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Natural resource inequities, domination and the rise of youth communicative power: Changing the normative relevance of ecological wrongdoing*

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ABSTRACT

The failure of states to take the necessary actions to prevent global temperatures from soaring may be interpreted as more than an act of environmental negligence. In terms of a knowing imposition of harm, it also represents an act of domination. That is, a deliberate denial of rights to a safe, democratic, and sustainable future. This paper notes the role played by institutional power in preserving this system of domination and in shaping the discursive spaces in which carbon energy options continue to be vigorously defended even in the face of mounting evidence of their danger. Yet as signs of eco-distress grow stronger, so too does a questioning of the legitimacy of this power order. This paper examines how youth employ 'communicative power', as the product of a common will formed in non-coercive communication, to counter this domination and reinterpret climate change as the product of dysfunctional decision-making and 'abnormal' justice relations between generations. It notes the significance of these actors' mobilization efforts to societal processes of learning about democracy's better potentialities and capacities to transform society from within (via law).

Key words:
Eco-destruction, institutional failure, domination, intergenerational inequalities, youth climate action, communicative power, societal learning

Various international bodies voice their concern about the 'alarming' increase in rates of natural resource depletion worldwide and related deteriorations in environmental and human health conditions.[i] So serious is the current situation, the UNEP's International Resource Panel (2016, 1) calls for a radical rethink of prevailing resource governance arrangements. However, rarely is the 'justness' of these arrangements subject to critical assessment or viewed from the standpoint of those most affected by them. In particular, that which ensures entitlement to dwindling reserves of fresh water, forests, arable lands, seeds, etc. remains bound by a schema of property rights that specifies how what was once held in common can now be bought, leased, or sold freely by those who possess legal contractual rights over them. In the

absence of any serious attempt to impose responsible limitations on this order of resource justice, the Anthropocene enters a phase of radical inequality. A largescale acquisition and exhaustion of remaining resource reserves jeopardizes the capacity of billions to survive deepening ecological adversity. The violence associated with this order of resource justice is imposed 'slowly' and cumulatively on those who lack strong political representation and legal entitlement (the climate displaced, youth under the voting age, future generations and non-human nature) (Skillington 2015, 295; 2017, 153). Rarely are the injuries it generates subject to serious consideration. Future generations, for instance, are not routinely formulated as subjects 'wronged' by the expanding pollution activities of the present (Kumar 2009, 251). So basic is this violence to everyday practices of environmental degradation for energy, food, manufacturing and leisure consumption, its contribution to wider regime of suffering and long-term deprivation is regularly overlooked. Some of the oldest and most deep-seated ideas that have guided western political thinking for centuries have long supported this order of justice as a perfectly legitimate and noble one (Krause 2016, 2).

This paper assesses the efforts of mobilized youth to undermine the 'naturalness' of this order of resource justice by highlighting how it perpetuates cycles of domination and largescale suffering. In doing so, youth bring to the fore of public consciousness ethical dilemmas of immense value to the current democratic age, including those arising in relation to the failure of states to fulfill obligations to protect natural resource heritage for future generations. One author who has considered these issues in depth is Derek Parfit. In *Reasons and Persons* (1984) and 'Energy Policy and the Further Future' (2010, 116), Parfit assesses whether a policy of accelerated natural resource depletion, such as that which is dominant today, could be seen as harming future generations, especially when this policy can be shown to produce environmental outcomes that are significantly worse than those that would be produced by a policy of resource conservation? Initially, Parfit's reasoning was that such a policy could not be said to harm subjects who at this point in history lack a specific identity (i.e., the non identity problem) on account of not yet being born. Parfit bases his argument on a number of factors, including the impossibility of determining at this point the genetic composition of future peoples which, in turn, tends to be heavily influenced by major societal events and the resource choices of previous generations. In their general capacity to raise standards of living, carbon intensive energy policies cannot, Parfit argues, be said to harm future generations who would not, in all likelihood, have been brought into existence without the societal improvements generated by carbon pollution. As long as the harms generated by fossil fuel consumption continue to be seen as giving rise to general societal benefits that outweigh diffuse harms, this energy choice will, in all likelihood, Parfit (2010) claims, continue to find support.

The dominance of a 'person affecting principle' (Parfit 2010, 119) in institutional responses to increasing carbon pollution means that 'the compensatory benefits' of highly polluting economies, such as those sustained by fossil fuel industries (Parfit 2010, 117) will continue to be prioritized over evaluations of their harm.[ii] Parfit (2010, 120) points to the pervasive yet deeply problematic nature of this reasoning, noting its inability to address expanding ecological problems with 'wide person affecting' consequences.[iii] Not only does a 'person affecting principle' prove to be a major hindrance to the further development of a truly sustainable, long-term approach

to natural resource management, it also hinders the realization of more basic liberal understandings of what a fair system of resource distribution requires (e.g., that 'enough and as good' will be left for those that follow (Locke's proviso). The fact that the identity of 'those that follow' cannot be specified at this point in time (i.e., generations not yet born) is of less relevance in this instance than the moral duty to conserve essential resources and refrain from imposing an unfair portion of climate burdens on future others. Restraint has always been seen as an essential precondition of justice between generations (Wissenburg 1999, 196). Rawls (2001b, 159) principle of just savings, for instance, formulates restraint as an important 'internal' dimension of liberal democratic approaches to long-term environmental protection (Wissenburg 1999, 198).

If constraint is indeed a core element of liberal democratic approaches to natural resource management, why is the current development project one of wholesale destruction? Why is the 'conscienceless reasoning' (Nelson 1971, 169) of global capitalism, with its determination to free up remaining resource reserves and oppose a regulatory environment of 'excessive precaution' (Jasanoff 2010, 242), not challenged more readily? Is the institutional preference for 'narrow' categories of pollution effects (i.e., 'specified' victims) and short-term market-related benefits overriding the effectiveness of a just savings principle where emphasis is placed more on the resource needs of 'wider' groupings (Parfit 2017, 124) extending into the future? A key factor in this situation, as Scavenius (2016, 57) observes, is states' unwavering support for major carbon polluters (e.g., the fossil fuel industries, intensive animal farming).[iv] So long as governments continue to offer generous subsidies and tax incentives to these climate actors, the possibilities of a fair and equal distribution of essential resources across peoples remain remote. What ought to matter are not obligations owed to specific corporate actors with clear economic and political interests but rather, those owed to a broader range of normatively relevant subject groupings (e.g., present and future generations, climate vulnerable peoples, non-human nature, etc.). If legitimate expectations of care are not extended to such wide groupings, how can the suffering predicted to arise in the years ahead in relation to sinking territories, scorched lands, melting glaciers and soaring heat be registered in a way that necessitates an effective and sufficiently coordinated response?

