political order based on such terms cannot succeed in achieving the task we set out for it. Namely, resolving collective action problems for the provision of essential collective goods.

Fairness

For those that do think that individuals can have political duties within existing states, a common argument is to claim that because we all benefit from political society to various degrees fairness demands that we all contribute to supporting this cooperative venture.²⁶⁸ If a group of people accept limits to their liberty in order to create political institutions and provide a set of collective goods, then even those who do not want to accept the demands of political society have a duty to contribute their fair share to the collective project when they have benefited from it. Fairness demands at a minimum that we pay our taxes and obey the laws, and when individuals fail to live up to these demands the state has the moral legitimacy to coerce them. Importantly, on the fairness account our political obligations are acquired obliga-

²⁶⁷ *Ibid.*: 735-36.

²⁶⁸ The duty of fair play approach is most commonly associated with H.L.A Hart and John Rawls (see H. L. A. Hart, "Are There Any Natural Rights?", *The Philosophical Review* 64, no. 2 (1955), John Rawls, "Justice as Fairness," *The Philosophical Review* 67, no. 2 (1958).). Rawls later abandoned the idea of using fairness as the foundation of each individual’s political duties (see Rawls, *A Theory of Justice: Revised Edition*, 99-100.)

tions. This means that although we did not consent to the formation of the state, we do accept the benefits of membership in a morally relevant way and it is through this active acceptance that we acquire political obligations. The fairness argument is thus supposed to be a better representation of what liberals really mean when they appeal to consent in justifying to individuals that they have demanding political obligations in the states they are members of.

The main advantage of the argument from fairness is that one need not demonstrate that we actively or tacitly agree to the state as such, but only that we accept its benefits. The fairness approach is also able to address the problems of particularity and demandingness in a straightforward way. I have political obligations in the state where I receive those benefits we normally associate with a liberal democratic political order, and I have an obligation to contribute to and support the state I benefit from (i.e. the state that chiefly provides me with essential collective goods like law and order). One will receive the morally relevant benefits largely from the state where one permanently resides, although on the fairness theory it is possible to have similar political duties in more than one state if an individual divides residency among more than one state. There remains a host of other normative difficulties over how to justify the boundaries that determine who does and who does not benefit from some specific political community, but we only need this basic picture for our purposes here.

The main problems with the fairness approach are that it is unlikely that every single individual the state professes to have authority over experiences more benefit from this arrangement than they might from some other arrangement, it is implausible to say that we have obligations to support arrangements just because they benefit us, and it is implausible to claim that most citizens of modern states actively accept benefits in a morally relevant way. If we look first at the last and likely most serious problem we can start by noticing that many of the benefits of political society are not benefits we can easily avoid because they have the characteristic of non-excludable public goods. Common examples include the system of law and order, national defence, and environmental protection. If it is the voluntary acceptance of benefits that generates obligations within a state but we cannot avoid benefiting from the state it is difficult to establish that we have actually accepted these benefits.²⁶⁹

We are simply born into a state and a world divided up among states, and we are never asked if we want to participate in a cooperative political project with others to provide the benefits of political society. Therefore, as Simmons notes, in order to claim that we have an acquired obligation based in benefits accepted one must show that we have certain attitudes towards these goods. He says “we must understand that the benefits flow from a coopera-

²⁶⁹Simmons, *Moral Principles and Political Obligations*, 138.

tive scheme.... And we must...think that the benefits we receive are worth the price we must pay for them, so that we would take the benefits if we had a choice...."²⁷⁰ We should expect most individuals, on their considered judgements, to see many of the benefits of the state as worth their cost and to see political society as a collective and cooperative project at least to some degree. However, given the non-voluntary nature of our membership in the state it is dubious to claim that most actively accept *all* the collective goods the state provides or that individuals have a realistic exit option from just those aspects of the state that they would rather not support.

Of course the aim of a liberal account of political authority based in fairness is not to show that only those people with a certain attitude in any given territory have political obligations. The aim is to show that all or nearly all residents of a given territory have these obligations. A situation where only those with the requisite attitude have obligations to pay taxes in support of state provision of public goods seems in fact to be antithetical to the very idea of fairness. As a result, there is a temptation for liberals attracted to the fairness approach to abandon the requirement that benefits be voluntarily accepted and instead to appeal to hypothetical consent. Political obligations are not generated by the benefits we actually accept but rather we have an obligation to do our fair share in contributing to all those state benefits we *would* choose if we had to select a set of benefits but did not know which benefits we ourselves would want. This is Rawls' hypothetical choice situation which was presented in Chapter II, and this choice situation is designed to help us think about what standards of justice we should accept if we are motivated to treat each individual within a community as a moral equal.

What we choose in the hypothetical choice situation might be justifiable to individuals, but few accept that hypothetical consent can generate obligations in the same way actual consent can.²⁷¹ One might be able to show that in a hypothetical choice situation I would agree to give twenty percent of my net income to a charity but this hardly means that some charity can legitimately demand payment *because* my hypothetical consent amounts to my actually sanctioning the demands that would have followed from an actual commitment to pay. The force of hypothetical consent theories is not based in notions of what we have committed ourselves to but in some other moral consideration for why we ought to accept the kinds of choices that are constructed for agents in the hypothetical choice situation. Thus hypothetical consent theories do not give a *consent based* justification for the political obligations individuals are thought to have in existing political orders. Instead they are offering some other kind of justification. This interpretation is

²⁷⁰Ibid.

²⁷¹See Ronald Dworkin, "The Original Position," in *Reading Rawls*, ed. Norman Daniels (New York: Basic Books, 1975), 17-21, Jean Hampton, *Political Philosophy* (Boulder: Westview Press, 1997), 65-66.

particularly strong when we notice that liberal theories based on hypothetical consent regularly construct a choice situation unlike a real choice situation an individual might find themselves in order to emphasise other regarding reasons for accepting certain principles of justice. As we have seen this is what Rawls is doing in his original positions construction.

What about grounding political duties on the *non-voluntary* receipt of benefits? There are also clear problems with this strategy. As Nozick famously argues, such a principle would result in the absurd view that individuals have duties to support all kinds of ventures that happen to benefit them simply because some group of people decided to implement the venture.²⁷² Acquiring duties to support collective endeavours in this way seriously undervalues individuals' liberty claims. Nozick gives the example of a group of neighbours who build a public address system and then insist that even those that did not want to fund this project must pay because everybody 'uses' the system when they listen to announcements or music. Acquiring duties to support collective endeavours in this way seriously undervalues individuals' liberty claims. The idea that we can simply be forced into some group project and commitments of fair reciprocity by having benefits imposed on us is just wrong if we care about individuals' freedoms and rights.²⁷³ In the absence of actively accepting benefits fairness does not generate any duties to support such a collective endeavour, while a commitment to each individual's liberty does prevent us from trying to *manufacture* duties for them to contribute to these endeavours by creating a situation where they will 'benefit' whether they accept or not. Nozick's highlights the decidedly paternalistic implications of appealing to the non-voluntary receipt of benefits in justifying political duties. It is far too easy for a state or some other organisation to paternalistically claim that the endeavours it undertakes are for the benefit of citizens, undermining the individual's ability and right to decide what benefits they value *for themselves*.

George Klosko has in recent years made a detailed attempted to reconstruct a fairness argument based in non-voluntary benefits. He argues that the critique of the fairness approach dissolves if we focus on what he calls "presumptive benefits."²⁷⁴ In order to make the fairness approach seem implausible critics like Nozick and Simmons give examples based on benefits that many individuals clearly do not need, but if we focus on those functions of the state that are essential for any individual to lead a decent life and that can only be provided by a state it is not as easy to reject the argument from fairness. If the state is the only entity that can provide a certain collective good, its provision is non-excludable, and this good can be shown to be

²⁷²Nozick, *Anarchy, State, and Utopia*, 93.; Simmons, *Moral Principles and Political Obligations*, 147-52.

²⁷³Nozick, *Anarchy, State, and Utopia*, 93-95.

²⁷⁴Klosko, "Presumptive Benefit, Fairness, and Political Obligation."

needed by all, then, following Klosko, we can say that any person will benefit from a state that provides them with the good. Thus, even when some person does not actively accept state provision of law and order we can reasonably say that they benefit from the system and that their lives would go much worse if there was no state that served this function. If presumptive goods are properly described as benefiting any agent that enjoys citizenship in a well-ordered state then, Klosko argues, fairness demands that each citizen contribute his share in the collective project.²⁷⁵ In addressing Klosko's theory I will show that the kinds of demands we can make on *any* individual residing within a given territory based on presumptive benefits are not ultimately founded in fairness but on each individual's natural duties of justice. This debate aside, we can see here that the standard argument from fairness is not a compelling basis on which to justify to individuals that they have the kinds of political duties we normally associate with membership in a state.

Natural duty

We have seen how the standard liberal arguments based on consent and fairness both fail to support the notion that citizens of a modern state have political obligations or duties, but there remains another way to use the benefit theory to argue for political duties. Wellman puts it well when he says that, "the only non-paternalistic way to suppose that the advantages of political society permit a state to coerce all those within its borders is to maintain that the perils that others would experience in a state of nature can limit our own moral rights."²⁷⁶ Rawls recognized the difficulties with the received benefits approach and abandoned the idea of founding our political duties in fair reciprocity, appealing instead to a natural duty of justice "to support and to comply with just institutions that exist and apply to us."²⁷⁷ Each member of a political community has moral duty to accept and support the state's political institutions for the sake of others because the vast majority of people need a political order to secure human goods regardless of whether or not any specific individual actually needs or prefers this order.

The natural duty of justice is based in Kant's argument that we have a moral responsibility to leave the state of nature and enter into a political community with others. The negative effects we can have on each other in the absence of political society and a commitment to each individual's equal moral worth generates an other-regarding moral duty to support the creation of and maintenance of a political community in the territory in which we

²⁷⁵ See Klosko, *Political Obligations*, 17-74.

²⁷⁶ Wellman, "Toward a Liberal Theory of Political Obligation," 744.

²⁷⁷ Rawls, *A Theory of Justice: Revised Edition*, 99.

reside.²⁷⁸ Taking moral equality seriously means accepting demanding duties of justice within the state we happen to find ourselves in, as long as it is minimally just, because we have a moral duty to support the political conditions necessary for others to achieve security, welfare and the protection of individuals' rights. Thus, the coercive state is not being justified to individuals paternalistically based on the benefits they receive from it.²⁷⁹ Instead, a positive argument is advanced that it is unreasonable and morally objectionable to act in a way that prevents others from securing the benefits of political community. Because, it is claimed, such a political order's proper functioning is dependent on all residents having political duties it is also unreasonable not to accept these duties.

Basing such a 'moral ought' in a natural duty of justice may appear to be incompatible with Rawls' general claim that we should conceive of society as "a fair system of cooperation over time, from one generation to the next,"²⁸⁰ because obligations flowing from cooperation are based in reciprocity not natural duty. But there is nothing inherently contradictory about conceiving of political society as a cooperative venture while ultimately basing the most foundational reasons for each individual's political duties in a natural duty of justice. Confusion on this point is common given that Rawls focuses almost exclusively on the issue of fairness among citizens that are simply assumed to have political duties within a specific state. However, this theorising over what fairness demands among members of a political community is itself dependent on the precondition that individual subjects actually have a 'moral ought' to accept the demands of a political society where these principles of justice will be applied. It will be helpful here to look closer at how natural duty fits together with notions of self-interest and fair reciprocity in a liberal justification of political duties.

Recognizing that political society is a cooperative project with clear benefits over conditions in the absence of political order we can expect that all individuals will have rational and self-interested reason to accept political conventions and obey the state. At the same time this self-interested form of reciprocity does not amount to a political obligation and will invariably fail to motivate in specific cases for all individuals. Yet individuals with self-interested reasons to want political order will also often have other-regarding moral reasons to support this collective political project. This is because on their considered judgements they do often accept the benefits of political society on the premise that they are members of a cooperative venture. Where this is the case there is an other-regarding form of reciprocity based in fairness. My respecting other's in this cooperative venture as moral equals

²⁷⁸ See Kant, *The Metaphysics of Morals*, 121-22, Waldron, "Special Ties and Natural Duties," 27-30.

²⁷⁹ Wellman, "Toward a Liberal Theory of Political Obligation," 747.

²⁸⁰ John Rawls, *Political Liberalism* (New York: Columbia University Press, 1996), 14.

gives me a moral reason to contribute my fair share to the project. At the same time fair reciprocity is not enough to establish universal political obligations in a non-voluntary state.

Some individuals will not, at least on some occasions, have obligations of fairness based in their acceptance of some specific set of benefits. Even when we can be sure that some non-voluntary benefit of an actual state is an accurate reflection of what individual subjects need, the paternalism of grounding individuals' political duties on benefits imposed on them does not sit well with liberal premises. When other regarding reciprocity fails to explain why individual subjects have duties to obey the state there remains an other-regarding duty to support the state as a cooperative venture because *others* depend on this system. It is because our political duties are supposed to be general meaning a general duty to support the system and not only a duty to support those aspects we personally benefit from that we can say it is an other regarding natural duty of justice the underpins political duties at a foundational level. Thus we have a natural duty to do our share in achieving the good of political order *at the very least* for other members' sake.

Self-interest, fair reciprocity, and other-regarding natural duties of justice produce a package of reasons individuals have for taking on their fair share of the burdens that are necessary to support a cooperative political project. Still, it is the natural duty of justice that lies at the foundation for the claim that there is for all individuals within a just political community a presumption in favour of obeying the directives of the state and supporting society as a political project. Following Rawls' Kantian constructivism it is the commitment to the equal moral worth of individuals and to treating individuals with equal concern and respect that dictates how to construct the original position. In the same way, it is a conviction in the principle of moral equality that gives us reason to accept the principles of justice arrived at in this hypothetical choice situation in the real world. This explains why those that cannot contribute to the production of collective goods are still viewed as eligible partners in political society with rights in a system of distributive justice. If our political duties were founded strictly on a principle of fair reciprocity it would be difficult to motivate including those that cannot contribute into the system of distributive justice. However, the original position is constructed in such a way so that those that cannot contribute will still be incorporated into the system of social justice. We have reason to accept this construction because we take it to be a good representation of what it means to treat each individual as having an equal moral status. Likewise, it is not strictly fair reciprocity that gives each individual general political duties to obey and support the state within a just political order. Rather, it is a duty to

give equal concern for others as moral equals that gives our political duties this general character.²⁸¹

If we have a natural duty to support the state then it is not problematic that the demanding duties of justice in any existing liberal democratic state are acquired involuntarily. It also does not necessarily matter that the state we are born into is arbitrary because accepting its authority and duties of justice to fellow members is simply to accept, as Nagel says, the “conditions of peace and a legal order, with whatever community offers itself.”²⁸² Nagel’s use of the phrase *the political conception of justice* is simply a term for a contemporary Kantian that aims to explain how arbitrary and non-voluntary circumstances can generate demanding duties of justice within states.²⁸³ We can also now see why the natural duty theory could support my argument for a global form of political authority to address the threat from global warming. On this view we can have demanding political duties independent of what we consent to and even independent of conditions involving fair reciprocity. This is not only possible within existing political institutions but also prior to the creation of institutions that ought to apply to us, as Rawls has explained.

Critics argue that invoking a natural duty to contribute to a collective political project and obey the law appears to be nothing more than a convenient way of saving liberal theory from an embarrassing inability to establish political obligations within states in their existing form. It is the philosophical equivalent of pulling a rabbit out of your hat, or more precisely a dead rabbit because the natural duty of justice fails to give a satisfactory account to both the problems of demandingness and particularity.

Simmons argues that even if we accept that a system of political authority is necessary to achieve the benefits commonly associated with the state, it is clearly empirically false to claim that every single individual in a territory must be subject to this authority for the state to fulfill its function. It is only by making this clearly false empirical claim that the natural duty theorist can argue for universal non-voluntary duties to obey the state as opposed to his proposal where universal compliance is not necessary. Instead a realistic empirical analysis of how many people within any given territory must participate as full citizens of the state shows that it is possible to implement a political system based in voluntary obligations. Simmons argues that there are clear non-utopian options for making political order voluntary in morally significant ways. One can offer “...various classes of citizenship (and resident non citizen) options, training and support to make emigration and reset-

²⁸¹ See Brian Barry, *Theories of Justice* (Berkeley: University of California Press, 1989), Chapters 5-6, Buchanan, "Justice as Reciprocity Versus Subject-Centered Justice," n.6, 233-36.

²⁸² Nagel, "The Problem of Global Justice," 133.

²⁸³ *Ibid.*: 126-34.

plement a more realistic option...,” combined with a “a more formalized choice process...”²⁸⁴ Furthermore he argues that,

it is simply not at all obvious that the best way open to me for attempting to provide security and welfare for others is by consenting to membership in and obeying the laws of the state that claims authority over me. If I live in a stable political society, I might well do better to scrupulously avoid undermining the security of others (and the viability of my state) while privately aiding the needy than I would do to simply obey the law and pay my taxes. If I live in an unstable society, dutiful compliance with law may be vastly inferior to private action as a way of respecting others’ rights.²⁸⁵

If it is true that a voluntary political order is feasible and that we can act individually to satisfy our share of the demands of justice then the basis for insisting on *the need for all* to accept non-voluntary general political duties is seriously undermined. If Simmons is right the natural duty approach to the problem of demandingness will be unconvincing.

Klosko adds a different but equally strong argument for the view that a natural duty of justice cannot give an adequate answer to the problem of demandingness. He notes that contractualist thinkers regularly view natural duties, such as the duty to offer assistance to others in distress, as weak duties. An example of a weak duty is a duty to assist others when this assistance does not entail any cost for us or when the cost is very low in comparison to the aid we can give. But if natural duties are only binding when the costs are not significant the natural duty of justice cannot support the demanding duties of justice we normally associate with citizenship. Klosko’s criticism does reflect how contractualists such as Rawls, Scanlon, and Nagel describe our other-regarding moral duties and duties of justice. For example we can think of Scanlon’s Rescue Principle which states that “if you are presented with a situation in which you can prevent something very bad from happening...by making only a slight (or even moderate) sacrifice, then it would be wrong not to do so.”²⁸⁶ Scanlon’s theory of “what we owe to each other” is weak in comparison to the demands he argues would follow from utilitarianism, and in general it is this rejection of the perceived demandingness of utilitarianism that is central to moral contractualist thinking.

Utilitarians like moral contractualists argue that we have other regarding moral duties that are owed simply in virtue of each individual’s status as a moral equal. However, the contractualist rejects the implication found in much of utilitarian thought that our other regarding duties can, depending on circumstances, entail forgoing all or most of our partial interests. Nagel ex-

²⁸⁴ Simmons, "Justification and Legitimacy," 761.

²⁸⁵ Ibid.: 768.

²⁸⁶ Scanlon, *What We Owe to Each Other*, 224.

plains this theory in a way that makes it clear why contractualists are described as defending weak duties. He says,

Each of us has a primary attachment to his own personal interests, projects, and commitments, but this is restrained by our occupation of the impersonal standpoint in two ways: first, by the recognition of the equal objective importance of what happens to everyone, and second, by the recognition of the special importance for each person of his own point of view and the reasonableness of some natural partiality. So we are simultaneously partial to ourselves, impartial among everyone, and respectful of everyone else's partiality.²⁸⁷

It is this weighing of other-regarding and self-regarding reasons combined with an impartial argument for the general moral value individuals' self-regarding interests can have that allows for a weaker conception of our duties than the simple summing of impartial reasons for action indicative of utilitarianism. Nagel, like Scanlon, argues that when we weigh impartial consequentialist reasons for action against legitimate partial reasons at most we can argue that it is "unacceptable to fall below a modest overall level of aid to others..."²⁸⁸ Beyond this level of sacrifice our duties to others are either unclear (given moderate sacrifice) or legitimately limited (given significant sacrifice).

Duties of justice are often understood to be more demanding than the basic moral duties we owe to others. This is the basic idea behind the political conception of justice where we have demanding duties of distributive and political justice within a shared political community that are stronger than the moral duties we owe to all others. Still it should be clear that the *natural* duty of justice is a moral duty to accept the more demanding duties of justice that exist in a political community. This helps to explain why Rawls argues that the natural duty of justice can require us to contribute to the creation of political institutions "not yet established, at least when this can be done without too much cost to ourselves."²⁸⁹ This insistence that natural duties of justice should not be costly follows the same logic as Scanlon's and Nagel's argument for why duties to aid should not be overly costly. The critic of the natural duty justification argues that in order to plausibly claim that individuals' duties to create or support political society are not on balance more than a modest cost they will have to appeal not only to the costs individuals will incur but also to the benefits *they will receive* in such an order. Here Klosko makes a crucial point.

If the natural duty theorist tries to balance away the demandingness of political society in this way it appears "that far from being a moral requirement owed by everyone to everyone, a workable political duty is owed by recipi-

²⁸⁷ Nagel, *Equality and Partiality*, 37.

²⁸⁸ *Ibid.*, 50.

