

CLIMATE CHANGE

EQUITY & THE FUTURE OF DEMOCRACY



The Solidarity America Needs

Anne-Marie Slaughter & Sharon E. Burke

The same deep tension lies at the heart of the fight against COVID-19 and climate change, particularly in democracies. In each case, the measures necessary to save everyone entail costs that widen existing inequalities. At a time when the United States and other democracies need solidarity, the resulting civic turmoil and division are feeding (and being fed by) populism.

In the United States, the disastrous response to the pandemic has exacerbated class, racial, ethnic, and age divisions. Shutting down 60 percent of the economy for months, and then reopening it in an uneven state-by-state fashion, has pitted those who can work remotely and want to stay safe against those who cannot and thus regard public-health measures as tantamount to economic suicide.

The 40 percent of the economy that has remained open all along is staffed by millions of “essential workers,” who disproportionately

comprise low-paid black and brown Americans. They are up to five times more likely than whites to be hospitalized for COVID-19¹, and—with more than 37,000 black Americans having now died from the disease—more than twice as likely to die.² Intersecting these divides is the coronavirus’s differential impact on younger and older Americans, although jokes about COVID-19 being the “boomer remover” have faded as every age group suffers deaths and serious health consequences.

Beyond the health effects, young people are paying a higher social, educational, and economic price for the shutdown than older Americans. The unemployment rate among those aged under 34 is in the double digits³, while McKinsey & Company estimates that the ongoing disruption to schooling will cost \$110 billion in lost annual earnings for today’s students.⁴ And these are just the consequences that can be measured.

None of this had to happen. America's poor COVID-19 response is a failure of leadership, not governance. Other democracies—including countries as geographically diverse and culturally distinct as South Korea, New Zealand, Germany, and Ghana—have kept infection rates under control so far. And although communist China is widely viewed as having responded better to the pandemic than the United States⁵, democratic Taiwan has done an even better job—and without suppressing information about the spread of the virus.

The fault lies with a particular kind of populist leadership that is abysmally evident in President Donald Trump's administration but also plagues other countries, from Poland under the ruling Law and Justice (PiS) party to the Philippines under President Rodrigo Duterte. Such leaders approach problems by blaming others, aiming to strengthen their support within a particular subgroup by fostering division.

That type of leadership undermines trust⁶, and makes it less likely that people will have sufficient confidence in authority and expertise to follow public-health guidelines. It also eschews and destroys any idea of shared sacrifice.

Therein lies the similarity between the responses to COVID-19 and climate change: faced with outsize and unexpected burdens and costs, everyone must commit to give up or pay something.

To be sure, solidarity is much harder to sustain when sacrifice is shared **unequally**. As with the current pandemic, the effects and costs of climate change are **unevenly** distributed within and across populations. Those who have

benefited from the generation of wealth in the industrial age will not be paying anywhere near a proportionate share of the legacy costs in the twenty-first century.

But embracing solidarity offers a potential path forward for all democracies beset with racial and ethnic tensions, either among native populations or between self-described natives and immigrants. In his forthcoming book on "race, solidarity, and the future of America," U.S. Navy veteran and former White House Fellow Theodore Johnson defines national solidarity as "the civic version of the Golden Rule," requiring that each of us "actively champion the right to equality and liberty" for ourselves *and* our fellow citizens.

Johnson further argues that African-Americans and other minority communities have deep experience of solidarity. Michelle Alexander, author of *The New Jim Crow*, has similarly called for a "politics of deep solidarity rooted in love."⁷



Therein lies the similarity between the responses to COVID-19 and climate change: faced with outsize and unexpected burdens and costs, everyone must commit to give up or pay something.

Solidarity is both golden and necessary. The United States, along with Japan, China, Russia, and much of Europe, is struggling with a demographic imbalance, having too few young people to support a tsunami of retirees. But the U.S. has a comparative advantage because both immigration and a more diverse young population are contributing to economic growth.⁸

Whites are already no longer a majority among Americans under 18. By 2027, they will cease to be a majority among those under 30, and by 2045 they will no longer be a majority at all.⁹ If America can make closing the racial equity gap its national mission, such that economic, educational, and social disparities simply track America's demography rather than being disproportionately concentrated in black and brown communities, it will open the door to huge and lasting innovation.

Throughout its history, American democracy has innovated to adjust to technological change, wars, pandemics, and other shocks. Its

persistence shows that a society governed by liberal principles, the rule of law, and elected representatives can exist and thrive for centuries. As the U.S. approaches the 250th anniversary of its founding, Americans need to embrace the country's diversity as a source of strength and solidarity that will allow it to meet collective challenges at home and abroad.

The politics of populism is a politics of division, defining "the people" whom populist leaders claim to represent *against* others—foreigners, elitists, cosmopolitans, globalists, urbanites, or people of a different color, race, or creed. By contrast, the politics of solidarity is one of unity, reminding us of the common threat to the planet that imperils us all. By choosing a response that unites equity and existentialism, we can save both democracy and our world.



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What Foreign Policy Needs to Do to Address Climate Change in the Developing World

Vanessa Nakate

Climate change is the greatest threat facing humanity right now. Though we will all feel its impacts, not all of us will be affected equally, making it not just an important foreign policy issue but also an important issue with regard to equity and democracy. For instance, while some people have yet to experience any climate impacts in their own lives, others have already seen their livelihoods destroyed by climate change-driven floods, hurricanes, and droughts. In my country, Uganda, I have seen people, especially in rural communities, struggle with food and water scarcity—yet we emit less carbon dioxide per capita than nearly every other country. This clearly shows the injustices that come with climate change and demonstrates that the foreign policy community needs to act to protect the developing world and the most vulnerable within it.

There are three key steps to ensuring that climate action is democratic and equitable, and thus more effective. First, the international community needs to provide more democratic development

finance to address the needs of communities struggling with air and water pollution and support developing countries with mitigation and adaptation efforts. Second, ecocide needs to be recognized under international law—this is a crucial step towards global environmental justice. Third, we need to bring more voices into the international climate debate, particularly those who suffer the most from climate impacts, namely frontline communities and women.

