

CLIMATE CHANGE, HISTORICAL EMISSIONS, AND UNJUST BENEFITS: A COMMENT ON AXEL GOSSERIES'S ACCOUNT OF CLIMATE JUSTICE

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One of the claims Axel Gosseries makes in *What Is Intergenerational Justice?* (2023) is that greenhouse gas emissions produced before 1990 are morally unimportant for present climate duties. This article challenges that claim by drawing on the idea that present people may have special duties to combat climate change in virtue of benefiting from past emissions.

Keywords: Climate change, climate justice, historical emissions, intergenerational justice

Axel Gosseries's book *What Is Intergenerational Justice?* (2023) offers a concise and tightly argued overview of the vexing issues intergenerational justice raises, particularly when we are dealing with nonoverlapping birth cohorts. Even though the book is arguably more interested in surveying the terrain than in defending a specific set of answers, it is in many ways quite original, reflecting the depth and distinctiveness of Gosseries's decades-long work in the area. In this article, I will engage with Gosseries's account of climate justice, which is found in chapter 4. As these things tend to go, my discussion will be mostly critical, so I want to begin by conveying my strong recommendation of the book to anyone who wishes to learn more about intergenerational justice or climate justice. It is an ideal introduction for those who wish to learn about the topic for the first time but also a rewarding read for well-acquainted readers.

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Gosseries on Climate Justice

Chapter 4 of *What Is Intergenerational Justice?* is devoted to climate justice. Gosseries tackles four questions: the role of historical emissions, the setting of temperature or greenhouse gas (GHG) concentration targets, the intergenerational fairness of taking burdens now when benefits will be reaped later, and the social discount rate. I shall focus on the first question, about historical emissions. The issue here is whether historical emissions matter for current duties to combat climate change or its adverse effects. Gosseries's answer is that they don't. He argues that 'the fact that our current climate situation results to a significant part from emissions of past generations of humans does *not* change the nature of our climate duties from now on' (Gosseries 2023: 127).

First, some background. The main way in which humans bring about climate change is by burning fossil fuels—oil, coal, and natural gas—which form in the Earth's crust from decaying organisms over millions of years. When such fuels are burned, the carbon dioxide contained therein is released into the atmosphere, enhancing the natural greenhouse effect. The reason this raises intergenerational questions is that the enhancing of the natural greenhouse effect is by no means a time-sliced phenomenon. Once emitted, greenhouse gasses (GHGs) can stay in the atmosphere for a long time. This is especially true for carbon dioxide, which doesn't decay naturally in the atmosphere but may remain for thousands of years. Indeed, one of the key discoveries in climate science in the past decade or so is that the current state of the climate can accurately be described as a function of cumulative emissions of carbon dioxide (Allen et al. 2009; Rogelj et al. 2019). This forms the basis of the concept of a total carbon budget, a key feature of which is that several pathways to net zero yield the same peak warming. It also means that our current emissions are as harmful as they are, climatically speaking, because they are produced 'on top of' past emissions, further increasing an already elevated concentration of GHGs.

Given this background, it is natural to think that the duty to combat climate change should be a function of how much one has contributed to total cumulative emissions. This is the message of (one version of) the Polluter Pays Principle (or PPP), which has been influential in academic debates and political discussions. Yet, as Gosseries notes, there are several well-known problems with this idea (Gosseries 2023: 119). One is that a good chunk of the emissions was produced by generations that are no longer alive. So, at least if we are individualists about climate duties, there will be cases in which we simply *can't* hold the emitter cost responsible. Moreover, even when the emitters are still around and in principle could be held responsible, they might have produced their emissions under conditions of excusable ignorance, raising questions about the fairness of expecting them to pay.

What follows from this? One possibility is that we should treat emissions of excusably ignorant or dead actors as irrelevant for how we ground or specify current duties. This is the position Gosseries takes. He writes:

Non-overlap and excusable ignorance converge to support a case for a forward-looking approach that severs our duties to the future from strings of moral blame from the past. One ought to ask what distributive climate justice *from now on* requires, regardless of undeniable pre-1990 human causes of our current and future climate mess (Gosseries 2023: 132–33).¹

Is this plausible? Let us focus on the subset of pre-1990 emissions that was generated by now-dead generations since this is where the Gosseries's forward-looking approach seems the most incontrovertible.² I argue that although Gosseries is correct that no current agent is *responsible* for such emissions, it isn't obvious that the emissions are morally unimportant for current duties. This is because it might matter that these emissions *benefit* some people in the present. Gosseries discusses the idea of 'benefiting duties', but I find his rejection of it too quick. In the rest of this paper, I explain why.

