

Climate Change Injustice

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Many climate change ethicists argue wealthy nations have duties of justice to combat climate change. However, Posner and Weisbach disagree because there is a poor fit between the principles of justice and the problem of climate change. I argue in this paper that Posner and Weisbach's argument relies on what Judith Shklar calls "the normal model of justice," the view that injustice results when principles are violated. Applying Shklar's critique of normal justice, I argue that Posner and Weisbach's argument limits injustice to include complaints that match rules and principles, shielding the unjust from responsibility and assuming falsely that judgments about injustice can be made from a singular perspective. Drawing on Shklar, this paper develops an account of climate change *injustice* as a complement to mainstream climate ethicists. On this account, injustice results from indifference and the voices of those impacted by climate change and climate change policy have priority.

INTRODUCTION

In a "surprising convergence" (Gardiner 2004), many ethicists agree wealthy countries have substantial duties of justice to combat climate change (e.g., Singer 2002, Shue 2014: 180–194). However: Eric Posner and David Weisbach disagree. Although climate change threatens global welfare, Posner and Weisbach argue wealthy countries do not have duties of justice related to climate change because theories of justice poorly fit the climate change problem (Posner and Weisbach 2010). Putative members of the surprising convergence also notice the mismatch between conventional theories of justice and climate change. Unlike Posner and Weisbach, they reform or reject conventional theories to support claims about the injustice of climate change (e.g., see Jamieson 1997, Caney 2005, Meyer 2012, Cripps 2013). The central aim of this paper is not only to add to the rigorous responses to Posner and Weisbach but also and primarily to argue that identifying the limitations of conventional theories of justice calls for giving an explicit account of climate change *injustice* as a distinct subject matter.¹ In doing so, I draw on Judith Shklar's *The Faces of Injustice*: an underutilized resource in the climate justice debates.²

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¹ For direct responses to Posner and Weisbach's arguments see Farber 2012, Fleurbaey and Zuber 2012, Frisch 2012, Caney 2014, Bernstein 2015, and Bernstein 2016. For an in-depth discussion of the debate, see Gardiner and Weisbach 2016.

² Verchick 2018 applies Shklar's work to climate change.

Shklar argues conventional theories of justice do not capture the full scope of injustice. The conventional account of justice, which she calls “the normal model of justice” is not designed to provide a full account of *injustice*. Normal justice is a systematic body of rules and basic principles governing the distribution of burdens and benefits (Yack 1991: 1335). Injustice on the normal model occurs when a rule (or principle) is broken or unenforced because existing institutions fail, or appropriate institutions do not exist (Shklar 1990: 17–18). Shklar does not reject the normal model’s conception of justice. She acknowledges the importance of maintaining (and creating) principled juridical institutions for a decent, just, and stable society (Shklar 1990: 50). Nevertheless, despite these ethical aims, Shklar questions the “normal model’s complacent view of injustice and its confidence in the ability of the institutions that it underwrites really to cope with iniquity” (Shklar 1990: 18).³ If identifying injustice is limited to identifying transgressions of the rules (principles), avoidable disasters that do not result in obvious transgressions raise no questions of justice. However, avoidable disasters of this kind are frequent and those in harm’s way may legitimately experience injustice the normal model ignores. The normal model also ignores what Shklar calls “passive injustice”—the failure of citizens and public officials to prevent and respond to avoidable disasters. Shklar argues “giving injustice its due” requires treating injustice as a distinct subject matter. She gives an account of “the full, complex, and enduring character of injustice as a social phenomenon” (Shklar 1990: 9).

In this paper, I argue for treating climate change *injustice* as a distinct subject matter, and I begin to develop an account of climate change injustice. Focusing on climate change injustice does not imply the rejection of theories of climate change justice couched in the normal model. Instead, in giving a separate account of climate change injustice, I argue for reduced reliance on the normal model for identifying and responding to injustice. I argue giving an explicit account of climate change injustice is vital because, as Shklar cautions, exclusive focus on identifying broken or unenforced rules or principles can distract from identifying and responding to a range of injustices, especially passive injustice. An account of climate change injustice focuses attention on the point of view and experience of those positioned to suffer impacts from both climate change disasters and climate change policy. I suggest throughout ways that mainstream climate change ethicists often explicitly or implicitly question the role of the normal model. As I point out throughout this paper, the account of climate change injustice I offer supports, develops, or criticizes several familiar accounts in the existing literature.

This paper is organized as follows. After considering Shklar’s criticism of the normal model in the context of climate change ethics (Section I), I discuss three components of climate change injustice (Section II). Difficulties in identifying injustice will inevitably arise on a Shklarian account of climate change injustice. I argue climate ethicists might move forward on puzzling cases without ceding

³ For the counterargument that an improved normal model of justice would more clearly spell out the social obligations of the powerful, see Nussbaum 1990.

Shklar's core insights about the centrality of the experience of those suffering injustice. Before concluding, I consider how an account of climate change injustice might accommodate the claims of future generations (Section III).

