



This is a repository copy of *Benefiting from Failures to Address Climate Change*.

White Rose Research Online URL for this paper:
<http://eprints.whiterose.ac.uk/91979/>

Version: Accepted Version

Article:

Lawford-Smith, H. (2014) *Benefiting from Failures to Address Climate Change*. *Journal of Applied Philosophy*, 31 (4). 392 - 404. ISSN 0264-3758

<https://doi.org/10.1111/japp.12074>

This is the peer reviewed version of the following article: Lawford-Smith, H. (2014), *Benefiting from Failures to Address Climate Change*. *Journal of Applied Philosophy*, 31: 392–404, which has been published in final form at <http://dx.doi.org/10.1111/japp.12074>. This article may be used for non-commercial purposes in accordance with Wiley Terms and Conditions for Self-Archiving (<http://olabout.wiley.com/WileyCDA/Section/id-820227.html>)

Reuse

Unless indicated otherwise, fulltext items are protected by copyright with all rights reserved. The copyright exception in section 29 of the Copyright, Designs and Patents Act 1988 allows the making of a single copy solely for the purpose of non-commercial research or private study within the limits of fair dealing. The publisher or other rights-holder may allow further reproduction and re-use of this version - refer to the White Rose Research Online record for this item. Where records identify the publisher as the copyright holder, users can verify any specific terms of use on the publisher's website.

Takedown

If you consider content in White Rose Research Online to be in breach of UK law, please notify us by emailing eprints@whiterose.ac.uk including the URL of the record and the reason for the withdrawal request.



eprints@whiterose.ac.uk
<https://eprints.whiterose.ac.uk/>

Benefiting from Failures to Address Climate Change

[This is the penultimate draft of a forthcoming paper, to appear in the *Journal of Applied Philosophy*, Special Issue on *Benefiting from Wrongdoing*, Eds. Avia Pasternak & Edward Page].

Abstract

The politics of climate change is marked by the fact that countries are dragging their heels in doing what they ought to do, namely, creating a binding global treaty, and fulfilling the duties assigned to each of them under it. Many different agents are culpable in this failure. But we can imagine a stylized version of the climate change case, in which no agents are culpable: if the bad effects of climate change were triggered only by crossing a particular threshold, and it was reasonably, but mistakenly, believed by each country that insufficiently many other countries were willing to cooperate in order for that threshold to remain uncrossed, no country would be required to make a unilateral contribution. Yet even without culpability, we can diagnose a moral ill: the world has gone other than it should have. If not for the mistaken beliefs, there would have been a global climate treaty, and all the avoidance of future suffering that would come with it. In this paper I want to try to argue that this moral ill has implications for the non-culpable agents, in that it generates duties to disgorge actual holdings over and above the counterpart holdings in the relevant counterfactual: those holdings the agents would have had, were the world to have gone as it should.

Keywords: benefiting from injustice, counterfactual baselines, non-identity principle, climate change, collective action, disjunctive obligations, obligations to try

§I. Introduction

One of the biggest difficulties in addressing the most serious global problems today, including the suffering of those in severe poverty, those seeking refuge and political asylum, those exposed to high risk of disease and ill health, and those most vulnerable to the effects of climate change, is the sense of entitlement that residents of affluent, developed countries feel toward their holdings, holding which could otherwise be put to work in preventing or alleviating these kinds of suffering. In the literature on global justice, arguments for obligations to those in need have tended to come in two main forms: arguments from *justice* which attempt to show that certain holdings are in fact not rightfully the holder's; and arguments from *charity* which point to the capacities of the salient agents to answer to existing need. There are also two further forms of argument, the first from *association* and the second from *benefit*.¹ Association obviously does not involve culpability, but rather salient individuals standing in a certain relation to the victim or

¹ See discussion in Christian Barry & Holly Lawford-Smith, 'Introduction', in Christian Barry & Holly Lawford-Smith (eds.) *Global Justice* (Surrey: Ashgate, 2012), pp. xi-xxii.

perpetrator of the harm². It is less obvious how to characterize benefiting. *Prima facie*, it seems that an agent can't be culpable in *having benefited*, because it will usually not be the case that she could have helped but benefit. So if culpability comes in at all, it will be at the stage of *retaining* benefits, for example once it becomes clear to the beneficiary that she is in possession of them.

In this paper I want to adopt the *spirit* of justice-driven arguments, in attempting to undermine that sense of entitlement the affluent (and otherwise able) have over their holdings, without accepting the fundamental assumption of justice-based arguments, namely that the best way to do that is to pin culpability upon them. I shall do that by first attempting to show that the world can go other than it ought without culpability, and then elaborating a principle upon which it is impermissible to retain the material benefits the world going other than it ought. In a stylized version of the climate change case, countries benefit materially from the failure to create a binding global treaty, in that they retain holdings that – had the world gone as it ought to have – would have been invested in greenhouse gas (GHG) emissions reduction projects. Because it is impermissible to so benefit, they must relinquish those holdings.