²⁸⁹ Rawls, *A Theory of Justice: Revised Edition*, 99.

ents of essential state benefits to their fellow citizens who provide them.”²⁹⁰ In other words, political duties are not ‘natural’ but fundamentally dependent on the fact that we receive benefits from political society. This conclusion would explain why far reaching political and distributive duties should be accepted by members of a political community. However, it would mean that the theory is foundationally based in a principle of fair reciprocity and not natural duty, and would thus still need to address the challenges faced by fairness approaches. Klosko’s interpretation would also undermine my use of the natural duty of justice to justify duties to support a supranational form of political authority in the case of climate change. As I have already shown, we could not benefit from such an arrangement in a self-regarding way and as a result we cannot be said to have political duties based in fair reciprocity for benefits received in the case of global warming.

The apparent inability to address the problem of demandingness is bad news for the natural duty theorist and things do get worse. The natural duty of justice approach is said to be equally unconvincing in its treatment of the problem of particularity. Recall that the natural duty theorist is attempting to explain why citizens have demanding duties of justice within some actual state, but Simmons wonders how we could have special political duties and claims of justice within a political community we happen to be born into. These boundaries are surely arbitrary from the perspective of justice following the premise that what matters is each individual’s equal moral worth. Given that the natural duty of justice is a general duty we owe to all others to support or at least not undermine the institutional conditions they depend on, how can we say that an individual has demanding political duties within some state simply because they happen to be born there. One might argue that this arbitrariness is not problematic because all one needs to show is that we have political duties within the institutional scheme that, in Rawls’ words, ‘applies’ to us. For Simmons this amounts to forcing obligations upon individuals.

As Nozick and Simmons have shown in a series of examples,²⁹¹ we do not normally think that we have morally binding obligations to institutional arrangements that are simply imposed on us. This is so even if the institutions are designed for our sake or to satisfy moral reasons we have for acting. In order for political institutions to apply to me in a strong sense it is not enough that 1) I happen to live in a territory where 2) an institution wants to subsume me into its system of burdens and benefits. I must actually give my consent or actively accept the benefits of society. Otherwise we could be forced to contribute to any institutional arrangement that promotes justice

²⁹⁰Klosko, *Political Obligations*, 85.

²⁹¹Nozick, *Anarchy, State, and Utopia*, 93-95, Simmons, *Moral Principles and Political Obligations*, 133-35.

and claims to apply to us.²⁹² This is a convincing argument when we combine it with Simmons plausible claim that if an individual simply avoids violating others rights they may very well be able to do more to advance others security and wellbeing of others individually instead of by simply accepting a set of political duties associated with citizenship. In other words, on this view there are clear opportunities for individual action that would amount to one's fair share of the collective moral project of securing justice.

Klosko takes a different tact on the problem of particularity and argues that we do have strong political duties to some specific state, but only because these duties are not natural. We have political duties in some specific political community because we chiefly receive the benefits associated with citizenship from our own state. Rawls is correct to claim that our state's institutions apply to us in the strong sense but only because it is the political scheme that *we* chiefly benefit from. Thus, to solve the problem of particularity for any individual we must point to the benefits they have received. Otherwise we end up back in Simmons' criticism above and cannot explain the individual's supposed strong connection to 'her' state. Taken together Simmons' and Klosko's arguments for the failure of the natural duty theorist to adequately address the problems of demandingness and particularity represent a thorough rejection of the natural duty approach. Obviously these challenges also represent serious problems for the application of the natural duty approach to the problem of global warming and to theories about global justice.

Despite the apparent weakness of the natural duty approach I will argue that it is the most plausible theory from a liberal perspective for why all residents of a just state have political duties within this political project. I will first show that Simmons draws far too wide reaching conclusions about how individuals can and cannot satisfy their other-regarding duties from the fact that states do not need universal compliance to fulfill their function. I will show that Simmons brand of weak philosophical anarchism is not a tenable position and that his premises force him to adopt a more radical form of anarchism or to accept the natural duty theory of political duties.

Second, I will demonstrate that Klosko's notion of presumptive benefits does not save the argument from fairness. Instead, once properly understood his theory actually supports the natural duty approach as the foundational reason in support of political duties, although fairness plays a central role once this duty is established. In further response to Klosko I will demonstrate that natural duties are not necessarily weak duties by advancing a more nuanced account of how contractualist reasoning approaches the problem of demandingness generally. Finally, I will argue that the natural duty approach has not been able to address the problem of particularity in a satisfactory way largely because its main advocates have tried to use it to show that we

²⁹² Simmons, *Moral Principles and Political Obligations*, 147-52.

are strongly tied to the state we are born into. I will argue that natural duties of justice only weakly tie us to the state we reside in. Once we understand this we can see that the natural duty approach has a plausible answer to the problem of particularity while it can at the same time be applied at the global scope should the appropriate conditions arise.

The incoherence of weak philosophical anarchism

To begin it is important to recall why Simmons' voluntarist theory is a particularly strong challenge for my broader thesis; namely that global warming has generated a global natural duty to support the creation of a supranational system of political authority to address this problem. Following Simmons' theory the need for a state or even a supranational form of political authority can be justified along the lines adopted in this book, but this does not mean that these forms of political authority have the moral legitimacy to exercise authority or to expect obedience and support from individuals. The state only has moral legitimacy when those it exercises authority over give their consent to being subject to the state's authority. Correspondingly individuals can only have political obligations when they give their active consent. Philosophical anarchism follows the standard anarchist view that no existing states have moral legitimacy. However, the philosophical anarchist distinguishes himself from the strict anarchist by arguing that the state can be justified on a collective goods argument. Simmons brand of philosophical anarchism also distinguishes itself from strict anarchism in that he argues that a voluntary state is feasible and that such a state could have moral legitimacy because it is needed, yet only when subjects consent to it. What is called for following Simmons are the reforms that will make this possible form of voluntary political order a reality.

Philosophical anarchism accepts that political authority can be justified but denies that we can have non-voluntary political duties. The philosophical anarchist could accept the argument that we cannot achieve the kind of cooperation that is necessary to mitigate global warming without coercive political arrangements at the global scope. It could also accept that mitigating global warming is the kind of good for which one can justify the use of political institutions to secure cooperation. However, the fact that my proposed institutional arrangement is justifiable in this way does not generate duties to support it. Only voluntary consent could generate such duties. Philosophical anarchism makes the parallel between the classic liberal collective goods justification of the state and the global collective action problems generated by efforts to mitigate global warming somewhat immaterial to the question of our global political duties. We may, following philosophical anarchism, have an individual moral duty not to pollute the atmosphere. However, we could not have a non-voluntary duty of justice to support a system of politi-

cal authority simply because it could secure cooperation in addressing some global environmental problem.

I will begin my critique of philosophical anarchism by assembling a positive proposal from the arguments Simmons advances for why non-voluntary states are not necessary and for how voluntary states might work. I will then show that Simmons' weak philosophical anarchism is an untenable position and that he must choose between a more strongly anarchist position or accept that individuals can have non-voluntary political duties. The central problem with Simmons' proposal is that weak philosophical anarchism adequately described amounts to a denial that we face the kinds of collective action problems in achieving the collective goods that were described in Chapter III.

Simmons' positive proposal

Consent cannot be the source of political obligations in states as we know them because most individuals are simply born into their status as citizens and have next to no genuine alternatives to membership in some political order. At best the governing authorities of states attempt to secure consent for how they exercise this authority but not for their right to do so in the first place. In order to advance a reformed consent-theory of political obligation for the modern state one must show that other possible forms of political association at this scale could incorporate some morally significant system for seeking consent. Alternatively the consent theorist must argue that individuals could never have political obligations in large scale modern states because such states could not avoid those non-voluntary features that currently make them illegitimate. This second approach leads to a strong form of anarchism while Simmons takes the first approach and advances a form of weak philosophical anarchism. On this view it is possible to give individuals a credible exit option within a modern state in a way that could give such states the moral legitimacy they lack today.

Simmons argues that instead of trying to link simple residency in a state to political duties we could have institutional mechanisms that give individuals the opportunity to choose a resident non-member status. This option would provide individuals with a genuine exit option that is not dependent on their giving up family and social relationships or the cultural environment they were born into. Presumably the terms of exit would allow the individual to keep private property including land, maybe with some exit tax based in reciprocal fairness where appropriate. One could also imagine differentiated forms of citizenship depending on how deeply integrated into the state individuals want to be.

What makes Simmons' anarchism distinct is that he accepts the claim that political order is justifiable but at the same time argues that a strong form of voluntarism is possible in such orders. Simmons says that,

We all know why the contractarians believed it necessary to have states. We know the “Hobbesian” reasons: the state of nature produces frequent “Prisoners’ Dilemmas” in which “anticipation” (hence conflict) is the dominant strategy, and it produces “coordination problems” (which require the salient solutions of the state). And we know the “Lockean” reasons: people are biased in their own favor, they get carried away by their passions, they don’t always know what’s right, and they lack the power and impartiality to enforce the right even where they do know it. And we know the “Kantian/Rousseauian” reasons: in the state of nature persons lack a certain kind of freedom (or autonomy), and true justice cannot be established. The problem facing the Kantian is that none of these reasons, *quite plausibly offered in support of having states*, translates naturally into a reason why any particular contemporary person must become or remain a member of some state...all of these problems of life without states can be solved without unanimous participation...States can be made without the participation of all in particular territory, and they can be maintained without participation of all in their jurisdictions [*my emphasis*].²⁹³

As we have seen, Simmons argues that if we were serious about making political society as consensual as possible we could create a resident non-member status with few or no political obligations. We could create genuine and formal choice procedures for acquiring citizenship status and try to support and promote a much more open system of emigration, i.e. to further incorporate a robust system of choice for the individual regarding their political associations.²⁹⁴ The idea here seems to be that only a state can assure access to necessary collective goods but there remains a great deal of room for non-participation, partial participation, and choice between political orders. This ability to incorporate market like elements of voluntarism into the political system in turn undermines the justification for a non-voluntary natural duty to participate in some specific political society on a set of non-voluntary terms.

The non-member resident proposal appears to be an attempt to make political society as voluntaristic as possible without requiring that each new generation give their consent to state boundaries. I will take it as uncontroversial to claim that an implementable voluntary state system would nevertheless need to have a fairly high level of territorial consistency over time in order for these states to function properly. Following Simmons’ Lockean perspective this resident non-member status does not mean that non-members can do whatever they please. They will still be bound by natural law and have negative duties to refrain from violating others rights or undermining the morally permissible political community others have consented to. What they are free from then is the demandingness of the political community in the sense of having positive duties to contribute to the collective project in the same way citizens do. These resident non-members would

²⁹³Simmons, "Justification and Legitimacy," 766.

²⁹⁴Ibid.: 761.

not, as far as is possible, benefit from state services, while the political community would still be bound to respect non-member residents' rights. If we could reform political society in this way we could have well functioning political communities where the legitimacy of the community's authority is founded in consent and there are genuine exit options.

It is crucial to be aware that Simmons' proposal is dependent on the empirical claim that individuals can meet the demands of justice independent of the state. He says "it is hard to see why membership in a state is necessary for advancing goods like justice. One can, for instance, support just arrangements in other ways than by specially binding ourselves to one of them...If we can act morally without accepting membership in a political community, the Kantian cannot successfully argue that the state is for each of us 'morally necessary.'"²⁹⁵ Even if we assume that the state is the most efficient means of securing essential collective goods Simmons argues that "On the Lockean view, others have rights against us only that we do our fair share in contributing to acceptable levels of security and well-being for all. Thus understood, the rights of others can be respected by us individually."²⁹⁶ The main thrust of Simmons' argument is that not every individual needs to accept the demandingness of membership in a state to fulfill their share of the other-regarding task of ensuring that essential collective goods like security and welfare are available in a morally acceptable way. Together the various proposals for exit would make citizenship as voluntary as is possible in a workable modern system of political association and could secure the moral legitimacy of the authority justifiable states exercise over their citizens.

I will argue that in a voluntary state any limits on exit must be relatively mild if society is to be conceived of as a genuinely consensual relationship. However, once we recognise that following Simmons' proposal individuals must have a *robust right to exit* a territory's cooperative political project it becomes evident that such a state we will not be able to provide the essential collective goods it was instituted for, as Locke well understood. I will further argue that the fact that states do not need universal compliance and/or support simply does not sustain the further empirical claim that collective goods such as collective security can be satisfactorily provided for when individuals have the option to avoid the demands of political society.

Locke's inconsistent rejection of the robust right to exit

An alienation relationship with a governing authority would entail that individuals have alienated from themselves the right to self-government and their right to reclaim self-government should they disapprove of the way the

²⁹⁵Ibid.: 767.

²⁹⁶Ibid.: 768.

governing authority goes about its business. It is this kind of alienation contract that Hobbes famously proposed is necessary to secure peace, order and welfare.²⁹⁷ However, following Jean Hampton's influential interpretation Hobbes' theory actually amounts to an agency relationship were individuals acting together sanction the Leviathan's authority over them but retain the right to revoke their endorsement of the governing authority should the Leviathan fail to provide the level of security and order it was established to provide.²⁹⁸ Locke, unlike Hobbes, overtly argues for an agency relationship between the people and the governing authority, and much of his theory involves working out the implications of such an agency relationship. However, Locke also adds an additional stage to his contract theory were we first agree with others to create political society and then create a single authority to govern over political society. For Locke's the choice to enter into political society is genuinely consensual but one can only abandon her political obligations if political society should become unjust, is otherwise dissolved, or if civil society releases her from these bonds.²⁹⁹

The reason that Locke advances a two stage contract theory is that he wants to allow for a people's right to revolt against their own government while at the same time guaranteeing the stability of a just political community for all those individuals that are dependent on it. To this end Locke argues that,

every man, by *consenting* with others to make one body politic under one government, puts himself under an obligation to everyone of that society to submit to the determination of the majority, and to be concluded by it; or else this original compact, whereby he with others incorporates into one society, would signify nothing, and be no compact, if he be left free, and under no other ties than he was in before, in the state of nature. For what appearance would there be of any compact? What new engagement if he were no further tied by any decrees of the society than he himself thought fit and did actually *consent* to? [my emphasis]³⁰⁰

If each law, decree or adjudication was dependent on each subject's consent the authority's moral basis for demanding obedience would be undermined. Individuals will often not want to follow specific state directives and initiatives and if each individual could decide for themselves when and when not to obey and/or contribute their fair share of support we would not be able to avoid political chaos. Locke's point is that when the moral legitimacy of the state's demands is dependent on consent for each specific decree there is in

²⁹⁷ Hobbes, *Leviathan*, 117-29.

²⁹⁸ Hampton, *Political Philosophy*, 50-53.

²⁹⁹ For a review of Locke's thoughts on the right to exit political society see A. John Simmons, *On the Edge of Anarchy: Locke, Consent, and the Limits of Society*, *Studies in Moral, Political, and Legal Philosophy*. (Princeton, NJ: Princeton University Press, 1993), 147-78.

³⁰⁰ Locke, *Two Treatises of Government and A Letter Concerning Toleration*, 142.

fact no political relationship at all. To make individual consent amount to a genuinely political relationship Locke proposes that the moment I make the free choice to enter political society my relationship with this society literally ceases to be consensual.

The problem with Locke's approach is, as Hampton notes, that

Just as Hobbes's psychological views of human nature are such that he cannot insist that people not reclaim their right to govern themselves if obeying their ruler's commands puts them at risk, so, too, Locke's premises preclude him from insisting that people cannot reclaim the right to govern themselves if the majority in their political society approve governments whose policies put them at risk...the premisses of his argument commit him to an agency rather than an alienation relationship between individuals and their political society.³⁰¹

If the political relationship gains its moral legitimacy from the consent of subjects then we should agree with Hampton that "Locke must admit that each individual has the right to recall her loan to the political society if that society (*in her view*) fails to live up to its side of the bargain. [*my emphasis*]"³⁰² In fact it is difficult to see why individuals should not be able to exit their political relationships simply on the grounds that they no longer want to be a part of political society.

If political society is a consensual relationship can individuals be bound by political obligations over extended periods of time based on a single opportunity for consent giving? If we answer no to this question we are faced with the problem of showing how we can "secure each subject's obligation to the majority's determination in the political society, even while maintaining an agency relationship between each subject and the political society."³⁰³ If we answer yes and say that a single act of consent binds me to society in perpetuity we undermine the plausibility of calling political society a consensual relationship. We would not call any other kind of relationship with this kind of limit on exit consensual.

I will argue that when the source of a community's moral legitimacy is the consent of its members it would be wrong to limit the right to exit to when the governing authority or civil society fails to fulfill its function, acts unjustly in some way, or to when the community decides that an individual member can be released from the relationship. These kinds of limits undermine the plausibility of describing political society as genuinely consensual, which in turn undermines the moral legitimacy of the collective from a voluntarist perspective. However, allowing for a *robust right to exit* will undercut the state's attempts to exercise the kind of coercive authority necessary

³⁰¹ Hampton, *Political Philosophy*, 59.

³⁰² *Ibid.*, 60.

³⁰³ *Ibid.*, 61.

to guarantee security, law and order, and the public provision of essential collective goods.

Voluntarism as dependent on a robust right to exit

There must be a robust right of exit if we want to claim that it is consent that makes the claims and burdens of membership in a society morally legitimate. It is true that consensual relationships are often also contractual relationships, and adding contractual conditions is often intended to establish the terms of exit. However, it is rather difficult to appeal to contractual or promissory obligations in limiting an individual's right to exit a community of consent. Take for example communities such as Hutterite or Amish communities in North America that isolate themselves from the larger society in collectively owned agricultural communes and defend the moral legitimacy of their hierarchal rules, regulations, and norms (i.e. religious and social) on the grounds that membership is consensual. The opportunities for exit from such communities can be rather limited. Children may not be given the knowledge or skills necessary to make life outside the community a conceivable option. The threat of banishment or the choice of exit can entail the enormous cost of abandoning all of one's personal relationships and all of the value created by one's productive labour over the years. The costs and hurdles to exit can be so high that they undermine the plausibility of calling the relationship consensual which in turn undermines the moral legitimacy of the community, at least in the eyes of those committed to liberal principles of equal moral worth and liberty.³⁰⁴

Let us imagine an isolationist community with strictly hierarchal gender roles where women are viewed as the property of their husbands. I will not here develop and argument for or against the possibility of justifying such isolationist communities. What is clear is that the voluntarist and non-voluntarist liberal should both agree that at the very least the only plausible way to secure the legitimacy of the group from a liberal perspective is to guarantee a robust right to exit for its members. Let us suppose that our isolationist community provided all children with the tools and experience to make a genuine choice about whether or not they want to live by the community's rules in adulthood, and this choice is clearly understood by all parties (the individual, the isolationist community, and the wider liberal state) to be a voluntary act of consent. Does this act of giving consent mean that a woman at thirty should have a weaker right to exit in any significant meaning that she did when she was eighteen?

A reasonable intuition is that the eighteen year old consentor should have a right to exit at thirty and probably at twenty. One might argue that we have

³⁰⁴ See Brian Barry, *Culture and Equality* (Cambridge: Polity Press, 2001), 187-93, 242-45, Kymlicka, *Contemporary Political Philosophy*, 237-39.

this intuition because of the illiberal nature of the isolationist community, which is generating this robust right to exit. On this view consent to a liberal state could generate a much stronger form of political obligation and limit the right to exit in a much more extensive way than what is possible in the illiberal community. However, the consent theorist must be very careful here to not go too far in allowing the justness of the political relationship to be the reason why we are bound to support the arrangement over a long period. Doing so moves the theory far too close to the way the natural duty theorist defends non-voluntary political duties. If consent is to be the primary source for an individual's political obligations how much weaker is the need for a robust right to exit even when the state succeeds in treating individuals as moral equals?

Consenting to liberal political society could be advertised as a long-term contract to a justifiable political order. By joining this social contract we promise to accept a set of political obligations over an extended period of time barring some foundational changes in the conditions of political society that existed when we entered. However, this strategy will not help one avoid the requirement for a robust right to exit. This is because a just state would not back this kind of contract between individuals *within* the state, making it odd to think that this kind of contract could serve as the foundation of a just political order.

Imagine an organisation, Charity, dedicated to pooling resources that are then contributed to relieving poverty. Charity was formed because its members did not think that poverty relief via the state was doing enough, and membership in Charity is only offered to individuals that agree to give twenty percent of their net income to the collective project. Let us further suppose that Charity binds its members to a one year contract. Every year each member will have the choice to renew his or her membership or leave the group. Following liberal premises it seems that it would be morally objectionable for the state to prohibit individuals from binding themselves to such a contract and the state ought to enforce it. Furthermore, it also seems morally objectionable for members to renege on their promises. The follow up question is can a just state allow for the enforcement of a Charity contract if the terms are for five years, twenty years or fifty years? At the very least the longer the contract the more the greater community is justified in being concerned that those that are willing to limit their future liberty over their own resources to such an extent are being unjustly bound by Charity. Maybe the organisation is preying on vulnerable individuals and using some brain-washing techniques to trick people out of their money? Certainly many states would not recognise as valid a contract signed by an eighteen year old to give up twenty percent of her net earnings to a voluntary organisation over a twenty year period. One of the few ways that Charity could appease the greater community's concerns and demonstrate that members genuinely continue to share the organisation's values is to show that the obligations of

membership are indisputably voluntary. Achieving this will likely require that contract periods be kept short and that members have regular opportunities to exit the group.