Encourage More Democratic Development Finance

The objective of development finance is to build more livable and sustainable communities, while the role of democracy is to ensure that the interests and needs of the people are reflected in decision-making.

Democratic development finance needs to support climate-friendly projects for both mitigation and adaptation. Initiatives that are working to build resilience in the most affected

communities and countries should be prioritized. Efforts, for instance, that increase food security for the poor, improve water security through water harvesting mechanisms such as boreholes, and bring solar-power installations or eco-friendly stoves to communities.

For so long, activists have tried to drive change in their communities with the resources available to them. For example, I started a project in Uganda—relying on funding from individual internet donors—that involves the installation of solar energy and eco-friendly stoves in schools. These stoves help to reduce the amount of firewood that schools use to prepare food. They also ensure clean cooking for the students and protect the chefs from inhaling smoke as they prepare food. Taking clean cooking a step further, the project includes the installation of solar systems in schools to support a broader transition to renewable energy.

Many other people are working to build resilience in the most affected communities, but they face the basic challenge of a lack of financing. It is estimated that the United Nation’s Sustainability Development Goals require \$5-7 trillion to ensure the goals are met by 2030¹—and yet in 2018, Official Development Assistance

totaled just \$149 billion.² Policymakers need to support the policies that enable and encourage financing for young people to build resilience in the most affected communities.

Foreign policymakers should drive green investments globally, such as clean transportation and renewable energy. The developing countries that are the most affected by the climate crisis need assistance in running these investments. Developing investment strategies through a democratic lens helps us recognize who is suffering from climate injustice and carve out a more equitable pathway forward, by allocating financing to increase the resilience of those who are most affected. The people are speaking up and demanding change.

Address Ecocide and Environmental Crimes in International Law

The term “ecocide” refers to human activity that violates the principles of environmental justice, for example causing extensive damage to—or destroying—ecosystems, or harming the health and well-being of a species (including humans). While we have many international agreements and laws meant to protect the environment and



climate, none of them explicitly address ecocide. Ecocide needs to be recognized under international law as a crime.

In fact, justice systems are becoming the new battleground between activists and bad climate actors. The fossil fuel industry is lawyering up. To date, nine U.S. cities and counties have sued the fossil fuel industry for climate damages.³ California fishermen are going after oil companies for their role in warming the Pacific Ocean, a process that soaks the Dungeness crabs they harvest with a dangerous neurotoxin. The Dutch Supreme Court ruled in the Urgenda climate case that the Dutch government is obligated to reduce emissions in line with its human rights obligations.⁴ And in *Juliana vs. U.S.*, a group of young Americans have filed suit against their government, “assert[ing] that, through the government’s affirmative actions that cause climate change, it has violated the youngest generation’s constitutional rights to life, liberty, and property, as well as failed to protect essential public trust resources.”⁵

Governments and corporations need to be held responsible for violating human rights. Foreign policymakers should urge the fulfillment of environmental legal obligations to combat climate change. This will help to reduce potential environmental risks in the most affected communities.

Listen, then Lead

Last but not least, we need to recognize all voices in the international arena, particularly those who most often face the consequences of climate change-driven extreme weather.

Women’s roles as primary caregivers and providers of fuel and food make them more vulnerable to drought and floods. The authors of a Georgetown Institute for Women, Peace and Security report write, “Around the world, women tend to be marginalized from political and economic power and have limited access to financial and material resources—particularly in conflict-affected, post-conflict, or less economically developed settings—which can exacerbate their vulnerability to the impacts of climate change.”⁶

There’s a simple illustration of this from Uganda: one of the ways to survive a flood is to climb a tree, and yet women in some areas are strictly not allowed to climb trees, because doing so would taint their dignity according to cultural values.

One way to improve the situation is to include more women in conversations on climate action. This means providing equal space and resources for women and men to participate in climate change decision-making and action at all levels and on all platforms. Decision-making needs to include diverse voices from developing communities and Indigenous communities. These people suffer the most and they deserve platforms to demand justice and inform responses. There is no climate justice without respecting diversity in the climate movement.

We cannot address climate change without democracy and equity. We cannot. We need leaders who will take swift and equitable climate action. We need leaders who will enforce laws to protect people and the planet.

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Without Centering Race, Identity, and Indigeneity, Climate Responses Miss the Mark

James Thuo Gathii

Introduction

A press-conference photo from the 2020 World Economic Forum in Davos, Switzerland, excluded Vanessa Nakate, a young Ugandan climate activist who founded the Rise Up Movement. That photo only showed her four White colleagues.¹ Nakate's exclusion from this picture powerfully illustrates the epistemic silencing of non-White and Indigenous peoples and communities in the most eminent discussions of climate change. This example shows how climate discussions are dominated by Western, often White voices and interests.²

Take another example. It was only after months of climate change aggravated bushfires raging across Australia³ that fire services began to consider 50,000-year-old Aboriginal fire-management practices.⁴ Those practices involve a close, custodial connection with land, wildlife, and seasons.⁵ Furthermore, it was almost three months after those fires had been extinguished when the Australian Government ultimately concluded that it ought to have better incorporated Indigenous knowledge into the country's environmental decision-making.⁶

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While the bushfires in Australia and elsewhere, including in California, received intense media attention, very little attention is paid to the more extreme, long-term, and life-threatening consequences of climate change, such as drought, water scarcity, and food shortages in Africa, South Asia, Latin America, and elsewhere.⁷ Like Nakate's excision from the climate activist photo and Australia's initial oversight of Indigenous knowledge⁸, climate change issues involving poor countries remain largely underrepresented in both research and global governance.⁹

It is time we put an end to the epistemic silences in predominant climate change discourses, which erase and ignore the agency, knowledge, and experiences of non-Western, non-White peoples, and Indigenous communities. Effectively responding to the immense challenges posed by climate change requires a climate justice approach that centers the voices and experience of those most vulnerable. Foregrounding these voices and experiences, including those relating to traditional ecological knowledge, will serve not only to better understand and address the challenges raised by climate change, but also to end the "cognitive annihilation" of Indigenous heritages and world-views.¹⁰ It is simply not enough to focus only on the economic and scientific issues raised by climate change, without paying attention to those relating to race, identity, and indigeneity.¹¹

To make that claim, this essay examines three major approaches to thinking about climate change: sustainable development; social justice cosmopolitanism; and post-development.¹² A comparative analysis reveals significant variation in the ways these approaches exclude the viewpoints of vulnerable communities. Furthermore, these approaches remain largely isolated from one another, which makes coordinating effective climate-change action an even greater challenge.