A quick caveat before that: this is primarily a paper about *benefiting*, intending to make a contribution to political philosophers' discussions of obligations that might plausibly arise out of benefit. The paper is framed in terms of a specific global problem, namely the negotiation of a binding global treaty specifying countries' obligations to act against further anthropogenic climate change. But it's *not* a paper about climate change (I assume here in the stylized case that climate change is only a threshold problem, and I'm arguing elsewhere that it isn't),³ and it's also not a paper that tries to *defend* the 'beneficiary-pays' principle⁴ for allocating the burdens of global GHG emissions *against* other principles, such as the 'ability to pay'

2 In liberal theory obligations from association are almost always a matter of relation to the victim of the harm, but there are communitarian societies, e.g. rural Papua New Guinea, and 'honour culture' societies, e.g. parts of the American South, where it is often a matter of relation to the perpetrator of the harm (for example, it can be thought appropriate to seek retribution for a harm upon family members or members of the same small community as the perpetrator). It's possible to argue that the latter do involve culpability, just on a communitarian rather than an individualist model, but it will remain true that the former do not.

3 Holly Lawford-Smith, 'Individuals' and Collectives' Climate Obligations', *ms*.

4 Lukas Meyer & Dominic Roser, 'Climate Justice and Historical Emissions', *Critical Review of Social and Political Philosophy*, 13 (2010): 229-253; Axel Gosseries, 'Historical Emissions and Free-Riding', *Ethical Perspectives*, 11 (2004): 36-60; Ed Page, 'Give it up for climate change: a defence of the beneficiary pays principle', *International Theory* 4 (2012): 300-330.

principle⁵ or the 'polluter pays' principle.⁶ It rather refines the general benefiting principle such that it might be better suited to such uses elsewhere.

§II. Moral ills without culpable agents

Although as just mentioned there is disagreement about the exact principle or combination of principles we should use to allocate GHG emissions reductions between countries, it is implausible to think that it is the lack of a perfect principle which is preventing countries from creating a binding global treaty specifying a plan of action for addressing climate change, and it is likewise implausible to think that what's stopping the individuals inhabiting those countries from making unilateral reductions to their own personal GHG emissions. There's culpable failure to act nearly everywhere we look: individual citizens' selective attention with respect to the scientific facts about climate change; citizens' failure to put pressure on their elected representatives to introduce new (or better) emissions-reduction policy; elected representatives' prioritizing of re-election over environmental protection; governments' failure to lead social change by attempting to introduce new policy without mandate; particular governments' blocking of agreements at international meetings; particular developed countries' citizens' prioritizing of their continued hold on luxury goods over the (projected) basic needs of developing countries' citizens; current generations' prioritizing of their material comforts (private vehicles, cheap meat and produce, affordable flights, etc.) at the expense of future generations' basic welfare; the list goes on. All that culpability makes it rather easy for the climate ethicist to assign remedial or reparatory obligations, in addition to obligations arising from the fact of (projected) suffering. This paper sets all of that culpability aside, in the interest of exploring a particular kind of case: one in which we might intuitively think the world has gone other than it ought, without any agent doing other than she ought, which is to say, without culpability.

The case I'm about to present also abstracts from a further, important feature of the real-world climate situation, in that it characterizes the problem of climate change as being *only* a threshold issue. Pure threshold

⁵ Simon Caney, 'Climate Change and the Duties of the Advantaged', *Critical Review of International Social and Political Philosophy*, 13 (2010): 203–28, at 218; Darrel Moellendorf, *Cosmopolitan Justice* (Boulder, Colorado: Westview, 2002); Henry Shue, 'Global Environment and International Inequality', *International Affairs* 75 (1999): 531–45.

⁶ Steve Vanderheiden, *Atmospheric Justice* (Oxford: Oxford University Press, 2008); Eric Neumayer, 'In Defence of Historical Accountability for Greenhouse Gas Emissions', *Ecological Economics*, 33 (2000): 185–92; Shue op. cit.

cases involve futility: if it is certain that a given agent's contribution won't make a difference to the threshold being either crossed or avoided (depending on the case), then her contribution is futile - she'd be better off expending her energies elsewhere. I've explained in detail elsewhere why I don't think climate change is a pure threshold case, here I'll just summarize in saying that no matter the large-scale real scientific thresholds involved, there is still an incremental factor, namely the correlation between higher temperatures and more frequent and severe extreme weather events (floods, droughts, hurricanes, etc.), which gives countries a reason to act on climate change *even if* it's clear that insufficiently many other countries will act for the thresholds to be avoided.⁷ *Were* climate change a pure threshold case in the real world, countries might be able to avoid the imperative to reduce GHG emissions for much the reasons discussed here. But it's not, so they can't.