Is the failure to engage with these issues and resolve contradictions in society's reasoning (i.e., between a desire to protect the environment and simultaneously destroy it) symptomatic of deeper problems of alienation (Marx [1844] 1988, 162)? Vogel (2012, 306-7) assesses the contemporary relevance of some of Marx's key insights on alienation, pointing to ways in which the ecological dystopia of the present appears to the individual as an 'externally' produced force of change with powers independent of their producer. Perhaps this explains why our affective experiences of large-scale environmental destruction remain fundamentally geared towards the preservation of a capitalist social order whose depletion of remaining resource reserves is rationalized as 'the impersonal duty' of its calling (Weber 1978, 636). According to Vogel, alienation from this world stems chiefly from a failure to recognize our contribution to it, including its damaged state. An 'implicatory denial' (Cohen 2001, 7) of the dangers created by human practices holds much of contemporary political debate on climate change captive to a business-as-usual approach.[v] For Harmut Rosa (2015, 57), these problems are indicative of the degree to which we have come to be conditioned by the cumulative demands of 'accelerated'

capitalist living, where the only relevant context of moral reasoning is the immediate ('pollute now, pay later!'). Grant it, contemporary fossil fuel dependency and high carbon living exhibit a certain impenetrable quality that makes them appear, at times, immune to social transformation but is society really not capable of generating anything other than a short-term attentiveness to expanding climate problems?

What needs to be borne in mind in relation to our state of alienation is that our disconnection is from the built polluted environment that surrounds us, created through our cumulative actions (and inactions), not from nature itself (Vogel, 2012, 307). As emotionally engaged, thinking subjects, who depend on wider nature for such basics as clean air, water, food sources, health and general wellbeing, the qualitative dimensions of our relationship with nature are sometimes brought to the fore our thinking, especially in times of crisis. As experiences of flooding, storm surges, drought and wildfires grow more frequent, the human felt dimensions of an ecologically challenged world begin to provoke deeper reflection on the circumstances contributing to these problems. The more knowledge of ecological disaster is grasped as a series of concrete, life-changing occurrences and the act of recognition is felt in a manner that arouses concern, fear and sometimes anger, the more commitments on the part of this capitalist world to ideals of the good life are questioned and moral reasoning begins to feed off new contexts of discovery of wrongdoing. In the process, something new emerges, even if it is no more than a greater awareness of the reasons why more responsible and caring relationships with nature are urgently required. In the case of youth, the learning experience proves to be more profound. For the youth who feels unfairly 'robbed' of a safe, happy and healthy future, capitalist socialization finds its limits in the critical capacities of this thinking subject.[vi]

The question then is why the critical potentials generated by more regular encounters with ecological adversity do not translate into a stronger state institutional commitment to the realization of sustainable development pathways? The understanding is that there are institutional mechanisms at work preventing their materialization, mechanisms which this paper argues, require further critical investigation. The failure to impose reasonable constraints on rates of natural resource depletion and protect their long-term availability are interpreted here as a form of meta-injustice spread across many short-sighted policy actions and, therefore, are not entirely the responsibility of singular agents of ecological wrongdoing but, rather, stem from multiple associative relations of harm which together, give rise to a regime of ecological destruction that affects many. The challenges created by this system of injustice resemble somewhat those of Hardin's (1968) 'tragedy of the commons', where the resource depleting actions of self-interested agents compromise quality of life for all, including themselves. However, the negative outcomes generated by this 'tragedy' are not quite as unintentional as Hardin assumes. As this is a system of injustice which occupies the space of 'deep time' (Chakrabarty 2017, 42), it is also one whose effects are felt differently across generations, with future peoples most adversely affected by the cumulative damages generated by many years of pollution and poor policy choices. Under its influence, relations of justice between generations (i.e., relations ensuring that enough and as good will be left for those that come after) gradually degenerate into relations of domination. Serious asymmetries emerge in the distribution of climate harms, with newer generations disproportionately affected by

the dire effects of previous generations' resource depletion activities (Gosseries 2008, 447).

Every so-called present point in environmentally destructive practices is already shaping the ecological circumstances of peoples of the future (NASA 2017). In this way, future generations are implicated in harm relations they had no hand in creating. A policy regime that only superficially registers this fact or chooses to focus on the resource interests of the present, fails to grasp the relevance of this additional sphere of injustice as a motivator of public grievance today. Second, it fails to see how youth come to see themselves as primary victims of this regime of injustice, drawing on experiences of non-recognition and exclusion from political decision-making to formulate new understandings of the threats posed to the 'generalizable interests' (Habermas 1996, 61) of youth and generations to come. Long past is the view that intergenerational inequalities are the unintended side effect of cumulative pollution practices but are, rather, the calculated cost of accelerating rates of resource expenditure. The fact that the long-term effects of planned increases in global rates of consumption of oil and gas (by a further 30% by 2030) are well known yet are not seen (officially) as giving rise to relations of harm or even relations of guilt for ecological wrongdoing gives some indication of how debate on these issues is 'politically managed' to reflect the interests and justice perspective of a few.[vii] Asserting the resource rights of some at the expense of the human rights of most is, indeed, a 'tragedy' for newer generations of the Anthropocene who face a future of ecological devastation (Scavenius 2016, 64). However, this situation does not arise accidentally but rather as a consequence of such inequalities not being confronted politically or, at least, not until now. The following section examines how we might theoretically account for relations between generations as relations of domination before considering how such domination is challenged by alternative sources of power today.