In contrast, climate justice theorists, practitioners, and activists acknowledge race, gender, identity, and indigeneity;¹³ accordingly, they address the limits of development and market orthodoxy in the aforementioned approaches, and also highlight the "issues and concerns that arise from the intersection of climate change with race, poverty, and preexisting environmental risks."¹⁴ These aspects of climate justice are critical because they make visible the most urgent impacts of climate change that have so far been peripheral in policy discussions that are dominated by scientific and economic considerations.

Climate justice is by no means a settled and uncontested concept¹⁵, but more than any of the aforementioned approaches, it opens up climate change discussions to a broader set of considerations and should be embraced alongside the predominant economic and scientific approaches that currently dominate discussions on climate change.

Sustainable Development and its Blind Spots

One lens through which to think about climate change is economics. For example, a recent economic analysis of climate change argues that markets, if left alone, can produce climate-saving innovations, enabling never-ending growth.¹⁶ Sustainable development, by contrast, provides an alternative starting point for a more sustainable and inclusive global economy.

The concept of sustainable development—that high growth rates are a key driver of development¹⁷—began to take shape after the 1972 U.N. Conference on the Human Environment in Stockholm, which recommended preservation measures to offset environmental degradation caused by resource extraction and economic exploitation. The term "sustainable development"

first appeared in a 1980 report by the International Union for the Conservation of Nature.¹⁸ In 1987, the U.N. World Commission on Development and the Environment presented the Brundtland Report, which imagined sustainable development as balancing economic development with environmental protection.¹⁹ This approach changed when the 1995 Copenhagen Declaration on Social Development described sustainable development as a balance of three pillars: environmental protection, economic development, and social development (which integrates social, economic, and cultural rights, including equality and non-discrimination).²⁰ Later, the 2012 U.N. Conference on Sustainable Development (i.e., the Rio+20 Conference) proposed a more abstract, pro-growth notion of sustainable development that identified poverty in developing countries as primarily responsible for environmental degradation.²¹ The overriding commitment to economic growth that appeared in Rio's "Green Economy" proposals were dubbed as "eco-efficient" approaches to solve environmental issues.²²

However, very much like the leading scientific studies on climate change, sustainable development alone does not adequately capture the entire breadth of the implications raised by climate change. As a framework, sustainable development comes with significant blind spots. In particular, it pays insufficient attention to historical and structural foundations of poverty. Even with some recognition of both the biophysical limits to growth and the role of cultural and spiritual heritages in reinforcing economic interests and survival imperatives, sustainable development remains an overtly growth-centric "ruling rationality,"²³ invariably justifying the types of environmental degradation associated with climate change.²⁴

The Cracks in Social Justice Cosmopolitanism

Unlike sustainable development, social justice cosmopolitanism evaluates climate change action while weighing the historical and structural foundations of poverty. This includes the impact of the high levels of emissions from developed economies and middle-income emerging market economies that disproportionately impact the lowest carbon dioxide-emitting countries of the Global South. For proponents of social justice cosmopolitanism, who view individuals as the units of moral concern, global institutional arrangements exacerbate socioeconomic inequalities in ways that are both foreseeable and avoidable.²⁵ As a result, these cosmopolitans believe that developed countries have a moral imperative to stop poverty and ecological harms, including those caused by climate change.

To achieve this goal, cosmopolitans propose measures such as cooperative redistribution. For example, Thomas Pogge has proposed a government sponsored Ecological Impact Fund that would incentivize innovators of ecologically beneficial inventions by paying them on the condition that they agree to give up the underlying intellectual property protection of their innovation so that it can be used in countries that would otherwise be unable to afford such innovation.²⁶ For cosmopolitans, identity issues, including those based on ethnicity, culture, or race, are irrelevant.²⁷ Yet, the impact of climate change disproportionately falls on people who have long been marginalized on the basis of their identity. It is insufficient to merely focus on the material resources the poor lack without focusing "on relations and structures of social and political inequality"²⁸ that reinforce poor communities' powerlessness and subordination.²⁹

Beyond Post-Development?

Unlike sustainable development and social justice cosmopolitanism, a post-development approach provides a framework for discussing climate change that emphasizes how contemporary development paradigms are designed by elites and the global institutions they control, “from above,” rather than “from below.” The claim here is that ideas about development are not designed through bottom-up, grassroots processes that take into account the interest of ordinary people and communities.

A post-development concept argues that development frameworks such as free markets also presuppose a singular “global modernity” rooted in a Eurocentric social order.³⁰ On the other hand, “coloniality” includes “those subaltern knowledges and cultural practices world-wide that modernity itself [has] shunned, suppressed[,] made invisible and disqualified.”³¹ Post-development seeks to overcome this modernity/coloniality paradigm that defines contemporary understandings of development by taking seriously local histories and politics, not in

a romantic or unrealistic manner³², but rather as foundations for alternative and dissenting imaginations. Such a view is based on acknowledging the role of social movements to “more directly and simultaneously engage with imperial globality and global coloniality.”³³ Post-development therefore provides an approach that counters universalizing solutions to climate justice concerns by foregrounding non-dominant perspectives that cannot be reduced to the modernity/coloniality paradigm, even while acknowledging its overbearing influence.³⁴

For example, Balakrishnan Rajagopal reminds us that although human rights discourse is part of this hegemonic modernity/coloniality paradigm, we should not dismiss the value of human rights in our search for radical democratic alternatives, particularly because rights help to envision what he refers to as “counter-hegemonic cognitive frames.”³⁵ Rajagopal’s vision of a counter-hegemonic international law includes “coalitions of smaller states and social movements, forming tactical alliances with larger states in particular negotiations, while increasing the prominence of sub-state actors in international law more broadly.”³⁶ In this respect, post-development complements a climate justice framework that also includes attention to issues of identity, including those relating to race, identity, gender, and indigeneity.