It can nonetheless be informative to abstract away from certain of these features of the real world situation, and think about a counterpart of the climate change situation which lacks culpable agents. In the real world, climate change is not (only) a threshold good, and furthermore, there is no collective agent with a capacity to meet the most popular proposed targets for addressing climate change, for example further warming no greater than 2°, or a concentration of greenhouse gases no greater than 450 parts per million (ppm). Thus by the familiar principle that 'ought implies can', there can be no such obligation. Of course this is not the end of the story: if the best way to pursue the good of addressing climate change is to form a collective agent which would have the capacity to fulfill the relevant obligation, then countries ought to take steps toward collectivizing.⁸ But let's imagine that such collectivization has been accomplished, and that there is a global collective agent with the capacity to meet one of the proposed targets.

This agent will have an obligation, let's suppose, to reduce the concentration of greenhouse gases in the atmosphere to 450ppm (or less). That obligation will have implications for the members of the collective, namely countries. Following on from arguments I have made elsewhere about the structure of collective obligations,⁹ countries' obligations will be disjunctive: *either* do your assigned share of the action required to achieve the target, *or* have the reasonable belief that insufficiently many other

7 Lawford-Smith, *op. cit.*

8 Stephanie Collins, 'Collectives' Duties and Collectivization Duties', *Australasian Journal of Philosophy*, 91, 2 (2013): 231-248.

9 Holly Lawford-Smith, 'The Feasibility of Collectives' Action', *Australasian Journal of Philosophy* 90, 3 (2012): 453-467.

countries will do their assigned share (remember we are assuming in this stylized case that addressing climate change is a threshold good *without* an incremental aspect). In that case, it is perfectly conceivable that there is a failure to address climate change without any country being culpable. That's because it is possible to have the reasonable belief that insufficiently many other countries will act, and yet be mistaken in that belief. If every country has a reasonable, and yet mistaken, belief that insufficiently many other countries will act, then every country will have satisfied its obligation, by satisfying the belief-disjunct rather than the action-disjunct.

If we think the global collective agent's obligation was non-disjunctive, then that agent will have failed to do as it ought to have done, without any country having failed to do what it, in virtue of the obligation upon the collective, ought to have done. In that case we still locate culpability somewhere, namely with the collective agent. It's just that the culpability doesn't distribute to members.¹⁰ I've since become convinced that there's no culpability *anywhere*, because a more sophisticated understanding of the collective's obligation is that it must distribute to members roles jointly sufficient, were they performed, for bringing about the relevant end.¹¹ That is to say, collective agents have done what they ought to do in distributing roles, so even though a miscommunication among members may cause it to be the case that the roles are not performed and the end is not achieved, there is no culpable failure. (It is also to take a side in the debate on whether obligations are to *try* or to *succeed*, that it is the former.¹² Either way, there's a moral ill: the global concentration of greenhouse gases will not be reduced to below 450ppm – at least no trajectory leading to that outcome will start from this particular point in time. The world has not gone as it ought, morally, to have gone. Here we have no culpability, and no incremental good to retreat to in claiming that countries should make unilateral contributions even without the contributions of the others.

Notice that this same case iterates at the lower level, for the collective agents that countries are (possibly: elected officials, government, or political community), and their members (possibly: citizens, residents, or inhabitants).¹³ Imagine instead that the country decides to act unilaterally

10 That's what I argued in Lawford-Smith 2012 op. cit. §4.

11 Stephanie Collins & Holly Lawford-Smith, 'The Transfer of Duties: From Individuals to States and Back Again', *ms*.

12 See discussion in §IV, and in John Gardner, 'The Wrongdoing That Gets Results', *Philosophical Perspectives*, 18 (2004): 53-88.

13 I give the options in brackets as possible satisfiers of the relevant descriptions; but the issue of whether countries can be characterized as collective agents, and if not where agency lies within a given country (if a level higher than the individual), needs further

and reduce its GHG emissions by a half, not via the formal channels of legislation but by pushing for social change using a high-visibility media campaign. It sets the one-half reduction as a threshold because based on the best available scientific evidence, this will actually make a measurable difference to the global temperature. The country makes it clear that each member is distributed the role of using an approved online personal GHG emissions calculator to figure out their emissions, and then choose, according to their own preferences, ways to cut it in half.

Again, it looks like the obligations distributing from the collective to its members will be disjunctive: either cut personal emissions by a half, or reasonably believe that insufficiently many others intend to cut their emission by a half, such that there's no decent chance of the target being met. If every member has a reasonable and yet mistaken belief that insufficiently many other members will act, then every member has satisfied their obligation. But then just as in the case of the global collective agent, there's a moral ill: the country has done what it ought to do (distribute roles), and each member has done what she ought to do (act, or believe), and yet the world has gone other than it ought, because it would have been much better if the members had have satisfied their obligations via the action disjuncts, thereby reduced the country's GHG emissions by one half.

So here we have two cases of the world going other than it ought, without any culpability from which to derive remedial or compensatory obligations. Is it possible, nonetheless, to argue that these failures, of the (stipulated) global collective in the first case, and of the country-collective in the second case, have moral implications for the non-culpable countries, or inhabitants of the countries, respectively?

