A Call for a Global Constitutional Convention Focused on Future Generations

Stephen M. Gardiner

> If the whole world comes to Copenhagen and leaves without making the needed political agreement, then I think it's a failure that is not just about climate. Then it's the whole global democratic system not being able to deliver results in one of the defining challenges of our century. And that . . . should not be a possibility.
>
> —Connie Heddegaard, Danish Minister for Climate and Energy[1]

The Carnegie Council's work "is rooted in the premise that the incorporation of ethical concerns into discussions of international affairs will yield more effective policies both in the United States and abroad."[2] In honor of the Council's centenary, we have been asked to (briefly) present our views on the ethical and policy issues posed by climate change, focusing on what people need to know that they probably do not already know, and what should be done. In that spirit, this essay argues that climate change poses a profound ethical challenge, that the ongoing evasion of this challenge produces ineffective policy, and, therefore, that a fundamental paradigm shift is needed. More specifically, I maintain that the climate problem is usually misdiagnosed as a traditional tragedy of the commons, that this obscures two deeper and distinctively ethical challenges (what I call the tyranny of the contemporary and the perfect moral storm), and that we should address these challenges head on, by calling for a global constitutional convention focused on future generations.

A Paradigm Shift

The Wrong Tragedy

In environmental policy and international relations, climate change is most commonly framed as a traditional tragedy of the commons (or prisoner's dilemma) facing

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nation-states.[3] On this reading, individual states accept that allowing climate change to continue unabated is bad for them, that cooperation is needed to address it, and that it would be in their interests for all to cooperate. However, each state also believes that when it comes to making its own decisions about what to do, it is better not to cooperate, since this choice is better on strategic grounds. Specifically, on the one hand, if others cooperate, it is better to defect, since one can then receive the benefits of cooperation (that is, meaningful reductions in overall climate risk) without having to pay any of the costs; on the other hand, however, if others fail to cooperate, it is also better not to cooperate, since otherwise one would pay costs without receiving the benefits. Unfortunately, this pattern of reasoning leads to a paradoxical result: if each individual state reasons in the same way, no one cooperates, and each ends up worse off by its own lights than if all cooperated. This result is aptly termed a tragedy: the problem seems self-inflicted and the behavior self-destructive.

The tragedy of the commons is theoretically elegant and illuminates a number of real world issues. As a result, it has become a dominant model in international affairs, environmental economics, and mainstream political philosophy. Still, the model is overused and sometimes overreaches.[4] Many critics complain (rightly) that it is frequently too pessimistic. However, my objection goes in the other direction: in some contexts the tragedy of the commons provides an overly optimistic, and indeed complacent, picture of what is at stake. Most notably, its dominance often serves to obscure the deeper and distinctively ethical challenge of the perfect moral storm; moreover, that this obscuring occurs is itself predictable on the perfect storm model.

A Tyranny of the Contemporary

The concept of a perfect moral storm is inspired by Sebastian Junger's book *The Perfect Storm*, which tells the story of a fishing boat caught at sea during the rare convergence of three independently powerful storms. Similarly, the global environmental crisis brings together several major challenges to ethical action, and in a mutually reinforcing way. It is genuinely global, profoundly intergenerational, seriously ecological, and occurs in a setting where conventional theories and institutions are poorly placed to cope. At the heart of the matter is the worry that each of the four independent "storms" (the global, intergenerational, ecological, and theoretical) provides or encourages strong temptations to current decision-makers to take benefits for themselves while passing on costs to others—in other countries, in the future, and to members of other species—in ethically indefensible ways. When the storms converge, the ethical challenge is profound.

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Neglect of the perfect moral storm leads us to underestimate some global problems and to fail to appreciate their wider implications in predictable ways. A prime example is the tacit assumption, central to the tragedy of the commons model,[5] that countries can be relied upon to represent the interests of all of their citizens across time, future generations included. In my view, this assumption is both theoretically short-sighted and dangerous in practice, since the intergenerational storm is a central challenge in many real-world cases.

Climate change provides a good example of such a case. Once emitted, carbon dioxide emissions typically remain in the atmosphere for centuries, and a substantial proportion remains for tens of thousands, even hundreds of thousands, of years.[6] This fact implies that the full effects of our current behavior are spread over a very long period of time, most of which is beyond the lifetimes of those making the decisions. Consequently, it suggests that current decision-makers, and indeed the current generation more generally, face a serious temptation: they can take benefits now (for themselves), but defer many of the costs of their behavior far into the future (to others), even when this seems ethically indefensible. For instance, they may choose very modest current benefits—such as the joys of wearing t-shirts indoors in winter—even when the harms inflicted on future people are likely to be severe. Worse, the problem is iterated. The same temptation to "pass the buck" is repeated for each subsequent generation as it comes to hold the reins of power; hence, impacts accumulate (perhaps even compound), making catastrophe more likely. Worst of all, such impacts may eventually provoke the equivalent of an intergenerational arms race, where some future generations face such appalling environmental conditions that they feel entitled to emit more in self-defense, even foreseeing that this behavior makes matters still worse for their successors. And so it goes on.