Before turning to Section I, I consider how Shklar appeals to a skeptical tradition in political philosophy, which is not often explored in the change justice literature.⁴ Political skeptics Plato, Augustine, and Montaigne doubted for different reasons whether societies could eliminate injustice entirely due to limitations in human knowledge, cognition, and psychology (Shklar 1990: 20). For these thinkers, injustice does not arise in rare moments when justice breaks down but is a permanent fixture of everyday life even when normal justice is done and no rule is broken. Shklar argues the skeptical tradition is better positioned to identify injustice because it is not complacent and never supposes justice has been achieved. However, Shklar's project is "more modest and more political" than the skeptics who motivate her (Shklar 1990: 5). Her skepticism in *The Faces of Injustice* does not stem from epistemic, cognitive, or psychological arguments but draws attention to unjust political choices and rationalizations for them.⁵ Indeed, she observes "what is treated as unavoidable and natural and what is regarded as controllable and social is often a matter of technology or ideology or interpretation" (Shklar 1990: 1). For example, she argues appeals to "necessity" and tragic inevitability have been used to justify racial discrimination (96–97), famine (68–70), war (71), and destitution (75–76).

Indeed, Shklar argues in *The Faces of Injustice* that the distinction between the unjust and the inevitable is politically chosen, not naturally given (Shklar 1990: 5). Shklar doubts the normal model cannot fully characterize injustice because if what counts as injustice is limited to the relatively rare instances when normal justice breaks down, all else may be treated as merely unfortunate. The normal model invites the rationalization of crises and disasters that could have been avoided. In contrast, accounting for injustice as a distinct and permanent social phenomenon leaves the question of what counts as an injustice open. Identifying and responding to injustice, in Shklar's view, requires democratic fora for hearing the perspective of those suffering or in harm's way. I now bring Shklar's criticism of the normal model to bear on Posner and Weisbach's arguments against climate change justice.

I. THE NORMAL MODEL AND CLIMATE CHANGE JUSTICE

Shklar begins *The Faces of Injustice* by asking: "When is a disaster a misfortune and when is it an injustice?" (Shklar 1990: 1). She entertains an intuitive but false answer: Misfortunes are caused by inevitable forces of nature—"we must resign ourselves to our suffering" (Shklar 1990: 1). Injustice results when an agent violates a rule of justice—"we may express indignation and outrage" (Shklar

⁴ Melissa Lane's (2012) book applying ancient philosophy to climate change ethics engages with Plato, a figure Shklar identifies as part of the skeptical tradition (Shklar 1990: 20–24).

⁵ I am grateful to Ken Shockley for pressing me to clarify the extent to which Shklar's critique of normal justice is epistemic.

1990: 1). This distinction results from exclusive reliance on the normal model for identifying injustice: Injustice occurs when the complaint fits the rule and the rule has been violated. All other complaints involve misfortune. The normal model is part of what Shklar calls (following Joel Feinberg) the “parajudicial concept of morality,” which assumes access to a single reliable account of whether injustice has been done (Feinberg 1970: 85). However, Shklar doubts the parajudicial concept of justice because it does not reflect actual experience. Indignation, not resignation, is often licensed in the absence of any obvious transgressions. For Shklar, there is no abstract or general distinction between justice and misfortune (Shklar 1990: 126). How the line between justice and misfortune is drawn depends on “matters of political struggle and persuasion” (Young 2011: 34). Exclusive reliance on the normal model to make the distinction ignores possible injustices. Injustice is not limited to the actions of the vicious and the cruel but includes the consequences of inaction and indifference, especially by those with political power.

Shklar uses the example of a catastrophic earthquake. Despite its natural causes, the earthquake has a human element. Imagine the government diverts funding for an emergency response to an expensive space program. In Shklar’s example, government agents would say they did their best with the natural disaster and that the plight of the unfortunate “could not be helped” (Shklar 1990: 3). The officials would argue, appealing to the normal model, that no injustice has been done; no rules of justice have been violated. Those suffering earthquake impacts, however, would cry “Injustice!” Shklar argues they would be in the right because of “the human, political element of the disaster” (Shklar 1990: 3). Shklar argues expressing outrage is important, especially in a free constitutional democracy where authorities ought to be responsive and accountable to citizens. Crying, “Injustice!” is a call to action to remedy those harmed and mitigate the next disaster. The earthquake involves claims of injustice that the normal model’s faulty demarcation between misfortune and injustice cannot account for. While the absence of emergency funding is a clear case of injustice, Shklar thinks there inevitably will be cases in which it will be difficult to differentiate between injustice and misfortune (Shklar 1990: 82). Nevertheless, she argues investigating the claims of injustice while prioritizing the claimant’s point of view is a basic requirement of justice (Shklar 1990: 126).

I.A. CLIMATE CHANGE JUSTICE

Posner and Weisbach propose a pragmatic change treaty that meets an efficiency standard they call “International Paretianism.”⁶ To meet this standard, “all states must believe themselves better off as a result of the climate treaty” (Posner and Weisbach 2010: 6). Arrangements that satisfy International Paretianism could require poor nations that are more vulnerable to climate change to pay side payments to secure the participation of less vulnerable wealthy countries. In response

⁶ Posner and Weisbach offer one pragmatic approach among many. There is a large literature on pragmatic climate change treaties both prior to the Kyoto Protocol (see Schelling 1992) and in its aftermath (see Aldy and Stavins 2007 and Keohane and Victor 2016).

to the concerns that such a climate change treaty seems highly unjust, they provide several arguments to the conclusion that there is a poor fit between the climate change problem and principles of corrective and distributive justice.