Relations between generations as relations of domination

The insights of sociologist Stephen Lukes (2005) on the question of power and domination offer some preliminary guidelines as to how we might begin to extend sociological understanding of the way currently living polluting agents exert influence over future peoples in ways not always conducive to their interests. Whilst the focus of Lukes' (2005, 30) research traditionally has been on parties that occupy the same historical time, his formulation of power as domination, nonetheless, offers a useful starting point for also thinking about relations of inequality that arise between peoples across time. Starting from this vantage point, we may note how A (e.g., past and present polluters), in their resource depletion activities, limits the range of resource options available in the future and in that, exercises power over B (future generations) in ways 'contrary to B's interests'. It may no longer be possible to hold previous generations accountable for their pollution activities. However, that is not the case with present generations and given the continuing dominance of fossil fuel energy choices and the detrimental consequences that follow, such accountability is all the more pressing. The fact that political power is currently being used to unfairly advance the short-term interests of some and disadvantage those of others (e.g., those who currently lack a political voice such as youth under the voting age and future

generations) poses a problem. The most destructive forms of power, as Lukes (2005, 27) observes, are those used to exert forms of influence that 'interfere arbitrarily' (Pettit 2005, 92-3) with the life chances of vulnerable peoples (see also Pettit 2011). The refusal to modify current rates of resource depletion in response to wider changes occurring in their availability or deteriorations in environmental conditions more generally is undeniably an interference with the long-term prospects of future generations. In particular, it is an injustice against those who are not in a position right now to challenge such behaviors or avoid in the further future their detrimental consequences.

By diminishing the quantity and indeed quality of available stocks of essential resources, present polluters (A) exert power over future generations (B) in a manner that negatively affects the latter's interests. If future generations can be said to have an identity in this instance it is specified in terms of their membership of climate affected communities. It entails forms of wrongdoing that are appropriately characterized as impersonal wrongs (Kumar 2009, 252). That is, wrongs that are not directed at any one particular individual who will live in the further future but whole generations. According to the framework of power established by Lukes (2005) and Pettit (2005), this form of influence is an expression of domination since it entails a knowing imposition of harm on future others. Negative forms of ecological influence arise as a consequence of relations of wrongdoing initiated by parties who know their actions will detrimentally affect the lives of future others. Although somewhat 'indirect' (in the sense of not being directed at particular individuals but, rather, collectivities), such relations are no less injurious than more direct varieties of wrongdoing and are sustained in spite of growing awareness of their long-term effects.[viii]

Whilst pervasive, intergenerational domination must be distinguished from other varieties of societal power that are 'productive, transformative, authoritative and compatible with dignity' (Lukes 2005, 109), including the 'communicative power' (Habermas 1996, 147-152) of citizens' to assert their will against such unjust arrangements and in doing so, seek to change them. The decision of many states to back further fossil fuel exploration and issue licenses to major energy companies to exploit remaining oil, gas and forest reserves runs contrary to the aims of more productive forms of power, according to growing numbers. The fact that global investment in renewable energy sources is declining (down 7% in 2018 alone) while investment in fossil fuels continues to rise (IEA 2018) would suggest that decision-making authority is not used in a manner conducive to the realization of safe and democratic futures. In principle, there is little in the way of barriers preventing states from pursuing a greater number of low-carbon options and actualizing forms of institutional authority more compatible with principles of fairness, sustainability and intergenerational equity. A consistent failure to do so, in spite of increasing scientific evidence of the dangers of continuing with fossil fuel energy choices, encourages many to question the ongoing legitimacy of states' role as trustees of common ecological heritage. Why, critics ask, are less harmful alternatives not pursued more readily?

What mediates the contexts in which these issues are explored is language. Language not only facilitates a cognizance (or indeed a denial) of climate change's plural realities, it is also a fundamental component of communicative exchange on such

mattera and, therefore, a vital source of power (Forst 2015, 115). The discursive political realm is one where justifications for specific policy positions on fossil fuel depletion are presented, debated, and supported. It is also the space where the cognitive basis of political power is rigorously defended. Language is the primary medium used to persuade others to think or act in ways that they might not otherwise do (e.g., to accept the 'need' to deplete further reserves of nonrenewable resources). 'Noumenal power' (Forst 2015, 116) is the capacity to be socially effective in convincing others of the legitimacy of one's preferred choices over other possibilities. Ideally, persuasion arises from an open critical debate where there is a reciprocal-general evaluation of alternative energy options and a decision on preferred ones is arrived at democratically. However, what is more likely to prevail today is a persuasion based on a restriction of the range of 'viable energy alternatives' on the negotiating table, as well as the type of actors participating in deliberation processes. More often than not, compliance with preferred options (e.g., further fossil fuel extraction) is secured by limiting the discursive space available to explore the normative rightness of alternative energy pathways (i.e., whether *we ought to* be pursuing carbon-intensive energy choices in light of what is known about their long-term effects) or denying the functioning of communicative freedom (Gunther 1998, 250) as a motivational resource for embracing alternative energy futures.

In drawing attention to the discursive spaces in which energy options are explored, the following analysis seeks to show how otherwise democratically motivated publics might be persuaded to accept a narrow range of justifications as to why unsustainable energy options are best. Second, it is will show how carbon-intensive options are justified on the basis of a principle of lesser evil (Weizman 2011), where the pursuit of further deep-sea gas and oil exploration are framed as the best, 'cheapest' or 'most efficient' options available amongst a range of non-ideal, ecologically damaging ones. Lesser evil reasoning is supported by certain ideologically motivated interpretive strategies, such as that emphasizing the notion of resource abundance. The World Energy Resource Survey (2013, 7), for example, points to the 'enormity' of remaining coal, oil and natural gas reserves worldwide, while the International Energy Agency (2013, 3), the U.S Energy Information Administration (EIA) (2016, 5) and the World Bank (2014, 2) all offer reassurances that 'abundant low-cost supplies' of fossil fuels are sufficiently 'plentiful' to last for decades. The notion of abundance is promoted to diminish the sense of urgency created by the crisis precipitated by ongoing resource depletions, a crisis that may be temporarily averted by reassurances that oil and gas markets have 'a healthy future'. Any ecological harms imposed are said to be proportionate to the material gains that can be made. Clearly, this is a justice perspective focused on the interests of the present, one that strategically uses lesser evil reasoning to minimize the need for a reciprocal-general justification of the risks such projects pose to long-term health and the environment more generally. The continuity of high-carbon-energy choices is thereby presented as a 'necessity'. Any disagreement with this interpretation is contained through a limiting of the opportunities available to discuss what 'the energy generation processes' of capitalism require (World Bank 2013, 1). 'Population growth and rapidly expanding economies' are said to create additional resource demands and necessitate ever more extreme energy extraction measures. The latter, however, remain largely sealed off from any real accountability or critical debate on the costs of not pursuing alternative, renewable energy possibilities. In no way, critics argue, do dominant energy choices reflect the weight of free and open debate amongst diverging perspectives (Short et al.