If a short-term Charity contract is an example of exercising liberty why should a long-term contract amount to an unjustifiable limit on liberty? The answer is that limits on liberty must be quite short-term with regards to exit in relationships that are supposed to be consensual. A liberal state cannot sanction an individual's contract to alienate from themselves the right to exit a relationship because, as Samuel Freeman, explains such a contract means that,

Moral and legal duties of mutual respect, protection from unwanted harm, and mutual assistance of others in distress are suspended, and society's members are obligated to apply their collective force to compel another's "property" to comply with contractual obligations. By embracing alienation agreements as matters of enforceable public right, we accept a mandate to coerce and harm certain people against their will, and to regard and respond to them as if they were things.³⁰⁵

This why John Stuart Mill rejected a legal system that treated women as the property of their husbands without an easy avenue for exit even when the choice to marry is voluntary and despite his particularly strong scepticism of paternalistic limits on free choice.³⁰⁶ The problems with state enforced alienation contracts is also why the liberal state must insist that illiberal and hierarchal isolationist communities must go very far in demonstrating that members have genuine exit options, and why the state cannot sanction an organisation's attempts to use contracts to prevent individuals from exiting regardless of the good aims of the organisation. If it is a violation of a commitment to each individual's status as free and equal and a mockery of the moral force of voluntary acts to use political society to sanction alienation contracts, it is surely also impossible for the voluntarist to found political society on a contract that alienates from individuals their right to exit just one kind of special political relationship.

A robust right to exit and providing collective goods

I have belaboured the argument for a robust right to exit as a necessary element of the kind of voluntarism proposed by Simmons because it highlights a fundamental inconsistency in weak philosophical anarchism. Any imaginable system of political authority will entail imposing legislative and executive decisions on individuals that are costly to them and a significant portion

³⁰⁵Freeman, "Illiberal Libertarians: Why Libertarianism Is Not a Liberal View," 112.

³⁰⁶ John Stuart Mill, *Principles of Political Economy* (London: Longmans Green and Co., 1909), Book V, Chapter I in paragraph V.1.6.

of the population will at some point over the course of their lives have a strong interest in avoiding costs by withdrawing their consent from all or some aspects of the collective political project. Incentives for free-riding, short sightedness, and the limits of individual judgement on the needs of others combined with the opportunity for all individuals to opt out of political society creates real risk that the collective security and welfare functions we normally associate with the state will not be provided to *all* those within a territory that want and need these goods.

As we have seen, Simmons appears to accept the reasoning behind the claim that we need a political order to provide collective security, manage common pool resources, and provide other essential collective goods. Yet, he insists that since the state does not need universal support for its aims it ought not to insist that it has the authority to demand support and compliance from all residents. Once we see that this right to exit must be robust if political society is to gain moral legitimacy in a meaningful way following the logic of voluntarism we can immediately see that weak philosophical anarchism is a contradictory position. It first accepts that providing essential collective goods needs to be done through a coercive political structure to overcome a set of coordination problems while at the same time it tells us that the state cannot legitimately insist on compliance to its directives because this kind of authority is *not needed* for the state to fulfill its function. However, what we now see is that when each citizen has a robust right to resident non-membership and partial non-support in the kind of voluntarist state Simmons proposes the conditions that make free-riding likely and that undermine the achievement of collective action are secured.

It is true as Simmons' argues that no single individuals' contribution to political society is necessary for the state to function, but the collective goods justification of the state is not based on the absurd claim that universal contribution is necessary. The claim instead is that we need to coordinate around a single set of rules and a single political authority if we are to achieve the kind of collective security and system of law and order that can sustain a productive large scale social order. Everybody within the territory must be included under this scheme because we need the vast majority of residents to both support and contribute to the political order if it is to fulfill its function. States can, and invariably do, accept a certain degree of free-riding and can exempt some individuals or groups from many of the demands of political society without undermining the collective political project. However, the state insists on the right to dictate which residents must support the collective political project and in what ways because following the logic of collective action if individuals can unilaterally decide if, when or how they will support the provision of collective goods these goods will not be provided, will be underprovided, or will be provided in morally unacceptable ways. As Wellman puts it,

the perils of a lawless environment can be eliminated only by virtually everyone foregoing their individual discretion in favor of the laws of their state, and hence not only must people make sacrifices, but they also may not as individuals choose the form these sacrifices will take. (Or, more accurately, part of the sacrifice is having virtually no say in determining how one must sacrifice.)³⁰⁷

Following the logic of collective action even if individuals are motivated by mutual self-interest to cooperate and by other regarding moral duties to treat others in certain ways they will fail to achieve these goals in the absence of a political authority that can assure coordinated cooperative efforts.

The weak philosophical anarchist will now object that what they have in mind is not individuals choosing to avoid the costs of political society when it suits their personal interests. Rather the idea is that when individuals can contribute their fair share to security, welfare, and justice independently of the political order they should be a liberty to do so. When they do not prefer to benefit from some collective good or prefer private provision of this good and can opt out without undermining the rest of society's ability to collectively provide these goods individuals should have this option. In those cases where there is no feasible way for the individual to contribute other than by obeying some state's directives then, according to weak philosophical anarchism, individuals have a moral obligation to obey although this is not a political obligation. However, Simmons notes that in stable states there will be ample opportunity to live up to one's non-political moral duties outside of the political system.³⁰⁸ For example it seems plausible to expect that an individual will be able to do more to address others wellbeing by using what they would normally pay in taxes to help bring food or medical services to the poorest of the world. The state can continue as before literally unaltered if I choose resident non-membership and avoid "undermining the security of others (and the viability of my state)," I will be doing enough to support this collective political project while also satisfying my other regarding moral duties in an individualistic way.

There is a fairly basic confusion as work here. Even when it is true that individuals can act individually to satisfy other regarding duties and it is also true that any particular individual's choice does not affect the stability of political order in a territory, these facts do not mean that it is also true that a political system where individuals can unilaterally decide if and when they will accept the demanding duties of justice is workable. My choice to opt out of political society does not undermine this project, but it is only intelligible to say that I do enough by satisfying a negative duty not to undermine political society if we assume that the vast majority of others remain within this

³⁰⁷ Christopher Heath Wellman, "Political Obligation and the Particularity Requirement," *Legal Theory* 10, no. 2 (2004): 110-11.

³⁰⁸ Simmons, "Justification and Legitimacy," 768.

order and accept a set of political duties.³⁰⁹ Setting aside the question of the fairness of passing the burden of providing political order onto others, we can now see that Simmons' position is simply a denial that there are the kinds of collective action problems that are commonly appealed to in the collective goods justification of the state. The collective goods justification of the state is based on the claim that in market like conditions where individuals have a unilateral robust right to exit all or some schemes for creating social order essential collective goods will be underprovided or provided in morally objectionable ways (the reasoning was described in detail in the first half of Chapter III). Simmons emphasises the fact that individuals *can* satisfy the demands of justice individually. Yet this in no way shows that when society is based on a system where individuals are at liberty to choose state or non-state forms of association that essential collective goods *will* actually be secured in a given territory.

If we accept the collective goods justification of coercive political authority it will not be possible to let individuals or groups decide *unilaterally* if they should have resident non-members status and at the same time secure the ability of the state to provide essential collective goods. Certainly we can imagine situations where it would be unreasonable to prevent an individual or group from enjoying resident non-membership status. However it must be the governing authority itself that has the right to sanction an individual or group as having a reasonable claim to resident non-membership status. Individuals' independent assessments of whether or not they have a reasonable claim to resident non-membership can be mistaken or they may be motivated by self-interest. If individuals have a right to simply declare their resident non-membership status and the rest of society is morally bound to accept this claim we are back to the problem highlighted by Locke, "the coming into society upon such terms would be only like Cato's coming into the theatre, only to go out again."³¹⁰

Simmons can of course be right that individuals can act individually to secure peace, order and justice. Yet, if one can show that an authentically voluntary cooperative venture can supply essential collective goods and that individuals can coexist peacefully in a territory despite the fact that they are

³⁰⁹ One might advance the stronger view that we only have negative duties and no positive duties whatsoever. On this view individuals have rights that others have a duty not to violate even if such violations would mean major utility gains for others. However, Buchanan rightly asks "How could it be the case that a particular interest is of such profound moral significance that we should not violate the corresponding right even to achieve a great deal of good for many people and yet it also be the case that we have no obligation whatsoever to help ensure that all persons have access to institutions that protect these interests?" (Buchanan, "Political Legitimacy and Democracy," 705.). The argument for only negative duties is not only an extreme position but also erratic in its reasoning about the kinds of costs we can reasonably expect others to accept in satisfying their other regarding duties.

³¹⁰ Locke, *Two Treatises of Government and a Letter Concerning Toleration*, 143.

not subsumed under a single system of political authority, then it is difficult to understand Simmons' claim that some possible *state* could be justified. If people can cooperate on the terms of genuine voluntarism we do not need a coercive political authority to ensure cooperation, which should logically undermine the justification of political order following the premises Simmons employs. In other words, if the state is not needed we should move away from weak philosophical anarchism were some potential system of coercive political authority could be morally legitimate to a stronger form of anarchism were no such order is ever justified. If we combine the view that non-state and non-coercive forms of social cooperation are possible with the liberal presumption in favour of freedom from coercion the logical outcome must be an argument in favour of strict anarchism.³¹¹

Simmons is interested in the terms of cooperation for large scale modern societies and argues that we have an obligation or a duty to obey the state, "if [but only if] either (a) we have interacted with the state in a way that grounds a special moral relationship of that sort, or if (b) accepting membership in a state is the only way that we can fulfill one of our other moral obligations or duties."³¹² Simmons takes (b) to be obviously false because an individual in a working modern state could potentially act individually without undermining the state. We can now see that this fact is very far from demonstrating that (b) is false. If we accept the collective goods justification of the state (b) is true and individuals can only satisfy their other-regarding duties to secure peace and welfare in the territory in which they reside by accepting non-voluntary political duties. Simmons' weak philosophical anarchism does not challenge the argument for a natural duty of justice. Such a challenge can only come from strong anarchists that deny the collective goods justification of the state.

Notice as well that we have now avoided the original concern about how philosophical anarchism could undermine the argument in this work for a global form of political authority. The concern was that the collective goods argument used to show that we need a global form of political authority to address the collective action problems generated by global warming could not be the foundation for a non-voluntary political duty to support such an arrangement following voluntarism. Now we can see that if we can only fulfill our moral duty to treat all others as moral equals by accepting such a global authority then the parallel between the domestic and global collective goods arguments is relevant. In the following chapter I will advance the claim that respecting others as our moral equals does generate a non-voluntary political duty at the global scope. However, before moving on to this argument there remains another perspective on political obligations that

³¹¹ Alternatively, one could argue that voluntarism is only possible in small scale communities and argue for this kind of social order.

³¹² Simmons, "Justification and Legitimacy," 768-69.

must be addressed. Having cut of an important argument from voluntarism on the source of political duties at a foundational level the natural duty theory I adopt is still vulnerable to a foundational objection from fairness theorists. It is also still necessary to give a better account for how the natural duty theory can deal with the problems of demandingness and particularity than has been offered in previous work. In the next section I address the view that it is fair reciprocity and not natural duty that is the source of our general political duties.

Presumptive benefits; natural duty not fairness

As we have seen, Klosko argues that there are certain goods that can only be provided by a state and that all individuals need to lead decent lives. If each individual needs the state in this way Klosko argues that we can also presume that any individual that receives these goods from the state also benefits from state provision in a way that generates political duties based in reciprocal fairness. David Lefkowitz interprets Klosko's fair play principle to be a duty "incumbent upon agents as a result of their being a certain way, rather than their doing something. Whether a person violates the fair play principle depends not on the agent's beliefs or preferences, but rather on the factual question of whether the agent receives indispensable benefits that are worth his effort to provide from that scheme."³¹³

Before critiquing this approach it is important to recall why a successful argument for basing political duties in reciprocal fairness would undermine the cosmopolitan thesis I am advancing for the case of global warming. Klosko's theory is important to address because although he does accept that we can have non-voluntary political duties, he argue that we can only have demanding political and distributive duties of justice when we receive the benefits of membership in a specific political order. If this is true my argument for a global political duty will fail because we do not currently have a global political arrangement that could generate such a duty based in fair reciprocity. Given that the institution I propose does not yet exist we cannot logically be said to benefit from it in the morally relevant sense. More importantly individuals living today are not the kinds of agents that could receive indispensable benefits that are worth their effort from the global arrangement I argue for in a self-regarding way. This is because the costs of aggressive mitigation efforts and a global political arrangement that could facilitate such mitigation are not comparable to the benefits we receive in terms of our self-regarding interests. If Klosko's presumptive benefits theory were correct it would not leave room for the strictly other regarding duties I

³¹³ David Lefkowitz, "A Moral Contractualist Defense of Political Obligation" (University of Maryland, 2003), 90 (<https://drum.umd.edu/dspace/bitstream/1903/284/1/dissertation.pdf>).

will rely on to justify a global form of political authority and demanding duties of justice at the global scope.

In challenging the presumptive benefits theory I will focus on a particular problem involved in constructing such a theory. This is that the theory appears to amount to the idea that each individual has a duty to do what is in their own rational self-interest. A presumptive benefit is something that we can *from a rational and objective perspective* reasonably claim that anybody needs regardless of their other interests. Thus, if I have a duty of fairness to contribute to the provision of presumptive benefits this amounts to a duty to contribute to a collective project *I need*. A non-voluntary duty to accept duties to contribute to a set of benefits simply because one needs them is difficult to reconcile with liberalism. This is because liberals place a high value on the individual's right to decide for himself what he does and does not need. Given this feature of liberalism, Klosko's attempt to justify to an individual the demandingness of political society based on what others presume he needs seems to be a rather weak principle on which to found political duties within the state.

Klosko tries to avoid this problem by allowing for the possibility that some people will have beliefs or preferences that "could well relieve their possessors of political obligations they would otherwise have."³¹⁴ Here he is thinking of conscientious objections to the demands of the state (e.g. pacifists objecting to military service) as "a class of reasons, presumably rooted in subjects' deeply held moral convictions, that would free them from obligations they would otherwise have."³¹⁵ Those with certain beliefs do not have duties in fairness to support a collective political project that provides presumptive benefits because they do not benefit in a morally relevant way. Still it is thought that such attitudes towards the benefits of the state will be so rare so as to be inconsequential to the functioning of the state. Now we can see that on Klosko's theory nearly all do benefit from political society in the sense of needing what the state can provide. Some may claim or think that they do not, but we presume that their claims or beliefs are misleading or false unless there is evidence of some special and rare circumstances such that an individual genuinely does not benefit in the morally relevant way. By examining how Klosko's presumptive benefits argument for non-voluntary political duties deals with these special cases we can see that he must also ultimately appeal to a natural duty of justice when pointing to his core presumptive benefits to justify political duties.³¹⁶

³¹⁴ Klosko, *Political Obligations*, 70.

³¹⁵ *Ibid.*, 71.

³¹⁶ Note that Klosko does think that one must appeal to natural duties of justice in order to explain why citizens should contribute to various social welfare programmes. This is because most people will not personally benefit from such programmes and thus they cannot have an obligation of fair reciprocity to contribute. Klosko argues that one can appeal to a natural duty

Presumptive benefits and other-regarding political duties

Imagine that Ophelia learns that she has a life threatening infection. She can easily afford the treatment and needs it if she is to lead a life at all. However, Ophelia claims to have a moral objection to medical treatment. Furthermore, she refuses to undergo a psychological assessment even though she knows that without it the law requires the hospital to treat her despite her objections. There is no evidence whatsoever of mental illness aside, maybe, from the current situation. Ophelia simply insists that she does not want any kind of treatment. The hospital follows procedure and imposes treatment.

Once she has been coerced into a course of action that she explicitly did not want to undertake could the hospital now claim that because Ophelia has received treatment she needs it is only fair that she pay the hospital? The answer seems to be no. In fact, forcing treatment on the patient seems highly questionable from the start because it infringes on the individual's freedom to treat her own body as she wishes. Following liberal premises we should do every thing we can to make sure that Ophelia is making an informed choice, but barring some extenuating circumstances it is objectionably paternalistic to force Ophelia to undergo medical treatment. A further demand that she pay for the unwanted treatment is just adding insult to injury.

The only way to make a case for coercing Ophelia into taking the treatment she needs seems to be to argue that any rational person would want treatment and therefore it is justifiable to use force against her because her refusal appears to be irrational. This is at least a difficult argument to make from a liberal perspective. It is not clear on what basis we can say that individuals ought to act in their own rational self-interest when not doing so only harms them and nobody else. Moreover, it seems to be even more implausible to say that because Ophelia would if she were rational want treatment she has in actuality committed herself to pay for the treatment we force upon her. If this is true we cannot argue that Ophelia has an obligation *based in fair reciprocity* to pay or help pay for her treatment. Yet, this is exactly what Klosko appears to say to an individual that claims not to want the state services they need when he invokes a fair play duty to contribute.

At first glance it may in fact appear that Klosko is forced to advance the odd argument that individuals' have moral obligations to act rationally and that it is this obligation that is the source of our general political obligations. Adding this 'moral ought' condition to the standard rationalist argument for the state seems to be necessary to get from rational interests to political obligations because on the standard account, As Lefkowitz notes,

In the absence of any moral obligation to act prudentially, benefit to the individual can serve only as the basis for a Hobbesian mutual advantage account

in order to justify systems of non-reciprocal aid within the state given weak demands for the level of contributions citizens must make (Ibid., 102-10.).

of quasi-moral norms. Such an account, however, cannot show that citizens have an obligation to obey the law when not doing so is to their advantage.³¹⁷

We have seen that the problem with the Hobbesian approach is that it just is not empirically true that it is always prudentially more beneficial to obey the law in a large scale state. This in turn means that the Hobbesian argument for justifying a general political obligation to obey the state on rational self-interest does not appear to work. Klosko bases his theory on a principle of *fair* reciprocity and not the implausible Hobbesian assessment. This means that Klosko is moving from what is in each individual's rational self-interest to political obligation in a different way than Hobbes. Klosko wants to appeal to what is in each individual's rational self-interest, i.e. how they benefit from the state, to show that each individual has general *moral* obligations to support state provision of collective goods. But to advance this kind of argument one seems to be forced to incorporate at some level the implausible view that individuals have a *moral ought* to do what is in their rational self-interest. This seems to be the only way in which my rational self interest can create *for me* a moral obligation to accept general political obligations when I do not want to obey. However, Klosko does have a clever way of getting out of this mess.

Because the characteristics that would show that individuals do not benefit from the essential collective goods are so rare Klosko argues that the burden of proof lies with the individual to show the state and the surrounding political community that they should be free from their political duties.³¹⁸ Argued in this way the theory does not have the implausible implications noted above. Instead what is argued is that central functions of the state are reasonably presumed to be beneficial to each subject. This in turn means that fair reciprocity generates *prima facie* political obligations that can only be overridden when the subject can show that their case is exceptional in some way.³¹⁹ In the case at hand Ophelia failed to satisfy this burden of proof by undergoing a mental evaluation. As a result the authorities have no way of telling if she has a genuine moral conviction against medical treatment or if she has just figured out a devious way to get free medical treatment. I will argue that this burden of proof argument means that the presumptive benefits theory is foundationally dependent on natural duty reasoning.

Imagine now that Ophelia's life threatening disease is also highly contagious, and in order to prevent a serious epidemic the hospital needs to quarantine and treat Ophelia's illness. This is now a public health issue and an example of the kind of presumptive good Klosko argues only the state can adequately provide.³²⁰ In this case it seems that the hospital is justified in

³¹⁷ Lefkowitz, "A Moral Contractualist Defense of Political Obligation," 91-92.

³¹⁸ Klosko, *Political Obligations*, 70-74.

³¹⁹ *Ibid.*, 52, Klosko, "Presumptive Benefit, Fairness, and Political Obligation," 249-50.

³²⁰ Klosko, *Political Obligations*, 34-35.

coercing Ophelia, not because of the benefits she receives but rather because others need her to be treated so that they can secure the conditions for public health. Because Ophelia has deep seeded moral convictions against treatment she lacks the subjective capacity to benefit from treatment.

Forcing her to take the treatment is properly characterised as imposing a cost, but this is justified because she can not reasonably argue that the cost we impose on her is a sufficient reason to forbid us from securing public health for all those that will be infected by her. In fact Ophelia ought to recognise that her refusal of treatment is unreasonable and recognise the state's authority to quarantine and treat her. If she fails to be moved by these other regarding moral reasons it is justifiable for the state to coerce her into doing what morality demands. A natural duty explains why the state is justified in forcing treatment upon Ophelia, but this is not a natural duty of justice. A visiting tourist would also have a natural duty to accept the quarantine and treatment. We would need to explain why Ophelia should do more, like pay for the treatment, in demonstrating a natural duty of justice.