Hitting the Mark with Climate Justice

Implementing a climate justice approach to understanding and addressing the impacts of climate change would complement and strengthen the aforementioned predominant approaches. For one, this is because climate justice’s interdisciplinarity avoids the blind spots of economic frameworks oriented towards growth and



redistribution. Additionally, climate justice responds to an urgent global threat by its razor-sharp focus on the disproportionate burden of climate borne by people of color and Indigenous people, as well as related issues such as access to safe, affordable, and nutritional food, access to parks and open space, but also equity in disaster preparation and response.³⁷ This essay primarily focuses on those elements that directly relate to climate justice.

Climate justice was embraced in the 2002 Bali Principles of Climate Justice, which were formulated by a broad coalition of civil society groups. One of their primary goals was to put a human face to issues related to climate change by borrowing from a human rights and environmental justice perspective.³⁸

The many roots of the climate justice movement can be traced to environmental justice movements³⁹ including those that sought to defeat environmental racism. The goal of environmental justice is to address:

*the ethical and human rights dimensions of climate change, the disproportionate burden of legacy pollution (chemicals that were used or produced by industry that remain in the environment for a long time after they were used and cause harm), the unsustainable rise in energy costs for low income families, and the impacts of energy extraction, refining, and manufacturing on vulnerable communities.*⁴⁰

For example, in North America, environmental justice actors challenged environmental policies that allowed disproportionate and persistent exposure of environmental harms to people of color.⁴¹

Environmental justice therefore emphasizes the centrality of grassroots engagement, particularly

by people of color, youth, and women, as exemplified in the work of leaders like Nakate, whose combined influence can counter a dismissive culture of inaction on the causes and impacts of climate by governments and other actors.⁴² Also referred to as “environmentalism of the poor,” environmental justice recognizes those disproportionately impacted by climate change not merely as victims or objects of study, but also as producers of knowledge whose agency in exposing and countering environmental injustices is crucial to understanding the threat that climate change poses.

Indeed, as Maxine Burkett reminds us, the contemporary global climate movement does not simply mirror the concerns of environmental justice.⁴³ Rather, in Burkett’s words, it “seeks to correct a deeper harm that disparately dismantles livelihoods as a result of a changing climate, and to introduce a different kind of political economy that, at the very least, abandons the use of fossil fuels as a driver of our economy.”⁴⁴ Indigenous peoples and local communities adversely impacted by climate change often seek alliances with sympathetic actors including rich non-governmental organizations based in rich countries as a way of amplifying the voices and concerns.⁴⁵

Recognizing climate change as a problem of global injustice, rather than solely a problem of economics, of science, or merely of inequality, provides clarity on the need “for a fundamental shift in our political and economic systems and thinking.”⁴⁶ While many of the existing approaches to environmentalism have focused on sustainability, climate justice emphasizes that “nature is more than an economic resource and the natural environment is of more than utilitarian value.”⁴⁷

Importantly, climate justice embraces a notion of intergenerational justice, which indicates how “the persistence of greenhouse gases is a past,

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present, and future wrong that must somehow now be addressed.”⁴⁸ Climate justice proponents consider that climate change will adversely impact not only “the most impoverished nations and peoples in the international community, who will be least able to address it,” but the emerging middle-income nations continuing to pursue economic growth in hopes of joining the industrialized world as well.⁴⁹

Solutions to climate change pegged on contemporary notions such as sustainable development are problematic because global capitalism “deploys race and racism as techniques of exclusion and control, creating expendable geographic locations (sacrifice zones) and expendable people.”⁵⁰ Taking these limits of sustainable development, Carmen Gonzalez argues in favor of a race-conscious approach to create solidarity between diverse social movements and climate-vulnerable states; this approach rejects and counters extractive economic policies, economic inequality, and racism.⁵¹

Since the dominant approaches to climate change arise from within a State-centric system with a long history of excluding, suppressing, and erasing Indigenous experiences and perspectives, climate justice’s inclusivity suggests a more fundamental critique of the exclusionary nature of State-centric responses to climate change that foreground scientific and economic considerations, while ignoring or downplaying the experiences and voices of Indigenous peoples, people of color, and women. This is particularly the case in settler colonial states, including those in the Americas, in the South Pacific, and in places like South Africa⁵², where these groups are not merely demanding

equality, but self-determination and autonomy for themselves free of the neo-liberal paradigms predicated on coloniality and modernity—both of which are embraced by our contemporary State-centric system.⁵³ Perhaps most significantly, according to Upendra Baxi, the climate justice approach provides an opportunity and an openness to see and address the suffering of the “others” who are already burdened disproportionately by the impacts of climate change and who are often rendered invisible by State-centric approaches.⁵⁴

Yet, as noted in the introduction, we must recognize that climate justice is a contested idea.⁵⁵ For example, as Susannah Fisher notes, the United Nations Framework Convention on Climate Change’s concept of common but differentiated responsibility focuses on “the resilience of existing social systems rather than of the transformation to new more equal societies.”⁵⁶ Further, while the Paris Agreement referred to climate justice for the first time, it “does not involve or provide a basis for any liability or compensation.”⁵⁷ In fact, one climate justice litigation study that centered this reparation approach and took the Paris Agreement as a



point of departure made no reference to gender or other non-State identities.⁵⁸ In addition, unlike post-development, climate justice advocates do not always engage with and/or critique underpinning structural ideologies, such as the neoliberalism or Eurocentric foundations of globalization, including its paradigm of sustainable development.