The Beneficiary Pays Principle

In normative ethics, a great deal of interest is currently taken in the idea that people may acquire special duties in virtue of benefiting from injustice, a view that in the climate justice debate has become known as the Beneficiary Pays Principle (or BPP). Suppose we are dealing with a situation in which A wrongfully harms B in a way that benefits C. According to BPP, the fact that C benefits from A's act may generate a special duty on part of C to help rectify the injustice—and this even though C was fully morally innocent in the sense that C in no way affected or authorized A's act. As Daniel Butt puts it, the idea is that 'the involuntary receipt of benefits stemming from injustice can, in some circumstances, give rise to rectificatory obligations to the victims of the injustice in question' (Butt 2014: 336).

1. By 'non-overlap', Gosseries means that many historical emissions were produced before (any member of the) current generations were born. The reference to 1990 is explained by the fact that he accepts the convention of taking IPCC's first assessment report as putting an end to excusable ignorance of climate change.

2. When we are dealing with pre-1990 emissions generated by current agents, some find it fair that the emitters take the costs insofar as they benefited from the emissions (Caney 2010).

Theorists of climate justice have long seen the potential of BPP for precisely the reasons Gosseries mentions (see, e.g., Shue 1999).³ The thought is that although some historical emissions were produced by dead or excusably ignorant emitters, this doesn't mean that we must simply forget about them for the purposes of allocating costs, because we might instead think about where the *fruits* of these emissions currently reside. The point isn't that the beneficiaries are guilty or deserve (to use Gosseries's misleading expression) 'moral blame' for what previous generations did. Rather, the beneficiaries ought to pay because they are enjoying the fruits of emissions that wronged, or wrong, others and because relinquishing these resources would go at least some way toward rectifying these wrongs.

Before we turn to Gosseries's reasons for rejecting BPP, it is worth clarifying two things about the principle. First, although BPP for a time was seen as strictly supplementary to PPP in the climate justice debate, it is now recognized that it offers a fully independent account of climatic duties (Heyward 2021). We may take BPP to be the primary and even sole principle for climatic burden-sharing, looking only at who benefits from emissions and ignoring fully who generates them. This means that benefiting duties don't necessarily depend on whether the perpetrator of the injustice is around. For example, when A harms B in a way that benefits C, it is possible that C has the primary responsibility to redress B's loss even though A could do so. More plausibly, C might have a duty to perform certain actions (say, to disgorge unjust benefits) regardless of whether A compensates B.

Second, BPP doesn't attach any intrinsic significance to whether someone is a descendant of a wrongdoer in a biological or political sense. Suppose past members of group A emitted in a way that exclusively benefits present members of group B. In this case, BPP will say that only present members of group B have benefiting duties. This is because BPP only looks at where the benefits go.

Axel Gosseries on the Beneficiary Pays Principle

Let us now consider Gosseries's arguments against BPP. Why does he find this principle unpersuasive? He relies on two reasons. On the one hand, he rejects that current people can have special duties simply in virtue of being causally linked, as beneficiaries, to past wrongdoing (Gosseries 2023: 121–23). On the other hand, he stresses that pre-1990 emissions, while perhaps harmful and excessive in an objective sense, weren't instances of wrongdoing due to excusable ignorance (126).

3. Indeed, Gosseries (2004) is himself responsible for an early and influential defense of BPP.

Let us start with the latter claim, about excusable ignorance. I do not believe it carries much weight. One problem is that while excusable ignorance removes culpability, it isn't clear that culpability is necessary for wrongdoing. If acts can be wrong even though they are performed by nonculpable agents, BPP might apply to at least some past emissions even though people were blameless in generating them. This is a possibility Gosseries doesn't discuss.⁴ Another problem is that excusable ignorance is an extremely fleeting basis for rejecting BPP. It becomes less and less important for every year that passes, as we are moving further away from the point when people became aware (or ought to have become aware) of climate change. For example, if people a hundred years from now were to debate how to allocate the costs of our present emissions, excusable ignorance wouldn't be a relevant consideration at all. The only point of stressing excusable ignorance as a major objection, then, would be if one constructs a theory specifically about the climate duties people have *at this particular point in time of human history*. But surely our account of intergenerational climate justice should be more general than that.

Gosseries's other complaint is that BPP mistakenly takes mere causal links between past emitters and current beneficiaries to be morally significant. This complaint is more fundamental because it maintains that beneficiaries shouldn't be picked out *even if* they benefited from wrongdoing. Speaking about the case of slavery, Gosseries writes:

Why treat the slavery-generated benefits *separately* from the benefits resulting from other sources, such as natural, political, or market luck experienced by our ancestors? Why would rich descendants of slaveowners owe more to slave descendants than luckier and possibly even richer descendants of lucky industrials [*sic*] who would not have been involved in slavery? . . . Also, why would poor descendants of slaveowners owe cash to all descendants of slaves, including those who might happen to have become richer than they are? (Gosseries 2023: 121–22)⁵

This is a good challenge. Three concerns are being raised:

1. *Directedness*: Why would beneficiaries of a wrong have special duties to the victims of the same wrong?
2. *Wrongdoing sensitivity*: Why would beneficiaries of wrongdoing have different duties than those who enjoy good brute luck?