Note that securing public health requires a set of institutions that can perform the required tasks, and the state needs to have the authority to coerce people into contributing to this public good. Otherwise free-riding could undermine the system and our access to a safe environment. Thus, part of supporting the conditions for securing public health is contributing to the collective project and further supporting the state's authority to use coercion to ensure widespread contribution. Even if Ophelia was not infected and does not want to pay for some treatment that she will never want, she has a duty owed to others to contribute to creating and maintaining the conditions for public health. Making Ophelia pay for the costs to the hospital for saving her life may seem unjust because her preferences are such that she has not benefited from the treatment. However, making her contribute her share to the collective provision of public health through the state seems to be justifiable in the same way it is justifiable to impose treatment of her infectious disease.

There remain two problems with this argument. The first problem is that although both the authority to quarantine and the authority to secure contributions to the institutional apparatus for public health are needed it is only in the quarantine case that we know why we are justified in coercing Ophelia specifically. It is true that Ophelia is a resident of the territory and she is much more likely to be the source of infection for others than the visitor, but all this tells us is that her duty to accept quarantine and treatment is much more likely to be activated in the state in which she resides. However, the answer we can offer for the funding of public health services generally is that we need political systems to adequately provide public health and Ophelia ought to recognise that any such system must have certain characteristics if it is going to be able to carry out its function.

The system must have jurisdiction over a certain territory and it must be able to secure support from those that will principally benefit from its operation. The fact that we can only expect widespread support for a system from those that will benefit from it does not mean however that it is ultimately fairness that is the source of any individual's political duties. Even though Ophelia does not have the capacity to benefit from the system she ought to recognise what political systems must be like in order for them to solve the coordination problems that arise for the provision of public health; the state must have the authority over permanent residents to impose demanding duties of justice.

A critic might argue that if Ophelia is a genuine conscientious objector to medical treatment (e.g. based on a deep religious conviction of the evil of medicine) we unnecessarily harm Ophelia by forcing her to contribute. This is because we can provide the good of public health without her contribution. However, even if it is true that Ophelia has a plausible claim to exemption this does not show that she does not have political duties.

Because there are free-rider problems involved in the provision of public health the state must be able to distinguish between those that have a genuine moral objection to medical care and those that simply want to avoid paying taxes. It cannot be up to each individual to decide for themselves if they have an obligation to contribute to the political project because this would undermine provision of the good. Thus, although we can allow Ophelia to be excluded it must be the state that sanctions this special status. Furthermore, Ophelia ought to recognize that it would be unreasonable to object to the need for the state to have the authority to decide who does and does not have a reasonable claim to exemption. This seems to be what Klosko is really getting at when he appeals to presumptive benefits.

As was noted, Klosko argues that state provision of presumptive benefits places a burden of proof on any individual that claims they do not actually benefit from essential collective goods to demonstrate that their preferences are based in moral conviction and not self-interest. Likewise, anyone that claims to be able to adequately provide essential goods for themselves through some non-state alternative without undermining other's ability to ensure provision through a collective political project has a burden of proof to show that their proposal is workable for all those affected by it. This means that in order to accept any such proposal it must be shown that allowing individuals *in general* to opt out of state schemes will not undermine access to the collective good for any of those that want or need the good within the territory (e.g. law and order). If instead the burden of proof was placed on the state we would secure the conditions that make destructive free-riding likely.³²¹

³²¹Lefkowitz, "A Moral Contractualist Defense of Political Obligation," 82-83.

The very fact that we place the burden of proof on the individual demonstrates that there is a non-voluntary duty of justice to the collective political project that is not based in fairness. Even if Ophelia is exempted by the state from contributing, she is not exempted from her political duties to others. She has a natural duty of justice to secure the provision of essential collective goods and in her case this duty entails accepting that she has a burden of proof in relation to the state should she want to be exempt from the collective project due to religious convictions. There is a political duty to accept the judgement of the state in these matters as long as the state is making a reasonable attempt to distinguish between justifiable and non-justifiable exemptions.

Notice as well that the reasonableness of Ophelia's claim to exemption is dependent on the number of people who share her conviction being so small that even if all of them were exempted there would be little effect on state provision of public health. However, if Ophelia's religious beliefs should become so widespread that the exemption threatened the provision of the public good then, following Klosko's reasoning, the believers' political duties would demand that they accept the judgment of the state that they should now pay. Public health is after all a presumptive benefit independent of what people prefer. In fact, even if the believers were more than fifty percent of the population there would remain the same other regarding duty to contribute to a collective political project to secure conditions for public health measures. Even though the believers are the majority the majority does not have the right to undermine the basic conditions necessary for securing *others'* physical security.

Of course, if those that did not want state provision of public health were in the majority public health services would likely not be provided, but the natural duty to do so would remain. Because our living together and interaction with each other creates the conditions for the spreading of infectious disease that threatens human wellbeing and ultimately our lives we each have a duty owed to others to do what we can prevent this harm. This duty remains even if we are not moved by self-interested reasons to secure public health. More importantly for Klosko's argument, the duty remains even if the majority of the population cannot benefit from the good in the morally relevant way due to their religious convictions. It is not reasonable for me to appeal to my religious beliefs in avoiding doing what I can to ensure that others have access to a decent standard of public health.

We can now see that Klosko's notion of presumptive benefits and the way he uses it in his theory leaves natural duties of justice and not non-voluntary duties of fairness as the fundamental source of political duties. Even if we are not moved by rational self-interest and do not benefit from political society in a morally relevant way there remains an other-regarding duty of justice to accept our political duties to contribute to the collective political project of our just state. It is crucial to notice here that this is not some small

problem that we only find in extreme cases. Klosko argues that received benefits generate political duties when they “are (i) worth their costs to their recipients as well as (ii) presumptively beneficial. In regard to condition (i), the benefits and burdens under consideration are those of the relevant community as a whole, rather than of each particular member.”³²² Thus when the provision of presumptive benefits outweighs costs for the community as a whole but not for the individual, the individual still has a political duty to accept the burdens involved in providing this benefit. Individuals may generally benefit from political order but most will not benefit from specific presumptive benefits at least at some point over the course of their lives. When this happens the presumptive benefits argument falls back on the more foundational natural duty reasoning in motivating why each individual has political duties.

The original concern with the presumptive benefits theory of political duty was the idea that citizens have a duty to support the state only when it is objectively true that they benefit from political society in a self-interested way. On this reading the theory is ultimately founded in fair reciprocity. This would be a problem for my global theory of political duties because in the case of global warming it is not likely that most individuals today could benefit from the proposal in this self-regarding way. However, we can now see that to make the idea of an objective presumptive benefit serve as a justification of general political duties for nearly all members of a political order the theory must ultimately really on the other-regarding natural duty of justice. Thus the argument here has gone some way in further supporting the natural duty approach. However, we should recall that Klosko also claimed that natural duties are only weak duties that cannot support the kinds of demands placed on individuals in a political community. This challenge must also be met to complete the defence against the received benefits and fairness approach.

The natural duty of justice and the problem of demandingness

Natural duties are described as only weakly demanding in the contractualist tradition because these theorists reject strictly consequentialist accounts of our duties to others. Following consequentialism we are asked to give no more weight to our own interests than to those of others. However, rejecting this level of demandingness is not the same thing as demonstrating that our other regarding duties are necessarily weak.

Think for example of Scanlon’s contractualist theory which is one of the most well developed accounts of the moral reasoning underlying contractualist thought generally, and which has had a great deal of influence on the political theories of those that advance the political conception of justice.

³²² Klosko, "Presumptive Benefit, Fairness, and Political Obligation," 250.

Scanlon's argues for a Rescue Principle that is supposed to illustrate the contractualist rejection of utilitarianism. On this principle, as Leif Wenar explains, the "rich man should give some money to the destitute family at his door. Yet the rich man need not give up his entire fortune if somehow this would provide the destitute family with only a single extra penny." This is a fairly unhelpful principle because "Our judgements in these extreme cases are certain.... It is the cases between these extremes, where both complaints have weight, that make us uncertain. How much sacrifice is enough?"³²³

Scanlon's rather undemanding Rescue Principle may seem confusing given the strong egalitarian nature generally attributed to his brand of contractualism. However, as Wenar explains, this is the result of deep "indefiniteness within contractualism." He says,

Contractualism locates the two most important factors in our reasoning about our duties to aid distant others: the benefit to the poor, and the amount of sacrifice from the rich. But it gives us no tools for understanding how to resolve the tension between these two factors.... It leaves the large area between the extreme cases (about which we were already certain) to be decided entirely by individual judgement. The fact that Scanlon's judgement about tradeoffs (as expressed in his Rescue Principle) may be different from your own judgement highlights how little assistance contractualism gives in specifying our duties in the crucial 'intermediate' cases.³²⁴

However, we should not be tricked into thinking that Scanlon's Rescue Principle is just one possible attempt to make tradeoffs in the area between the extreme cases even though Wenar may rightly interpret Scanlon's *intentions*. The Rescue Principle is better understood as simply a restatement of contractualism's more general rejection of two extreme moral stances, pure partiality and pure impartiality.

If we reject pure partiality I have *at the very least* a slight obligation to aid those in distress.³²⁵ A slight obligation to aid is the bare minimum we can expect of an agent that is "moved by the aim of finding principles that others, similarly motivated, could not reasonably reject."³²⁶ What we owe others in need is at the very least more than nothing. Once we understood the Rescue Principle in this way we can see that it is not about the *extent* of our obligation to aid but rather it is simply a confirmation that we have an obligation to aid.

When conceptualising the contractualist rejection of pure impartiality we need to imagine another type of extreme case for which Scanlon could have identified a 'principle,' *the Demand Principle*. If agents are moved to justify

³²³ Leif Wenar, "What We Owe to Distant Others," *Politics, Philosophy & Economics* 2, no. 3 (2003): 289.

³²⁴ *Ibid.*

³²⁵ Scanlon, *What We Owe to Each Other*, 224.

³²⁶ *Ibid.*, 5.

principles to each other, then we cannot expect of an agent that she provide some much aid that she sacrifices all of her particular interests. This is because Scanlon's contractualist construction does not only recognise the reason giving force of the impartial perspective but also the reason giving force of the partial interests of any agent. The Demand Principle sets the limit on what we can require of a potential aid giver at less than what would be required by strict first-order impartial equality. As Scanlon puts it, it would "be reasonable to reject a principle that required us, in every decision we make, to give no more weight to our own interests than to the similar interests of others. From an agent's standpoint such a principle would be intolerably intrusive."³²⁷

Wenar gives an example of the Demand Principle when he says that you are not obligated to give up all your wealth for the sake of giving one penny to a person in need. We do not need to give up *all* our partial interests to help the needy only slightly, and presumably Scanlon also wants to deny that we would be required to give up all of our partial interests for the sake of saving one person from starving to death. What is important to notice is that the Demand Principle leaves open *how much* of our partial interests we do need to sacrifice to aid those in need. Again this way of reasoning does not tell us anything about the extent of our obligations to others, but only that our partial interests have moral force in contractualist justification. In essence then Scanlon's Rescue Principle is like telling someone that they have to pay taxes and that the tax rate is somewhere between zero and a hundred percent. Hardly a satisfying result!

The reason Scanlon's theory of contractualism cannot support more specific arguments about the extent of our obligations to others is because he resists specifying the grounds for reasonable rejection. Scanlon spends a great deal of time arguing against theories that see the relative affects on well-being as the "fundamental" criteria for reasonableness. If calculations of relative well-being were determinative of the reasonableness of a proposal we would end up with something like the utilitarian notion of what we owe to each other. Against such "welfarist contractualism" Scanlon convincingly argues that the "the justificatory force of a given increment of well-being in moral argument is not constant in all situations, but depends on other factors of a clearly moral character."³²⁸ Scanlon takes considerations of responsibility and fairness as examples of moral concerns that also have justificatory force and undermine the plausibility of utilitarian calculations of right and wrong.³²⁹ Scanlon is chiefly concerned with 'the welfarist' in his book but his criticism of the welfarist should also be understood as a more general

³²⁷ Ibid., 224.

³²⁸ Ibid., 243.

³²⁹ Ibid.

dismissal of any attempt to reduce what is to count as reasonable to a single or very narrow set of criteria.

In addition to avoiding a narrow conceptualisation of reasonableness, Scanlon also wants to avoid various charges of circularity or redundancy that contractualism has traditionally faced. If we have a well developed and specific account of what is reasonable then justifying moral principles can appeal directly to those substantive moral arguments about what is reasonable and unreasonable as such. We could do away with the contractualist construction. With regards to being more specific about the grounds for reasonable rejectability and “the method to be used in balancing these grounds against one another” Scanlon says “although this is a feasible aim with respect to some specific areas of morality it is not likely to succeed at the level of generality of the theory I am currently offering here—that is to say... that large part of it that has to do with what we owe to each other.”³³⁰ This may be because part of what we owe to each other is being open enough to all the potential reasons people might have for rejecting a principle. Scanlon says “...the judgment that any consideration constitutes a relevant, possibly conclusive, reason for rejecting a principle in the context of contractualist moral thinking as I am describing it is a judgment with moral content.”³³¹ However, what happens when we keep what is to count as reasonable as open ended as Scanlon does is that we limit the theory to those principles that can be derived from the contractualist construction itself; namely rejecting those principles that are either examples of pure partiality or pure impartiality.

Scanlon’s resistance to specifying what is to count as reasonable generates far too much indeterminism. As it stands his theory does not tell us *what* we owe but rather *that* we owe to each other moral consideration. The theory establishes that we do have other regarding moral duties but argues that they are not as demanding as those suggested by utilitarianism. Once this is established there is something fundamentally problematic about turning the whole project around and saying that we ought not to get specific about how to weigh reasons for rejecting against each other.

Resisting specifying what should count as reasonable is, I think, ultimately a failure. One must and can argue for more specific criteria without undermining the integrity of the moral motivation contractualist construction. If one resists substantive attempts along these lines, we are left with a theory that is almost completely indeterminate in relation to practical reason (i.e. in terms of giving us a better idea of what we ought to do). However this debate is beyond the scope of the current discussion. What I hope to have shown here is that it will not do to appeal to caveats about natural duties only being weak duties in rejecting the natural duty approach to the problem of

³³⁰ Ibid., 218.

³³¹ Ibid., 217.

political authority. The contractualist arguments underlying this widely held premise about natural duties are far too fragile to support such a conclusion.

The duty to both support and, when necessary, help create the political institutions necessary to secure essential collective goods is a clear example of a demanding natural duty. This is because individual's political duties are rightly described as demanding. We can now see that conceiving of natural duties of justice as demanding is not clearly in contradiction with the underlying contractualist reasoning on which the natural duty of justice is dependent.

When contractualists argue that our duties to others are weak there are simply saying that they are weaker than the demands of utilitarianism and that it is reasonable to weigh in a host of partial interests in determining what justice requires of individuals. Thus, what in fact should count as too demanding is not plainly born out by general contractualist statements like Rawls' when he says that we have natural duties of justice to support political order "when this can be done without too much cost to ourselves."³³² If Klosko wants to defend the claim that natural duties can only be weak duties he must develop a positive argument to the effect that the demands entailed by the natural duty of justice to support political society because others depend on it are unreasonably high. However, this will be rather difficult for Klosko to do. As we have seen, even on his presumptive goods argument for the state it is reasonable to expect individuals to accept general and demanding non-voluntary political duties when they do not benefit from various aspects of political society.

The natural duty of justice

I have argued thus far that the natural duty of justice is based in our reasonable expectation that others accept the authority of the state and contribute to a political project for the provision of essential collective goods. By looking more closely at Simmons' consent approach we have seen that unless we accept the anarchist's empirical claim that essential collective goods can be provided in a morally acceptable way independent of a state we should be persuaded by the claim that one can only satisfactorily live up to the other regarding duty to secure the conditions for security, law and order, provision of public goods, and respect for each individual's rights as a moral equal by accepting non-voluntary duties to contribute to a collective political project. We have also seen that the source of our political duties are not *at their foundation* the benefits we receive from political society. This is because even those that do not benefit in a morally relevant way have natural duties of justice owed to others to support those political arrangements needed to

³³²Rawls, *A Theory of Justice: Revised Edition*, 99.

secure the public provision of essential collective goods. Rational self-interest and reciprocal fairness are also clear reasons for accepting the demanding of political society. However these reasons can only justify a general *prima facie* duty to support political society together with the natural duty of justice.

The role of fairness

We should note that there are two ways in which an argument for a natural duty of justice is closely linked to fairness. As Janos Kis explains,

a person who is duty-bound to contribute to a cooperative venture causes harm to the venture—and, in this way, to the other persons similarly bound—by failing to carry out her duty. The harm she causes consists in shifting the burden she is required to assume onto others... This is wrong, even if we do not inflict harm on them, either directly or indirectly, by causing a setback to the cooperative venture in which we are involved with them.³³³

We must take on our fair share of the other-regarding natural duty of justice and we treat others unfairly even when our failure to contribute to the collective does not have any effect on the aims of political society. When there is a surplus in the inputs demanded from participants in a collective political project no individual is justified in unilaterally deciding that her own contribution is superfluous and inefficient and thus not demanded by justice.³³⁴ Such a unilateral choice imposes on others one's will that *they* continue contributing to the provision of essential collective goods. Furthermore, no individual has the right to unilaterally usurp surplus contribution to a collective political project. If the system is in fact inefficient then the collective should decide how the relief from payment should be distributed among the contributors.³³⁵ Presumably if a society is distributing the burden of support for political institutions fairly then they will distribute the benefit of reduced taxes along the same criteria for fairness.

There is also a second somewhat different way in which fairness comes into play and helps explain the range of things we normally associate with a just liberal democratic state, especially redistributive justice. Because our political duties are non-voluntary and others are justified in expecting political authorities to use coercive means to ensure that essential collective goods are provided, each individual has a claim against the rest of political society that they be treated fairly within this institutional scheme. Readers will rec-

³³³ Janos Kis, "When We Are Morally Required to Cooperate," (Central European University, 2002), 24-25 (<http://www.law.nyu.edu/clppt/program2002/readings/kis/kispaper.pdf>).

³³⁴ For arguments along these lines see Lefkowitz, "A Moral Contractualist Defense of Political Obligation," 164-71, Wellman, "Political Obligation and the Particularity Requirement," Wellman, "Toward a Liberal Theory of Political Obligation."

³³⁵ Lefkowitz, "A Moral Contractualist Defense of Political Obligation," 164-71.

ognise this notion of fairness from the description of the political conception of justice in Chapter II. The basic idea here is that demands of socio-economic justice make sense in a shared political system because it would be morally objectionable if we were both forced to be part of such a system while at the same time the basic structure of the system lead to arbitrary inequalities. A great deal of what a just state demands from us can be linked in the first to the political project for providing essential collective goods and then second to creating the conditions under which each individual is treated fairly by the basic structure, although this is far from giving moral legitimacy to everything actual liberal democratic states do. Notice that we must first establish the natural duty of justice to get the two identified notions of fairness off the ground.³³⁶

The problem of particularity

As we have seen, the natural duty of justice has been used by some of its main supporters, like Rawls and Nagel, to defend the position that individuals have special ties to their own states and special duties of justice to fellow citizens to the exclusion of other states and non-members. We have a non-voluntary natural duty to those that we share political society with even though these boundaries are arbitrary. This is because others depend on the persistence of political order within the territory in which they reside. Demanding duties of justice, it is argued, are only owed within existing political institutions and our obligations to those that we do not share political society with are the requirements of morality. The requirements of morality are less demanding than the demands of justice among members of a state in

³³⁶ We should be careful not to interpret the way the natural duty of justice is related fairness to mean that in essence we have a natural duty of fairness (for an example of this view see Lefkowitz, *Ibid.*). Such a natural duty would entail a commitment to remedy all kinds of morally arbitrary differences between individuals that affect the way their lives go. Let us suppose for the sake of argument that on the whole physically attractive people have more satisfying love lives than unattractive people simply because they are afforded more options in selecting partners. If we had a natural duty of fairness in political society we could end up with the implausible principle that unattractive people could reasonably claim that this was an unfair result of morally arbitrary characteristics they are born into. It does seem to make sense to say that such arbitrary differences are unfair. Still, despite this unfairness others do not have a natural fairness duty to make sure that unattractive people have an equally good chance at having as satisfying love lives as more attractive people. However, if being attractive tends to lead to higher grades other things being equal one does have a claim on political society to take measures to make sure that each individual is treated as fairly as is feasible within the system of public education (i.e. that attractiveness does not dictate educational success). Thus, it is important that we maintain a two stage theory where we first establish how the natural duty of justice binds us together in collective political projects and then introduce the idea of fairness in assessing our duties and claims within this scheme if we are to have a clear idea of what we mean by political and social justice.

the sense that standards of egalitarian distributive and political justice are not owed across state borders.

Many commentators have objected that if natural duties of justice are ultimately founded in an argument about what we must do to respect others as moral equals, we surely have a natural duty of justice in relation to all others and not simply those that I happen to be born among. I will argue that this criticism does not undermine the natural duty approach to justifying to individuals that they have political duties within the communities in which they reside. However, it does undermine attempts to use the natural duty theory to limit the scope of justice simply by appealing to the fact that compatriots share in certain kinds of political institutions. The natural duty of justice entails only weak ties to those with whom we share a state.