First, Posner and Weisbach assume theories of distributive justice give priority to the worse off. They argue transfers from the poorer current generations to richer future generations through a climate treaty contradict distributive justice principles.⁷ Instead, they argue distributive justice is most effectively achieved through direct cash transfers to the current poor, not through climate change-related benefits to future people. Thus, any claims that such a climate treaty is distributively unjust on behalf of the current poor or those at risk of climate change impacts are unfounded.⁸ Next, they argue climate change poorly fits the corrective justice model because it is difficult, if not impossible, to directly link any individual's emitting activity to any given climate change impact.⁹ If a nation or another collective could be linked to impacts, it would be unfair to hold them accountable because doing so would impose costs on its members, who have done nothing wrong.¹⁰ Finally, it is difficult to identify a party injured by climate change with a direct claim against anyone because climate change-related injuries cannot be traced back to a wrongdoer.¹¹ Due to the three problems of fit, a treaty satisfying International Paretianism is not unjust.

Posner and Weisbach's argument from fit is evidence of their reliance on the normal model. Drawing conclusions about the absence of injustice from premises about the problem of fit assumes the key tenet of the normal model: Injustice occurs only if the complaint fits the rule and the rule has been broken (or unenforced). Recognizing injustice from other sources—sources other than the violation of principles and rules—could support claims that climate change and climate change treaties that satisfy International Paretianism are unjust.

In Shklar's view, we should not rely so heavily on the normal model for identifying injustice. A climate change treaty satisfying International Paretianism could involve several layers of injustice. It is unjust that wealthy countries can use the influence gained through decades of fossil fuel-based industrialization to demand a treaty in their interest even though they caused the problem and stand to suffer least (see Frisch 2012: 235). In addition to concerns about historical injustice raised in

⁷ While it is widely assumed within economics that future generations will be wealthier than current generations (e.g., Tol 2002), this claim has come into question. An important study shows poor people in the future may be worse off than poor people today, especially given their vulnerability to climate change (Dennig et al. 2015).

⁸ Their view allows distributive justice to play a minimal role in allocating the surplus of the treaty (Posner and Weisbach 2010: 193–196).

⁹ In contrast, and departing from the normal model, Daniel Farber (2012) argues that contemporary legal rules about corrective justice need not require establishing a tight fit linking the injurers' action to the injured.

¹⁰ Several climate change ethicists have made similar arguments about wrongdoer identity, emphasizing difficulties concerning causation, excusable ignorance, and collective agency, e.g., see Jamieson 1997, Caney 2006, and Meyer 2012.

¹¹ I have argued elsewhere that Posner and Weisbach overlook climate change attribution studies in their arguments about climate change justice (Francis 2017b). For discussion on the ethical relevance of climate change attribution studies, see Allen 2003 and Thompson and Otto 2015.

the climate change case, a Shklarian account of injustice would stress the injustice that arises from those in power failing to combat climate change while actively making the problem worse, as Henry Shue has argued over his career (Shue 2014).

Like Shklar, but not always in her terms, mainstream climate change ethicists question whether normal theories of justice capture the injustices of climate change (Jamieson 1992, 1997, Caney 2005, Gardiner 2011b, 213–300). Indeed, climate ethicists seem to reduce the relevance of the normal model of justice for identifying injustice. Recognizing the mismatch between principles of justice and climate change, they revise normal theories of justice to apply to the environmental, global, and intergenerational dimensions of the climate change problem (Caney 2005) or abandon “paradigm models” in favor of alternative accounts of responsibility (Jamieson 1997). Recent applications of Iris Marion Young’s social connection model of justice to the climate change context rest on Young’s criticisms of the normal model (Hayward 2008, Eckersley 2016). Young distinguishes between the social connection model on which people are responsible for the outcomes of the social structures in which they participate and the liability model in which people are held personally responsible for what is their fault. For Young, a problem with the liability model is that singling out individuals to blame exculpates others and distracts from much-needed changes (Young 2011). For example, Young argues blame distracted from the need for forward-looking responsibility to implement infrastructural projects around the U.S in the aftermath of Hurricane Katrina (Young 2006).

Shklar would agree with Young’s emphasis on preventing future disasters (Shklar 1990: 4, 64). She warns about the pitfalls of blame and guilt, arguing that blaming is often unfair and irrational. Often the appropriate response to injustice is to simply do better at preventing and responding to injustice. However, Shklar argues the impulse to blame the government may make sense when aimed at public officials who fail to prevent or mitigate avoidable disasters while merely playing by the rules.