4. Much more could be said here. See, e.g., Page (2012) on the distinction between unjust and wrongful enrichment.

5. Gosseries uses slavery as a favorable intergenerational case for BPP (2023: 121–26).

3. *Ability to pay*: Why would poor beneficiaries owe more than rich nonbeneficiaries?

It isn't entirely clear which concerns Gosseries ultimately relies on. However, his main objection seems to be along the lines of 2. Let me therefore start with this concern.

The thought behind 2 is clear: by definition, innocent benefits come into our possession through no fault or choice of our own. Thus, from our perspective, they must be treated as brute luck. Given this, why demand that people who enjoy a certain type of good brute luck (say, being born with the fruits of early industrialization) should do more than those who enjoy another type of good brute luck (say, being born with plentiful natural resources)? Why not instead go for an approach where the aim is to combat unjust disadvantage no matter its source? Though I don't have space here to cover the substance of his distributive position, this is in line with the view Gosseries endorses.⁶

I believe there are good reasons to distinguish between benefits of injustice and brute luck (i.e., to be wrongdoing-sensitive). Consider the following case:

New Customers. Betty, Clare, and Dave are café owners and compete for customers in the same part of town. Andrew wants to impress Clare and therefore decides to spread a false rumor about Betty's café being rat infested. The plan works: Betty loses most of her customers and Clare's café is thriving by picking up Betty's former customers. Clare only later finds out the cause of her change of luck. Meanwhile, Dave experiences a comparable uptick in business due to a random natural event: a lightning strike turns a tree in his outside seating area unusually beautiful, attracting new customers to his café.

Suppose Clare is the beneficiary of an injustice perpetrated against Betty. Is it so strange that this might mean that her duties differ, at least pro tanto, from Dave's? Suppose Clare and Dave sat down and discussed whether they should help Betty financially. It is hard to imagine that they would conclude that both simply had good brute luck and that they should therefore split the burden or flip a coin. It seems to matter that Clare's good fortune, unlike Dave's, was the intended result of wrongdoing and came about at Betty's expense.

Proponents of BPP have sought to explain why Clare's moral position is different from Dave's in different ways.⁷ Here is an idea, based in rectificatory

6. Gosseries defends a position called 'leximin egalitarianism' (2023: 62–69). For the brute-luck critique of BPP, see also Knight (2013), Huseby (2015), and Lippert-Rasmussen (2017).

7. For an overview, see Page and Duus-Otterstrom (2023).

justice, I find persuasive: since Andrew tried to benefit Clare, Clare's keeping the benefits would ensure that Andrew's immoral plan succeeds. Since immoral plans shouldn't succeed, partly but not only for the reason that this would make the world impersonally worse, Clare ought to disgorge the benefits (i.e., the extra income generated by Andrew's false rumor). Clare should do this not because she has different moral reasons than others but because Andrew's wrongdoing implicated her in a situation which she, in virtue of being a beneficiary, is specially placed to rectify. We should all regret wrongdoing and seek to make it as though it never happened, other things being equal. This can activate pro tanto duties for beneficiaries to remedy unjust losses as well as to disgorge unjust gains, seeing as both losses and gains perpetuate the success of the immoral plan (Duus-Otterstrom 2017; Page and Duus-Otterstrom 2023; see also Parr 2016).⁸

On this view, it is quite clear why Clare's and Dave's situations are different. The point is that Clare has a rectificatory reason to give up her benefits whereas Dave does not. This observation alone doesn't settle, of course, who if anyone should help Betty all things considered. If Dave is rich and Clare is scraping by, it is plausible that Dave should help Betty even though this wouldn't defeat what Andrew sought to achieve. But the presence of a rectificatory reason is enough, I think, to cast doubt on equating unjust benefits and lucky benefits. This opens the door for BPP.

But what about directedness (the idea that beneficiaries have a rectificatory reason not only to disgorge unjust benefit but also to transfer them to the victims of the same injustice)? Perhaps Gosseries's main objection against BPP isn't that it makes a distinction between unjust and lucky benefits, but rather that it isolates one particular injustice, such as when one thinks that the costs of historical emissions should be taken specifically by those who benefit from these emissions.

It is true that standard versions of BPP are directed. In the *New Customers* case, for example, BPP will typically say that Clare has a rectificatory reason to transfer her unjust benefits specifically to Betty. It is also true that BPP struggles to explain this 'common source' intuition (Duus-Otterstrom 2017). The immoral plans argument, however, can offer some help in this respect, too. Consider that while Andrew's primary intention was to benefit Clare, he took Betty's loss as a foreseen means to this end. There is thus a sense in which Betty's loss was part of his immoral plan. Since this is so, Clare appears to have a rectificatory reason to not only disgorge the benefits (defeating the benefit-based part of Andrew's plan) but also to direct them to Betty (defeating the loss-based part of the plan).