I'm going to argue in what remains of the paper that it *is* possible, and I'm going to try to refine a principle of benefiting which elaborates on the relevant moral implications. But first, let me say a little more to alleviate two potential worries. Firstly, there might be a worry that culpability is still lurking somewhere in the background. I think that it probably is, and that's because there'll usually be some explanation of *why* members came to have reasonable and yet mistaken beliefs about each others' intentions to act. There will usually be something that someone could have done differently, e.g. signal her intentions and conditional commitments more clearly, to prevent the possibility of others coming to believe that she will not act. But notice that in general, the plausibility of the cases I've described depends only on the plausibility of being able to form reasonable, and yet mistaken,

investigation. See discussion in Collins & Lawford-Smith op. cit..

beliefs. Few people would deny this.

Secondly, there might be a worry that without culpability, there's simply nothing more to say about obligations or duties, short of the familiar line that we can have a duty to assist constrained by some notion of demandingness.¹⁴ But this can't be right either. While we might get *stronger* duties out of culpability,¹⁵ we do think that there can be duties that are stronger than those of mere assistance and yet accrue to agents not culpable in the plight of those requiring assistance, for example duties of *association*, and relatedly duties of *membership*, and although they are precisely what is at issue in this paper, duties of *benefiting*. Merely standing in a relationship that I have non-instrumental reason to value with a victim in need of aid,¹⁶ or standing in a relationship in which a victim is vulnerable to me,¹⁷ can give me reasons to provide aid to the victim. And many share Daniel Butt's intuition that when two potential-assisters share equal holdings, the fact that one person is a beneficiary—which is to say that their holdings are counterfactually dependent upon the harm to the victim which caused her to be in need of assistance—can tip the balance in favour of that person's being duty-bound to compensate the victim, rather than the person whose holdings are causally independent of that harm.¹⁸

§III. Comparing actual and counterfactual states of affairs

One thing that seems clear is that countries in the stylized version of the actual state of affairs have *benefited* relative to the counterfactual state of affairs in which the world went as it should have gone.¹⁹ If the world had gone as it should have, countries would not have been mistaken in their beliefs about other countries' willingness to act, and so they each would have fulfilled their disjunctive obligation by acting rather than by believing. They would have used portions of their holdings to make significant

14 Peter Singer, 'Famine, Affluence, and Morality', *Philosophy and Public Affairs*, 1 (1972): 229-243; Jan Narveson, 'We Don't Owe Them A Thing! A Tough-Minded but Soft-Hearted View of Aid to the Faraway Needy', *The Monist*, 86 (2003): 419-433 at 429-30.

15 Holly Lawford-Smith, 'The Motivation Question: Arguments from Justice, and from Humanity', *British Journal of Political Science*, 42 (2012b): 661-678.

16 Samuel Scheffler, 'Relationships and Responsibilities', *Philosophy & Public Affairs*, 26 (1997): 189-209.

17 Robert Goodin, *Protecting the Vulnerable* (Chicago: University of Chicago Press, 1985), Ch. 4.

18 Daniel Butt, 'On Benefiting from Injustice', *Canadian Journal of Philosophy*, 37 (2007): 129-152.

19 We can only talk about 'benefit' in the context of the short- to medium- term, however, because if the worst of the projected effects of climate change actually come to pass, most countries will be affected in a way that leaves them with a net loss, although some lucky countries may be largely unaffected such that they are still left with a net gain, even if only marginally so.

investments into e.g. public transport infrastructure; switching over to clean energy sources; reducing animal agriculture; research and development into clean energy technologies, and technologies for both adapting to and mitigating the effects of climate change. And in that way, the target reduction in the concentration of greenhouse gases would, eventually, have been met. In the stylized case, countries instead retain their holdings. This is the sense in which countries benefit (see discussion in §IV for generalizations of the case).

Countries have not 'benefited from injustice' in Daniel Butt's sense of being a third-party who does well out of an injustice visited upon a victim by a perpetrator.²⁰ There is no injustice without at least one culpable agent, which is why I have characterized the world going other than it ought as a 'moral ill' but not an 'injustice'.²¹ In order to reach a conclusion about countries not being entitled to those benefits, we need a principle which tells us that benefiting is impermissible, such as:

(1) *It is impermissible to retain the benefits of the world going other than it morally ought to have gone.*

It is immediately apparent that this principle needs refinement. Obviously, the world goes other than it morally ought when terrorists bomb a heavily-populated city. And equally obviously, two people who fall in love while struggling through the aftermath of the bombing benefit from the bombing, at least in the sense that had it not happened, they would not have found one another.²² But it would be absurd to say that while they might not be able to help having so benefited, it would be impermissible for them to retain that benefit, i.e. to remain together. One way to get around this is to specify 'net benefit', so that a person may retain any benefits that do not yet outweigh the costs, to them, of the world going other than it ought. In the case of the couple, it is plausible that they lost more in the attack than they gained from finding one another. But this fix will not work in all cases. For example, imagine that the lead in a theatrical performance is mugged shortly before the evening's show, and as a result the understudy is assigned her role. The world has gone other than it ought; the lead ought not to have been mugged. And the understudy has clearly benefited – finally she gets to fill

20 Butt op. cit.

21 It is more a case of 'wrongless benefiting', as discussed in Norbert Anwander, 'Contributing and Benefiting: Two Grounds for Duties to the Victims of Injustice', *Ethics and International Affairs*, 19 (2005): 39-45, although my proposal differs from his in that I don't think benefiting creates only positive duties.