2015, 698). On the basis of what democratic authority then do such decision-making practices continue to be supported?

One fundamental source of decision-making authority on these matters is states' permanent sovereignty over the natural resource wealth on their territories. The status of this authority is affirmed by a variety of legal instruments, including Article 1 of the International Covenant on Economic, Social and Cultural Rights (1966) and the International Covenant on Civil and Political Rights (1966) both of which refer to states' right to 'freely dispose of their natural wealth and resources without prejudice to any obligations arising out of international economic cooperation'. In exercising this right, states are duty bound to ensure that sufficient supplies are preserved for generations to come. Indeed, a primary motivation for this legal arrangement is that it 'will reliably serve an end of justice' (Armstrong 2015, 142) rooted in the common good. There are various grounds on which this claim is justified, including the notion that the peoples of each sovereign state, in cultivating resources on their territories, add value to the same (i.e., an improvement based claim) and, over time, integrate control over these resources into their life-plans (Armstrong 2015, 136; 2017, 116) and collective identities (Miller 2012, 261-2; Moore 2015, 40) (attachment based claims). Third, states ground their authority over resources on the legal duty to serve the interests of their citizens (citizen protection based claim), ensuring the latter's continued freedom and independence. In relation to each of these claims to authority over resources on their territories, states have failed to realize basic duties of care, chiefly by failing to ensure sufficient constraint is imposed on unsustainable rates of resource depletion.[ix] Constraint may be seen as a reasonable response to conditions of growing natural resource scarcity in ways that current expressions of a state resource 'expansion thesis' (Angell 2019, 334) are not. Consuming so much that subsequent arrivals have little or nothing, according to a traditional liberal perspective (for instance, see Locke 1988 [1689] II ch v, para 33), is blatantly wrong (Waldron 2002). Principles of reasonableness, fairness and proportionality are openly compromised as states succumb to the increasing resource demands of a capitalism 'without limits' (Heller 1984, 46). Transgressions here are not only those of a procedural kind but morally as well, states are seen as 'abandoning' cosmopolitan commitments of care and safe haven to the vulnerable (e.g., growing numbers of displaced). With future climate dystopias now predicted to occur within the next decades rather than initial forecasts of a century (US EPA 2016), the Rawlsian assumption that conditions of growing scarcity will make cooperation in the just distribution of essential resources more likely (Rawls 2001a, 118) is rigorously tested.

Not only are viable resource conservation measures not being pursued by states with sufficient vigor but the ecological costs of not doing so are thereby raised considerably. Many scientists believe the goal to limit global temperature rises to 1.5C above preindustrial levels will be breached within a decade (see New Scientist 2017). The failure of states to act to prevent global temperatures from soaring is more than an act of environmental negligence. In terms of a knowing imposition of harm, the failure to act is also an act of domination. That is, a deliberate denial of peoples' rights to a safe and sustainable future. When viewed in light of current knowledge of the extent of environmental degradation, reassurances that 'containable' ecological risks will continue to be distributed across all communities as 'rough equals' ring increasingly hollow. No such relations of equality exist amongst world regions or generations.[x] The resource consumption choices of today, in light of clear evidence of

their long-term effects, are clearly unjust. They represent forms of arbitrary interference (Pettit 2005, 93) with the ecological fate of growing numbers, including future generations. To be able to secure functioning capability in the enjoyment of resources vital to safeguarding the future, a people must be in a position to gain access to sufficient food supplies, arable lands and freshwater reserves, as well as ecological conditions that promote health and well-being, including a clean and safe atmosphere. The fact that the long-term availability of these resources is being actively undermined at present means that the functioning capability of billions to survive climate destruction is seriously threatened. All too apparent is the fact that this situation is the product of decision-making that neither generally nor reciprocally justifies the risks it poses to those most affected by it. What makes the injustice of this arrangement more socially apparent is growing physical evidence of long-term ecological destruction (e.g., melting glaciers, rapid deforestation, prolonged drought, the pollution of rivers, air and seas, etc.). The latter encourages a fusion of different knowledge horizons on climate change (globally and locally) and a broadening of the scope of pre-understanding (Gadamer 1989) of how ongoing deteriorations in environmental conditions threaten our basic ontological security, inducing, in the process, deep emotional and psychological distress.

More direct encounters with ecological harm begin to shape subjective understandings of the relevance of climate change to private and public lives. Worldwide, there is a concurrent rise in human and ecosystem distress symptoms, as climate impacts come to be felt more readily as sentiments of loss of a safe and secure future (see, for instance, Albrecht et al. 2007; the Lancet Commission on Health and Climate 2015; Kenyon 2015). Growing physical evidence of destruction induces a level of despair that scientific evidence of damage, in isolation, does not (Albrecht et al. 2007). Belief in the possibility of alternative, less ecologically destructive worlds may be at an all time low but as direct encounters with ecological degradation increase, they induce an important shift in cognitive awareness. Reflections on ‘damaged life’ (Adorno 1974, 98) trigger a reversal of states of ‘unknowing’ records of extraordinary failure in environmental protection on the part of states (what Bourdieu (2000) and Burawoy (2012) describe as ‘para-doxa reversal’).[xi] The objective truth of failure to control emissions levels over the last decades is bridged with more subjectively grounded insights on the danger such failure poses to private lives and planetary wellbeing. In this way, epistemic, political, affective and ethical sense making are brought together to redefine climate change as a core justice concern (Jasanoff 2010, 243). Institutional failure becomes a ‘motivating force’ of ‘communicative power’ (Habermas 1996, 147). The latter ‘springs up’ amongst peoples compelled to act to change this negative. The energies generated by the protest efforts of local, national and transnationally organized youth climate justice coalitions have their source in ‘opinions upon which many publicly are in agreement’ (Arendt 1963, 71). In this instance, that of the failure of states to perform basic duties of care, democratic representation and protection of the self-determining capacities of communities, present and future. An ‘overlapping consensus’ (Habermas 1996, 61) emerges on the reasonableness of a diagnosis of wrongdoing and its embedding in institutional practices of neglect and domination. At the heart of this experience-led reappraisal (McAdam 1982, 48) of institutional neglect are sentiments of betrayal where the focus is on the failure of states to ‘secure the blessings of liberty for ourselves and our posterity’.[xii] Not only does this communication presuppose a shared understanding of *how* historically grounded expectations of justice have not been met