Elsewhere I describe this kind of collective action problem as a *tyranny of the contemporary*,[7] and argue that such problems are often much harder to resolve than the traditional tragedy of the commons. One implication is that the problem of misdiagnosis becomes a considerable obstacle to good policy. Because the tragedy of the commons analysis assumes away the tyranny of the contemporary, it obscures what is at stake in many real-world problems, and thereby encourages the pursuit of what I call "shadow solutions."[8] Such "solutions" not only fail to address the core features of the problem at hand but also create the dangerous illusion of genuine action. To resist them, the tyranny of the contemporary must be independently identified and treated. It should also be placed within the wider context of the perfect moral storm.

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The Problem of Moral Corruption

Worryingly, there is a sense in which the perfect moral storm analysis predicts the neglect of the intergenerational storm. While the current generation, and especially the more affluent, face strong temptations to pass serious costs to the future, admitting this may be morally uncomfortable, especially in the public sphere. Far better, then, to cover up what is really going on with ways of thinking that disguise or distort what is happening. In a setting in which most of the victims of one's behavior (including future generations) are voiceless, this may be relatively easy to do.

According to the perfect storm analysis, then, the climate change discourse itself is open to corruption, and misdiagnosis is to be expected. Most notably, we might expect nonmoral framings to dominate, and especially those that obscure the intergenerational challenge and focus on the concerns of the present. Unfortunately, the popular diagnosis of climate change as a traditional tragedy of the commons fits the bill nicely, by drawing attention away from the perfect storm and in particular the intergenerational dimension.[9] In addition, distortion of the discourse is facilitated by the theoretical storm. In the absence of strong theoretical accounts of our responsibilities to the future (and of how to discharge them in practice), it is easier for weak and deceptive arguments to seem persuasive, especially to those who have an interest in remaining deceived. Resisting such moral corruption is thus a central task for climate ethics.

Drivers

The tyranny of the contemporary, and the perfect moral storm more generally, may have multiple roots. Perhaps the most obvious is ruthlessness: each generation, and especially the current generation in the more powerful countries, is committed to the single-minded pursuit of its own self-interest, understood in narrow, economic, and short-term ways. For some in international relations this view will seem the most natural driver, resulting in obstacles to ethical action that are real, severe, and almost insurmountable. Indeed, some may believe a commitment to narrow self-interest to be so deeply embedded in human nature or specific cultures that (absent a technological miracle or mistakes in the basic science) catastrophic climate change becomes more or less inevitable.

Such readings paint a dark moral picture of buck-passing generations, and perhaps of humanity as a whole. What hope there is seems to lie in efforts to reveal that, contrary to initial appearances, buck-passing is actually not in the interest of current decision-makers. In this vein, many are invested in trying to show that

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greener forms of energy are not only available but also more beneficial than fossil fuels, even in narrowly economic ways and in the very near term. Their implicit argument is that, whatever might be true in other cases, climate change is not a "tyranny of the contemporary" after all, but only appears to be so in light of insufficient information, or until we actively change the facts on the ground. Though we may be vulnerable to perfect moral storms arising in other cases, with climate we are in calmer waters.

A second possible driver of the perfect moral storm is shallowness. Perhaps the current generation (or at least the more affluent) pursue the short-term benefits of high emissions under some conception of self-interest, but this conception is fragile at best. In particular, the desires for a high consumption, high-energy lifestyle that drive much of the climate problem may be based on a mistake about what is good for us. Perhaps many of the apparent benefits are not (or not very) beneficial after all, and pursuit of them has more to do with complacency, laziness, and self-deception than anything deeper. If so, this driver might be addressed through education, exhortation, and shifts in cultural norms. In particular, debates about the desirability of a green lifestyle can provoke us to reexamine what matters in our lives, and whether our current behavior is really worth the risk it poses to others. If suitably prodded, perhaps we have strong reasons (prudential and moral) to change.

In my view, each of these approaches has some role to play in addressing climate change. Attempts to reconfigure the incentives and our understanding of their role in our lives are very much worthwhile. Still, I suspect that self-interest is neither the only, nor the most critical, problem. Instead, the most central issue is that while most of us do have serious concern, including strong ethical concern, for future generations (and perhaps also for the global poor and the rest of nature), current institutions were not designed, and therefore are ill-equipped, to make it effective in policy. In particular, however good dominant institutions (such as the market and short-term democratic election cycles) are at reflecting some things that matter to us, they are poor at giving appropriate voice to intergenerational concerns, and even encourage lesser concerns to dominate over them. The challenge is thus not so much the need to combat self-interest (or certain visions of it) directly, but rather to find a way to unleash other concerns we already have. To do so will require bolstering such concerns in the public sphere, including by assisting those who champion them in overcoming structural obstacles,

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which will likely involve providing a distinct institutional voice for intergenerational concern.[10]

