

# CLIMATE JUSTICE AND THE MORAL RELEVANCE OF THE PAST

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## Introduction

Axel Gosseries's *What Is Intergenerational Justice?* (2023) is a splendid book. It provides an introduction to the topic of intergenerational justice that is accessible and an excellent guide to someone unfamiliar with the issues. At the same time, it has much of interest to those who are well-versed in these debates. It has rich and illuminating discussions of, among other things, what principles of justice should govern how people treat future generations, environmental sustainability, climate change, and the implications of our impacts on future people for ideals of democratic legitimacy and normative theorizing about institutional design.

In this article I want to focus on Gosseries's analysis of climate change. His chapter on climate justice is rich and nuanced and covers a considerable amount of ground. I shall focus on one issue in particular. One key feature of climate change is that the problem has, in part, been caused by the actions of previous generations. Human beings emitted very low quantities of greenhouse gases for centuries. However, from the nineteenth century onward, emissions of greenhouse gases started to rise and increased dramatically throughout the twentieth century and the first decades of this century. One question that arises is: When we are considering what duties current generations have to mitigate climate change, what normative significance should we attach to the climate-endangering activities of people in the past? Should those alive now pay for the ways in which past members of their country have harmed the climate system? Many climate campaigners appeal to an idea of historical responsibility. Are they right to do so? In this article I shall analyze Gosseries's discussion of these questions.

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## Framing, Obligations, and Burdens

Before we discuss Gosseries's view I would like to raise a question about the way that he frames the normative issues at stake. Gosseries orients his discussion around what 'obligations' those alive now have to future generations in virtue of past emissions (Gosseries 2023: 120, also 119–26). I think that there are two separate issues here that are worth separating; namely:

- Issue 1. The obligation question: Who has an obligation to act to address climate change?
- Issue 2. The burden-sharing question: What is a fair distribution of the burdens (and benefits) of addressing climate change?

These are different questions, and it is important to distinguish between them. Put bluntly, the first concerns who should act, and the second concerns who should pay. Gosseries's discussion is framed in terms of 'obligations', but the answers he considers are, I think, fundamentally about what I term the *burden-sharing question*. They are about who should bear the burdens (and any benefits) of tackling climate change and the just apportionment of burdens and benefits.

Of course, our answers to the two questions may be connected. For example, we might think that those who should bear the burdens of tackling climate change have an obligation to take on those burdens, but it is important to note that they are nonetheless distinct questions, and one might think that some have obligations to take action that imposes burdens on others and not themselves. For example, one might think that a legislator should support aggressive mitigation policies, or that a central bank should steer funds toward renewable energy projects and away from fossil fuel projects, or that a town planner should design sustainable cities. In doing so we are giving answers to the *obligation question*, but in saying so we are not answering the *burden-sharing question* nor are we saying that the agents just mentioned should themselves bear any burden.

I emphasize this distinction not as a criticism—Gosseries gives us an excellent analysis of the *burden-sharing question*—but just to make clear that it is better to think of his analysis as a contribution to issue 2 than issue 1.

## Gosseries's Argument

Let's turn now to Gosseries's arguments. To introduce them it will be helpful to put them into context. As Gosseries notes (2023: 121), those who hold that

the current citizens of a country should pay for the cost of past emissions often draw on two kinds of argument—the first are often termed ‘polluter pays’ arguments and the second are often termed ‘beneficiary pays’ arguments (Caney 2005).

The first kind of argument holds that people, as members of a country, ought to bear the costs of the actions of earlier members of their country. As Gosseries puts it, this view ‘assumes some sense of community-based continuity and collective moral responsibility across time’ (2023: 121). One common variant of it affirms two claims. It holds that polluters should pay for the environmental degradation that can be attributed to their actions (so it adheres to a polluter pays principle) and it applies that principle to countries (rather than to individuals). It can thus be described as a collectivist polluter pays principle. It holds that since Britain, say, polluted in the past, Britain should pay now (and perhaps in the future). In concrete terms, this means that the current (and perhaps future) members of a country should bear the costs resulting from the past emissions attributable to their country (Shue 2021: ch. 2, esp. 36–42).