The fact that we are born into a world where political membership is divided among states has real normative weight. Even if the state we are born into is arbitrary accepting its authority and duties of justice to fellow members is simply to accept, in Nagel's words, the "conditions of peace and a legal order, with whatever community offers itself."³³⁷ The idea here is that individuals are dependent on their being a set of what Jeremy Waldron calls "range limited" political duties that are owed to fellow members of a political community.³³⁸ For my public health care system to work properly access to the system must be largely limited to those that share in the collective political project that makes the system possible. We have special duties of justice to those others with whom we share the state's institutions because it is on these people that my resource use and legal standing has the most significant effects. That we should have political duties in territorially bounded states in the first place is because "the Kantian approach implies that I should enter quickly into a form of society with those immediately adjacent to me, those with whose interests my resource use is likely to pose the most frequent and dangerous conflicts."³³⁹

As long as I continue to reside in a political community I will have political duties to contribute to the collective project and accept the government's need to have the authority to use coercion in securing justice. However, it is wrong to assume that the natural duty of justice simply binds us to the state we are born into and disregards the arbitrariness of state boundaries. To see this we can first note that the natural duty of justice does not seem to place many if any limits on the liberty to leave the state and take up residence in some other political community. Thus I am not naturally bound to contribute to some specific political community but rather generally duty bound to accept a set of political duties within the political project of those that I live among.

³³⁷ Nagel, "The Problem of Global Justice," 133.

³³⁸ Waldron, "Special Ties and Natural Duties," 15.

³³⁹ Ibid.

Furthermore, having a natural duty of justice does not appear to commit individuals to the boundaries of political communities as they stand. These boundaries could have been different and can be altered. Some other territorial division between political communities could satisfy the aim of ensuring the provision of essential collective goods, and political communities could choose to change the scope of their political duties such as with the EU. Circumstances could also change altering the implications of our natural duties of justice.

For example, because of the risk and reach of inter-state war and the corresponding effects for the basic security interests of all states and their citizens there is a strong argument following from the natural duty of justice for creating political institutions to ensure the conditions for global collective security. This seems to be exactly the kind of reasoning behind the existing attempts to institutionalising just-war principles at the global scope within the United Nations framework. The normative argument for creating such a global political authority is not dependent on pre-existing institutional arrangements at the global scope or even in existing cooperation. Instead, changes in the scope of our political duties to others are founded in changes in the kinds of real or potential effects we can have on each other. Our natural duties of justice are something we owe to all others, but the duty has different implications depending on the kinds of interaction and effects we have on each other.

Sometimes my natural duty of justice to a certain group of people outside of my state will require no more of me than that I do not attempt to undermine their political order, and at other times and for different issues I will have a duty to enter into a new political project with these people. In the case of collective security among states our natural duty of justice could generate a duty to support a supranational form of political authority if states were shown to be unable to cooperate sufficiently to provide the goods of order and security at the global scope. It is far beyond the scope of this work to debate this issue, but it does remind us of how the natural duty of justice reasoning arises at the global scope.

In the next chapter I will further defend the argument that our natural duties of justice do not strongly tie us to the state. I will then argue that based on an adequate defence of non-voluntary political duties in existing just states we should also recognise an associative duty to *create* a new form of political authority at the global scope so that we can both make collective decisions on how to address the problem of global warming and credibly enforce these decisions. Following the natural duty of justice logic distinctive kinds of interconnectedness at any scope can give rise to far-reaching demands of justice.

Summation

In this chapter I have defended the natural duty theory of political duties against challenges from alternative theories based in consent and fair reciprocity. As has been noted throughout the chapter, developing these arguments against alternative theories has been necessary to cut off expected objections to the central thesis of this book. The central thesis is that global warming has generated a duty of justice to support the creation of a new form of supranational political authority. The objections to this proposal that are undercut at least to some degree in this chapter are that we can only have political duties within arrangements we consent to or benefit from. I will not explain the reasoning for this chapter further here as it should be quite clear at this stage. However, one should note the underlying philosophical strategy involved in this book.

The point of cutting off alternative theories on our political duties is to be able to advance a classic form of argumentation directed at the sceptical reader. This is simply to show that something the sceptic is already committed also entails the position you are trying to convince them of. In my case the argument directed towards the liberal sceptic of global justice is the following; if you think that we do have demanding duties of justice within the state then you are in fact already committed to the idea that we could have natural duties of justice at the global scope. This is because 1) the natural duty theory is the most plausible justification for the political duties you accept at the state level, and 2) natural duties are duties we owe to all others. This second feature means that we can have a natural duty of justice at the global scope when we are related to others globally in a way that gives rise to the collective goods justification of political order. This chapter has defended the first point, at least in relation to the opposing views of most relevance to this work. The first half of the following chapter will be dedicated to further defending the second point. In the second half of Chapter V we come to the culmination of my thesis. Here I will identify what kinds of reasons we can appeal to in justifying to individuals that they have a natural duty of justice to support a global political project with a mandate to address the threat of human induced global warming.

Chapter V

Global warming and our natural duties of justice

The capacity that exists today to consume and destroy environmental services is enormous and expanding rapidly. At the same time the welfare gains for any individual achieved through increases in consumption diminish once basic needs are met. Rapidly so, we should expect, for those with the kinds of wealthy living standards enjoyed in highly productive economies. With this in mind and further considering the fact that we have short lives in comparison to the time we can reasonably expect life to exist on our planet, it seems deeply morally problematic and wildly selfish to consume and pollute without any regard for people that will exist in the future. Following these intuitions the most straightforward way to argue that we have a duty to create global political institutions that will facilitate radical reductions of global GHG emissions is to claim that we have a duty to future generations to take on this demanding political project.

One might plausibly argue that we owe it to future generations to significantly limit our consumption of fossil fuels and to radically reduce our GHG emissions because it would be wrong to seriously harm the environmental conditions humanity depends on. At some level the idea of a duty to future generations is relatively uncontroversial; a commitment to the equal inherent moral worth of all individuals must entail that we have some duties to future generations. However, that we should have *any* demanding duties of justice towards future generations is questioned in philosophical debate, and there are considerable disputes over how demanding our duties to future generations are if we do in fact have them.

In this chapter I will not try to give an answer on what our duties to future generations actually are. Instead I argue that because of the kind of threat global warming entails it is morally required to create those institutional conditions through which we *could* act collectively to mitigate global warming. There is *at the very least* a natural duty of justice to create the institutional conditions that make it possible to formulate an active and collective choice about what burdens we are willing to take on for the sake of future generations. I will argue that we can establish such a duty to support a su-

pranational form of political authority by appealing to two different kinds of other-regarding reasons. The first reason is based on the minimalist view that we owe future generations more than no consideration whatsoever. The second reason for action is founded in reasonable disagreement over our obligations to future generations and entails an other-regarding duty owed to our contemporaries.

However, before moving on to the final stage of the argument for a global natural duty of justice it is necessary to address why many of the central defenders of the natural duty theory of political duties, like Rawls and Nagel, rule out the possibility that we could have non-voluntary and demanding global duties of justice of the kind I propose. In Chapter II it was argued that the choice to focus on the political conception of justice was based in part on the fact that it takes the individual to be the basic unit of analysis. This was contrasted with Rawls' approach to the problem of global justice where he takes peoples to be the basic unit of analysis. I have claimed that the individualistic approach is more in line with basic liberal premises.

Because I have yet to defend the above noted claim the overall argument of this book is open to the objection that Rawls has a more plausible interpretation of what the natural duty of justice amounts to at the global scope. Namely that we have duties of justice to support the political societies *peoples* need and that a supranational form of political authority would violate peoples' morally legitimate interests in political autonomy. If it is plausible for liberals to follow this interpretation my overall project will only be convincing for those that take the individualistic perspective and not the Rawlsian one. For this reason it is important to address Rawls' theory and explain in more detail why I view it as unworkable from a liberal perspective.

The argument to come against Rawls' theory should not be taken to amount to the view that the interests of a social community taken as a whole are never of interest in our thinking about global justice. Nor should the argument be viewed as a rejection of the idea that because cultural context is important to individuals in various ways protection of a cultural context can also limit the demands thought to follow from a strictly individualist and impartial perspective on the problem of global justice. I do not reject such arguments nor do I attempt to show if or how far such arguments can be applied within a liberal theory of global justice. Instead the point is to argue that appeals to the interests of peoples cannot plausibly be used by those that adopt the premise of individual morally equality to *rule out* the idea that individuals could under certain conditions have duties to support a global form of political authority.

Having established this fairly intricate argument against the usability of Rawls' theory I will move on to Nagel's alternative and more individualistic interpretation of the natural duty of justice. Despite what Nagel himself argues, I show that following his theory one clearly cannot rule out the possibility that we could have global natural duties of justice. Once these two

points are established I will then be free to move on to the concluding argument of this book. In the second half of the chapter I explain how concern for the moral value of future generations and of contemporaries can lead to a natural duty to support a global political project with a mandate for implementing public policy on the threat of climate change.

Rawls' non-liberal disqualification of global political autonomy

In *The Law of Peoples* Rawls makes it clear that inequality between well-ordered and decent societies does not require that we create a system for the global redistribution of wealth based on his "difference principle."³⁴⁰ This is in part because Rawls accepts the empirical claim that the wealth of a political community is not dependent on the existence of natural resources within its territory or global economic structures but rather on domestic policy and culture.³⁴¹ Rawls' empirical assertions have been widely debated and it is not important to assess their validity here. Instead I focus on what I take to be Rawls' stronger general claim; namely that a system of global distributive justice or any other global form of political authority that would limit peoples' autonomy are morally objectionable.

Rawls objects to a system of global distributive justice because it would not be sensitive to the economic and social choices that separate peoples make. Why, he asks, should a political community with defective economic and social policies or a society that simply chooses a less economically productive system receive continual transfers from wealthier peoples that have chosen a more productive economic system?³⁴² Rawls is appealing to what Ronald Dworkin calls the distinction between choice sensitivity and circumstance insensitivity.³⁴³ Following this distinction distributive justice is intended to compensate members in a shared political system when their opportunities and access to resources are negatively affected by unchosen social circumstances or lack of natural talents. It is not intended to compensate choices that cause one to have fewer resources than others do.

Notice that in his domestic theory Rawls is willing to violate choice sensitivity to some degree to guarantee circumstance insensitivity. Following the difference principle welfare inequalities are only acceptable if they are to the advantage of those in the worst off position, thus even if my choices have

³⁴⁰ Rawls, *The Law of Peoples*, 115-20.

³⁴¹ *Ibid.*, 105-20.

³⁴² *Ibid.*, 117-19.

³⁴³ This interpretation of Rawls as appealing to the choice sensitivity/circumstances insensitivity distinction is found in Tan, *Justice without Borders: Cosmopolitanism, Nationalism and Patriotism*, 70.

put me in the worst off position any increase in the resource gap between me and others within my society must also increase my absolute level of welfare to be considered just. Individuals may be overcompensated for their choices, but at the same time the difference principle is able to go a long way in breaking patterns of socio-economic class determining individuals' life prospects. To err on the side of equality in developing a workable strategy does appear to be in line with the normative premises from *A Theory of Justice*, which are: 1) that individuals are moral equals that should be treated as ends in themselves not merely as means to others' ends, and 2) individuals do not deserve the benefits or disadvantages associated with the social, economic and natural endowments they are born into. Violating choice sensitivity to some degree makes sense following these premises because it is difficult to know the degree to which the choices people make are routed in social and natural circumstance. Thus, in applying the noted premises when justifying a coercive state to individual subjects Rawls arrives at a highly egalitarian theory for the distribution of benefits and burdens associated with the basic structure of society.

The interesting question to ask is why Rawls chooses instead to err on the side of choice sensitivity for the international case? It would be surprising if Rawls' resistance to the prospect of a global system for distributive justice was simply based on the empirical claim that global conditions do not significantly impact on the wealth enjoyed in states.³⁴⁴ Associative cosmopolitans have over a long period of time effectively pointed out that global conventions, institutions, and interaction are at the very least important factors affecting political communities and conditions for their members. Furthermore, the conventions and institutions that reinforce the state system itself entail a clearly definable global basic structure that plays a major part in making where individuals are born so central for how their lives will go (e.g. this structure limits the free movement of people). To understand Rawls' resistance to any proposed thick global political arrangement involving standards of global distributive we must first notice that he is operating from a different set of premises in *The Law of Peoples* compared to those adopted in his work on justice at the domestic scope. Most importantly Rawls argues that rules for regulating global relations must be justifiable to peoples and not individuals.

Rawls argues that just like individuals in his domestic theory, peoples are "self-authenticating sources of claims."³⁴⁵ In *Political Liberalism* Rawls explains that when individuals are *not* counted as self-authenticating sources of

³⁴⁴ For an interpretation of Rawls' theory showing that his principles of international justice are not chiefly based on empirical assessments of the welfare effects of existing global economic relations see Freeman, "The Law of Peoples, Social Cooperation, Human Rights, and Distributive Justice." (especially 63-67).

³⁴⁵ Rawls, *The Law of Peoples*, 33.

valid claims “their claims have no weight except insofar as they can be derived from the duties and obligations owed to society, or from their ascribed roles in a social hierarchy justified by religious or aristocratic values.”³⁴⁶ In his domestic theory treating individuals as self-authenticating sources of claims means that social hierarchies are not relevant to the weight given to individuals’ interests. For the international case Rawls claims to be drawing a direct parallel to the way a domestic liberal theory of justice instructs us to tolerate individuals’ incompatible views of the good when they are supportive of politically liberal public institutions and laws.³⁴⁷ However on closer inspection we can see that the principle is not the same at all.

On Rawls’ theory of international justice peoples primarily have an interest in self-determination, meaning that they have a self-authenticating claim to not be subject to coercion from other peoples or from some global system.³⁴⁸ Justice between peoples entails respecting these prime interests. Note that liberal and non-liberal but decent hierarchical societies must both tolerate each other as long as they respect the law of peoples. In regards to what Rawls describes as an *ideal* contractualist theory on relations between peoples he notes that

in discussing the arguments in the second original position in which the principles of the Law of People are selected for liberal peoples, the parties are the representatives of equal peoples, and equal peoples will want to maintain this equality with each other.... No people will be willing to count the losses to itself as outweighed by gains to other peoples; and therefore the principle of utility, and other moral principles discussed in moral philosophy, are not even candidates for a Law of Peoples... this consequence will also hold for the further extension to decent peoples.³⁴⁹

On Rawls’ international theory any system of coercive global political institutions is disqualified at the outset by the premise that peoples are owed self-determination. Thus, there could not be a natural duty of justice to create global political institutions that changes the authority structures of existing political societies because global justice is above all else about securing the self-determination of liberal and decent *peoples*, which in turn secures the conditions for a plurality of political cultures.

Rawls international theory is an attempt to identify reasonable terms on which peoples with differing values and political systems can peacefully coexist. To this end we must be willing to tolerate political orders where individuals from minority religious or ethnic groups, inferior classes, or women are denied the opportunity to hold important positions within that society. He states, for example, that in decent non-liberal societies “one re-

³⁴⁶ John Rawls, *Political Liberalism* (New York: Columbia University Press, 1993), 33.

³⁴⁷ See Rawls, *The Law of Peoples*, 30-37, 59-70.

³⁴⁸ *Ibid.*, 84-85, 118, 20.

³⁴⁹ Rawls, *A Theory of Justice: Revised Edition*, 60.

ligion may legally predominate in the state government, while other religions, though tolerated, may be denied the right to hold certain positions.”³⁵⁰ Rawls is *as a matter of principle* accepting political systems where the claims individuals can make are in important ways dependent on “ascribed roles in a social hierarchy justified by religious or aristocratic values.” Rawls’ international theory is about the interests of peoples in relation to other peoples, and as a result we see that the principles of equality between peoples are very different than the principles of equality between individuals that he advances for his domestic liberal theory of justice. The problem with all this from a liberal perspective is that one simply cannot simultaneously treat both individuals and a hierarchical society as self-authenticating sources of claims in the way Rawls suggests.

Note that an objection one can advance here is that Rawls does not claim that non-liberal decent peoples have *just* political orders. Instead he argues that liberal political culture is superior in terms of justice and that it is reasonable from a liberal perspective to hope that non-liberal peoples become liberal.³⁵¹ As such one might want to claim that Rawls is simply advancing a pragmatic and not a principled defence of both liberal and decent peoples’ interests in self-determination. On this view Rawls is not offering a principled defence of hierarchal political cultures. His international theory is instead about how peoples can co-exist in a non-perfect world. This interpretation does not seem to follow from what Rawls actually says, although it is true that Rawls also gives several pragmatic reasons for having a high level of respect for the self-determination of decent non-liberal peoples.

Samuel Freeman, one of the most prominent interpreters of Rawls, notes that Rawls is clearly arguing that decent non-liberal peoples should be treated as *equal* to liberal peoples in determining the content of the Law of Peoples. To do otherwise in identifying standards of international justice by from the outset regarding

all liberal rights as human rights and insist they should be enforced by the Law of Peoples is to impose upon nonliberal but decent peoples, for reasons they cannot accept, terms of cooperation that are universally at odds with the moral and political views of nearly everyone in that society. There is no justification within the public reason of the Society of Peoples for such measures.³⁵²

This explains why Rawls brings decent hierarchical peoples into his theory in what he calls “the second part of ideal theory,” and not his reasoning un-

³⁵⁰ Rawls, *The Law of Peoples*, 65, n2.

³⁵¹ *Ibid.*, 62.

³⁵² Freeman, “The Law of Peoples, Social Cooperation, Human Rights, and Distributive Justice,” 50.

der the heading “non ideal theory.”³⁵³ The ideal, i.e. principled, toleration of decent non-liberal peoples informs standards of justice within the Society of Peoples. It represents a general counter argument to liberal cosmopolitan arguments that would entail limiting the political autonomy of peoples.³⁵⁴ It is this normative implication that is important in our interpretation of whether or not Rawls views non-liberal political orders as morally justifiable. Rawls in his thinking about global justice takes as a principled *point of departure* the moral value of peoples and their interests in political autonomy in working out what justice can be at the international scope. It is for this reason he should be interpreted as advancing general normative rejection of cosmopolitan theories of global justice that have a starting point in the interests and moral value of individuals and view these interests as taking priority over peoples’ interests in political autonomy.

What is distinct about Rawls’ project in *A Theory of Justice* and *Political Liberalism* is that he is trying to identify the principles on which political institutions must be based if political society is to be justifiable to individual members. However, in his global theory Rawls departs fundamentally from his combined appeal to rational-self interest, reciprocal fairness, and the natural duty of justice in explaining when political authorities are morally legitimate and when citizens have political duties. Instead what is required is that a political order meet a minimalist standard of basic human rights, have a non-arbitrary legal and political system, be governed according these established principles of the political culture, and that it give citizens some outlet for contribution to political discourse.³⁵⁵

These weaker requirements make room for the moral legitimacy of political cultures where, as Rawls says, persons are “not regarded as free and equal citizens, nor as separate individuals deserving equal representation,” while they “can recognize when their moral duties and obligations accord with the people’s common good idea of justice.”³⁵⁶ Having political duties to support a political community’s goals even when these goals do not aim at treating individuals as moral equals is, as we can ascertain from the discussion in the previous chapter, wholly foreign to liberal attempts to justify political authority. Many critics have objected to Rawls’ international theory because of the implications for theories of morality and justice that follow from abandoning individuals as the basic unit of analysis. Although I share many of these concerns, my purpose here is to point out a technical problem that arises in the context of Rawls international theory. The problem is that Rawls’ approach in his international theory reveals that he does not rule out the prospect of a global natural duty of justice to adopt some global form of

³⁵³ Rawls, *The Law of Peoples*, 59, 89.

³⁵⁴ *Ibid.*, 117-18.

³⁵⁵ *Ibid.*, 64-70.

³⁵⁶ *Ibid.*, 71.

political authority *in a way* that can be compelling for those that adopt familiar liberal premises. This is because they way he justifies the moral acceptability of a people's political authority and rejects the moral acceptability of limits to peoples' political autonomy are not compatible with a workable liberal theory for assessing the moral legitimacy of existing or proposed forms of political authority.

The Society of Peoples and existing practice

In explaining what appears to be a drastic shift in Rawls' thinking interpreters of his work increasingly argue that we should think of both his domestic and international theories as based to a significant extent on *existing practice*.³⁵⁷ Coercive political order can only be justified to individuals living in liberal political cultures if they are treated as equals because this is part of the political culture. However, a coercive political order can also be legitimate even though it does not treat individuals equally if the political culture embodies the characteristics of a decent hierarchical society. In the same way principles guiding relations at the global scope must also be based in existing practice so that they can be acceptable to all that are affected by them.

As Wenar explains,

analogously to the liberal domestic case, Rawls must draw on the global public political culture to find ideas that can be acceptable to all.... The ideas that regulate the institutions of global society are concerned primarily with the nature of nations and their proper relations—not with the nature of persons and their proper relations.... There simply is no robust global public political culture which emphasizes that citizens of different countries ought to relate fairly to one another as free and equal within a single scheme of social cooperation.³⁵⁸

We can have political duties to support domestic political orders because within all the political cultures around the world we do find the idea that it is necessary to have some system of political authority in the territories in which peoples reside. We could not have any such duty to create a comparable form of political order at the global scope because 1) at the global scope the political culture is populated by peoples not individuals and 2) from the perspective of peoples the idea of a global form of political authority is not found within their shared political culture. To the contrary what we find in the global political culture is the idea that peoples should be free from coer-

³⁵⁷ See Aaron James, "Constructing Justice for Existing Practice: Rawls and the Status Quo," *Philosophy and Public Affairs* 33, no. 3 (2005), Leif Wenar, "Why Rawls Is Not a Cosmopolitan Egalitarian" in *Rawls's Law of Peoples: A Realistic Utopia?*, ed. Rex Martin and David A. Reidy (Oxford: Blackwell Publishing, 2006).