8. The same reasoning can explain, I argue, that victims of injustice should have some priority over victims of bad luck (Duus-Otterstrom and Page 2023).

I readily concede, however, that the case for disgorgement is more solid than the case for directed disgorgement. Gosseries is right to press on this. But notice that disgorgement alone seems sufficient to oppose his forward-looking approach. Suppose someone were to argue that while beneficiaries ought to disgorge unjust benefits, they ought to direct these benefits to whatever causes are most morally important. Since climate change is quite important, it is possible that the beneficiaries should direct at least some of their resources to combatting it. But then it no longer follows that we should disregard historical emissions for the purposes of assigning current climate duties. If historical emissions were unjust, their fruits would be relevant for assigning climate duties, albeit in a mediated way (the duties would be sensitive to how many unjust benefits someone holds, which in turn is partly a function of historical emissions). This means that Gosseries's argument for disregarding historical emissions is incomplete. BPP offers a reason to track historical emissions even if one were to drop its traditional directedness. In either case, the claim that unjust benefits are morally equivalent to good brute luck seems to me false.

The Intergenerational Setting

But what about the intergenerational setting on which Gosseries focuses? Someone might think that BPP doesn't hold water when wrongdoers, victims, and beneficiaries do not live at the same time. But, with one important exception, there is nothing special about this. BPP is about how innocent beneficiaries can acquire special duties despite having no influence or control over the wrongdoer's actions. We may or may not reject this, but there is nothing intrinsically important about whether the wrongdoer's actions took place before the beneficiary was born. If we can acquire special duties in virtue of benefitting innocently, then we can acquire special duties in virtue of benefitting from the acts that took place before we were born.

However, as Gosseries notes, there is one important exception where the intergenerational setting does matter: it often comes with a temporal nonoverlap between victims and beneficiaries (Gosseries 2023: 122). Suppose again that Andrew wrongs Betty in a way that is intended to benefit Clare, but now imagine that Betty is dead by the time Clare comes to enjoy the benefit. In this case, it is natural to wonder whether Clare has any special duties. Since Betty has passed away, we might think that Clare should regard the benefits created at Betty's expense as just another piece of good brute luck. But two things should be remembered before we take this as reason to discard BPP. First, as mentioned in the previous section, it might be that Clare still has a rectificatory duty to disgorge the unjust benefit although she has no rectificatory duty to transfer it *to*

anyone in particular. As Goodin (2013) notes, when there is no victim to redress, rectificatory justice may consist in giving the benefit to society's 'general pool of resources', where they can be distributed anew. This goes back to whether Gosseries wants to question the directedness of BPP or the very idea that innocent beneficiaries of injustice can be under rectificatory duties.

Second, supposing that BPP ought to be directed, it might be that beneficiaries have a rectificatory duty to transfer the benefit in the way *the victims* would have transferred it. For example, in the version of the *New Customers* case in which Betty is deceased, it is natural to think that the economic benefits Betty lost should go to Betty's dependents if this is how Betty would have transferred them. So, although BPP places no *intrinsic* significance on it, being a descendant might play a role insofar as it tells us where resources would have gone had it not been for the injustice. This is probably one reason why intergenerational reparations are often discussed in terms of social groups. If we think that beneficiaries should return unjust benefits to the victims for the purposes of defeating immoral plans, it seems that current holders of those benefits should return them to the people the original victims would have benefited, if they had the chance. This, too, would be a way to make it as though the wrong never happened.

Conclusion: Implications for the Climate Case

None of this means that Gosseries is mistaken when he rejects benefiting duties for historical emissions. There are in fact several reasons to be suspicious of this idea. For one thing, it may be that most individual emissions aren't wrong or unjust, say, because most emitters have a justification for emitting or because people's individual emissions make no morally relevant difference. This would preclude BPP from even getting off the ground seeing as this principle presupposes benefits from injustice or wrongdoing. It might also be (though I doubt it) that intergenerational climate change doesn't lend itself to the immoral-plans rationale since previous generations don't emit to benefit later generations. Finally, it is possible that when it comes to GHG emissions, it is simply too hard to isolate and quantify the benefits. But Gosseries doesn't restrict himself to these narrower claims. Much of his discussion relies on the argument that innocently benefiting from injustice is morally equivalent to enjoying good brute luck. As I have tried to show, that argument is far from self-evident. I conclude, then, that although Gosseries may well be right that pre-1990 emissions should be ignored, the reasons he offers aren't enough to draw that conclusion.

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