but also a minimal consensus on *the relevant content* of those expectations, what can be reasonably be expected of those charged with protecting the natural resources interests of people.

The facts of ecological destruction are now made sense of in new normative terms (Donati 1992, 155), as a knowing violation of legal rights and moral responsibilities. Interpretative framings (Snow & Benford 1988, 200) of climate change as a deliberate injustice follow on from a critical re-assessment of the 'natural attitude' (Bourdieu 1977, 164) supporting continued carbon expenditure, unsustainable resource depletions, as well as tendencies to discount the future as a calculable concern. In response, publics demand a change of regulatory regime, the substitution of one that only minimally registers the need to protect long-term planetary wellbeing with one that understands the importance of addressing ecological risks that extend considerably beyond the present (in terms of the long-term effects of accumulating atmospheric pollution on drought conditions, land fertility, ocean acidification, and global warming). In this instance, the specific identity of future peoples is less relevant than the need to establish a regulatory order that fulfills 'planetary responsibilities' to hold resources in trust for future generations.[xiii]

Between justice ideals and lived realities: The political and legal mobilization of contemporary youth

Particularly prominent amongst those campaigning for justice on these issues today are youth coalitions. The latter represent the interests of a generation who may be described as the first with a truly socially situated perspective on why climate change is experienced differently, depending on one's age and relationship to an endangered future. The majority of the life of youth today resides in a future under serious threat from two sources: climate change *and* poor efforts on the part of states to control it. Younger and older generations may occupy the same time period at present but each experiences the social time (Sorokin & Merton 1937, 615; Mannheim 1952, 97) of environmental destruction in qualitatively different terms. The historical present is one that lacks the type of securities or resource opportunities previous generations took largely for granted, leading youth to define themselves as victims of poor policy choices (WHO 2018, 15-16), the consequences of which (i.e., the ecological, social, psychological and financial costs of more frequent flooding, storms surges, wildfires, etc.) will have to be borne disproportionately by them in the years ahead.[xiv] The realization, therefore, is that the burdens of excessive pollution are distributed unfairly in geographical (i.e., amongst those residing in semi-arid or low-lying regions of the world) and generational terms. Being similarly located, generationally speaking, even if territorially dispersed, youth across the world come together as co-affiliates of post-national communities of climate affect, finding common cause or cosmopolitan connection (Beck & levy 2013, 9) on issues that spill across national borders. The affective basis of such new solidarities can be found in 'initiating emotions' (e.g., anger, fear, frustration) that prove to be universally relevant and, therefore, a key motivational factor to climate related protest (see Juris 2008, 65).

The emotional resonance of youth vulnerability to climate destruction is further enhanced by a perceived political indifference to their plight (i.e., a political order that

not only fails to protect their interests but challenges their credibility as legitimate participants in climate change debate).[xv] Building on an identity as excluded cohorts whose welfare and long-term needs are systematically ignored by state and capitalist interests alike, mobilized youth insist on a greater inter-subjective recognition of their rights to a fair portion of resources essential for flourishing and their right to participate in democratic decision-making processes affecting their future.[xvi] The evidence would appear to suggest that youth demands for accountability and greater intergenerational equity are intensifying (e.g., Nature and Youth – Young Friends of the Earth Norway 2019; Youth Strike 4 Climate 2019). In March 2019, youth in over 100 countries took part in climate strikes amid growing frustration with governments for failing to address escalating environmental problems). A lack of commitment to measures to reduce CO2 emissions is formulated by 'betrayed generations' as a 'taking away of our future' and abilities to withstand ecological catastrophe: 'You have failed us in the past. If you continue failing us in the future, we, the young people, will make change happen by ourselves.'[xvii]

However, the demands of youth are not always taken seriously within the political domain, leading many to turn to law in the hope of advancing a greater recognition of their rights and status as legitimate sources of knowledge and action on issues relating to climate injustice. In November 2017, 16 Alaskan youths ranging in age from 7 to 20 sued the state for violations of their human rights and for failing to take responsibility for climate change.[xviii] In 2018, the Colombian Supreme Court ordered the government to devise a new environmental plan when 25 Colombian youths successfully sued their state for failure to control rates of deforestation and uphold the terms of the Paris Agreement. In September 2019, Greta Thunberg, together with fifteen other youths from twelve countries around the world submitted a petition to the United Nations Committee on the Rights of the Child, claiming Argentina, Brazil, France, Germany and Turkey have failed in their duties to protect the rights of the child by not addressing climate change concerns. Youth draw attention to the serious environmental, social, emotional and normative costs of states' ongoing failure to respond appropriately to the climate crisis, condemning their actions as violations of legitimate expectations of justice.[xix] Across the world, youth partner with organizations such as Our Children's Trust, Greenpeace and sympathetic climate scientists, holding states legally accountable for violations of their rights to the 'highest attainable standards of health' (see Convention on the Rights of the Child, Article 24), demanding to be free of government actions that harm life and liberty.[xx] To counter efforts to seal off the realm of justification for currently excessive rates of resource depletion from genuinely reciprocal practices of democratic justification, youth target state breaches of the democratic process through the courts. Here, youth have had significant success, stimulating 'the generative force of 'communicative freedom' to further advance debate on climate related generalizable interests (Habermas 1996, 151) and challenge closed-door policies.