22 I owe this example to Garrett Cullity, who presented it to Christian Barry.

the lead role. The mugging itself has no ill effect on the understudy, who is only a bare acquaintance of the lead's. So the net benefits far outweigh the net costs, to the understudy, of the world going other than it ought. But, again, it would be absurd to say that the understudy ought not to retain the benefits. Surely she ought to play lead, which after all is what the role of understudy is designed for, just as two people lucky enough to find love after a tragedy ought to stay together for as long as they are happy to.

One possible refinement is in terms of the relationship between the benefit and the moral ill involved in the world going other than it ought. In the stylized version of the climate change case, countries retained holdings (primarily money and material resources) and sustained behaviours (continuing animal agriculture at roughly the same levels, continuing to rely on fossil fuels, and so on) which were *necessary to* the world going the way it should have. Particular resources are used in one way in the stylized version of the actual world, and in another way in the counterfactual world in which things went as they ought to have. This is what makes the difference between the cases. Two persons falling in love, and an understudy getting to perform in the lead's role, are both causally downstream from the world going other than it ought to have gone, but in neither case is it true that they need not to have happened *for* the world to have gone as it ought to have gone. The lead might simply have come down with the flu, and the couple might have met anyway. That is not true in the stylized version of the climate change case. It is not possible that the world went as it ought to have gone, *and* countries failed to make the relevant investments and behavioural changes. So we can refine the principle as:

(2) *It is impermissible to retain any benefits necessary to the world going as it morally ought to have gone.*

Here we define as a 'benefit' any material goods (e.g. money, resources) which, at the salient point in time, would have to have been invested (used, spent) for the world to go as it ought. At that time they are simply holdings; later when they are retained, they become benefits. This formulation of the principle is still problematic, because there are a great many junctures at which the world has gone other than it morally ought to have gone. Had we divided the world's resources (territory, water, minerals...) equally at the very start of human civilization, and had all transfers since then been just, we would not have a morally ideal counterfactual to make reference to, because the actual world would instantiate the conditions in the counterfactual. But in the actual world, the acquisition of resources was

initially arbitrary and later a result of conquest, and our history of transfers is plagued by oppression, domination, theft and exploitation, not to mention a fair bit of luck. There are any number of junctures, branching off from the history of the actual world, at which the world morally ought to have gone otherwise, but in fact did not. One problem we face is in specifying the content of these counterfactuals – the further back in history the branching-off, the more difficult it gets.²³

Another problem we have is in the nature of the later branches as causally downstream from earlier failures of the world to go as it morally ought to have. If the world had gone as it ought to have gone from the beginning of civilization, then perhaps we wouldn't be here wondering about how to pursue the good of a global reduction in greenhouse gas emissions. I think we can make sense of the idea of the world not going as it ought to have at a specific juncture without having to be able to fill in all the details of the ideal counterfactuals for all junctures that someone might be interested in. In the stylized climate case, the global collective failed to bring about the target reduction of GHG emissions, without any member country, nor the global collective itself, being culpable. Because of that failure, countries *retained the holdings that were necessary to making the world go as it ought to have gone*. We can compare the holdings that countries have in two worlds: having satisfied their obligations via the belief disjunct, countries have holdings well above those they would have at the counterpart time in the relevant counterfactual world in which they satisfied their obligations via the action disjunct. Because it is impermissible to retain any benefits necessary to the world going as it morally ought to have gone, it will be impermissible for the countries in the stylized version of the actual world to retain those benefits. The thought is supposed to be that we can say something meaningful about particular junctures in time, even if we can't fill in all the details of all possible junctures.

Finally, we should read the benefiting principle as having an implicit *ceteris paribus* clause. I do not wish to suggest that benefiting is impermissible across every conceivable circumstance. We should be pluralists about the things that matter morally – some things might matter much more than the relinquishing of benefits that are not rightfully held. But

²³ One possibility here is to simply ask whether applying the benefiting principle will offer an opportunity to fix the target problem. In the case of colonial injustice, it's not clear that it will, because it's not clear which holdings at which times would have had to be invested (used, spent) for the world to have gone as it ought to have. But in the climate change case, and in other cases in which we have a clear idea of the precise point in time we're interested in, and holdings which should have been used in one way and were not, the principle should be able to do some heavy lifting.

in the case that all else is equal, it is impermissible to benefit in the way specified in the benefiting principle.

§IV. Relinquishing benefits, no matter what?