Politics is the sphere of choice and projects; public agents should not be encouraged to feel that they are in the grip of necessity and personally powerless. They can usually perform better and more responsibly than they do. (Shklar 1990: 64)

Blame can be an effective way to hold the powerful accountable and incentivize them to do better. Indeed, Shklar argues citizens are right to “castigate” public officials when they stand by and do nothing about avoiding or mitigating disasters (Shklar 1990: 56). Hence, Shklar’s account may have more space for backward-looking claims of injustice and responsibility, while Young’s social connection model is more forward-looking.¹²

Shklar’s critique of normal justice is an invitation to climate change ethicists to more explicitly consider the implications of the limits of the normal model. Shklar’s response to the limits of normal justice is to create an account of injustice

¹² Kyle Powys Whyte (2013) also defends a forward-looking account focused on the structure of responsibilities among private and public institutions for coping with injustice.

that captures the “full, complex, and enduring character” of injustice (Shklar 1990: 9). In what follows, I begin to develop an account of climate change injustice.

II. THREE COMPONENTS OF AN ACCOUNT OF CLIMATE CHANGE INJUSTICE

I divide my account of climate change injustice into three components. First, an account of climate change injustice must consider injustice from multiple sources—human or natural, political or individual, passive or active. Second, it must recognize all affected by a purported injustice, including those made worse off through passive injustice. Third, a full account of injustice must consider and respond to the sense of injustice expressed through the testimony of those affected (Shklar 1990: 47). I will discuss each component in turn.

II.A. THE SOURCES OF INJUSTICE

Shklar distinguishes between two different types or “faces” of injustice: passive injustice and active injustice.¹³ Active injustice is the deliberate violation of a rule of normal justice. In contrast, passive injustice occurs when citizens or occupants of public roles fail to act to prevent actual or potential iniquity.¹⁴ In Shklar’s view, avoiding passive injustice refers specifically to the public roles of citizens and government officials in a constitutional democracy (Shklar 1990: 42). Passive injustice should not be confused with the lack of charity. The passively unjust do not fail to uphold a standard of beneficence. Rather they fail the demands of their political role as citizens or public agents when they are indifferent to fraud, violence, negligence, and other injustices. Shklar argues avoiding passive injustice requires more than ensuring that you do not violate a principle or break a rule. Avoiding passive injustice requires citizens to prevent or mitigate against suffering and injustice through political action and influence.

In the case of climate change, several argue, along with Posner and Weisbach, that individual emissions are not actively unjust because no individual acting alone can cause climate change (e.g., Sinnott-Armstrong 2010, Cripps 2013, Jamieson 2014). Dale Jamieson compares climate change to a “paradigm moral problem” in which “the perpetrator and the victim are clearly identifiable, and they are closely related in time and space” (Jamieson 2014: 7). I assume paradigm moral problems are of a piece with the normal model. Jamieson uses the following example of a paradigm moral problem. Imagine Jack steals Jill’s bicycle. Jack wrongs Jill, violating a moral principle. Consider a contrast case in which Jack and a large number of independent actors make it the case that someone in the distant future across the world does not have a bicycle (Jamieson 2014: 7). Jack and company do not obviously wrong anyone. Climate change is similarly distant from the paradigm case. Jamieson thinks we end up with the embarrassing conclusion “anthropogenic climate

¹³ She borrows both terms from Cicero (See Yack 1996: 192).

¹⁴ Shklar’s account can be extended to the case in which citizens are passively unjust towards people living beyond national borders (Stullerova 2019).

change may occur, yet no one may be responsible” (Jamieson 1997: 117).¹⁵ This apparent contradiction has led thinkers to develop alternative accounts of climate change justice (Jamieson 1997: 118, Cripps 2013) or to resort to pessimism in the face of moral impoverishment (Jamieson 2014: 8).

Shklar offers an alternative analysis of the limits of normal justice and another option for proceeding beyond the normal model. On Shklar’s account, the mismatch between normal justice and the experience of injustice is not surprising or unique to the case of climate change because what counts as injustice is not limited to violations of conventional or paradigm moral principles. She says, “it is not true that everything terrible that is caused by human beings is really any specific person’s fault. A lot of very minor, innocent errors can add up to a major . . . failure” (Shklar 1990: 4). Claims of injustice are important for reducing passive injustice and enhancing responsibility even (and especially) for disasters that are not obviously anyone’s fault. Even if climate change is just in the active sense, Shklar’s analysis of injustice considers whether those who are injured, now or in the future, suffer from *passive injustice*. Are climate change impacts avoidable? Did citizens, administrators, government officials, elected representatives, and entire governments contribute to climate change or allow it to happen? If so, climate change involves at least passive injustice. Hence, in Shklar’s view, the mismatch between the unjust outcome and the paradigm moral problems does not threaten moral impoverishment or the considered view that climate change is highly unjust. Once we have reduced reliance on the normal model, we should expect the mismatch and recognize injustice as a distinct social phenomenon.