³⁵⁸ Wenar, "Why Rawls Is Not a Cosmopolitan Egalitarian".

cion from other peoples/states and the notion that decent peoples have morally legitimate political autonomy.

These standards rule out the possibility that political communities could have a duty to enter into a global political project for the sake of some global system of distributive justice. As Freeman notes,

Rawls's rejection of welfarism is integral to his rejection of a global distribution principle. In the domestic case, the end of social justice is not individual welfare, but the freedom and equality of citizens. Similarly, in the international case, the end of the Law of Peoples is not the total welfare of a people. (It is not even the welfare of its least-advantaged individuals, though all individuals' basic needs are to be met so that they can participate in the social and political life of their culture.) The end of the Law of Peoples is equal political autonomy, or 'the freedom and equality of a people as members of the Society of well-ordered Peoples' (cf. LP, 118).³⁵⁹

This is one straightforward way to argue against global natural duties of justice, i.e. the idea that we could have a duty of justice among individuals at the global scope to support the creation of a global form of political authority. For example, what I am proposing in this book is that we have a non-voluntary duty to support a global political project to address the threat of climate change. On this view peoples do not have the moral legitimacy to withhold their support from a global and collective political effort to address the threat of global warming. Following the Rawlsian approach peoples could choose to delegate authority to some global form of governance, but they would still maintain the moral legitimacy to exercise their political autonomy and thus could not have a *duty* to support or to continue to support a global form of political authority.

Rawls does offer a clear way of rejecting the kind of cosmopolitan thesis I advance. However, the Rawlsian argument about what is acceptable within a pluralistic Society of Peoples is also clearly not a liberal way of arguing against the *very possibility* that we could have duties to support the creation of a supranational form of political authority. This is because the appeal to the existing political cultures of illiberal peoples and the Society of Peoples as described above is incompatible with any plausible liberal theory for how to go about justifying or rejecting political order at any scope.

As we have seen, if we genuinely accept a presumption in favour of individuals' freedom from coercion and the moral equality of individuals it is very difficult to show that individuals have political duties to support some existing political order (i.e. that the state enjoys moral legitimacy). Simply asserting that we can have political duties of a certain kind because this is existing practice is not persuasive at all within a liberal theoretical frame-

³⁵⁹ Freeman, "The Law of Peoples, Social Cooperation, Human Rights, and Distributive Justice," 65.

work. This in turn seems to undermine the idea that we can, following liberal premises, look to existing practice in asserting that individuals *could not* have demanding political duties at the global scope. If Rawls' theory about when we can and cannot have demanding duties of justice is to a significant extent based on what is thought to be acceptable within existing political cultures, his position does not seem to give those that adopt liberal premises a convincing justification of political duties within existing political societies or a convincing argument for the claim that individuals could not have political duties to support global forms of political authority. In reply to this argument one might want to suggest that I have misunderstood Rawls' theory. What he proposes is a two staged theory that can be genuinely liberal at the domestic scope but that can also accept illiberal political cultures at the global scope.

First we have the more demanding argument for how to justify the state's moral legitimacy to individuals when theorising about justice in a liberal democratic state. In this kind of political culture one must advance an argument of the kind found in the previous chapter to justify to individuals that they have demanding and non-voluntary political duties within the state they are members of. Second, we move to the global stage where we have a less demanding theory for justifying the moral legitimacy of well-order political communities' self-determination. This is because there is no liberal political culture globally, and in order to advance a theory all can accept we must appeal to what can be shared among various liberal and decent illiberal political cultures. This in turn justifies global principles that will secure the conditions for a plurality of morally legitimate types of political orders based on different peoples' conceptions of the 'good political order.' The problem with this two stage approach is that as soon as we say that we need something more than an appeal to existing practice to establish political duties in liberal political communities we must ask why only individuals that happen to find themselves in such states are owed this more demanding form of justification.

There are two kinds of answers to this question. The first one is to retreat somewhat and to say that in both a liberal state and an illiberal state we are just appealing to existing political cultures in justifying these respective kinds of political order. We are not adding something extra when justifying political duties in the liberal state. What is happening instead is that in the case of the illiberal political culture one can justify political authority if its political institutions are well ordered and respects a notion of basic human rights all decent peoples could agree to. These rights are understood as a right to life, freedom from slavery and slave like conditions, property rights, and a right to formal equality (i.e. formal equality in the sense that similar cases are treated similarly).³⁶⁰ This standard of human rights still allows

³⁶⁰ Rawls, *The Law of Peoples*, 64-70.

room to secure the moral legitimacy of an illiberal state where the distribution of burdens and benefits in the basic structure is not founded on the premise of equal concern for each individual. In a liberal society the political culture does call for treating individuals as equals and that is why the moral legitimacy of the authority exercised by the state and its basic structure are dependent on individuals being treated as moral equals.

This kind of argument does not appear to be available within the confines set out by the basic liberal commitment to the inherent moral equality of each individual. This is because appealing to what is and is not acceptable in a political culture in determining whether or not individuals are owed a certain kind of justification for political order means that when we do justify political authority based on an equal concern for all individuals we are doing so at a more foundational level because that is what existing practice calls for in the culture in question. In the liberal political culture we are not offering an individualistic justification of political order because individuals are in fact moral equals because in other contexts where the political culture is different political order is justified in some other way. The technical point to notice here is that this way of arguing seems to entail a rejection of the liberal premise that all individuals *are in fact* moral equals.

In responding to this problem another kind of answer the Rawlsian could offer is to simply accept the idea of different grounds for justification depending on context as opposed to claiming that it is existing practice that is foundational in all contexts. In liberal states individuals are owed a strong justification based on their universal moral status. Yet a move away from existing practice in this context forces us to ask why the existing global political culture is a trump over any liberal cosmopolitan argument for accepting some set of demanding duties of global justice that would limit the political autonomy of peoples.

A commitment to the idea of universal moral equality between individuals in thinking about political justice at the domestic scope makes it incoherent to simply appeal to a political culture that does not embody principles of equal moral concern in justifying or rejecting various forms of political order in other contexts. This is because viewing some people as being owed concern as moral equals and others as not being owed this kind of equal concern actually amounts to a defence of the inherent moral *inequality* between various types of individuals depending on context or a rejection of the idea there is such a thing as inherent and universal individual moral worth. If this is true it appears that liberals cannot merely point to the fact that supranational forms of political authority are in conflict with what we find in the political culture of the Society of Peoples to rule out the possibility that a global form of political authority could be morally required. The commitment to moral equality in the domestic conception of political justice at least opens up the possibility that a supranational form of political authority could be justifiable on the same grounds that are applied at the domestic scope;

namely that respecting others as our moral equals can generate moral reasons to support the creation of a political order that ought to apply to us.

Many commentators have argued that there is some inherent inconsistency between Rawls' domestic theory of distributive justice and his rejection of egalitarian distributive justice at the global scope. However, at least part of Rawls' argument against the idea of global distributive justice is not internally inconsistent with his domestic theory. Rawls appeals to differences in the ways individuals are associated with each other within a single political community versus relations across political communities in defending his limits to egalitarian distributive justice. The moral status of all individuals can remain constant while the implications of this shared moral status differ depending on how we are associated with each other. This part of the Rawlsian view is what the liberal political conception of justice is founded on. However there does appear to be an internal inconsistency between Rawls' domestic and international theories when it comes to how he justifies the moral legitimacy of political authority.

As we have seen, Rawls offers a principled and not simply a pragmatic justification for the political autonomy of liberal and illiberal political orders, and a principled rejection of cosmopolitan demands of justice that would entail limits to peoples' political autonomy. This position is based on what can be shared among decent liberal and illiberal political cultures in the Society of Peoples. However, in Rawls' domestic theory political order is justified by appealing to the liberal Kantian idea that respecting others as our moral equals can generate a natural duty of justice to enter into or support political society. The point I am making is that one cannot easily shift from an egalitarian justification of political order in one context to some other standard of justification in another context.

To rectify this apparent inconsistency one can of course adopt a theory based on existing practice across the board, but only at the cost of advancing a theory on the moral legitimacy of political authority that cannot be convincing from a liberal perspective. It is not my intention to offer an analysis on the degree to which Rawls' thinking about justice in general is founded in existing practice as opposed to a liberal commitment to the equal moral status of individuals. Nor is my claim that the interests of peoples to self-determination are irrelevant to thinking about global justice. Instead the argument is that a coherent and general liberal argument for the justifiability of political order cannot see peoples interests to self-determination as a point of departure that necessarily rules out the possibility that morally legitimate political authority over some issue can reside at the global scope.

The upshot for the discussion at hand is that *The Law of Peoples* does not offer a general theory on when political authority is and is not justified *founded in moral equality* that could support a normative prohibition against global forms of political authority. Rather, Rawls' anti-cosmopolitanism is based on a view where the value of maintaining the political autonomy of

peoples stands above other goals. Furthermore, the moral legitimacy of decent peoples to autonomy appears to be grounded in existing practice within various kinds of political cultures and existing practice in relations among peoples, not on the equal moral status of individuals. Appealing to the interests of peoples to self-determination is one way to reject any proposal that would call for state sovereignty to be weakened. However it is not the kind of argument that an individualistic liberal theory of justice can appeal to.

The cosmopolitan potential of the political conception of justice

The political conception of justice as it is interpreted by authors like Nagel, Blake and Risse does not see the self-determination of peoples as an end in itself. The interests of peoples do not generate demands of justice that are more important than equal concern for individuals within or among these groups because it is individuals that are owed treatment as ends in themselves. As such, arguments for demanding duties of global distributive or political justice are not rejected at the level of general principle because they would undermine the political autonomy of a plurality of liberal and illiberal political orders. Still, the typical argument following from the political conception of justice is that it is only from within an existing system of coercive political institutions that associative duties of justice arise. Since there is no such global political order there are no demanding duties of justice at the global scope.

Nagel in particular makes it clear how this view upholds individualistic liberal premises. Instead of a prohibition on global forms of political authority the theory only argues that it could not be morally *required* to create global forms of political association that give rise to distributive or political standards of global justice.³⁶¹ However, once one abandons the Rawlsian principled rejection of global political projects that limit peoples' political autonomy it is no longer logical to rule out of hand the possibility of non-voluntary duties to support the creation of new forms of global political order.

On the political conception of justice individuals have a distinct set of rights,

that arise only because we are joined together with certain others in a political society under strong centralized control. It is only from such a system, and from our fellow members through its institutions, that we can claim a right to democracy, equal citizenship, nondiscrimination, equality of opportunity, and

³⁶¹Nagel, "The Problem of Global Justice," 121.

the amelioration through public policy of unfairness in the distribution of social and economic goods.³⁶²

A citizen's claim to these rights entails a corresponding set of demanding political and distributive duties within political society. As we have seen, defending such non-voluntary duties of justice within existing states is dependent on a more general normative justification for 1) the need for political order and 2) individuals' duties to support such orders. Although arguments from rational self-interest and fair reciprocity play an important role in justifying individuals' political duties, the normative underpinnings of the political conception of justice are ultimately based in the argument that it is unreasonable and morally wrong to not accept the institutional conditions other people need to secure collective security, welfare, and the protection of individuals' rights as moral equals.

Recall that Nagel accepts the natural duty of justice at the state level,³⁶³ but says that duties of justice will not arise at the global level unless states voluntarily create a world government or history otherwise takes us down this path.³⁶⁴ He states that,

What creates the link between justice and sovereignty is something common to a wide range of conceptions of justice: they all depend on the coordinated conduct of large numbers of people, which cannot be achieved without law backed up by a monopoly of force.... Without the enabling condition of sovereignty to confer stability on just institutions, individuals however morally motivated can only fall back on a pure aspiration for justice that has no practical expression, apart from the willingness to support just institutions should they become possible. The other-regarding motives that support adherence to just institutions when they exist do not provide clear guidance where the enabling conditions for such institutions do not exist, as seems to be true for the world as a whole.³⁶⁵

The problem with this view on the status of other-regarding moral reasons for action independent of global political institutions is that it is not compatible with the natural duty theory of political duties.

If we have a general natural duty to support the political orders others depend on and the specific problem we face at the global scope is a lack of just institutions that others need, it does not make sense to say that we have no clear guidance on what to do to satisfy our other-regarding motives. Clearly the answer is that we should create the needed political institutions. Our aspiration for justice is not thwarted by the lack of the right kinds of institutions because we are not powerless in their absence. Political order is not just

³⁶² Ibid.: 127.

³⁶³ For further support for my reading of Nagel as supportive of the natural duty of justice see Nagel, *Equality and Partiality*, 33-40.

³⁶⁴ Nagel, "The Problem of Global Justice," 121.

³⁶⁵ Ibid.: 115-16.

something we must relate to and support when it exists, it is also something we can actively create.

Possibly what Nagel intends is that limited supranational forms of political authority are not possible and that the only possible form of global political authority is a global state. Then maybe the “enabling conditions” do not and could never exist, yet as we saw in the introduction the claim that a system of divisibility of sovereignty is impossible does not appear to coincide with empirical evidence. What one has in mind in the case of global warming is a supranational political arrangement that could use policy instruments to create the incentives in markets all over the world for reducing GHG emissions. For example, a global tax or cap and trading system that could create global prices for GHG emissions combined with some credible means of assuring compliance to these policy instruments. Of course the claim is not that such an arrangement would be easy to achieve or even that it is likely, but it does not seem accurate to say that we lack any guidance about what we could do. Still, what might be intended is that there is simply a lack of political will to create the proposed institutional arrangement.

It is not clear what normative implications Nagel could point to following the objection from political will. Let us assume in our case that we do have a clear moral reason to act collectively to address our impact on the climate, but that there is a lack of political will to create a credible supranational arrangement for addressing this threat. In such a situation it is not that our moral motivation lacks a framework through which we could act on principles of justice but rather that we fail in our natural duty of justice to create the appropriate framework. In other words, on a proper understanding of the political conception of justice we can have a duty to build new forms of political order with those with whom we do not currently share such institutions. Given such a duty a lack of political will is a moral failure not something that absolves us for not acting on our moral motivations. This can be true independent of what we consent to and of whether or not the proposed institutional arrangement is a benefit for us in a self-regarding way.

To coherently defend the idea of a natural duty of justice to existing political institutions one must also accept the possibility that there can arise duties to support the creation of just institutions that *ought* to apply to us, even at the global level. Opposed to what is usually argued by those that adopt the political conception of justice we can be ‘morally obliged to expand our moral vulnerabilities,’ or more accurately we can be morally obliged to create new political institutions that match the already expanded scope of our moral responsibilities. In the case of global warming the reasoning for thinking we could be morally obliged in this way are that the threat to human welfare is of the right magnitude to warrant interference of political institutions and that mitigation efforts generate the kind of collective action problems that would warrant such interference at the supranational level. In the next section I add to this the argument that the potential benefits from

action for human welfare supports the conclusion that it would be unreasonable not to at least create the political arrangements through which we could choose to collectively mitigate climate change. This reasoning does not seem to be affected in any way when some individual or political community simply states that they do not consent to having the scope of their duties of justice expanded. The scope of such duties is clearly not simply a matter of choice if we accept the justification of political duties offered in the previous chapter.

Recall that on the political conception of justice it does not really matter that the state we are born into is arbitrary because accepting its authority and duties of justice to fellow members is simply to accept the “conditions of peace and a legal order, with whatever community offers itself.”³⁶⁶ Unplanned and non-voluntary circumstances can generate real associative duties of justice. For the case of climate change we have seen that the only community that can ‘offer itself’ is a global one. Given the kinds of affects we are having on each other globally and the kind of global collective action problems generated by climate change we are associated with each other politically at the global scope even in the absence of political institutions. In other words, should we have moral reasons to do something about global warming we can say that current conditions have generated a non-voluntary natural duty of justice to enter into a global political arrangement that can secure the conditions for meaningful cooperation.

One should note that my argument for a global natural duty of justice is not some new interpretation of the natural duty theory. Kant argues that we have a natural duty to leave the state of nature and enter into political society. The implication of Kant’s natural duty of justice argument is not chiefly about our duties in the state of nature but rather about the reasons individuals have to support political orders they find themselves subject to (at least ones that are just). Rawls uses this same natural duty reasoning in explaining why individuals should accept the demanding duties of justice associated with membership in a specific liberal political community. Rawls like Kant is simply advancing the argument that we have moral reasons to accept certain kinds of political arrangements that apply to us because treating others as our moral equals entails supporting these political institutions.

In moving the natural duty of justice theory to the global scope I am applying the same reasoning. The only difference in the case of global warming is that the political arrangements that ought to apply to us does not yet exist. However, both Kant and Rawls were aware that such situations can arise. Kant shows this in his use of the state of nature image and Rawls shows this in his statement that the natural duty of justice “constrains us to further just arrangements not yet established....”³⁶⁷ The absence of the

³⁶⁶ Ibid.: 133.

³⁶⁷ Rawls, *A Theory of Justice: Revised Edition*, 99.

needed political order does not mean that our natural duty of justice is also absent. We have a natural duty of justice if we have reason to either support or to enter into a political project with others. In the following section I will argue that respecting others as our moral equals does give us reason to at least create the conditions from which we *could* do something about the human impact on our climate.

Two kinds of other-regarding duties

The prospect of duties of distributive justice to future generations is a highly contested issue in political philosophy. The ways in which such duties are normally argued for face several problems when applied to the intergenerational case. There is little opportunity for mutual cooperation between generations except for those generations immediately before and after the current generation. As such, theories of justice that are dependent if not founded on notions of reciprocal fairness have difficulties advancing an argument for duties of justice that stretch several generations into the future. The current generation(s) cannot actively share a coercive political structure with future generations because they do not exist at the same points in time. Even the Humean notion that the circumstances of justice are present where there are conflicts of interest over scarce resources is not obviously relevant. The current generation can be a resource threat to future generations but future generations cannot harm past generations in terms of their access to resources. No mutually actable conflict arises. Furthermore, the very idea that we could harm future generations is thought to be deeply problematic.

What is called the non-identity problem points out that who will be born in the future is dependent on the choices individuals make in previous generations.³⁶⁸ If we choose an unsustainable path the future will be filled with different individuals than if we choose a sustainable path. Thus, those people that will exist if we choose an unsustainable path have no basis on which to claim that *they* have been harmed by our choice. It was just this choice that led to their existence. This problem of establishing that we can harm future generations makes it difficult to use a rights based argument to show that we have duties to future generations. If no matter what we do we cannot harm future generations in what is called ‘the person affecting sense,’ then we cannot violate the rights of individuals in the future.³⁶⁹ A lot of the academic work on the above philosophical problems attempts to modify how we conceive of the circumstances of justice and harm to avoid the counterintuitive

³⁶⁸ Derek Parfit, *Reasons and Persons* (Oxford: Clarendon Press, 1984), 361-63.

³⁶⁹*Ibid.*, 378.

conclusion that we do not have demanding duties to future generations.³⁷⁰ Even given a successful argument demonstrating that we do have duties of distributive justice over many generations there remains a great deal of uncertainty on what such distributive duties amount to in practice. I will not try to give an answer on how extensive our duties to future generations are or address the other philosophical and political debates noted above.

I proceed in a more conservative fashion and avoid basing my argument for global political duties in a controversial assessment of how much we ought to invest in mitigating global warming. In leaving the central substantive debates on intergenerational justice aside the aim is to insure that the reasoning of this work will not stumble at the last stage by adopting a view that the liberal sceptic can easily throw into doubt. The alternative strategy that I will employ is to argue that we can establish a natural duty of justice to support a supranational form of political authority based on 1) the minimalist view that we owe future generations more than no consideration whatsoever and 2) reasonable disagreement over our obligations to future generations.

Future generations

Gardiner explains that the difficult global collective actions problems generated by the threat of global warming provide, “each generation with the cover under which it can seem to be taking the issue seriously.”³⁷¹ The current generation can institute,

weak and largely substanceless global accords...heralding them as great achievements - when really it is simply exploiting its temporal position...all of this can occur without the exploitative generation actually having to acknowledge that this is what it is doing. By avoiding overtly selfish behavior, earlier generations can take advantage of the future without the unpleasantness of admitting it - either to others, or, perhaps more importantly, to itself.

³⁷²

The moral failure in existing attempts to address climate change through weak international accords is not only that we risk giving widespread choices for inaction the appearance of genuine concern. Following my thesis the status quo is a failure to support the kind of global political project that

³⁷⁰ For a review of these debates see Edward Page, *Climate Change, Justice and Future Generations* (Cheltenham: Edward Elgar, 2006). A strong deontological argument against the moral force of the non-identity problem and the suggestion that the availability of a consequentialist resolution to the problem strengthen's consequentialism generally is advanced in Jeffrey Reiman, "Being Fair to Future People: The Non-Identity Problem in the Original Position," *Philosophy & Public Affairs* 35, no. 1 (2007).