The second approach argues that current generations should pay for the cost of the emissions of earlier generations on the basis that they have benefited from the activities that cause climate change. Contemporary citizens, it argues, have benefited from fossil-fuel-powered economic growth (as well as from other activities that involve the emission of greenhouse gases) and, in virtue of this, they can be appropriately charged for the environmental costs resulting from those emissions-generating activities (Page 2012).

Gosseries is skeptical of both kinds of argument (2023: 121–25). His view is that it is a mistake to adopt a backward-looking approach that ties the responsibilities of those alive today to the emissions of past people (119–29, 132–34: esp. 121–23, 125, 127–28). As he often puts it, we should seek to minimize the role of a ‘rectificatory’ approach (by which he means one that seeks to rectify past wrongdoing), and we should instead adopt a more ‘distributive’ approach (by which he means one that focuses on the fair distribution of burdens and benefits) (124–25).

## **The Moral Responsibility Principle**

In what follows, I want to focus on Gosseries’s critique of the first argument. I do so because ideas of historical responsibility are extremely influential in both academic and popular discourse about climate change. Let

us then consider in more depth why Gosseries finds this line of reasoning unpersuasive.

As he makes clear, his argument rests on two premises—one articulating a moral premise and the second an empirical claim (Gosseries 2023: 123–25). Since much hangs on Gosseries’s moral premise, it is worth quoting his statement of it. He writes:

The *moral principle* is that one should not be held morally responsible in a primary sense for acts that took place before one’s birth—and even to some degree ‘before adulthood’—and for their consequences today. This echoes the common assumption in civil liability regimes that one should not be held liable for the consequences of others’ acts unless one has some duty of control/supervision over them—as when parents are held responsible for the actions of their children who are minors. If we take ‘ought implies can’ seriously, we cannot have any prenatal duties. (123, footnote omitted)

Gosseries adds the empirical premise that very many of those who have emitted greenhouse gases lived and emitted before those who are currently alive were born (or became adults) (121). The key fact for him is what he calls the ‘non-overlap’—by which he means the situation in which the ‘descendants of wrongdoers never coexisted with the latter’ (123). Given the moral premise and the empirical premise, it follows that those currently alive should not ‘be held liable’ (123) for the many emissions of those who died before those who are alive now were born (or before they became adults).

What should we make of this argument? In what follows I want to raise four issues.

### **Challenge 1—Applying the Moral Responsibility Principle and the Moral Relevance of whether People Overlap in Time**

To introduce the first, let’s analyze Gosseries’s moral responsibility principle and his use of it in more depth. As we saw in the lengthy passage quoted above, Gosseries defines this principle as follows:

Definition: An agent, A, ‘should not be held . . . responsible . . . for acts’ performed before they were born (or before they became an adult). (Gosseries 2023: 123)

But why should we accept this? It is not immediately clear why this should be the case. Immediately afterward, Gosseries motivates this principle by invoking the following:

Motivating Idea: An agent, A, ‘should not be held liable for’ the actions of others (except in cases where they have a duty to oversee and regulate the behaviour of another). (123)

If we accept this then, Gosseries argues, individuals alive today cannot be held responsible for the climate-causing acts of past generations who lived before they were born (or before they became adults) (121, 123).