If the benefit held by a beneficiary is materially identical to the harm sustained by the relevant victim, it is clear that the beneficiary ought to relinquish the benefit. For example, if the Australian government successfully sends thieves into Germany to steal the machines they are using to produce solar panels, the Australian government will find itself in possession of solar panel production machines whose absence is constitutive of the harm to the Germans. The Australians are able to repair the harm, by giving *those* machines back (although they could also replace them, or compensate for them). We like to repair material harms to victims in this way for a number of different reasons, primarily because that is what our firmly-entrenched system of property rights requires, but also because it deters both thieves and potential recipients of stolen goods if we as a rule privilege the first person done a material injustice in any given chain of transfer, which is worthwhile on consequentialist grounds.²⁴

In the stylized version of the climate change case – and in fact in the real-world – the most immediate victims of climate change will be those living in the world's lowest-lying countries (who will be without territory when Arctic ice melts, causing the sea level to rise), those relying on the fisheries for subsistence (who will be without the means of subsistence when the fisheries collapse), those whose lands will cease to be arable and whose access to fresh water will drastically diminish (because of changes to rainfall and temperature), and those who fall victim to the extreme weather events which are increasing in severity as the global concentration of greenhouse gases increases. Who are the beneficiaries? Colloquially we might suppose that the beneficiaries are those who do better under climate change than they would have without it, for example those currently living in frozen territories which thaw and become temperate and arable. Or perhaps those individuals who profit from the negative effects upon others, e.g. those whose territories have reliable access to fresh water, and who can export it to other countries at a high price.

But notice that these beneficiaries do not meet the conditions specified

²⁴ Of course, there is a lot to criticize in our system of property-rights. Strictly speaking, drug companies have the patent over their discoveries, but many people think it would not be wrong for poor countries to break those patents. That is because some things are more important than property rights, like preventing terrible suffering. This is a controversial matter which I don't have time to get into here, but see Sigrid Sterckx, 'Can Drug Patents Be Morally Justified?' *Science and Engineering Ethics*, 11 (2005): 81-92.

in the benefiting principle: the benefits they have were not necessary to the world going as it ought to have. It might be that all countries successfully signed a new treaty and then made the investments necessary to fulfilling their assigned share of the global emissions-reduction target, and yet because of the lag between GHGs emitted and effects upon the environment felt, countries would still have experienced those 'benefits'. The beneficiaries need to be identified through the conditions specified in the benefiting principle, not colloquially. Which agents, in the stylized case, have holdings that were *necessary* to the world going as it should have gone? That question is easy enough to answer: practically all countries are beneficiaries in that sense, because they still have the money and resources that they would have invested in doing their share of addressing climate change. In fact, if we ignore the incremental aspect, that question can also be answered for the real-world climate situation: all countries are beneficiaries, except and to the extent that they have invested significantly and unilaterally in reducing their GHG emissions (without a binding agreement with other countries). In the real-world, several actual countries have acted unilaterally in introducing *some* changes, but arguably no country has invested the extensive resources that they would have been required to invest had the agreement at Copenhagen actually succeeded.²⁵

Because there are victims who either need or will need reparation (resettling through immigration, aid in the form of food, water and shelter, and so on), it's fairly straightforward to say that it is impermissible for beneficiaries to retain the relevant benefits. They would retain them *at the expense of* the victims being aided.²⁶ But what if there is no victim, or the victim is long-since dead, and the harms are long-since irreparable? Is it still impermissible to retain benefits, or does it not matter in that case? The fact that we can ask this question shows that there are two different rationales for the benefiting principle. The first is victim-driven. Victims need to be made reparation, or compensated, and that can be done using the relinquished benefits. This can be direct, as with the stolen solar panels when the Australians can literally give up the panels so that they can be given back, and it can be indirect, as in the case of climate refugees who are owed a new home, where the relinquished benefits can be used to fund new settlements in alternative territories. This victim-driven rationale is the one I have been interested in here.

²⁵ This is certainly true for the set of all countries *minus* the least developed countries (LDCs); it's controversial whether there's any fair arrangement under which the latter would be assigned some share of the GHG emissions-reduction burden.

²⁶ Anwander op. cit. 42-43.

But there is another rationale for the benefiting principle, which is beneficiary-driven. On this rationale, it is *impermissible to benefit simpliciter*. That means there is a moral requirement to relinquish benefits whether or not there is a victim to be aided. If there were absolutely nothing related to the original moral ills that could be repaired, it would still be better to throw the benefits into thecompost, or recycling..... than to retain them. But committing to this rationale is a further step that I am not prepared to take here. Thus we can limit the benefiting principle:

(3) *If there is at least one person who suffers as a result of the world going other than it morally ought to have gone who can be compensated or made reparation, then to that extent it is impermissible to retain any benefits necessary to the world going as it morally ought to have gone.*

Bearing in mind that this is a *ceteris paribus* principle, it seems to get things roughly right.