³⁷¹ Gardiner, "A Perfect Moral Storm: Climate Change, Intergenerational Ethics and the Problem of Moral Corruption."

³⁷² Ibid.

could result in meaningful mitigation, which in turn is a failure much of any concern for the interests of future people.

We have strong reasons to believe that in the absence of a system of global cooperation in which compliance can be collectively assured we will not be able to achieve the levels of GHG gas reductions prescribed by the IPCC in the timeframe the IPCC claims we have to make these changes. By failing to create a global institutional arrangement that would give us a realistic chance of mitigating climate change we are indirectly ensuring large scale inaction among members of the existing generations. This kind of inaction is a form of strong, if not pure, generational partialism, and this kind of partialism is incompatible with the normative foundations on which the political conception of justice is grounded.

Recall that even though there is said to be a problem of indeterminism in contractualist moral reasoning about how demanding our duties to others are, contractualism does offer compelling arguments for rejecting strong partialism as a basis for determining what we owe to others. We have also seen that on a contractualist theory of justice we can justify demanding other regarding political duties in order to secure the political conditions for human security and welfare. These two features of contractualism applied to the case of global warming do give existing agents clear moral reasons to support my proposal for some form of supranational political authority to address human induced global warming.

Non-support of the institutional conditions through which *we could* act collectively to mitigate global warming means that we are indirectly ensuring that we will not achieve significant levels of mitigation. Thus by taking a stance in opposition to global forms of political authority for addressing this environmental threat one is choosing a course of action that makes it unlikely that the exiting generations can make a significant positive difference to the conditions future generations will experience. The failure to establish or support the institutions that are necessary for meaningful action is a form of partialism for the interests of current generations that is unreasonable on contractualist grounds because it is a failure to incorporate impartial considerations for future people's interests into our actions.

In order to credibly claim that we are making active choices based on assessments of what our moral obligations to future generations are the mitigation option, one of the main policy options, must at least be made available. The threat of global warming is expansive and the prescribed changes in our economies are vast. To do something meaningful within the time frames we have to act requires a fundamental change from current patterns and trajectories of consumption. If we are going to be able to act on our moral convictions under these conditions supranational political structures that can affect current patters of consumption at the global scope will be one of the things we need and we will need to start working towards such structures now.

If we do create the global institutional conditions through which we could make collective decisions on how to react to the threat of global warming it would be more difficult to pursue a policy of polluting now without limit and letting future generations suffer the consequences (i.e. strong partialism). Given a global political arrangement for setting and assuring compliance to public policy on mitigation inaction would require a much more overt policy of endangering the environmental conditions necessary to sustain human welfare in the future. Of course if the egoistic approach dominates future generations will suffer no matter what kind of institutional arrangements we have. Nonetheless, we do it seems owe it to future generations to at least make the option to take on the drastic changes required to address the human impact on our climate politically available.

An important objection to this argument is that I have not established a clear enough picture of what our obligations to future generations are to support a proposal for a global form of political authority. Instead all that I have shown is that we have non-associative humanitarian duties to take into consideration the interests of future generations. This may amount to a duty for individuals and political communities to reduce their GHG emissions, but no political duty follows. This objection misses the significance of the collective action problem involved in mitigating global warming. As we saw in our assessment of Simmons' voluntarist theory of the state, we do not do enough to support the conditions for collective security and welfare simply by not violating others rights or giving them assistance when this is morally required. We must also do our share to underwrite the political institutions that others need to secure human goods.

The objector might now say that this duty to underwrite a supranational political response to the problem of global warming is a humanitarian duty and not a duty of justice. This objection is based on the view that we can keep our non-associative moral duties clearly separated from our associative political duties of justice based on existing institutional arrangements. It is a rejection of my claim that the political conception of justice has cosmopolitan implications under current conditions. However, this objection fails to see how the natural duty of justice is an instance of a general other regarding moral duty that can also be a duty of justice given certain circumstances.

We have a general duty owed to all others not to act in ways that undermine the political orders they depend on for securing collective security, welfare and other pivotal human goods. Within our own state this amounts to an associative political duty to support the political order by obeying state directives and doing one's fair share to support the provision of collective goods. In relation to other states, one's duty not to undermine the political arrangements people need will often mean only that we should not interfere with the proper functioning of other states or similar institutions. Here we might say that we have a humanitarian duty not a political one because we

are not associated with people in other states through shared political institutions.

However, in the case of global warming although we are not currently bound together by shared political institutions we are bound together by a shared collective action problem that requires the creation of shared political institutions. As the natural duty theory of political duties shows it is enough to have such shared collective action problems to generate a natural duty of justice among a certain group of people. The problem of large scale environmental damage and the need for systems of political authority to secure environmental goods is clearly encompassed within the collective goods justification of political authority employed in contractualist thinking. Global warming is a global example of this kind of problem where the group that has moral reasons to create a system of political authority is the world's population. Thus, my interpretation of the political conception of justice as being able to have cosmopolitan implications prior to the existence of global political institutions remains intact.

The argument advanced thus far could be made even stronger by showing not only that we must avoid strong partiality by making the mitigation option available but that the existing generation does in fact have a duty of justice to make large cuts in its GHG emissions. Following a liberal egalitarian notion of justice we should expect that the interests of people living in the future could justify demanding other regarding duties across generations. This is particularly true in the cases of non-renewable resource depletion and the deterioration of environmental goods in ways that will have a large negative impact on conditions that support human welfare and other human goods. However, I will not within the scope of this work be able to defend a more demanding intergenerational theory of justice. As we have seen, this philosophical endeavour is filled with a host of difficult problems and it is not possible to say much that is useful in the space available here. As a consequence a third and important objection to my argument is that I have not established a clear enough picture of what our obligations to future generations are to support such a radical proposal. Yet, even if we accept that there is significant uncertainty and debate over what is morally required of us intergenerationally this reasonable disagreement speaks for not against a global political project.

Contemporaries

The question to ask is who should get to decide if we are going to aggressively pollute the Earth's atmosphere in a way that will impose significant costs on generations far into the future. Here we can identify a second other regarding duty in support of the thesis of this work. The argument is that no single country or group of countries can legitimately undermine efforts to create the conditions necessary for the rest of the world to make choices

about how to deal with the threat of global warming. Imagine a people that resist the demand to support a global political project that would require them to weaken their state's sovereignty. Instead this political society supports a government in their state that makes decisions that best serve their own economic self-interest. This political society appeals to the fact that they do not have anything to gain from cooperating with others in a collective political project. They justify this policy by arguing that they have sovereign authority to decide what kinds of international cooperative efforts they want to participate in. The problem with this is that even though the citizens of this state give their political support to this policy this fact does not give moral legitimacy to their actions and non-cooperative choice. The scope at which the decision was made is illegitimate from the start.

An unwillingness of a people to address the potentially devastating effects they, together with other peoples, can have on the environment cannot be justified to others by appealing to the moral significance of state sovereignty any more than an individual's unwillingness to contribute to a system of collective security in their political society can be justified to others simply by appealing to one's own liberty claims. If we accept the normative justification underlying individuals' non-voluntary duties to the state then we should also accept that individuals have a non-voluntary duty to support the creation of a global political authority (i.e. through their respective states) that does not currently exist but that ought to apply to them. A commitment to the moral equality of our contemporaries requires that we engage in a political project with *all* others, not just those within our own states. Likewise an appeal to 'our society's way of life' or culture cannot be used to justify undermining efforts to protect the environmental conditions on which all human goods are dependent.

Recall that one of the reasons I say that we need a supranational form of political authority and not simply an international arrangement for governance of climate change policy is because I argue that political legitimacy for this problem resides at the global scope. As we saw in Chapter II a difference between a system of international governance and a supranational political authority is that in the former system non-participation and non-support are morally legitimate (e.g. the WTO) while arguing for a global form of political authority amounts to claiming that non-support is morally illegitimate. What makes this non-support illegitimate is in part based on the notion that we have at least some moral obligation to future generations. However, we can now see that the argument for global political authority also entails claiming that political legitimacy among contemporaries for the issue of global warming can only exist that the global scope. One political society or a group of states do not have the moral legitimacy to unilaterally

dictate for the rest of the world's climate future through inaction and non-support of the global political system needed to address this threat.³⁷³

Note that even when some states are reducing their own emissions their refusal to support a global project still amounts to a failure to live up to one's global natural duties of justice. As we saw in the domestic case, not violating others' rights is not sufficient to satisfy our other-regarding duties. This is because in order to secure essential collective goods there must be a political order with authority over the vast majority of individuals within any given territory. Doing our part means accepting a set of non-voluntary and demanding duties of justice because it must be up to the state to dictate when and how individuals contribute to the collective political project if it is to fulfil its function. The same holds in the global warming case. Satisfying our natural duties of justice requires that we accept the authority of a global arrangement because it is this kind of political order we need if we are to adequately address the problem of climate change. Putting one's support behind this global political project is what it means to actually do something about the collective action problems involved in addressing the human impact on our climate.

Summation

I began this chapter by highlighting some problems with Rawls' and Nagel's attempts to rule out the idea that we could have duties of justice to enter into a global political project comparable in demandingness to the state. In particular I argued that their arguments are not compatible with the contractualist natural duty justifications of political order they offer at the domestic scope. Rawls' strategy in *The Laws of Peoples* for justifying the political autonomy of various kinds of peoples is itself foundationally in conflict with the natural duty argument he uses to justify political authority at the domestic scope. In his domestic theory each individual has natural duties of justice to support the political orders others depend on for the protection of their status as moral equals (i.e. equal rights, individual autonomy, goods to secure the former, and fair treatment within such a social order). In his international theory peoples and individuals within these groups have duties to ensure the conditions that allow other peoples to exercise their political autonomy. This move seems to force a shift in Rawls' general theory on the

³⁷³ It is important to note that this claim is still rather limited. I have not shown that it would be legitimate to use coercion in trying to get a non-cooperating state to accept a global political project. I suspect that if we can use coercion to gain such support the forms would have to be rather limited (e.g. some forms of trade sanctions and not military force), but I leave this issue aside. What the argument advanced in this book aims to show is that it would be morally wrong to not accept the kind of global political project I propose.

sources of political duties at any scope that is not easily made compatible with basic liberal premises.

It is not only that liberal and decent political societies are bound by justice to respect peoples' interests in political autonomy and that a political community and its members cannot have duties of justice to support global forms of political authority that would limit this autonomy. Following the logic of Rawls' international theory, in some political orders social hierarchy and the interests of the community in maintaining such structures can be an acceptable part of the justification offered to individuals for the demands of membership in their political society. What I have highlighted is that this *principled* argument for the justifiability of decent illiberal peoples' political autonomy does not only have implications for the foreign policy of liberal peoples in relation to illiberal ones.

A general theoretical view on when political authority can be justifiable to individuals also follows from Rawls' argument in *The Law of Peoples*. This is that the source of legitimacy for political authority is actually found within the existing political culture as long as it satisfies basic human rights. In the same way the moral legitimacy/necessity of the kind of global political authority I propose can be denied following Rawls argument. This is because my proposal lacks support in the political culture Rawls claims is the relevant one to examine in considering relations at the global scope, namely the Society of Peoples. Those committed to basic liberal premises cannot avail themselves of this strategy to rule out the applicability of the natural duty of justice theory between individuals at the global scope for two reasons.

First, Rawls justification of political order in his international theory is not grounded in the individualistic natural duty argument outlined in Chapter IV. Furthermore, the alternative he offers is foreign to general liberal theorising on what the source of a political order's moral legitimacy can be. Second, liberals have no reason to always depart from the premise that it is the existing political culture of the Society of Peoples that is the source of moral legitimacy for relations at the global. This may be the case for some issues, but if we take individuals to be the basic unit of concern we must allow for the possibility that conditions can also arise where the interests of peoples to political autonomy lack moral legitimacy.

Nagel does not rest his anti-cosmopolitan argument on the interests of peoples to political autonomy. Instead he argues that individuals have demanding duties of justice within certain kinds of institutionally tangible political associations (i.e. existing states). At the same time he argues that members of a political community cannot have moral duties to enter into new global political arrangements that would broaden the scope of their duties of justice. The problem with this argument is that the associative justification offered to individuals for their political duties to support the state does not allow for such a prohibition. Following the political conception of justice the existing political boundaries of states are arbitrary but their authority can

be justifiable because these political orders are necessary to secure essential human goods. Following such a justification one must at least allow for the possibility that when existing political boundaries fail to secure essential human goods and a global form of political association is necessary the political conception of justice can call for the institution of a global form of political authority.

The remainder of the chapter defended that claim that although there is not currently a global form of political authority to coordinate public policy on the threat of climate change the political conception of justice still entails a duty of justice to support the creation of such an arrangement. This was shown by demonstrating the normative significance of the parallel between the way in which non-voluntary duties of justice are defended at the domestic scope and existing conditions in relation to the threat of global warming. We have good reason to believe that we need a global form of political authority if we are to overcome the collective action problems that make mitigation of global warming currently so difficult to achieve. In addition to this empirical expectation we also would be failing to treat others as moral equals if we did not support such a global political effort.

I have appealed to two ways in which existing agents fail to treat others as moral equals by not supporting the kind of global political project I have proposed. First, by not supporting a global political response to the threat of global warming existing agents would be failing to create the institutional conditions through which it would be possible to achieve significant levels of global warming mitigation. If we do not create the institutional conditions through which we could mitigate global warming we will not even have made the preliminary effort to make the choice to act on the interests of future generations available. As such non-support for global political authority in the climate change case indirectly represents unreasonably strong partialism for the interests of existing agents and a failure to be moved by the interests of future generations to any meaningful degree. Second, non-support for a global cooperative political project to develop and implement public policy on climate change is a failure to treat our contemporaries as moral equals. This is because political legitimacy on how the current generation should respond to the threat of global warming already resides at that the global scope. Given the nature of the global collective action problems we now face, non-support on the part of individual political communities have the character of attempts to dictate to the rest the world a course of action for the existing generation as a whole. What we ought to do is not a decision any single state or group of states can legitimately make for the world as a whole. As such respecting our contemporaries as moral equals requires that we engage in a collective political project with all others not just those we happen to share a state with.

In closing we can note that I have not addressed how the global political project I propose will be designed institutionally or the more familiar dis-

tributive debates about how the costs for mitigating climate change should be distributed between richer and poorer states. As such I have not said very much about what global justice demands in the case of global warming, choosing instead to focus almost exclusively on defending the preliminary claim that we do in fact have a duty to engage with each others in a thick political relationship to address this problem. I will not address more detailed issues of political and distributive justice here except to note that once a supranational form of political authority is in place this political institution will, like any other form of political authority, need to be justifiable to those that are subject to it. Thus, we should expect that there will be reason to recommend standards of political justice that, if not genuinely democratic in character, do meet some standard of fair representation and standards of distributive justice based on the fair allocation of burdens in implementing emissions reductions, should we happen to choose this policy.

Chapter VI

Conclusion

This work began with the argument that global warming has bound us together world wide in a morally distinct way. Given the nature of the threat to human welfare from climate change and the difficulties in achieving major reductions in total global GHG emissions within voluntary or weakly enforced international agreements a normative and political question is raised. Ought we to diminish state sovereignty so as to create the institutional conditions through which we could adequately address this shared threat? Given an accurate empirical assessment of the collective action problems involved in any meaningful effort to mitigate global warming, a proposal for a supra-national form of political authority can quite readily be adopted by many cosmopolitan thinkers.

If one begins with the view that existing political borders have little or at least not decisive moral significance, the prospect that global problems can give rise to demanding duties of global *political* justice is not difficult to accept. However, one of the central purposes of this project was to show that in the case of global warming this type of reasoning should also be compelling for anti-cosmopolitan liberals that do see existing political borders as the central determinate of the scope of justice (e.g. Rawls and Nagel). The aim was to show that on a liberal normative framework shared by both cosmopolitans and anti-cosmopolitans global environmental problems can give rise to demanding duties of justice comparable to those we associate with membership in a state.

The first stage in this project was to place the specific case of global warming within broader debates over the problem of global justice, especially in liberal political thought. In Chapter II ‘the political conception of justice’ was argued to be the most important form of anti-cosmopolitanism to address in defending the view that following liberal premises global environmental problems can give rise demanding duties of global justice. This is because the basic premises of the political conceptions of justice are closely shared with those adopted by liberal cosmopolitans. The political conception of justice is effectively individualistic in its approach to the problem of global justice while it nonetheless convincingly argues that under current

conditions demanding duties of justice are limited by the scope of existing political orders. Those that advance the political conception of justice can accept the cosmopolitan idea that we are part of a global moral community, or more precisely the claim that individuals have moral duties that they owe to all other individuals irrespective of culture or nationality. However, such moral duties do not give rise to demanding duties of egalitarian justice independent of coercive forms of political association such as states. It is only within these kinds of political arrangements that we find legitimate claims of political and distributive justice between individuals.

In using the case of global warming to try and bridge the gap between liberal cosmopolitans and liberal anti-cosmopolitans I have not advanced the more familiar cosmopolitan claim that thick political interconnectedness should not be given the kind of normative significance may liberals regularly attribute to such relations (nor do I reject such reasoning). Instead I propose that we can sometimes be strongly politically interconnected even when we do not currently share in an existing political order. We can be politically interconnected in a way that is relevant for a theory of justice not only when we have duties to support a political order as members but also when we have duties to support the creation of political arrangements that ought to apply to us. Individuals can have what Rawls call a 'natural duty of justice' to support both existing states and new global forms of political authority. If we have such a duty to create a supranational form of political authority that could facilitate collective action to address the threat of climate change, then we have demanding duties of global justice under current conditions.

In Chapter II I identified a set of necessary tasks to successfully defend the view that even following the political conception of justice the problem of global warming has expanded the scope of our demanding duties of justice. The objective was to identify what would amount to a satisfactory justification to individuals that they have political duties among some group of people. Broadly such a justification must 1) show that providing or securing some set of essential collective goods is only achievable from within a system of coercive political institutions, and 2) provide a justification to individuals explaining why *they* have obligations or duties to support some *specific* political arrangement of this kind. In Chapter III I addressed the first task and argued that there is a morally relevant parallel between the collective goods justification of the state widely adopted in liberal political thought and the cooperative challenges involved in any effort to mitigate global warming.

Global warming is a threat to human welfare of a magnitude that at least makes the prospect of using coercive political institutions to address the problem not immediately objectionable on the grounds of individuals' liberty claims. At the domestic scope the protection of the environment is one aspect of collective security that is widely pointed to in justifying the need for the state. For the case of climate change anti-cosmopolitan liberals would

certainly not object to the idea that states can legitimately use their political authority to implement public policy on this problem within their respective territories. They would also not object to states entering into international agreements with other states. However, I have argued that it is not realistic to expect the individual states' domestic policies and weakly enforced international agreements will be enough to avoid dangerous levels of global warming. This is because individuals, industries, markets, states and the current generation as a whole all have self-interested reasons for avoiding taking on the direct costs involved in drastically reducing GHG emissions and the indirect costs of compelling participants in international agreements to satisfy commitments.

Based on my review and interpretation of current research on the international political economy of global warming mitigation there is good reason to predict that states will not achieve the levels of GHG emissions reductions the IPCC claims are necessary in the time frame set out by the IPCC through agreements like the Kyoto Protocol. This research also points to the conclusion that if we are to have a genuine chance at affecting the levels of market and social change needed to achieve the IPCC's emissions goals over the next twenty to forty years we will need to use policies that generate costs at the global scope for GHG emissions. In order to implement an efficient strategy along these lines what is required are global prices on GHG emissions, and this would in turn require a globally coordinated set of political policies for generating such prices. Any globally coordinated, efficient, and credibly enforced system for putting prices on these kinds of environmental externalities amounts to a supranational system of political authority that changes the authority structures of existing states. The claim that we need a global form of political authority to adequately address the threat of global warming is then, I argue, what one of the central and most compelling perspectives on the international political economy of climate change amounts to.

The empirical assessment above is of course controversial and it may turn out that states will be able to achieve significant levels of mitigation unilaterally and through international agreements like the Kyoto protocol. Still, it is important to work out the normative implications that follow from what existing research is indicating, and this is the way this book should be interpreted. Thus, if we take the empirical assessment above to be at the very least convincing the first necessary task identified in this work for justifying demanding global political duties in the case of global warming is satisfied. Once we make this move it must be further noted that policy proposals from economists and international relations theorists that do think global warming mitigation generates a public goods type collective action problem do not often argue for supranational political solutions. The reasons for this is that within international political economy and international relations it is often taken as a given that supranational arrangements that entail changes in the

authority structures of existing states are not politically feasible under current conditions. This position is certainly based on an accurate account of current conditions, but in normative analysis the lack of political will does not obviously limit the kinds of prescriptions that should be investigated.

Within the context of the global justice literature asking whether or not global warming generates demanding duties of justice to support a new global political project to address this threat is exactly the kind of question that is of principal interest. Furthermore, the lack of political will does not undermine the relevance of general normative theorising. If the implication of some form of global interconnectedness is that we have demanding duties of justice at the global scope, the lack of political will indicates a problem of moral failure and not an analytical failure in the normative theory. Of course this does not mean that question of political will is irrelevant to normative prescriptions.