Now one question that arises is: Why does Gosseries put such an emphasis on whether those alive now overlapped with people who emitted high levels of greenhouse gases in the past (121, 123)? His core idea is that it is wrong to burden people for the actions of others (barring cases where those people are designated as being responsible for others). This would suggest that it is wrong to burden people, *P*, for the actions of others who died before *P* was born (and for the actions of others who died before *P* reached adulthood—to mention the other cutoff point that Gosseries mentions). But wouldn’t his principle have more radical conclusions than that? Wouldn’t it mean that those alive today should not bear a burden for the emissions of others *even if they did overlap in time*? Consider someone, Angharad, who was born in 1970 and who is still alive fifty-four years later in 2024. Now consider someone else, Martha, who was born in 1940 but died in 2020. The two overlapped between 1970 and 2020. Suppose we say that Angharad became an adult in 1988; Angharad was an adult for thirty-two years of Martha’s life. Now Gosseries’s moral principle says that Angharad should not have to bear the burden of Martha’s emissions prior to Angharad’s birth (1970) or prior to when she reached adulthood (1988). My question here is: Given that he seems sympathetic to the idea that ‘one should not be held liable for the consequences of others’ acts unless one has some duty of control/supervision over them’ (123), why should he stop here? Is it not unfair to hold that Angharad should bear the burden of the now-deceased Martha’s emissions during the period *when they did overlap* (the 1970 to 2020 period or the 1988 to 2020 period)? If so, the question of whether they overlapped or not is not the key issue. It is true that people like Angharad should not have to bear the burden of those who do not overlap with her, but to leave it there is incomplete. On Gosseries’s own principle, people should not have to bear the burden of dead people’s emissions even if they did overlap. Doesn’t

Gosseries's premise entail that people should be liable for even fewer past emissions than he claims?

## **Challenge 2—Focusing on Emissions Is Too Narrow**

A second challenge. When considering why agents might have rectificatory duties, Gosseries focuses exclusively on the *greenhouse gas emissions* of past generations (Gosseries 2023: 119–20, 126–29). This is a common practice (e.g., Caney 2005), but it is misleadingly narrow.<sup>1</sup> To see this it is worth asking why we care about the emission of greenhouse gases. The obvious answer to this is that collectively they cause the problem of global climate change. But then this suggests that our focus should be on 'what causes the problem of global climate change' and that agents should be held responsible not just for emissions but for all kinds of behaviors that contribute to causing climate change. If we then ask, 'What causes the problem of climate change,' an answer that refers simply to how much individuals have emitted is seriously incomplete. How much individuals emit is very often a function of the state's energy policy (Does it block the use of renewables? Does it subsidize fossil fuels?), the design of towns and cities, whether there is public transport or not, and so on. Individuals in many cases have little choice but to emit greenhouse gases—because, say, there is no clean energy. We should then follow the example of Henry Shue who, in an early seminal paper, argued that burdens should be borne by agents in line with their 'contribution to the problem' (Shue 1999: 533, 533–37). To be sure, many 'contribute' to the problem through high emissions, but others may make a significant contribution to the problem by, for example, blocking attempts to introduce renewable energy (Mildenberger 2020; Oreskes and Conway 2010: ch. 6; Stokes 2020), or designing towns and cities that lack public transport and are so spread out that they compel people to drive and thus emit. We should then replace the polluter pays principle with the more fundamental 'contributor to the problem pays principle'.<sup>2</sup>

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1. My analysis here has greatly benefited from discussions with Megan Blomfield about her own misgivings about the polluter pays principle (on which see Blomfield [2023]). She should not be held responsible for my line of reasoning here.

2. I here reach a similar conclusion to that defended by Blomfield (2023), who also argues that the polluter pays principle is too narrow and that we should focus instead on unjust contribution to the problem (131–38, esp. 133–36). My reasoning, however, is different, and I do not concur with Blomfield's main argument for this conclusion. Note also that Clare Heyward refers

### **Challenge 3—Applying the Moral Responsibility Principle and the Moral Relevance of whether People Overlap in Time**

Doing so has an important corollary, for it draws our attention to the moral relevance of a variety of corporate actors. This takes us to the third challenge. One important feature of Gosseries's argument is that it focuses exclusively on individuals. But is this defensible? A critic might reason as follows: I accept Gosseries's motivating idea that agents should 'be held liable' only for their own actions (and not, barring unusual circumstances, the actions of others) (Gosseries 2023: 123). However, firms are agents too. Furthermore, some of them have made a major contribution to causing climate change (Caney 2005: 755; Caney 2014: 138). This is where the discussion of the contributor to the problem pays principle becomes relevant, for a full account of what has caused climate change would include the role that many corporate actors have played in thwarting attempts to mitigate climate change. As a number of political scientists and historians have documented, fossil fuel companies (as well as trade unions and energy utilities) have successfully blocked attempts to mitigate climate change for decades (Mildenberger 2020; Oreskes and Conway 2010: ch. 6; Stokes 2020). We should surely include them when thinking about acts of the past that contributed to causing climate change.<sup>3</sup> According to a contributor to the problem principle these firms (but also some energy utilities and trade unions) are liable.