Conclusion

I still vividly recall the brochures, complete with absolutely horrifying pictures showing environmental destruction, including oil spills and gas flaring from the Movement for the Survival of the Ogoni People (MOSOP), sent to the Washington DC-based International Human Rights Law Group (IHRLG). My job that fateful summer in 1995 was to assist leading international human rights lawyer Gay McDougall, then the Executive Director of the IHRLG, to lobby to save the life of MOSOP's founder and leader, Ken Saro-Wiwa, from Nigerian General Sani Abacha's ruthless repression of MOSOP's protests against fossil fuel corporations like Shell for devastating the region's environment. The struggle for environmental justice of the Indigenous Ogoni community, including the heartbreaking execution of their leader Ken Saro-Wiwa in November 1995 by the military dictatorship of General Abacha, is one of over 3,000 environmental conflicts around the world captured in the Environmental Justice Atlas.⁵⁹ This Atlas definitively shows that mining and industrial extraction of fossil fuels are a leading source of mobilizations and protests, especially by Indigenous peoples. Needless to say, these extractive activities are a leading cause of climate change.

From the foregoing perspective, climate justice offers a compelling framework for centering

the experiences and perspectives of vulnerable communities upstaged by the often predominantly White voices and concerns in discussions and debates on climate change. Such exclusion is troubling in many respects, but especially so given the growing consensus among policy experts that the brunt of climate change will be shouldered overwhelmingly by people-of-color and Indigenous peoples, especially those within States that are *already* prone to economic insecurity and conflict⁶⁰, and which contribute the *least* to global climate change.⁶¹ A devastating instance of this disproportionate exposure is that of small island developing states, like the Maldives, Tuvalu, and Kiribati, many of which will lose *all* of their territory to rising sea levels before the end of the century.⁶² Centering a response to climate change in a climate justice approach ensures that issues of race, gender, identity, and indigeneity come to the fore in ways which reflect the most dire needs.⁶³

We have unfortunately seen how the United States and many European States pushed back against the adoption of a recent United Nations Human Rights Council Resolution to establish an independent commission of inquiry that would uncover the facts and circumstances related to systemic police violence in the United States and elsewhere following the murder of George Floyd.⁶⁴ The United States and European countries have a long history of limiting scrutiny of their record of racial inequality, racial injustice, and ongoing marginalization of women and Indigenous peoples. By spotlighting issues of identity, gender, race, and indigeneity, a climate justice approach can coalesce into a movement that both addresses climate change and pushes back against the insidious denialism of the significance

of these issues, particularly in the United States and in Europe.

Ultimately, while climate justice does have its blind spots, just as other approaches, it opens up attention to the real concerns of Black, Brown, and Indigenous peoples who often have little power in defining the terms through which discussions of climate change are discussed and debated. This attention can only serve to strengthen our collective responses.

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Endnotes

- 1 Kenya Evelyn, 'Like I wasn't there': climate activist Vanessa Nakate on being erased from a movement, THE GUARDIAN (Jan. 29, 2020), <https://www.theguardian.com/world/2020/jan/29/vanessa-nakate-interview-climate-activism-cropped-photo-davos>. See also Greta Thunberg named Time magazine's person of the year, THE GUARDIAN (Dec. 11, 2019), <https://www.theguardian.com/media/2019/dec/11/greta-thunberg-time-magazine-person-of-the-year-2019>; Greta Thunberg: Time's Person of the Year 2019, TIME (accessed on June 30, 2020), <https://time.com/person-of-the-year-2019-greta-thunberg/>. Nakate challenged this exclusion of her image. See Vanessa Nakate (@vanessa_vash), Twitter (Jan. 24, 2020, 6:30 a.m.), https://twitter.com/vanessa_vash/status/1220685316056588289.
- 2 *Id.*
- 3 See Tara Law, *Australia's Wildfires and Climate Change Are Making One Another Worse in a Vicious, Devastating Circle*, TIME (Jan. 7, 2020), <https://time.com/5759964/australian-bushfires-climate-change/>.
- 4 Aarti Betigeri, *How Australia's Indigenous Experts Could Help Deal With Devastating Wildfires*, TIME (Jan. 14, 2020), <https://time.com/5764521/australia-bushfires-indigenous-fire-practices/>.
- 5 Leah Asmelash, *Australia's indigenous people have a solution for the country's bushfires. And it's been around for 50,000 years*, CNN (Jan. 12, 2020), <https://www.cnn.com/2020/01/12/world/aboriginal-australia-fire-trnd/index.html>.
- 6 Graeme Samuel AC, *Independent Review of the Environment Protection and Biodiversity Conservation Act – Interim Report*, Department of Agriculture, Water and the Environment, Canberra, Australia, CC BY 4.0 (June 2020), https://epbcactreview.environment.gov.au/sites/default/files/2020-07/EPBC%20Act%20Review_Interim%20Report_June2020.pdf. See also Christine Eriksen & Don L. Hankins, *The Retention, Revival, and Subjugation of Indigenous Fire Knowledge through Agency Fire Fighting in Eastern Australia and California*, 27 SOC. & ENVTL. RESOURCES 1288-1303 (2014); Garry D. Cook et al., *A revolution in northern Australian fire management: recognition of Indigenous knowledge, practice, and management*, in FLAMMABLE AUSTRALIA: FIRE REGIMES, BIODIVERSITY AND ECOSYSTEMS IN A CHANGING WORLD 346-60 (R.J. Williams et al., eds., 2012) (presenting a history of Indigenous fire management in northern Australia).
- 7 For more on Africa's underreported humanitarian crises arising from climate change, see Zena Chamas, *Africa has the world's most under-reported humanitarian crises – but why are we turning a blind eye?*, ABC NEWS (Jan. 28, 2020), <https://www.abc.net.au/news/2020-01-28/africa-has-the-worlds-most-underreported-humanitarian-crises/11903756>. For more on Africa's underreported heat-wave deaths, see Friederike Otto & Luke Harrington, *Why Africa's heatwaves are a forgotten impact of climate change*, CARBONBRIEF (July 13, 2020), <https://www.carbonbrief.org/guest-post-why-africas-heatwaves-are-a-forgotten-impact-of-climate-change>. See gener-