An account of passive injustice also can help block one of Posner and Weisbach’s arguments related to national responsibility for climate change mitigation and adaptation. Posner and Weisbach observe governments cannot be held responsible as a matter of corrective justice without imposing costs on innocent citizens. U.S. citizens, in their example, should not bear these costs because it would be unfair to hold the innocent responsible for the actions of others (Posner and Weisbach 2010: 101, 15).¹⁶ However, on an account of climate change injustice, U.S. citizens are not innocent; they are passively unjust for failing to act in the face of an avoidable disaster. U.S. citizens are passively unjust for not demanding their nation reduce its emissions and for electing government officials who roll back environmental legislation or withdraw from international climate change treaties. U.S. citizens are passively unjust for refusing to bear costs through taxation or other means required to reduce their nation’s climate change impact. In addition, echoing a conclusion drawn by Stephen Gardiner (2011a: 11) and Ken Shockley (2017: 273), citizens also can be passively unjust for failing to create the institutions needed to cope with

¹⁵ For a response to this line of argument, see Gardiner (2011a).

¹⁶ Several thinkers have given versions of this argument. See Gosseries 2004: 31, Caney 2006: 756–761, Miller 2008, Meyer 2012: 608, Moellendorf 2014: 166–169, Gardiner and Weisbach 2016: 214–218, and Berkey 2017: 129–130.

the climate change problem. Citizens avoid being passively unjust when they bear the cost of remedying and preventing the harms of climate change.¹⁷

One might object citizens are not passively unjust if they believe in the claims of climate denialists (Oreskes and Conway 2011).¹⁸ Climate denialists may be indifferent to climate change because they think nothing can be done about it (maybe they are convinced it is nonanthropogenic). In response, despite their false beliefs, the climate denialist is passively unjust.¹⁹ An account of climate change injustice identifies the passively unjust by considering the point of view of those in harm's way and examining whether their plight could be avoided. The passively unjust may rationalize their indifference by denying science or appealing to necessity. However, it remains the case that citizens and public officials can mitigate climate change, and those in harm's way are right to be outraged when they fail. Their ignorance does not reduce the extent that the denialist is a passive contributor to injustice because the fact of the matter is citizens can work to avoid climate disasters through political action. Further, being a good citizen has epistemic demands. In the least, it requires epistemic humility as a check on overconfidence.²⁰

The denialist in the above objection also appeals to necessity by claiming nothing can be done in the face of climate change. Appealing to necessity is a common strategy Shklar argues the powerful often use to evade responsibility for passive injustice—rationalizing their inaction and indifference. Posner and Weisbach seem to appeal to necessity when they say, “it would be a cruel irony if the consequence of justice-related arguments were to doom the prospects for an international agreement—and thus create exceedingly serious risks to human welfare, above all poor nations” (Posner and Weisbach 2010: 192). In their view, we face a tragic tradeoff between including concerns about justice in a treaty and solving the climate change crisis. The inevitability of the failure of fair treaties to combat climate change suggests nothing else could have been done. Therefore, the treaty is neither passively nor actively unjust; it is a misfortune. The appeal to necessity or tragic inevitability must be blocked to see whether passive or active injustice has occurred.

First, Shklar points out even if there were a tragic tradeoff, those impacted negatively still might be subject to more or less just treatment. Second, Shklar observes we rarely, if ever, face tragic tradeoffs. Indeed, breaking down the narrative of tragedy is a central theme in climate change ethics. As Shue argues, the presumed tragic tradeoff between combatting climate change and eradicating poverty is a false dilemma that depends upon their unwillingness to devote resources to poverty eradication and climate change by, for example, reducing military spending (Shue 2014: 274). Further, Simon Caney (2014) argues against Posner and Weisbach that wealthy countries cannot appeal to feasibility as a reason not to sign a treaty against

¹⁷ I defend an alternative reply to the objection based on civic responsibility, not passive injustice (Francis 2021).

¹⁸ I am indebted to a referee for this journal for raising this objection.

¹⁹ The authors of intentional and politically motivated climate change disinformation campaigns are arguably actively unjust (Oreskes and Conway 2011).

²⁰ Civic duty may require improving false beliefs (Beerbohm 2012).

their interests. It is not infeasible for a country to act against its interest when they have the power to decide what to do.²¹ The question concerns not what wealthy countries *must* do but what they are willing to do. Unwilling countries that fail to act are at least passively unjust.

Dispensing with the rationalizations of the passively unjust requires prioritizing the perspectives of those who bear the impacts of their indifference. The following section considers how an account of climate change injustice identifies those in harm's way.

II.B. "VICTIMS" OF INJUSTICE²²

The normal model is concerned only with those injured through active injustice in which there is a violation of rules or principles (Shklar 1990: 37). The normal model draws our attention to the rules and principles of justice and away from those experiencing injustice. As Yack explains, in distracting attention away from those outraged by avoidable disasters, the normal model disempowers them, taking away their voice and diminishing or doubting their experience of injustice. In doing so, it reinforces the authority and influence of the powerful (Yack 1991: 1339). Indeed, on Shklar's account, one of the flaws of the normal model is that recognized rules and principles of justice, while essential for the design of a decent society, are in practice coopted to reflect the interests of the powerful (Shklar 1990: 48). In contrast to the normal model, an account of injustice must prioritize the "victim's voice" and identify whether an injustice has occurred from their point of view.