Law as a mechanism of empowerment of the politically disenfranchised

Harnessing the power of domestic courts, human rights and the doctrine of public trust in particular, campaigners draw on established legal instruments to advance 'a peoples-led' approach to environmental justice. The long-standing legal doctrine of

public trust obliges states to protect certain resources held in common (e.g., the protection of wetlands, fish stocks, national parks, non-navigable waterways, coastlines etc.). Dating back originally to Ancient Roman Law, this doctrine has proven to be an indispensable legal tool to climate justice campaigners the world over who extend the scope of its relevance to a range of newer concerns, including deteriorating air quality and atmospheric pollution. With its emphasis on common ownership of basic natural resources, the doctrine of public trust is certainly not one that finds a great deal of support from the '*Homo oeconomicus*' (Weber 1968, 637) of late capitalist society whose attentiveness to the diminishing nature of essential resources is primarily conditioned by the logic of private possession and less so by notions of common or trans-generational justice.

Even so, campaigners insist that, as temporary occupants of the Earth, we are no more than co-trustees of the resource commons, bound together by a framework of corollary and mutual responsibilities to manage the resource heritage of all, rather than distribute it as private property amongst a few (Sand 2004, 6). Human rights will be of little value to future generations if their capacities to be self-determining continue to be actively undermined by excessive pollution and an exhaustion of those resources needed to sustain healthy living. Not only is the notion that each generation is a trustee of common resources a core element of future justice campaigners' thinking, it is, also, one at odds with a private ownership model of resource distribution. As disputes between these two positions intensify, attention shifts once again to the responsibilities and legal obligations of states to ensure that essential resources remain common to all (Wood & Woodward 2016, 648). As legally authorized trustees, states are obliged to protect the resource base and energy balance of the climate system by ensuring that CO_2 emissions levels are kept within safe limits and essential, life-sustaining resources are preserved for the future. In the first week of May 2011, youth in cooperation with the nonprofit organization Our Children's Trust put these demands into operation and initiated legal proceedings against several U.S. states. These and similar cases launched in the years since have sought to accomplish through domestic litigation settings what has eluded international diplomatic treaty negotiations and emissions reduction targets thus far. That is, an effective legal mechanism to force state agencies to respond more appropriately to GHG pollution and work towards achieving a greater climate balance that will benefit all into the future. In April 2018, a lawsuit was filed by eight youths against the governor of the State of Florida for promoting, permitting and licensing commercial activities that exacerbate climate change and threaten citizens' constitutional rights to a safe environment. In other legal settings beyond the US, including the Ukraine, Pakistan, India and Uganda, Our Children's Trust has partnered with local youth coalitions, as well as other transnational legal experts to launch legal cases against negligent state agencies. In all instances, public trust principles and fundamental rights guide the main legal argument put forward.

When political mechanisms of procedural justice fail to deliver on promises of equality of opportunity or rights to participate in decision-making procedures, law is called upon to force state agencies to comply with constitutional obligations and international recommendations. In granting greater recognition to aggrieved parties' concerns, law proves to be an important platform for the consideration of whether carbon-intensive state policy choices are truly justifiable and in line with international standards of environmental protection. It is worth bearing in mind at this point the

sociological value of these legal challenges in terms of how they bring to the fore underlining tensions between the two functions of law. That is, law as an enabler of domination (upholding a system of private property rights or unilateral state sovereignty over resources) and law as an enabler of public resistance to domination (constitutional rights that empower citizens to challenge poor resource management procedures). In a democratic society, such tensions, ideally, are resolved in a deliberative manner with the 'living power of the people' (Arendt 1972, 140) enabling a re-assessment of the rightness or wrongness of the state's performance as a defender of the peoples' interests. As the number of legal cases grows, states find themselves under increasing pressure to attend to the civic demands of the people and explain what have until now been non-reciprocally produced arguments in favor of continuing with carbon-intensive models of development.[xxi] This, in turn, creates opportunities for a wider discourse to develop, opening up new pathways of communication on the commitments of states to reduce emissions levels in line with international recommendations and constitutional obligations to protect the interests of citizens, now and into the future (e.g., duties to secure a safe, sustainable environment and uphold the doctrine of public trust).[xxii] In this sense, legal cases prove to be an important generator of wider discursive power potentials. In their capacity to generate new ideas about climate injustice, for instance, they can re-invigorate the social relevance of rights, moving discourse on the latter onto a more concrete plane (Habermas 1996, 122) where contextually specific interpretations of rights to health, life, a safe environment, public participation, etc., are brought into play and mixed with more context-transcending endorsements of the right to have rights. In this way, the universal subject of rights is 'endogenized' (Sassen 2007, 436) inside national/local discourse on climate change issues and, simultaneously, externalized as new rights interpretations spread across borders and inspire legal and political challenges elsewhere.

Campaigners draw attention to glaring inconsistencies between official state commitments to climate change mitigation (e.g., UNFCCC 1992; Paris Agreement 2015) and the facticity of rapidly deteriorating environmental conditions. Such inconsistencies are noted as a signal of failure on the part of the state to fulfill basic duties of care. In their efforts to hold governments accountable for such failures, youth campaigners highlight interpretive dilemmas of immense value to society more generally. Most importantly, they provoke a 'thinking beyond' (Adorno 2001b, 68) the limits of prevailing justice arrangements to newer possibilities. Central to this process of critical reflection is the understanding that the normativity of rights can never be understood as rooted entirely in their formal validity (i.e., established legal interpretation) but must also be seen as emerging from the meaning-making efforts of an extra legal normative universe, where publics (in this instance, mobilized youth) force a new debate on the validity of prevailing interpretations of 'legitimate' rights claims. The latter are reassessed in terms of their relevance to a range of emerging ecological, social, political and legal challenges, creating, in the process, new varieties of rights meaning (Benhabib 2010, 4). Current variations of the right to inherit a healthy and sustainable world, for instance, give us some indication of the type of 'conceptual kinships' (Habermas 1996, 149) emerging between established human rights law and newer, more citizen-grounded ideas of justice. Similarly, moves on the part of several courts to defend the constitutional validity of present and future generations' 'climate rights claims'. Others still have assigned legal personhood and rights to components of non-human nature, including, the Amazon Rainforest (see

Colombian Supreme Court 2018), the Rio Atrato (see the Colombian Constitutional Court 2016), as well as the Ganges and Yamuna rivers (see Northern Indian state of Uttarakhand March 2017, see Safi 2017).[xxiii] Here, as in the past, rights are asserted as a constraint on the illegitimate use of power to advance the interests of some, but now on behalf of new categories of rights subject. An 'enlarged mentality' of justice (Habermas 1996, 148) emerges from law's engagements with wider communities of rights interpretation, especially with those who seek to redefine the 'settled convictions' of justice (Rawls 2001b, 9) in this age of deepening ecological adversity.