- ally Ruth Gordon, Panama and the Specter of Climate Change, 41 U. MIAMI INTER-AM. L. REV. 129, 139-48 (2014) [hereinafter *Specter of Climate Change*] (describing the global current and predicted effects of climate change).
- 8 Gary Nunn, Australia Fires: *Aboriginal planners say the bush "needs to burn,"* BBC NEWS (Jan. 12, 2020), <https://www.bbc.com/news/world-australia-51043828#:~:text=For%20thousands%20of%20years%2C%20the.set%20fire%20to%20the%20land.&text=The%20fires%20burn%20up%20fuel,this%20technique%20have%20grown%20louder.>
 - 9 For a significant exception to the underrepresentation of climate issues in poor countries, see generally INTERNATIONAL ENVIRONMENTAL LAW AND THE GLOBAL SOUTH (Carmen G. Gonzalez et al., eds., 2015) (considering environmental issues, including climate change, from the perspective of poor countries and marginalized communities).
 - 10 James Sakej Youngblood Henderson, *Postcolonial Indigenous Legal Consciousness*, 1 INDIGENOUS L.J. 1, 7 (2002).
 - 11 See, e.g., Rebecca Tsosie, *Indigenous Peoples and Epistemic Injustice: Science, Ethic, and Human Rights*, 87 WASH. L. REV. 1133, 1150-64 (2012) (describing structural forms of epistemic injustice as barriers to equal citizenship). See generally BONAVENTURA DE SOUSA SANTOS, *THE END OF THE COGNITIVE EMPIRE: THE COMING OF AGE OF EPISTEMOLOGIES OF THE SOUTH* (2018).
 - 12 *Id.* Henderson further explains: "The only sustainable category of universality is diversity. Biodiversity in its 'human' manifestation is found in the vast multiplicity of human consciousnesses and forms, the particularity of shared traditions, and the specificity of contexts." *Id.* at 49.
 - 13 Here I rely very much on Mary Robinson, whose principles of climate justice recognize identity, particularly gender. See *Principles of Climate Justice*, Mary Robinson Foundation (accessed on July 22, 2020), <https://www.mrfcj.org/pdf/Principles-of-Climate-Justice.pdf>. See also Joyeet Gupta, *The Least Developed Countries and Climate Change Law*, in *THE OXFORD HANDBOOK OF INTERNATIONAL CLIMATE CHANGE LAW* 741-60 (Cinnamon P. Carlarne et al., eds., 2016) (exploring the evolving historical role and legal challenges faced by the least developed countries in addressing climate change); Maxine Burkett, *The Nation Ex-Situ: on Climate Change, Deterritorialized Nationhood and the Post-Climate Era*, 2 CLIMATE L. 345-74 (2011) (contemplating a "post-climate era" in which loss of land related to climate change, particularly in Small Island Developing States, necessitates a new category of international actors, namely nations ex-situ).
 - 14 Burkett, *Just Solutions to Climate Change: A Climate Justice Proposal for a Domestic Clean Development Mechanism*, 56 BUFF. L. REV. 169, 170 (2008) [hereinafter *Just Solutions*].
 - 15 For a discussion of the contested nature of climate justice, see Karin Mickelson, *Beyond a Politics of the Possible*, *infra* note 38 (comparing and contrasting the positions of climate justice ethicists and pragmatists). See also Patrick Huntjens & Ting Zhang, *Climate Justice: Equitable and Inclusive Governance of Climate Action 2* (Hague Inst. for Global Just., Working Paper 16, 2016), <https://www.thehagueinstituteforglobaljustice.org/wp-content/uploads/2016/04/Climate-Justice-April-2016.pdf>.
 - 16 BJORN LOMBORG, *FALSE ALARM: HOW CLIMATE CHANGE PANIC COSTS US TRILLIONS, HURTS THE POOR, AND FAILS TO FIX THE PLANET* (2020)). For a review, see Joseph E. Stiglitz, *Are We Overreacting on Climate Change?*, NEW YORK TIMES (July 16, 2020), <https://www.nytimes.com/2020/07/16/books/review/bjorn-lomborg-false-alarm-joseph-stiglitz.html?action=click&module=Editors%20Picks&pgtype=Homepage>.
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 - 18 See generally *World Conservation Strategy: Living Resource Conservation for Sustainable Development* (Int'l Union for Conservation of Nature & Nat. Resources, 1980), <http://www.a21italy.it/medias/31C2D26FD81B0D40.pdf>.
 - 19 Kothari et al., *supra* note 17, at 363.
 - 20 See generally UN, *Report of the World Summit for Social Development*, Copenhagen, Mar. 6-12, 1995, UN Doc. A/CONF.166/9.
 - 21 Kothari et al., *supra* note 17, at 364.
 - 22 *Id.*
 - 23 See generally SUNDHYA PAHUJA, *DECOLONISING INTERNATIONAL LAW: DEVELOPMENT, ECONOMIC GROWTH AND THE POLITICS OF UNIVERSALITY* (2011) (referring to development as a "ruling rationality").
 - 24 Baxi, *Towards a Climate Change Justice Theory?*, 7 J. HUM. RTS. & ENV'T. 7, 19 (2016) [hereinafter *Towards a Theory?*]. See also Gustavo Esteva & Arturo Escobar, *Post-Development @ 25: on 'being stuck' and moving forward, sideways, backward and otherwise*, 38 THIRD WORLD Q. 2559, 2561, 2562 (2017) (describing how early 1970s development practitioners responded to critiques of development's adverse impacts by proposing to satisfy a nebulous package of "basic needs," which carried forward into the U.N. Millennium Goals and the Sustainable Development Goals (SDGs); the authors view the latter as products of a romanticism which holds that lasting improvement will come from "more of the same").
 - 25 Thomas Pogge, *Keynote Address: Poverty, Climate Change, and Overpopulation*, 38 GA. J. INT'L & COMP. L. 525, 533-34 (2010) ("Today, the persistence of poverty and the increase of socioeconomic inequality are substantially driven by global institutional arrangements that are designed by the more powerful governments for the benefit of their most powerful industries, corporations, and citizens."). Pogge describes ecological damage and the persistence of poverty as long-term symptoms of