An account of injustice must prioritize the "victim's perspective" because the experience of injustice is irreducibly subjective. Shklar suggests some passive injustices may only be apparent from the point of view of the afflicted (Shklar 1990: 37). In the absence of the "victim's perspective," potential injustice could be overlooked. For Shklar, there is no single perspective to appeal to in deciding whether an injustice has occurred (Shklar 1990: 37). Focusing on the victim's perspective may reveal the need to make changes to accepted rules and principles. One of Shklar's central concerns is that injustice will be overlooked out of political inconvenience, as the powerful appeal to an existing system of rules and principles that serve their interests in the status quo.²³ Prioritizing the victim's voice, according to Shklar, is the best option for confronting and avoiding passive injustice.

For years, mainstream climate change ethicists have emphasized a wide range of people in harm's way from climate change, perhaps distancing themselves from the

²¹ For a discussion applying Shklar's work to international relations, see Stullerova 2019.

²² I agree with Chris Cuomo, who objects to using the language of victimhood and vulnerability and argues instead for adopting language that emphasizes the agency, priorities, and capacities of those in harm's way (Cuomo 2011: 695). However, Shklar uses the language of victimhood. Despite acknowledging the passive origins of the term "victim," she does not consider victims of injustice to be merely passive objects of cruelty. Instead, she argues victims are uniquely positioned psychologically and politically to actively express their sense of injustice and promote significant change (Shklar 1990: 9). Therefore, I use Shklar's language to discuss the "victim's voice" and the "victim's perspective" as technical terms to refer to Shklar's nuanced understanding of victimhood.

²³ This concern is echoed in Gardiner's discussion of moral corruption (2011b).

normal model. Those in harm's way from climate change and climate change policy are future generations, the global poor, and those living in low-lying or otherwise exposed regions (e.g., see Caney 2010, Jamieson 2010, Moellendorf 2014, Shue 2014). One of Posner and Weisbach's challenges to mainstream climate change ethics is that the claims of injustice made by groups on this list cannot be matched to the rules or principles of justice. However, even if we could identify complainants by perfectly tracing injuries to discrete emitting activities or identifying distributive injustices, we would fail to appreciate the full extent of climate change injustice. Each party listed above is an actual and potential target of (at least) passive injustice, given that the harms of climate change can be abated and prevented. An account of climate change injustice makes explicit that what unifies the groups on this list is the fact that not only are they in harm's way but also that citizens and officials can prevent or abate the harms of climate change but fail to do so.

For Shklar, the victim's voice should be given priority so their interpretation of what happened is front and center, and citizens can assess the existing public rules (Shklar 1990: 81). Should the accepted rules be changed considering what the speaker endured? Could public agents have prevented the accident or incident? However, Shklar does not think it always will be easy to identify legitimate claims to injustice in prioritizing the victim's voice. There will be hard cases (Shklar 1990: 82). Nevertheless, she emphasizes that even if looking carefully at purported injustice does not result in a definitive answer, doing so will decrease the tendency toward passive injustice that comes with merely matching complaints to rules (Shklar 1990: 82). Indeed, Shklar argues "whatever decisions we do make will . . . be unjust unless we take the victim's view into full account and give her voice its full weight" (Shklar 1990: 126).

II.C. THE SENSE OF INJUSTICE

While it is difficult in Shklar's view to identify who "the real victims" of injustice are, we can recognize their sense of injustice (Shklar 1990: 83). Shklar defines the sense of injustice as a "special kind of anger we feel when we are denied promised benefits and when we do not get what we believe to be our due. It is the betrayal that we experience when others disappoint expectations that they have created in us" (Shklar 1990: 83). The sense of injustice is a "mandate for change" and, Shklar argues, should not be repressed (Shklar 1990: 85). In her view, constitutional democracy is the best response to the sense of injustice (Shklar 1990: 121). Unlike other forms of government, democracy does not silence the "voice other aggrieved" (Shklar 1990: 85). Indeed, the democratic solution to the sense of injustice is to provide a safe platform on which the disempowered can voice their sense of injustice, especially against public agents who ought to be responsive to citizens. Given voice, the sense of injustice can counter the tendencies of those with political power to avoid facing active and passive injustice. As Giunia Gatta puts it, for Shklar, "it is precisely the task of [democratic] politics to transform into injustice what is sometimes hastily dismissed as misfortune" (Gatta 2018: 57).

Shklar acknowledges it would be “childish” to think “democratic attitudes and institutions” can fully respond to the sense of injustice (Shklar 1990: 91). Democratic procedures are simply the best we can do. She argues no political system can satisfy everyone or eliminate all conflicts. Additionally, Shklar’s solution does not involve only procedural justice (Shklar 1990: 124–125). It also requires creating the conditions for the oppressed to speak in public without fear by reducing power imbalances and inequality. She also acknowledges the reforms needed to reduce injustice will provoke the sense of injustice of those who benefit from the status quo. Democracy, she argues, is also the best salve for the sense of injustice provoked by a policy change. But how ought the various senses of injustice be prioritized?