A lack of will may have implications for what one can reasonably expect from various agents when they are operating in conditions in which political action does not seem likely. I have chosen to leave these types of questions aside and to focus instead on the more basic claim that the problem global warming has generated clear moral reasons to support a global political solution. This is what I take to be the most preliminary normative question with regards to what justice demands at the global scope in the case of global warming. Moreover, this limited focus does not mean that the study is only academically significant in relation to prescriptive arguments. As the scale of both the impacts of climate change and the changes need to respond to this problem become increasingly clear we may also see large shifts in political will.

Still a justification of the kinds of global political duties I argue for cannot simply rest on the claim that taking decisive action to address the threat of global warming would require a supranational political arrangement that could credibly coordinate policy and compliance. What kind of normative justification can be offered for the proposal that we ought to support this kind of global political project? A commitment to the liberal presumption that individuals should as far as is possible be free from coercion means that individuals are owed a justification on the basis of moral equality for the demands involved in coercive political arrangements. On the political conception of justice a new global project to address the threat of climate change could be justifiable if people through their respective states consented to such an arrangement. However, I advanced the stronger argument that we do now have a duty to support such a political project. The claim I make amounts to the view that we have a non-voluntary duty of justice to support the proposed political project. In other words, the source of the duty is not founded in agreements we make but in moral commitments we already have.

The notion of non-voluntary political duties is acceptable among liberals that defend the moral legitimacy of minimally just states in their existing

forms because states as we know them are in important respects non-voluntary arrangements from the perspective of individual subjects. Yet the reasoning typically advanced to defend state level political duties is not easily applied to the case of global warming. Liberal justifications of political duties are usually grounded in notions of fair reciprocity among those that benefit and depend on the state in various ways. In the case of global warming mitigation efforts will largely benefit future generations, and this in turn tends to undermine a justification of global political duties based in fair reciprocity for this case. On the political conception of justice it is argued that demanding global duties of justice will only arise if people consent to such demands or if we find ourselves subject to global forms or political authority that give rise to legitimate claims of justice on the basis of fair reciprocity. Because appeals to consent and fair reciprocity are generally the most common ways in which liberals have justified political obligations/duties, the notion that we have non-voluntary duties of global justice to support an as yet non-existent collective political response to climate change can seem implausible.

What I have tried to highlight is that the justification of non-voluntary political duties within the state is not foundationally based in consent or fair reciprocity following the theories advanced by liberal anti-cosmopolitans like Rawls and Nagel. Instead these theorists rightly point to a duty to support the political institutions others depend on as the foundational source of each individual's political duties within the state. The question then becomes why can there be non-voluntary and other-regarding political duties within the state but there could not be a non-voluntary duty to support the creation of an institutional arrangement that would expand the scope of justice? Both Rawls and Nagel advance the view that individuals have domestic natural duties of justice while they rule out the possibility that individuals could under current conditions have similar global natural duties of justice (although for partially different reasons).

I have argued that following the premises adopted in the political conception of justice one cannot limit the scope of egalitarian justice to within existing political orders. In other words, it is not the case that global demands for political or distributive justice can only arise if states or peoples consent to them or if there is an existing global political order that gives rise to demands of fair reciprocity. Appeals to consent and fair reciprocity are not sufficient to rule out the prospect of a global natural duty of justice under current conditions. My defence of this argument has proceeded in two separate chapters.

In Chapter IV I defended the natural duty approach generally against objections from alternative theories based in consent and reciprocity. One of the purposes of this discussion was to weaken the plausibility of general liberal scepticism towards global justice that follows from such alternative theories on the source of political duties. To this end I strategically identified

what I take to be convincing contemporary consent based and fair reciprocity based theories, Simmons's philosophical anarchism and Klosko's theory of presumptive benefits. Here we have seen that neither of these approaches undercut the natural duty theory of political duties.

Philosophical anarchism amounts to an acceptance of the liberal collective goods justification of the need for the state but a denial of the notion that states are necessarily non-voluntary. As we have seen, the fact that not all residents of a territory need to have political duties or be members within the state for it to fulfil its function clearly does not mean, as Simmons claims, that political order could be based on a set of genuinely consensual relations within a given territory. Simmons' move from the former fact to the later conclusion is not compelling and appears to be based on a misunderstanding of the collective goods justification for the state. In a genuinely consensual state where individuals have the moral authority to dictate to the political community whether or not they want to support or to continue to support all or some aspects of the collective political project the state will not be able to provide collective goods in a satisfactory manor. At least this is so if one accepts the collective goods justification for the need of political order, which Simmons appears to do.

Given that Simmons rejects theories based in the principle of fairness while he does accept the claim that we have moral duties not to undermine the political conditions others need to secure essential collective goods, he appears to be forced to adopt a natural duty view on political duties. At any rate, the choice he appears to be left with is to either reject the collective goods justification for political order or to accept the idea of an other-regarding duty of justice to support political society because *at the very least* others need it. The former is an example of strict anarchism while the later is the natural duty theory of political duties.

Fair reciprocity plays a central role in justifying to individuals the demanding political and distributive duties associated with membership in political society. Yet we have seen that fair reciprocity is not enough to justify to individuals the range of political duties they must accept over the course of their lives. Individuals will regularly not relate to the benefits of political society in a way that can generate a reciprocal duty. Klosko's presumptive benefits theory is an attempt to show that even when we do not actively accept some set of state benefits we do have a duty of fairness to obey and support the state. This is thought to be the case when the state is providing us with benefits that from an objective perspective any person needs to lead a decent life, at least for long periods over the course of their lives. I showed how the practice of presuming benefit does not end up in the highly paternalistic principle that we ought to do what is in our own rational self-interest. Instead this approach amounts to the insistence that individual claims to exemptions from the demands of justice within the state must meet a certain burden of proof in relation to political society.

An individual must be able show that they do not benefit from society in a morally relevant way and that their exception from some political duty will not in practice or at the level of general application of such a principle undermine state provision of the full range of collective goods that are thought to be needed by the vast majority of people. It is this type of other-regarding consideration that justifies to individuals that the state can *presume* that each individual benefits from political society and can legitimately expect support from individual residents, e.g. by paying taxes and obeying laws. The state must have the authority to make these kinds of presumptions and to place the burden of proof on individual subjects to show otherwise if it is going to be able to fulfil its functions. A policy of putting the burden of proof on the state to demonstrate that each individual in each context benefits in a morally relevant way from the state or that their support is needed for the provision of collective goods would secure the conditions that make free-riding likely. This in turn could undermine the ability of political society to provide essential collective goods in a morally satisfactory way. Thus, on a closer reading we can see that Klosko actually appeals to various types of other-regarding reasons to accept the authority of the state as described above. The upshot is that it is natural duty and not fairness the lies *at the foundation* of Klosko's presumptive benefits theory.

The way I have rejected justifications of political duties based on consent and fairness follow the standard approach adopted by advocates of the natural duty theory of political duties. However, I have identified features of the natural duty theory that significantly strengthen the plausibility of this view in comparison to how it has traditionally been defended. On the problem of demandingness I have shown that caveats about natural duties being weak duties are based on a misunderstanding of contractualism. Contractualism as a theory of moral duties does not generally rule out demanding duties but rather rejects duties that are as demanding as those required by a strictly consequentialist theory of justice. This means that the liberal contractualist argument for the natural duty of justice is not incoherent because political duties are demanding. I also offered an interpretation of the natural duty of justice that better addresses the problem of particularity, which has typically been the weakest aspect of the natural duty approach.

Conventionally the appeal to natural duty has been used to explain why we are strongly tied to others within our own state in a system of justice while we are only tied to outsiders by general moral considerations we owe to any individual. However, natural duties are general moral duties we owe to all individuals and it is unclear why we should be so tightly bound to those with whom we happen to share a state. This criticism is well founded, but I show that from a liberal perspective we do not have reason to insist that our natural duties of justice should tie us tightly to one state and its citizens.

At the state level residents' natural duties of justice arise to a significant degree because of the way others are dependent on the proper functioning of

this institutional arrangement. Yet changes in the way we are associated with others can also change the scope of our natural duties of justice. In the case of global warming they arise due to the kinds of effects we are having on each other at the global scope and the challenges involved in addressing these effects. In both cases our natural duties lead to a requirement that we support coercive political institutions. As such, there is now a clear way for the natural duty theorists to address the problem of particularity. We are only weakly tied to the state in which we reside and as conditions change so can the political implications of our natural duties to others. This view coincides much better with the liberal premise that individuals must be the basic unit of analysis in a theory of justice.

Having highlighted how the political conception of justice is committed to the natural duty theory of political duties and what such an approach amounts to in relation to notions of consent or fair reciprocity I moved back to the problem of global justice in Chapter V. There I first argued that those that hold the political conception of justice cannot simply rule out the possibility that we could have duties to support the creation of new forms of political order at the global scope. The justification offered by theorists like Rawls and Nagel for why individuals should accept political duties within a state makes it difficult for them to deny that individuals could also have duties to support other forms of political authority. When the reasons for thinking we should have a state in the first place arise beyond the current scope of states our general natural duty of justice can generate a political duty to support some new political arrangement over state borders. At a normative level this is true if one advances an individualistic interpretation of our natural duties of justice.

On such an interpretation we have a duty to support the political institutions others need and we owe this duty to all others, including those outside of our own state. Within our own state a natural duty of justice gives us a reason to accept demanding political and distributive standards of justice and to view these standards as applying to us. On top of this, having a natural duty of justice to all others will entail that we not attempt to undermine the proper functioning of institutions in other political communities. We may sometimes also have a moral duty to assist a society that has failed political institutions. However, when we are faced with conditions at the global scope that threaten collective wellbeing and a supranational political arrangement is needed to adequately address this insecurity the natural duty of justice can call for more.

On the individualistic interpretation of this duty we ought to collectively create the supranational political arrangements needed to secure human welfare. This is an individualistic interpretation in the sense that we do not see those with whom we share a state as inherently more morally important than other individuals outside of our community. As such our natural duty to support political orders others need is not in principle stronger among some set

of people, although the practical implications can be more demanding for us within some demarcated group. However, when the practical implications of our general natural duty of justice call for supranational political arrangements each individual ought to support such collective efforts. Even if we do not value such a political project ourselves the natural duty of justice instructs us to support it when we have determinative others-regarding reasons to do so.

It is true that Rawls avoids this conclusion by adopting an international theory where it is peoples' and their interests in political autonomy that determines the normative content of legitimate political relations over existing political borders. However, as we have seen this move actually forces a shift in Rawls' general theory on the sources of political duties at any scope. In his international theory Rawls' justifies the moral legitimacy of all decent peoples' political autonomy (i.e. both liberal and illiberal peoples) by appealing to what is acceptable in the existing political cultures of such states and the political culture of the Society of Peoples. Likewise, it is the primary concern of peoples for their political autonomy that rules out the kind of cosmopolitan theory I advance in this book. However, Rawls' strategy does not appear to be one that liberals can use to rule out the very possibility that we could have a global natural duty of justice.

Rawls' appeals to existing practice and the interests of peoples are unlike any of the standard approaches for justifying political order in liberal political thought. They are also incompatible with Rawls' own individualistic natural duty of justice theory that he offers in *The Law of Peoples*. It is not only that liberals must be sceptical to the way in which the interests of illiberal political cultures to autonomy seem to take priority over the standard of equal moral concern for individuals in Rawls defence of the moral legitimacy of decent peoples. Because basic liberal premises call for us to see individuals as the most relevant unit of concern in working out what justice demands, liberals do not have good reasons to *always* depart from the premise that it is the exiting political culture of the Society of Peoples that is the source of moral legitimacy for relations at the global. The interests of peoples to political autonomy can of course have real normative weight in a liberal theory of justice at the global scope. Still, if we take individuals to be the basic unit of concern we must allow for the possibility that conditions can also arise where the interests of peoples to political autonomy lack moral legitimacy.

Having shown that the liberal political conception of justice is theoretically open to the possibility that individuals could have duties to support the creation of political institutions that do not yet exist but ought to apply to them, I moved on to the specific question of what our natural duties of justice call for in the case of global warming. Do we have clear grounds to support the implementation of a credible global system for coordinating and enforcing mitigation policies? Do existing individuals have clear moral rea-

sons to accept a set of political duties within such a system? Based on the liberal commitment to each individual's moral worth there seems to be a strong case for the view that we owe it to future generations to significantly reduce our GHG emissions. Even if these actions are costly for us the costs are not excessive and it seems wrong to seriously harm the environmental conditions humanity depends on.

It was noted in Chapter V that there are several difficulties in trying to apply notions of harm and distributive justice across generations. It also remains relatively unclear how extensive our duties of justice to future generations could be from within a liberal framework. For these reasons I proceeded in a more conservative fashion and avoided basing my argument for a global natural duty of justice in a specific assessment of the extent of our duties to future generations. The alternative strategy that I employed was to argue that we can establish a natural duty of justice based on the minimalist view that we owe future generations more than no consideration whatsoever.

The argument proceeded as follows. First, there is a normatively relevant empirical parallel in the climate change case to the collective goods justification of the state. This is that we have good reason to believe that a global form of political authority is needed if we are to overcome the collective action problems that make mitigation of global warming currently so difficult to achieve. Second, there is a moral parallel to the way in which one can defend the idea that individuals have political duties within the state and the global form of political authority I have proposed; namely that we would be failing to treat others as moral equals if we did not support such a global political effort.

It is only by supporting a global political response to the threat of global warming that existing agents can create the institutional conditions through which it would be possible to achieve significant levels of global warming mitigation. If the existing generation does not create the institutional conditions that we expect are necessary to achieve meaningful levels of mitigation it is also choosing not to even make the choice to act on the interests of future generations available. As such non-support for global political authority in the climate change case indirectly represents unreasonably strong partialism for the interests of existing agents and a failure to be moved by the interests of future generations to any meaningful degree.

By adopting this minimalistic strategy in relation to duties to future generations I have increased the likelihood that the argument advanced can secure broad acceptance among liberals. This is because most if not all liberal approaches share with the political conception of justice and contractualism generally a rejection of strong partialism. However, some might find the rejection of partiality to be too weak of a moral standard to motivate the proposed institutional arrangements. Here we can point to a second compelling other-regarding reason for action; namely treating our contemporaries as moral equals.

A global cooperative political project to develop and implement public policy on climate change is also necessary if existing agents want to credibly claim that they are treating their contemporaries as moral equals. I have based this claim on the argument that political legitimacy for decisions on how the current generation should respond to the threat of global warming already resides at that the global scope. In other words, because a global cooperative response is necessary to achieve meaningful levels of mitigation non-support on the part of individual political communities for such a global political project amounts to an attempt to dictate to the rest the world a course of action for the existing generation as a whole. Choices about how much consideration we should give future generations is not something any single state or group of states can legitimately make for the world as a whole. Respecting our contemporaries as moral equals requires that we make choices about the planet's climate future with all others not just those we happen to share a state with.

We have seen that at the level of general principle the political conception of justice cannot rule out the possibility that we could have demanding duties of justice to support the creation of new political forms of a association that ought to apply to us. In the case of climate change this natural duty of justice does appear to be activated by other regarding reasons for action we currently have. A political community and its individual members cannot morally justify non-support for a global political effort by arguing that political communities in general have sovereign authority to decide what kinds of international cooperative efforts they want to participate in. Nor can they morally justify their non-support by arguing that such arrangements do not benefit them and that they are not bound by any duties of fair reciprocity. An unwillingness to address the potentially devastating effects we can collectively have on the environment cannot be justified by appealing to the moral significance of state sovereignty or a peoples' self-regarding interests any more than an individual's unwillingness to contribute to a system of collective security in their political society can be justified simply by appealing to one's own liberty claims or self-interest. We cannot simply appeal to standards of consent and reciprocity to dictate to others the scope of our duties of justice.

It is worth re-emphasising the considerable difference in the interpretation I have presented of what our natural duties of justice are in defending the notion of *a cosmopolitan political conception of justice*. The natural duty theory of political duties has often been characterised as an appeal to weak duties so as to tie individuals tightly to states they happen to be born into. The arguments against this approach have been 1) that such a weak duty cannot justify the demanding duties of political and distributive justice we associated with membership in a state and 2) that because of the universal character of our natural duties there is not a compelling reason for why the scope of our demanding duties of justice should be limited to compatriots. I

have shown that the natural duty theory properly understood does not necessarily only make weak demands on individuals nor does it tie us tightly in terms of justice to those we share a state with to the exclusion of outsiders.

This brings us back to one of the original aims of this work. Despite clear resistance within liberal political thought to the idea of global justice, a focus on our global environmental interconnectedness makes it apparent that liberals cannot simply accept existing political boundaries as benchmarks for the scope of our demanding duties of justice. Liberal anti-cosmopolitans do give compelling arguments for why existing political borders have genuine normative significance in demarcating our duties of justice from the general moral duties we owe to all others. Yet, even if we go some way to accepting such reasoning it is still the case that we can also be bound up politically with others even in the absence of political institutions. Our natural duties to support the political arrangements others depend on will often only have moral implications such as not to undermine the states people outside of our own political community depend on. However the same natural duty can become a duty of justice that has demanding political and distributive implications given certain forms of human interconnectedness.

Before ending this work the reader should note that there are clearly many limitations in this study. I will identify just a few that I take to be of central importance. Most importantly my substantive argument in relation to global warming could prove to be false based on any number of empirical errors on what kind of a problem global warming really is. Increasingly it appears very unlikely that we will discover that humans are not in fact causing global warming and thus cannot mitigate further warming by reducing GHG emissions. A more likely development may be technological advances that drastically improve capacities for mitigation or adaptation and that fundamentally change the collective action problems involved in providing the good of stabilising existing warming trends or adaptation to them. Alternatively the impacts from global warming might prove not to be as serious as predicted or existing capacities for adaptation around the world could prove to be better than expected. Finally, the research on the international political economy that I rely on in Chapter III could prove to be overly pessimistic on the prospects for cooperation to address the threat of global warming given current conditions.

As I have already noted this work has not attempted to offer an independent empirical analysis on these matters. Instead I depart from what I take to be one of the central views in economic and political research on global cooperation over mitigation strategies. The point was then to work out the normative implications that follow from this research. However, the kind of normative questions I address would certainly benefit from looking at a broader range of empirical analysis. Another weakness along the same lines is that I have not examined in any detail the prospects for agreement over

supranational forms of political authority or the potential designs of such supranational political institutions.

One would expect some focus on both and maybe more so on the later issue given the kind of normative analysis I advance. Considerations of what such institutions must be like in terms of distributive justice and enforcement to be considered fair are central to reasoning about both the prospects for agreement and about the normative desirability of such arrangements. However, I have chosen to examine what I take to be one of the most preliminary questions to address in thinking about global warming and global justice. Namely, whether or not it makes sense at all to suggest that we have demanding duties of global justice in this case. Focusing on such a preliminary question is important because, as we have seen, many dominant liberal egalitarian theories of justice still deny that increasing global interconnectedness has given rise to demanding duties of global justice.

Finally, I have not addressed the substantive issue of intergenerational justice directly except to argue that we have more than no duties whatsoever to future generations. More work on the problem of intergenerational justice would certainly have strengthened the final stage of the argument advanced in this book. This is especially true given the fact there remains a clear dissimilarity between the justification of political duties within the state and the justification of global political duties in the case of global warming. In the domestic case I argued that the natural duty of justice was foundational, but also that it was part of a package of reasons for supporting the state that included self-interest and fair reciprocity. In the global warming case I relied largely on an other-regarding natural duty of justice to justify to individuals that they have political duties to support a global political response to this threat. It is the rejection of strong partialism that does much of the work in justifying political duties in my argument. This may be viewed as too weak of a justification and could be complemented by a more demanding view on what our obligations to future generations are.

In closing it is also worth noting how the results from this work may be used in relation to other areas of normative analysis on the problem of global justice. In showing that we can have very demanding associative duties of justice independent of existing institutional arrangements and irrespective of the nature of current cooperation, this work is potentially relevant to more familiar debates over global economic justice. As we have seen, debates between cosmopolitans and anti-cosmopolitans over the prospect of global economic justice have focused extensively on questions about the moral significance of the existing global basic structure. They ask if current patterns of global economic relations are extensive enough to claim that we share in a global economic project where the demands of social justice pertain.

The idea of a global natural duty of justice emphasises that the effects we do or can have on each other at the global scope are at least as important. What kinds of collective action problems do we face and where do we have

reason to locate political legitimacy (i.e. domestically, regionally or globally)? Existing institutions, conventions and cooperation may not, on their own, be the kinds of conditions in which demanding duties of justice are owed to others. Thus principles of fair treatment and concern for the moral value of others may not give rise to egalitarian standards of justice in the relationships and institutions we find at the global scope. However, even if we accept that global standards of fairness and equal concern are distinct from the demanding duties of justice that are owed in the state it may also be the case that we cannot achieve even these less demanding global standards within the context of existing global institutions and arrangements. If this is the case we may have a duty to create the institutional conditions at the global scope through which it would be possible to treat others fairly even if these new institutional conditions lead to legitimate calls for distributive and political justice.

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