- high-stakes adversarial systems which view money as the universal reward; such adversarial systems lead to “self-aggravating regulatory capture,” a collective action problem arising “when powerful players find it in their interest to influence the rules and their application in their own favor, in ways that then produce . . . ecological harms and harms to the world’s poor.” *Id.* at 535-36. See also Pogge, *Are We Violating the Human Rights of the World’s Poor?*, 14 YALE HUM. RTS. & DEV. L.J. 1, 1-3, 32 (2011) [hereinafter *Are We Violating Human Rights?*] (describing developed countries’ responsibility in designing and imposing harmful supranational institutional arrangements; “We have a duty not to collaborate in the design or imposition of social institutions that foreseeably cause a human-rights deficit that is reasonably avoidable through better institutions – unless we fully compensate for our fair share of the avoidable human rights deficit.”).
- 26 *Id.* at 540. For Pogge’s full proposal for an Ecological Impact Fund (EIF), see *id.* at 539-42 (“The creation of the EIF would shift the funding model for . . . green products from push funding, where governments and grant-making organizations decide who should receive funds, toward pull funding, where any innovator who believes she can profit has an incentive to pursue and then to promote a new product. . . . By closely aligning private rewards with publicly important outcomes, the EIF would succeed where the uncomplemented patent regime has failed.”).
- 27 See, e.g., Simon Caney, *International Distributive Justice*, 49 POL. STUD. 974, 977 (2001) (“As Pogge . . . points out, on all accounts of justice no reference is made to someone’s ethnic identity or their status or their sex. These are all deemed to be irrelevant. But then given this, it is puzzling why these are morally irrelevant but someone’s membership of a nation or state is relevant.”). See generally THOMAS PIKETTY, *CAPITAL AND IDEOLOGY* (Arthur Goldhammer trans., 2020) (proposing progressive income taxation at the global level to fulfil social and economic rights and eliminate borders, without emphasizing marginalized populations); JOHN LINARELLI ET AL., *THE MISERY OF INTERNATIONAL LAW* (2018) (arguing that resource redistribution is insufficient to address global poverty without reforming underlying laws and institutions).
- 28 Monique Deveaux, *Beyond the Redistributive Paradigm: What Philosophers Can Learn from Poor-Led Politics*, in *ETHICAL ISSUES IN POVERTY ALLEVIATION* 225, 239 (Helmut P. Gaisbauer et al., eds., 2016). See also Renante D. Pilapil, *Beyond Redistribution: Honneth, Recognition Theory and Global Justice*, 21 *Critical Horizons* 34, 35 (2020) (arguing that global justice requires the elimination of “oppressive social, economic, political, and cultural conditions that prevent persons from experiencing the fullness of their existence”).
- 29 Deveaux, *Poor-Led Social Movements and Global Justice*, 46 POL. THEORY 698, 704 (2018).
- 29 Arturo Escobar, *Beyond the Third World: Imperial Globality, Global Coloniality and Anti-Globalisation Social Movements*, 25 *THIRD WORLD Q.* 207, 212 (2004) [hereinafter *Beyond the Third World*]. See also Escobar & Wendy Harcourt, *Post-Development Possibilities: A Conversation*, 64 *DEV.* 6, 7 (2018) [hereinafter *Post-Development Possibilities*] (describing “how indigenous and popular communities are creating their own forms of modernity” at a time when the world faces “modern problems for which there are no modern solutions”).
- 31 *Id.* at 210.
- 32 *Post-Development Possibilities*, *supra* note 30, at 7.
- 33 *Beyond the Third World*, *supra* note 30, at 220.
- 34 *Post-Development Possibilities*, *supra* note 30, at 7. See also Escobar, *Sustainability: Design for the Pluriverse*, 54 *DEV.* 137, 139 (2011) (“Rather than in terms of globalization, the evolving pluriverse might be described as a process of planetarization articulated around a vision of the Earth as a living whole that is always emerging out of the manifold biophysical, human, and spiritual elements and relations that make it up.”); *Degrowth, Postdevelopment, and Transitions: A Preliminary Conversation*, 10 *SUSTAINABILITY SCI.* 451, 460 (2015) (“An important dimension of any transition discourse . . . should thus be moving from a view of globalization as the universalization of modernity to a view of globality as the struggle to preserve and foster the pluriverse.”).
- 35 Rajagopal, *Counter-Hegemonic International Law: Rethinking Human Rights and Development as a Third World Strategy*, 27 *THIRD WORLD Q.* 767, 768 (2006) [hereinafter *Counter-Hegemonic International Law*]. See also Gonzalez, *Environmental Justice, Human Rights, and the Global South*, 13 *SANTA CLARA J. INT’L L.* 151, 190-95 (2015) (exploring competing theories of human rights law and differentiating between human rights discourse and its incorporation into elite-dominated global-governance institutions).
- 36 *Id.* at 781 (noting that “the course available for counter-hegemonic international law is not entirely outside the hegemonic framework that already exists”).
- 37 Although environmental justice discourse has historical links to the United States, one finds that the underlying environmental justice issues have long existed in the Global South. See generally Joan Martinez-Alier et al., *Is there a Global Environmental Justice Movement?*, 43 *J. PEASANT STUD.* 731-55 (2016) (comparing *global environmental justice movements*).
- 38 Karin Mickelson, *Beyond a Politics of the Possible: South-North Relations and Climate Justice*, 10 *MELB. J. INT’L L.* 411, 412 (2009) [hereinafter *Beyond a Politics of the Possible*].
- 39 Burkett, *Just Solutions*, *supra* note 14, at 192 (describing climate justice as the next generation of environmental justice theory and action). See also Burkett, *Climate Disobedience*, 27 *DUKE ENVTL. L. & POL’Y F.* 1, 38 (2016) [hereinafter *Climate Disobedience*] (“The environmental justice movement emerged in the late 1970s and early 1980s in response to the disproportionate toxic burden of underrepresented communities.”); Rebecca Tsosie, *Indigenous People and Environmental Justice: The Impact of Climate Change*, 78 *U. COLO. L. REV.* 1625, 1629 (2007) (tracing the origins of EJ and exploring EJ initiatives within Native American communities).
- 40 *Id.*