Nearly every policy change (or lack thereof) will provoke someone’s sense of injustice. How are we to tell whose sense of injustice to take seriously as a mandate for social change and as an indication that injustice has occurred? No doubt climate change policy (or lack thereof) provokes and will provoke a sense of injustice from multiple parties. Consider a climate change policy that increases the costs of fossil fuels and reduces reliance on coal. The CEO of a fossil fuel company may have a sense of injustice from the policy. Must an account of climate change injustice treat their complaint in the same manner as the sense of injustice of those impacted by climate change and the poor who face unaffordable energy prices?²⁴ Shklar’s account can provide some guidance in identifying whose sense of injustice to prioritize.

First, Shklar would argue the sense of justice of the CEO could be tempered by acknowledging their ability to participate in democratic decision-making over time (Shklar 1990: 124). Unlike the disempowered and excluded, the CEO has a political voice and can recoup their losses. Indeed, the CEO should be able to acknowledge when it is their turn to lose as a participant in a democratic process of mutual accommodation in which no one “wins and loses all the time” (Shklar 1990: 121). However, this response is unconvincing. It overlooks the role of the climate change policy as a response to the injustice done for decades by fossil fuel companies and others. The CEO should not temper their sense of injustice because they won in the past and may win in the future. Instead, they should acknowledge their sense of injustice is unwarranted.²⁵

Second and more convincingly, Shklar argues not all senses of injustice are the same. She thinks under sound democratic conditions, the sense of injustice will “assert itself” not as a mere disappointment but as an avoidable injury (Shklar 1990: 90). Perhaps participants in democratic forums will be able to tell the difference between the disappointment of CEOs and the sense of injustice of those in harm’s way. However, it is unclear on Shklar’s account precisely how to identify and weigh the priority of different senses of injustice in a way that could guide the

²⁴ For a discussion on the moral difference among the losses at stake in climate change, see Francis 2017a.

²⁵ In contrast, Shklar argues the sense of injustice that wealthy libertarians experience when egalitarian inheritance laws are established may be weakened by democratic participation (Shklar 1990: 122–124).

social change mandated by legitimate senses of injustice.²⁶ Shklar's democratic response is essential for providing a platform for voicing the sense of injustice, especially of the disempowered. However, it also requires giving voice to the sense of injustice expressed by the powerful and does not provide clear guidance on prioritizing complaints.

A full account of climate change injustice requires a more substantive framework to identify founded or valid senses of injustice. Although Shklar does not endorse a substantive account due to her skeptical commitments, Shklar refers to legitimate expectations in discussing the sense of injustice (Shklar 1990: 89–90). The question of whose sense of injustice should be prioritized in the climate change context could be answered by incorporating a theory of legitimate expectations. Lukas Meyer and Pranay Sanklecha discuss several possible accounts of legitimate expectations for the climate change case and consider the moral significance of people's expectations for climate change policy (Meyer and Sanklecha 2011, 2014). Indeed, Shklar's criticism of normal justice could help defend against the recent criticism that the principles of justice—not people's expectations—should be the focus of political theorizing (Green 2020). A Shklarian argument could be made that accounting for legitimate expectations takes the victim's perspective more seriously and, therefore, more adequately recognizes and responds to injustice.

III. INJUSTICE AND FUTURE GENERATIONS

Having laid the groundwork for an account of climate change injustice, and before I conclude, I briefly discuss a challenge of extending Shklar's account of injustice to the climate change case. Recall for Shklar, prioritizing the "victim's voice" is required for guarding against passive injustice, but there is no guarantee that we can distinguish injustice from misfortune in every case. Attending to the sense of injustice through democratic procedures is the best way to avoid falling into complacency in the face of passive injustice. However, identifying and responding to injustice is complicated by the temporal scale of the climate change problem. Not only is purported injustice difficult to anticipate among those expected to suffer the effects of climate change, but many of the future effects of climate change policy are uncertain, as is detailed in the growing literature on stranded climate assets.²⁷

In the case of climate change, many who will experience a sense of injustice do not yet exist, and we, current generations, do not have direct access to their testimony or experience. This raises at least two questions about applying the account of injustice developed in this paper to future generations. First, how should we understand the sense of the injustice of future people? Second, can we sufficiently represent the sense of injustice of future people and respond through democratic participation?

²⁶ For criticism of Shklar related to differentiating genuine injustice from mere complaints, see Whiteside 1999.

²⁷ A stranded asset is an asset that is depreciating due to unanticipated changes, e.g., new environmental policies. For example, developing countries rich in fossil fuels are susceptible to stranded assets as the global economy reduces fossil fuel use. See Ansari and Holz 2020.

First, future people's sense of injustice may depend upon many factors that are hard or impossible for current generations to anticipate. For example, imagine future people enjoy a healthy climate but live in a thread-bare world brought on by non-climate change-related disasters. These future people may claim that past generations treated them unjustly by leaving them too little in human capital, preferring a climate constrained world with a larger economy. In a different future, people living in environmentally devastated conditions may be morally outraged that their predecessors caused climate change. In yet another future, people may simply be resigned to the hardships of the only environment they have ever known, which they perceive as misfortune. However, current people could, in theory, represent the sense of injustice of future people and express injustice empathetically on their behalf. Science, and artistic interpretation drawing on the experience of contemporary environmental injustices, can help us imagine the sense of injustice of future generations.²⁸ Also, many climate ethicists make vivid the predicted conditions future people will live in due to climate change, focusing on empirical findings about the impacts of climate change across social demographics, economic conditions, and regions (see Caney 2010).