Conclusion: desiring alternative social futures and a new project of climate justice

This paper examines the role of state institutional power in preserving a regime of domination over rights to dwindling reserves of essential resources and 'preferred' energy pathways for the future, defending the necessity of its choices even in the face of mounting evidence of their dire ecological costs. Further, it notes how this power is challenged by a counter power source issuing from inter-subjectively shared experiences of ecological disturbance, exclusion, and harm. Youth harness the critical potentials of 'communicative power' to focus public attention on the normative deficiencies inherent in states institutional responses to the current climate crisis. Their aim is to show how states, in failing to perform basic duties of care (e.g., through the subsidizing of further fossil fuel extraction), must be directed towards new development pathways for the future. Second, to demonstrate to publics more generally how democratic societies are still capable of being 'other' if they act on their capacities to 'do other' and, in the process, 'become other' (i.e., more just and sustainable). A world warned of its vulnerabilities to ecological disaster cannot assume that those ideas of development and resource entitlement that have guided its thinking historically on a path to planetary destruction can continue to be the optimal ones for the future. Campaigners remind states that their failure to protect natural resources held in trust have already diminished the capacities of newer generations to withstand future adversities. Acts of wrongdoing are said to be knowingly committed 'without adequate excuse or justification' and in violation of legitimate expectations which wronged parties are entitled (Kumar 2003, 107). Youth demand that states acknowledge this wrongdoing and take action to address it by working towards the realization of more sustainable and equitable 'social futures' (Urry 2016, 20), that is, futures that are foreseen, planned for, democratically co-produced and peacefully lived. The hope is that intergenerational justice can gain greater entry into the everyday workings of a societal order in which commitments to basic principles of liberalism and democratic justice still prevail.

Underlining this emphasis on the role of states in the performance of duties of care and corrective justice is the assumption that states are still capable of being democratically transformed from within. There are various reasons why this belief continues to hold. One is the broadly shared view of democracy as the unsolved 'riddle' of state constitutions (Marx 1852; Marks 2000), always in need of further work by and through a people acting and responding in concert to the changing circumstances of justice. With this interpretation in mind, youth challenge the constitutionality of prevailing inequalities in development opportunities, deteriorating

environmental conditions and widespread resource mismanagement. Second, they challenge those institutional elements that have allowed such inequalities to flourish for too long. In particular, non-reciprocal decision-making on favored energy pathways and institutionalized varieties of 'presentism' (Thompson 2010, 5), as reflected in the dominance of short-term electoral cycles, the privileging of direct evidence of 'traceable' environmental harms in legal reasoning, and short-range policy goals (for further discussion, see Skillington 2019, 56-8). Harboring the power of the experiential (i.e., concrete and ever more regular encounters with episodes of drought, wildfires, storm surges, etc.) and its moral ethical translation as counter truth, youth demand that the settled convictions of democratic justice be better used to address the multiple challenges posed by deteriorating climate conditions and the institutional practices that sustain them. Climate change is first and foremost seen as the product of 'dysfunctional' decision-making and 'abnormal' justice relations (Fraser 2010, 48). Acting together to highlight these issues, youth evoke the freedoms of communicative power to generate new 'conceptual kinships' (Habermas 1996, 149) between legally established and public explored ideas of justice and rights (e.g., newer understandings of the relevance of rights norms to future generations and non-human nature). This paper assesses the wider societal value of these developments, noting their contribution to learning on the capacities of law to secure stronger public authority over the management of essential resources and beyond, their contribution to a rejuvenation of the democratic project, pointing to its better potentialities. Youth must be praised for their efforts in this regard. Of crucial importance now is that these developments continue to inspire real societal change on climate change matters into the future**.**

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[i] According to the United Nations Environment Programme-hosted International Resource Panel (2016), the amount of 'primary resources' extracted from the Earth in the last four decades has tripled, with the richest countries consuming, on average, ten times the amount consumed by poorer countries. All indications are this figure will continue to rise steadily in the years ahead as the demand for fossil fuels, wood, metals, minerals, fishery, etc. grows (World Resource Forum 2019).

[ii] See OECD Green Growth Studies – Energy (2011, 3).

[iii] As Parfit (2010, 120) argues, 'the Person Affecting Principle (PAP) draws a distinction where in our view, no distinction should be drawn. We may thus conclude that this part of morality, the part concerned with human welfare, cannot be explained in person-affecting terms. Its fundamental principle will not be concerned with whether acts will be good or bad for those people whom they affect. If this is so, many moral theories need to be revised'.

[iv] Globally, subsidies of fossil fuels stood at $5.2 trillion (6.5 percent of GDP) in 2017. The largest subsidizers are China ($1.4 trillion), the United States ($649 billion), Russia ($551 billion) and the European Union ($289 billion) (IMF Working Paper No. 19/89, 2019).

[v] The recommendations of expert bodies, such as those of the Lancet Commission on Health and Climate Change (2015, 1883), are that coal be immediately phased out of the global energy mix in the interests of long-term health and wellbeing.

[vi] See, for example, Greta Thunberg, speaking at the UN Climate Action Summit in September 2019, who accused world leaders of having 'stolen my dreams and my childhood with your empty words' and promises of climate change mitigation.

[vii] Figures produced by the Energy Information Administration (EIA), see National Geographic 2019.

[viii] For further discussion see Skillington (2019, 33-35).