- 41 Jalonne Lynay White-Newsome, *A Policy Approach Toward Climate Justice*, 46 BLACK SCHOLAR 12, 12 (2016). See also Burkett, *Just Solutions*, *supra* note 14, at 179 (describing the disproportionate impact of negative effects of climate change and economic hardship on vulnerable communities). However, environmental justice has gone beyond its initial focus on disproportionate pollution burdens to encompass additional issues, like food and disaster justice. Gonzalez, *supra* note 35, at 154-56.
- 42 Shireen K. Lewis, *An Interview with Dr. Robert D. Bullard*, 46 BLACK SCHOLAR 4, 10 (2016).
- 43 *Climate Disobedience*, *supra* note 39, at 17.
- 44 *Id.*
- 45 Martinez-Alier et al. *supra* note 37, at 736-37.
- 46 Mickelson, *Beyond a Politics of the Possible*, *supra* note 38, at 413.
- 47 Kishan Khoday et al., *Locating Nature: Making and Unmaking International Law: Introduction*, 27 LEIDEN J. INT'L L. 571, 572 (2014).
- 48 Baxi, *Towards a Theory?*, *supra* note 24, at 19.
- 49 Gordon, Climate Changes and the Poorest Nations: Further Reflections on Global Inequality, Presentation at the University of Colorado Law School's Conference: The Climate of Environmental Justice: Taking Stock (Mar. 17, 2007). See also Gordon, *Specter of Climate Change*, *supra* note 7, at 135; Gupta, *supra* note 13; Burkett, *A Justice Paradox: On Climate Change, Small Island Developing States, and the Quest for an Effective Legal Remedy*, 35 U. HAW. L. REV. 633, 634 (2013) [hereinafter *A Justice Paradox*] (identifying a "justice paradox" insofar as "the current international legal regime forecloses any reasonable attempts at a just remedy for the victims of climate change who are the most vulnerable and the least responsible").
- 50 Gonzalez, *Racial Capitalism, Climate Justice, and Climate Displacement*, ONATI SOCIO-LEGAL SERIES 1, 7 (forthcoming 2020-21) ("Racism is thus not simply a form of bias or discrimination, but an integral part of a world system that subjects growing segments of the world's population to precarity and premature death.").
- 51 *Id.* at 26-7. See also Usha Natarajan, *Environmental Justice in the Global South*, in THE CAMBRIDGE HANDBOOK OF ENVIRONMENTAL JUSTICE AND SUSTAINABLE DEVELOPMENT (Carmen G. Gonzalez et al., eds., forthcoming Oct. 2020) (manuscript at 16-17) (on file with editors) (arguing from a Third World Approaches to International Law (TWAAIL) perspective that the "environmental justice framework highlights commonalities and historic connections between disempowered communities within rich and poor states," and also "allows for a reconfigured understanding of where the Global South really is: a transnational and evolving place where solidarity can be built between lower class and caste communities in poor and rich states, Indigenous communities, and poor peoples of color"). This essay presents a TWAAIL perspective on climate change.
- 52 For an analysis of the tension between the status tribes of as sovereign nations and racialized groups, see Gloria Valencia-Weber, *Racial Equality: Old and New Strains and American Indians*, 80 NOTRE DAME L. REV. 333 (2004); Carole Goldberg, *Descent into Race*, 49 UCLA L. Rev. 1371 (2002). See also James Thuo Gathii, *The Promise of International Law: A Third World View*, *Grotius Lecture Presented at the Virtual Meeting of the American Society of International Law* (June 25, 2020), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3635509 (arguing that international law scholarship has had an epistemic silence with regard to the voices of indigenous scholars of international law).
- 53 See generally PEDRO A. MALAVET, *AMERICA'S COLONY: THE POLITICAL AND CULTURAL CONFLICT BETWEEN THE U.S. AND PUERTO RICO* (2007).
- 54 Baxi, *Some Newly Emergent Geographies of Injustice: Boundaries and Borders in International Law*, 23 IND. J. GLOBAL LEGAL STUD. 15, 17 (2016). See also Baxi, *Towards a Theory?*, *supra* note 24, at 12.
- 55 Indeed as Ikeme argues, there is a "lack of coherence among the various environmental justice constructs... [which in turn] perpetuate the atmosphere of endless chaotic theorisation with no positive effect on the evolution of a consensus." Jekwu Ikeme, *Equity, environmental justice, and sustainability: incomplete approaches in climate change politics*, 13 GLOB. ENVTL. CHANGE 195, 203 (2003).
- 56 See generally Susannah Fisher, *The emerging geographies of climate justice* (Cent. for Climate Change Econ. & Pol'y, Working Paper No. 94, & Grantham Res. Inst. on Climate Change and the Env't, Working Paper No. 83, 2012). See also Gonzalez, *supra* note 50, at 14-15 (describing the UNFCCC's implicit recognition of the Global North's climate debt and responsibilities to the Global South).
- 57 Paris Agreement to the United Nations Framework Convention on Climate Change, Dec. 12, 2015 art. 8 ¶ 52, T.I.A.S. No. 16-1104.
- 58 See generally Keely Boom et al., *Climate Justice: The international momentum Towards climate litigation*, (Heinrich Boell Found., 2016), <https://www.boell.de/sites/default/files/report-climate-justice-2016.pdf>.
- 59 See *Mapping Environmental Justice*, EJ ATLAS (accessed on Aug. 21, 2020), <https://ejatlas.org/>.
- 60 See, e.g., Lukas Rüttinger, *Climate Change in the United Nations Peacebuilding Commission and Fund 1*, 6-9, (Climate Sec. Expert Network, 2020), https://climate-security-expert-network.org/sites/climate-security-expert-network.com/files/documents/csen_climate_fragility_policy_paper_-_climate_change_in_the_un_peacebuilding_commission_and_fund.pdf.
- 61 See Burkett, *A Justice Paradox*, *supra* note 49.
- 62 *Id.* at 659.