§V. Generalizations & advantages of the benefiting principle

The formulation in (3) picks out victims in virtue of their suffering as a result of 'the world going other than it morally ought to have gone', and beneficiaries in virtue of their holding 'benefits necessary to the world going as it morally ought to have gone'. It's natural then to ask exactly what it takes for the world to go as it (or other than it) ought. In the stylized climate case I presented above, the work is being done by the fact that agents' obligations are disjunctive. Even though the obligation is satisfied regardless of *which* disjunct is satisfied, it is clear that it would have been much better for agents to have satisfied their obligations via the action disjunct rather than the belief disjunct, and furthermore that they easily could have, were it not for unfortunate miscommunications (remember, the belief that others won't act has to be a reasonable one). The question is whether there are generalizations of that case, or collective action cases are unique in the respect of generating the kind of non-culpable failure, and concomitant benefit, discussed above.

I think there are two kinds of generalizations, although I am less sure about the second. The first is to cases where individuals' obligations are disjunctive, but where there is no issue of acting collectively. The second is to cases where individuals' obligations are categorical, and yet where there can be non-culpable failure. On the first, take any case where objective and subjective oughts come apart, and add in two further features, namely material benefits, and at least one victim. For example, Chris is a factory

owner. Imagine that he is obliged to either have the reasonable belief that a certain safety device would not be necessary, or to have the safety device installed. And imagine that he satisfies this obligation by having the reasonable belief that the safety device would not be necessary, but unfortunately his belief—although reasonable—was formed on the basis of misprinted information about the industry-wide accident rates. The objective and the subjective oughts come apart here because objectively, Chris ought to have installed the safety device, on the basis of the correct evidence about incident rates. But subjectively, it was not the case that he ought to have done, because relative to his reasonable beliefs, the safety device was unnecessary. Now imagine that one of the factory workers suffers an occupational injury and is badly hurt.

There is a clear sense in which it would have been better for Chris to have satisfied his disjunctive obligation via the action disjunct (install the safety device) than the belief disjunct (reasonably believe that the device is not necessary), and we see that but for the misprinted information he would have done. Most people think that culpability attaches to the subjective and not the objective ought (so long as the agent is not culpably ignorant, which Chris is not), so Chris is non-culpable in the accident's having occurred. But had the world gone as it ought, the safety device would have been installed, and the accident would not have happened. The factory worker remains in hospital for some time. So there is at least one victim of the world going other than it ought, namely the worker, and there is at least one beneficiary of the world going other than it ought, namely Chris. The beneficiary principle specifies that Chris ought to give up those holdings he has over and above what he would have had if the world had gone as it ought, namely, the cost of having had the safety device installed. So we might think that he has to give the cost of the device to the worker, as a contribution to his medical expenses.²⁷

On the second generalization, we can use any obligation whatsoever, so long as we accept that individuals' obligations are to *try* rather than to *succeed*.²⁸ Obligations to try are categorical, so this gives us cases that rely neither on collective action situations nor on obligations being disjunctive.

²⁷ Some might think he should do even more than this; it often shows up in discussion of 'dirty hands' cases that even without culpability, a good person ought to signal lament of their being somehow related to harm. After all, the accident took place in Chris's factory. I have never shared this intuition; I think probably people read refusal to pretend culpability as an indicator of genuine culpability (e.g. that the person related to the harm was not sufficiently careful in avoiding it). It is a further question whether Chris should *also* install the safety device in order to prevent future accidents—it seems that on the basis of the new information he has about accident occurrence, he probably should.

²⁸ Gardner op. cit.

As above, we need the same two further features of a victim and a material beneficiary. For example, imagine now that David is the factory owner, and his obligation to (try to) install the safety devices is instead categorical, given the well-publicized information on industry accidents. However, despite his very best efforts, the world does not cooperate in the small ways necessary to facilitate his installing the device. The bank's servers are down so despite entering his credit card details online his payment is rejected, and he is notified of this in an email which he doesn't read until the end of the business day. The next morning, just like in the last case, one of the factory workers suffers an occupational injury and is badly hurt. In such a case, it looks like David has satisfied his categorical obligation, because his obligation was only to *try*, and he did the best he could. Nonetheless, it would have been better if he'd *tried and succeeded*; and there's a nearby way the world could have gone such that he did in fact succeed (the credit card payment went through, the device was delivered in the morning and in place before the accident occurred). Thus we have another kind of case in which the world goes other than it ought, morally, to have gone, and yet for which there is no culpability. There is clearly a victim, namely the factory worker, and there is clearly a beneficiary, namely David. The benefiting principle specifies that David ought to give up those holdings he has over and above what he would have had if the world had gone as it ought, namely, (again) the cost of the safety device to the victim as a partial contribution to his medical expenses.

The benefiting principle is useful for all such generalizations, because it provides a kind of backup moral undermining of the affluent's entitlements to their holdings. Our usual go-to is culpability, but failing that we *still* have a way of saying that certain persons should give up certain of their holdings in favour of helping salient victims or persons in need. Whether this is an argument *from justice* will depend on your preferred understanding of justice, but whatever kind of argument it is, it does not rely on culpability, as justice-based arguments so often do.