[ix] No state peoples willingly integrate polluted or exhausted resource reserves into their collective life plan or see such resource conditions as key to their collective cultural identity. Equally, exhausting precious resource reserves does not serve the long-term interests of citizens (including future generations referenced in most state constitutions) and, therefore, cannot be said to serve an end of justice grounded in the common good.

[x] While all regions eventually will experience the physical effects of deteriorating climate conditions, poorer countries who have contributed least to this problem will suffer its effects the most. Developed countries, with larger, more diversified economies, who historically accumulated their wealth through fossil fuels, will fare better (see Oxfam Ireland 2018).

[xi] In *The Logic of Practice* (1992, 110), Bourdieu explains how doxa signals a shared commitment to the 'presuppositions' of 'the game' (ibid., 66), but, ultimately, doxa is 'an act of misrecognition, implying the most absolute form of recognition of the [established] social order' (Bourdieu 1984, 471). In *Pascalian Meditations* (2000, 130–131), Bourdieu further clarifies how doxa defines the socially dominated nature of the natural attitude, the sense of knowing one's place in the world or the order of things.

[xii] The reference to the Preamble of the U.S Constitution (1789) was made by sixteen youths who filed a petition against Argentina, Brazil, France, Germany & Turkey for their failure to control 'internal and cross-border contributions to climate change' and violating the rights of children, under Article 5 of the Third Optional Protocol to the United Nations Convention on the Rights of the Child to the Committee on the Rights of the Child in September 2019.

[xiii] See Brown-Weiss 1989, 2; UNESCO Declaration on the Responsibilities of Present Generations Towards Future Generations 1997, Article 2.

[xiv] Home to 1.9 billion children, or 85 percent of the world's current youth population, developing regions experience a disproportionate share of the extreme weather conditions attributable to climate change. Children in these regions suffer heavily from heat stress, drought, crop failure and famine as climate conditions continue to deteriorate (see UNICEF 2015, 1, 6, 61), and the risk of climate-linked diseases increases. Rising average temperatures pose a major threat to the health of children on account of their underdeveloped thermoregulatory systems and smaller airways, which make them particularly susceptible to respiratory diseases (Zhiwei Xu 2014). In the urban centers of more developed regions also, the incidence of asthma in children is rising steadily as emissions of nitrogen dioxide and sulfur dioxide, as well as ozone concentrations in the atmosphere grow (Sheffield et al., 2011). Worldwide, 11–14 percent of children aged 5 years and older present asthma symptoms. An estimated 44 percent of these cases are linked to environmental problems, including air pollution, secondhand smoke and indoor pollution (see WHO 2017). Beyond the immediate effects of increased particulate matter on the essential organs of the child, exposure to higher levels of ozone in the long term is also expected to increase the risk of early onset heart disease, stroke and cancer.

[xv] See, for instance, US President Trump's recent comments on climate youth activist, Greta Thunberg, Time, December 30, 2019.

[xvi] See, for example, Article 6[a] of the United Nations Framework Convention on Climate Change 1992 and Article 12 of the Paris Agreement 2015, as well as their legal right to be heard (e.g., Article 12 of the Convention on the Rights of the Child 1989).

[xvii] The Global Coordination Group of the youth-led climate strike. Letter to world leaders (March 1, 2019). Printed in *The Guardian*. See

https://www.theguardian.com/environment/2019/mar/01/youth-climate-change-strikers-open-letter-to-world-leaders (accessed May 9, 2020).

[xviii] Sinnok, one of the 16 plaintiffs accused the state of 'putting the short-term interests of the oil and gas industry above those of Alaskan youths' future' (quoted in Wright, November 2017).

[xix] Research documenting these effects has become more commonplace in recent years. For instance, Bourque and Willox (2014) work examines the emotional effects of extreme weather events and displacement, noting a high rate of depression, anxiety and post-traumatic stress disorders amongst child victims. Similarly, Doherty and Clayton (2011, 268-72) document a decline in the emotional wellbeing of children who are exposed to prolonged heat, drought, food and water scarcity. Growing physical evidence of the destruction of ecosystems, rivers, and wildlife triggers forms of psychological and emotional distress not officially recognized before now (see Albrecht et al. 2007; also Lancet Commission on Health and Climate 2015, 1877; Kenyon 2015, 2). Albrecht and colleagues group these symptoms under the general heading of 'solastalgia' explaining how they arise when our 'endemic sense of place is violated' by the pollution of land, rivers and seas, causing human distress levels to increase. Also referred to as 'ecosystem distress' or 'ecological grief', solastalgia is exacerbated by a perceived sense of powerlessness to prevent unfolding disasters from occurring (see Lancet Commission on Health and Climate 2015). Recent research conducted by UNICEF (2013) revealed high levels of climate-related anxiety amongst 11-16-year-olds interviewed (75 percent). Young respondents expressed worry about the affects of climate change on their future, and frustration with government's poor performance in tackling these issues

[xx] See, for instance, *Norwegian Government v. Youth and Nature, Greenpeace Norway*, October 18, 2016; complaint by *Kelsey Cascadia Rose Juliana, Xiuhtezcatl Tonatiuh M. Et Al. v. United States, Barack Obama et al.*, No. 6:15-cv-01517-TC, August 2015; Dejusticia v. the Colombian Government, STC4360-2018, April 2018).

[xxi] It is important to note that not all legal courts have proven to be equally open to new formulations of the participatory, human, or environmental rights of children and future generations. What is explored here is a sample of those who have taken a more supportive stance and those deemed to be landmark cases in establishing new legal precedents.

[xxii] See, for example, Communication to the Committee on the Rights of the Child, 23 September 2019), The climate crisis is already here and harming children, 14-18; Emotional distress linked to present and future impacts, 43-45). Also, under the public trust doctrine, no government can legitimately relinquish its obligations to protect resources held in trust without simultaneously diminishing the power of future legislatures to promote the welfare of the people. Resources vital to the flourishing of future generations are threatened by climate change. The failure of current government to protect the climate system is, therefore, a violation of the doctrine of public trust.

[xxiii] See, for example, the Superior Court of the State of Washington, December 2016; the Hague District Court, Urgenda Foundation v. the Kingdom of the Netherlands, June 2015; the Dutch Supreme Court, Urgenda Foundation v. the Kingdom of the Netherlands, December 2019.