Including such corporate actors has several implications for Gosseries's analysis. First, Gosseries often refers to 1990 as a date after which agents cannot plausibly argue that they were excusably ignorant of the effect of burning fossil fuels on the climate system (Gosseries 2023: 119, but also 126–29). Whatever the plausibility of that date for members of the general public, there is ample evidence that some fossil fuel companies were well aware of the problem much earlier. For example, Bonneuil et al. (2021) find that Total was aware from the early 1970s. Similarly, Supran and Oreskes (2017) document that ExxonMobil was aware from the 1970s. (Supran et al. [2023] also reveal that ExxonMobil's projections of climate change were quite accurate.) Franta (2018) has also found evidence that American fossil fuel companies were aware of the impact of burning oil on the

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to 'the contribution to problem principle' (2021: 126), but her reasons for doing so (126, footnote 1) are different to mine, and her account of the contribution to the problem includes only people's emissions.

3. The role of corporations has often been overlooked by climate ethicists. For an important exception, see Grasso (2022, 2024) who focuses on oil companies in particular.



climate system from an even earlier date. For example, he reports that not only did Lyndon Johnson's Science Advisory Committee publish a report in 1965 finding that CO<sub>2</sub> emissions would result in dangerous changes to the climate system, but also that the president of the American Petroleum Institute (API) quoted the report's findings in his speech to members in the annual meeting of the API in 1965 (Franta 2018: 1025).

Second, many fossil fuel companies have existed for decades. The fact that there is a nonoverlap between individuals living now and past generations who emitted greenhouse gases (a key part of Gosseries's critique of ascribing rectificatory duties to current generations) does not undermine arguments that focus on artificial persons (such as firms).

In short, then, my suggestion is this: Gosseries seeks to minimize the role of rectificatory principles, but given the role of corporate actors in causing climate change, is there not a case for thinking that (1) they are subject to rectificatory principles, (2) they are liable for their climate-endangering policies going back much earlier than 1990, (3) these rectificatory claims apply even when there is not an overlap between persons, and (4) they do so and escape Gosseries's argument because they are artificial persons (firms) with long lifespans?

#### **Challenge 4—What about 'Countries'?**

I shall conclude with a more radical challenge. Some philosophers argue that the citizens of a state are liable to compensate people for the wrongs that their state has perpetrated. As a result, they would reject the claim that people cannot bear burdens for decisions made before they were born (Francis 2021; Shue 1999; Shue 2021: ch. 2, esp. 36–42; see also Pasternak 2021).

Gosseries does not discuss such collectivist responses. I myself am skeptical of these arguments but think that Gosseries's arguments would be stronger were they to show where these approaches go wrong. These attitudes are often deep-rooted in both academic analyses and among those committed to tackling climate change. People often talk about what 'countries' have done. I would be curious to know what his response would be.

There seem to be two options. One is for him to hold fast to the assumption that individuals can 'be held liable' only for the decisions they themselves have made (Gosseries 2023: 123). Here we might just encounter a clash of intuitions between conflicting parties and reach an impasse. A second option would be to entertain the possibility that burdens can sometimes be justly imposed on some



in virtue of the decisions that their political system has made and explore the implications of that.