Finally, it is an advantage of my formulations of the benefiting principle that they seem to partly avoid the non-identity problem first presented by Derek Parfit.²⁹ In brief, the problem is that claims that a given person benefits, or is harmed, are made relative to a given counterfactual baseline, and very often this counterfactual baseline will be one in which the given person would not have existed. The formulations in §III and §IV avoid this problem because the counterfactual baseline is a matter of the *holdings*

29 Derek Parfit, *Reasons and Persons* (Oxford: Clarendon, 1984), p. 363.

and not the *persons*. If the world had gone as it ought, the holdings would be one way; given that it goes other than it ought, the holdings go another way. We figure out who counts as a beneficiary by figuring out what the pattern of holdings should look like, and then we apply the benefiting principle to give those beneficiaries a reason to relinquish the relevant holdings and direct them toward the relevant victims. I say the formulations only partly avoid the problem because there's still a question of how to identify the *victims*. It might be possible to avoid it altogether with an objective story about suffering, such as falling below the level of subsistence, or failing to have one's basic human rights met, in which the suffering is causally downstream of the relevant branching of the worlds. But I'm not sure about that.

Notice that in the initial stylized climate case, the beneficiaries are countries, so there will be a further question about how the obligation bearing upon a country to relinquish benefits will distribute out to members (indeed, there is a question of how to characterize membership in countries).³⁰ But in the two generalizations discussed earlier in this section, the beneficiaries are individuals, so the obligations bear directly.

§VI. Conclusion

Countries, and the individuals who make them up, have many reasons to do something about climate change. Developed countries are causally implicated in having brought it about (whether or not some or all developing countries are also causally implicated). Many or most countries stand in associative relationships with countries who will fall victim to the projected effects of climate change (e.g. mother countries and their ex-colonies, countries contracting or agreeing to mutually beneficial trade and immigration arrangements).³¹ Most countries have at least some capacity to assist the actual or projected victims of the actual or projected effects of climate change, such as the climate refugees whose lands will be subsumed by sea-level rise, or those who lose their homes and livelihoods during extreme weather events. Countries also have some capacity to assist indirectly, for example by preventing the effects of further warming, by severely reducing their GHG emissions, by switching to clean energy technologies, and so on. Finally, every country has a self-interested reason to act, at least if we use an inclusive notion of 'self' which persists over

³⁰ See Lawford-Smith 2012 *op. cit.* for the schematic answer, and Collins & Lawford-Smith *op. cit.* for an application to countries.

³¹ Lea Ypi, Robert Goodin, & Christian Barry, 'Associative Duties, Global Justice, and The Colonies', *Philosophy and Public Affairs*, 37 (2009): 103-135.

generations, because those countries will themselves experience the projected harms of climate change, to a greater or lesser degree. And they have a reason to act sooner, rather than later, because we know it to be true that the later we act, the worse things will be, both environmentally and economically.³² The discussion here has been intended only to throw yet another reason for acting on the pile – a country has a reason to relinquish any benefits it has from the various failures involved in the history of negotiating climate change action, so that those benefits can be used in aiding current and future victims of climate change, and preventing even further harm to persons and the environment from occurring. That is true even if that country is not culpable in those failures, even if *no countries* are culpable in those failures. It is impermissible to retain resources necessary to the world going as it ought to have gone.

Holly Lawford-Smith
University of Sheffield
November 11th, 2013

Acknowledgements

This paper is supported by Australian Research Council Grant DP110100175. Many thanks to my colleagues on that project, Christian Barry, Bob Goodin, David Wiens, and Gerhard Øverland, for the early conversations which started my thinking about 'benefiting'. For very helpful comments and discussion on drafts of this paper I am grateful to the audience at the Australasian Association of Philosophy, 1st-6th July, 2012, and the Philosophy & Politics Research Group at the University of Sheffield (Jess Leech, Richard Healy, Ross Bellaby, Hayley Stevenson, Alasdair Cochrane, and Robin Scaife). For extensive comments on the penultimate version I am grateful to Alasdair Cochrane and Nick Munn. Finally, for helpful comments and suggestions I am grateful to Christian Barry and David Wiens, Wolfgang Schwarz, Eva Erman, Hugh Ward, Stephanie Collins, two anonymous referees, and the guest editors for this issue of the *Journal of Applied Philosophy* – Ed Page and Avia Pasternak.

32 Intergovernmental Panel on Climate Change, "Climate Change 2007 Synthesis Report: Summary for Policymakers", *Working Group Contributions to the Fourth IPCC Report* (Valencia, 12-17th November, 2007); Intergovernmental Panel on Climate Change, Working Group III, *Fourth Assessment Report of the United Nations Intergovernmental Panel on Climate Change* (2007b): Ch. 13; Nicholas Stern et al., 'Summary of Conclusions', *Stern Review: The Economics of Climate Change* (Cambridge, Cambridge University Press, 2007), pp. vi-ix, at vi; Robert Socolow, 'Wedges Reaffirmed', at *Climate Central*, <http://www.climatecentral.org/blogs/wedges-reaffirmed> published 2^{7th} Sep. 2011, accessed 11th Nov. 2013.