The potential lack of *self*-understanding on the part of future generations is not a problem for recognizing the sense of climate change injustice of future generations. This may seem to be an odd claim given Shklar's emphasis on the experiential character of the sense of injustice. However, Shklar's view allows people to act on behalf of those suffering without personal experience of the injustice (Shklar 1990: 39, 59, 83, 112). She discusses several instances in which others take up the cause of those who do not express a sense of injustice due to fear, unwillingness to admit defeat, or resignation to their social position.²⁹ Indeed, her emphasis on democracy for both identifying and responding to injustice underscores the importance of people speaking out on behalf of others despite having not lived through suffering or indignation themselves.

The second issue of representation is more challenging to overcome. According to Shklar, the democratic system is the best available system for responding to injustice because it gives citizens the ability and opportunity to voice and respond to the injustice they experience or observe. However, democracies are slow to recognize and respond to obvious injustice, let alone systematic discrimination (Shklar 1990: 108). Why should we think democracy can confront injustice to distant future generations? Shklar observes that citizens' cognitive responses to injustice are more sensitive when observing instances of injustice against known

²⁸ For a discussion of transnational environmental justice literature that emphasizes environmental crises, see Nixon 2011. For discussion of the role of imagination in personal and political change in the climate change context, see Lane 2012: 7–28.

²⁹ An account of climate change injustice must guard against several problems that come with speaking for others. For example, Shklar discusses the possibility that political agents who stand in for others could become fanatical or use the grievances of others to their advantage (Shklar 1990: 39). In addition, see the recent literature on "allyship," highlighting several further issues with third parties supporting those in harm's way (e.g., McKinnon 2017, Sullivan-Clarke 2020).

individuals. “That is why unjust court decisions [against individuals] rankle more than unfair laws. They generally affect an individual litigant, not a faceless group” (Shklar 1990: 109). Future generations may be more like faceless groups in that generations may be less sensitive to future injustices than they are to matters affecting living individuals. An extension of Shklar’s account of injustice to climate change will require filling this gap and giving voice to future generations. Recent discussions about appointing representatives of future generations in democratic deliberation are one way to help.³⁰

In addition to appointing representatives of future generations, we could adopt a pessimistic or “broken-world philosophy” (Mulgan 2014). As Tim Mulgan describes, such a philosophy no longer safely assumes the future will be better than the present. Instead, it assumes the future could be much worse. This requires acknowledging that forming a stable democratic society today does not assure a better future. “We realize that future people might be worse off *because* we have looked after ourselves” (Mulgan 2014: 60; emphasis in original). This act of imagining a broken future could motivate us to impute a sense of injustice to future generations and move us to respond to the strength of their claims despite the distance between us.³¹ Indeed, imagining the future will be better than the present is a major assumption of Posner and Weisbach’s argument against distributive climate change justice, which they argue would require transfers from the poorer (current generations) to the richer (future generations). However, once it is imagined that the future is a “broken world,” this argument breaks down and yields instead a conclusion that prioritizes our obligations to future people. Indeed, a broken-world philosophy exposes the passive and active injustice of current generations.

IV. CONCLUSION

In conclusion, I have discussed the limits of normal justice in the climate change context and developed three dimensions of an account of climate change injustice: the sources of injustice, the “victims” of injustice, and the sense of injustice. While the account of injustice based on Shklar’s work appropriately focuses on the perspective of those who suffer injustice, Shklar’s account may provide too little guidance when it comes to telling the difference between founded and unfounded senses of injustice. In response, I suggested supplementing the account of climate change injustice with a theory of legitimate exceptions.

A full defense of an account of climate change injustice raises several further questions. I highlighted here the problem of including future generations—whose sense of injustice is up to our interpretation—in our democratic deliberations. How-

³⁰ Stephen Gardiner’s recent work on convening an intergenerational constitutional convention is an important way of filling this gap (2009, 2014, 2019). See also Mulgan 2014: 62. Additionally, current democracies can do and arguably should institutionalize sustainability requirements. For example, see Article 20a of the Basic Law for the Federal Republic of Germany.

³¹ Mulgan thinks broken world philosophy presents challenges to certain moral and political theories, and he argues utilitarianism is particularly well suited for it. I owe an argument here for why Shklar’s account is a defensible response to broken world philosophy and maybe a better option than utilitarianism.

ever, there are also questions about the merits of Shklar's emphasis on democracy as a solution to the problem of injustice, including the extension of Shklar's view globally and the role of science and expertise in democratic decision-making. Further questions concern the extent principles of active justice should play a role in identifying climate change injustice and the potential for conflict between competing claims of injustice when resources are scarce. In this paper, I hope to have shown that a Shklarian account of climate change injustice is an indispensable supplement to climate change justice. These further questions are well worth exploration.

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