If we follow this second course of action, there are three key points that we might make. The first is that while many talk about ‘countries’ emitting greenhouse gases, that is an oversimplification. Consider individuals who decide to take long-haul flights to go on holiday. Here it seems plausible to say that those individuals are responsible and *they* should bear any burden. Similarly, consider firms that decide to extract more oil. Again, it seems plausible to say that those firms are responsible and *they* should bear any burden. In both cases, it would be implausible to say that the ‘country’ as a whole should shoulder that burden. And if it is wrong to burden all the contemporary citizens of a state for the choices of *some* contemporary agents, it would also be wrong to burden those same citizens for the choices of analogous agents in the past.

Second, if we are to ascribe liability to citizens for what their state has done, then the state in question must satisfy some core moral standards. Quite what these are is a complex matter, but there must be some. Under what conditions is it plausible to say that the citizens of a state are collectively responsible for the energy policies adopted? It would seem reasonable to suggest that for this to be the case (1) all citizens must each have a meaningful opportunity to shape the decisions taken, (2) they must be able to do so on equal terms, (3) non-elected corporate actors should not determine policy, (4) citizens should not be subject to misinformation or manipulation, and (5) the state’s policies must impartially serve interests of all and not systematically prioritize the interests of some over others.

Why should we accept these conditions? I cannot give a full justification here but the thought is as follows. The first four conditions are required to ensure that the political procedures are fair. Only in this way can we say that there is a genuinely collective decision. If we are to hold all citizens liable for the political decisions made by their political system it is important that there is a ‘we’ who made the decision, and thus that it can be meaningfully described as a system of collective self-rule. Now, if we focus on this value of collective self-rule we can see that it also supports (5). For consider a society in which conditions (1) to (4) are met but the majority constantly passes laws that systematically disadvantage a minority (or minorities). The majority in this society does not rule impartially in the interests of all but rather treats politics as a way of advancing their private good. In such a society—one that flouts condition (5)—the members of the minority can rightly think ‘there is no society-wide “we” here. *We* are not ruling *ourselves*; rather, *we* are being ruled by *others*. This society is not aptly described

as one of collective self-rule: it is rather one in which some rule over others, and it is hard to see why *we* should be liable for what *they* decide'.<sup>4</sup>

Where decisions about energy policy do not meet standards (1) to (5)—for example, where there are marked inequalities in political power, where the policy process is captured by sectional interests (Mildenberger 2020; Stokes 2020), and where the resulting policies are deeply unjust and systematically expose racial minorities and working-class communities to unjust environmental hazards and public health risks (Méndes 2020: esp. ch. 1, 2)—it seems questionable to claim that all citizens should bear liability for the decisions taken.

Third, suppose that we accept, for the sake of argument, that someone is liable to bear the burden of a political decision if (1) they participated in the political process that made the decision and (2) that that process satisfies the five conditions described above. Even if we accept this, such an account would struggle to explain why they should be liable for a decision in which they did not participate because it occurred before they were born or could vote.

Obviously more needs to be said on this issue. I raise it because it seems to me that some would query the individualism of Gosseries's moral responsibility principle and so I am curious to know how he would respond to them.

## Concluding Remarks

To conclude, Gosseries's book is a superb discussion of intergenerational justice. I agree wholeheartedly with a great deal of what he has argued on intergenerational justice in general and climate justice in particular. My points have focused on whether some of those alive today are liable for climate endangering actions in the past. These points can be expressed as four questions.

1. Given his moral responsibility principle, does what Gosseries (2023: 123) terms 'non-overlap' have the moral centrality he ascribes to it?
2. Shouldn't rectificatory principles of climate justice go beyond mere emissions and focus more generally on who has contributed to the causation of climate change?
3. With this in mind, shouldn't we include firms (and utilities) as being bound by his moral responsibility principle and, if so, aren't they liable

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4. This line of reasoning is inspired by Rousseau's reflections on freedom and self-rule in *The Social Contract* (Rousseau 1968 [1762]), especially Book 1, chapters 6 & 8).

for their past climate-endangering policies (going back considerably further than 1990)?

4. What would Gosseries say to the ‘statist’ who argues that citizens of democratic states are liable for the policies of their state and who asks why we should accept Gosseries’s moral responsibility principle?<sup>5</sup>

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5. Many thanks to Tom Douglas for his comments.

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