The Road to a Constitutional Convention

A Problem-driven Approach

My approach is grounded in the idea that "sometimes the best way to make progress in solving the problem is to clarify what the problem is."[11] From this point of view, the preceding analysis suggests several lessons for climate policy. First, the tyranny of the contemporary and the wider perfect moral storm are right at the heart of the climate problem. Hence, the policy discourse should move away from the tragedy of the commons model and its associated remedies, and confront these challenges directly. Until it does so, we remain highly vulnerable to shadow solutions. Second, a comprehensive and multi-dimensional approach is needed. Since the perfect moral storm has multiple drivers and manifests itself at different levels, it poses a robust policy challenge unlikely to be met in a piecemeal way. Nevertheless, third, the most important factors are institutional, and chief among them is the existence of an "institutional gap" with respect to future generations. This gap should be directly addressed. In addition, the fact that existing institutions are relatively blind to, and indeed tend to crowd out, intergenerational concern is a fundamental obstacle to be overcome.[12] Specifically, not only are those institutions that are currently dominant (including, for example, nation-states and the United Nations) not designed with these (global, intergenerational, and ecological) problems in mind but their persistent pretense that they are equipped to cope (or at least are the appropriate bodies to try) is a major problem, both in itself and because it tends to encourage moral corruption.[13]

While these general lessons imply a pluralist approach to solutions, and so are supportive of such mainstream efforts as those described above, they also invite a more distinctive focus. First, and most importantly, existing institutions must be augmented, and this should be the central policy goal. Plugging the institutional gap for intergenerational concern is particularly vital. Second, such augmentation must be understood systemically, within a more general global institutional context. In particular, we must confront difficult questions about the extent to which existing institutions must be modified to accommodate the new, and whether this requires modest, substantial, or radical change in such institutions. Third, though the precise form that reform should take is currently unclear, the

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institutional challenge should nevertheless be confronted head on. In particular, it is important to admit (first) that we lack robust guidance (for example, about the appropriate ethical norms for intergenerational concern) given the theoretical storm, and (second) that this tends to encourage paralysis and fuel moral corruption. If we are to take the ethical challenge seriously, we must embrace these features of the situation as problems to be confronted rather than hide behind them.

This focus suggested by the perfect storm analysis suggests two projects. The first is that of working out what a revised institutional system would look like. The second is that of developing an achievable pathway toward such a system, or some reasonably acceptable approximation of it. These are large tasks. They pose substantial, indeed daunting, challenges to the current generation as a whole, to the global community, to politicians, and to scholars in political philosophy, international relations theory, international law, and so on. However, none of this implies that they cannot be completed, still less that they ought not be attempted.

A Constitutional Convention

In my view, the above line of reasoning leads naturally to a more specific proposal: that we—concerned individuals, interested community groups, national governments, and transnational organizations—should initiate a call for a global constitutional convention focused on future generations. This proposal has two components. The first component is procedural. The proposal takes the form of a "call to action." It is explicitly an attempt to engage a range of actors, based on a claim that they have or should take on a set of responsibilities, and a view about how to go about discharging those responsibilities. The second component is substantive. The main focus for action is a push for the creation of a constitutional convention at the global level, whose role is to pave the way for an overall constitutional system that appropriately embodies intergenerational concern.

The substantive idea rests on several key ideas. Still, for the purposes of a basic proposal, I suggest that these be understood in a relatively open way that, as far as is practicable, does not prejudge the outcome of the convention, and especially its main recommendations. First, the convention itself should be understood as "a representative body called together for some occasional or temporary purpose" and "constituted by statute to represent the people in their primary relations."[14] Second, a constitutional system should be thought of in a minimalist sense as

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"a set of norms (rules, principles or values) creating, structuring, and possibly defining the limits of government power or authority."[15] Third, the "instigating" role of the convention should be to discuss, develop, make recommendations toward, and set in motion a process for the establishment of a constitution. Fourth, its primary subject matter should be the need to adequately reflect and embody intergenerational concern, where this would include at least the protection of future generations, the promotion of their interests (where "interests" is to be broadly conceived so as to include rights, claims, welfare, and so on), and the discharging of duties with respect to them. It may also (and in my view should) include some way of reflecting concern for past generations, including responsiveness to at least certain of their interests and views. However, I will leave that issue aside in what follows.

The proposal to initiate a call for a global constitutional convention has at least two attractive features. First, it is based in a deep political reality, and does not underplay the challenge. It acknowledges the problem as it is, both specific and general, and calls attention to the heart of that problem, including to the failures of the current system, the need for an alternative, and the background issue of responsibility. Moreover, though the proposal is dramatic and rhetorically eye-catching, it is so in a way that is appropriately responsive to the seriousness of the issue at hand, the persistent political inertia surrounding more modest initiatives, and the fact that (grave though concerns about it are) climate change is only one instance of the tyranny of the contemporary (and the wider perfect moral storm), and we should expect others to arise over the coming decades and centuries.

The second attractive feature of the proposal is that, though ambitious, it is not alienating. While it does not succumb to despair in the face of the challenge, neither does it needlessly polarize and divide from the outset (for example, by leaping to specific recommendations about how to fill the institutional gap). Instead, it acknowledges that there are fundamental difficulties and anxieties, but uses them to start the right kind of debate, rather than to foreclose it. As a result, the proposal is a promising candidate to serve as the subject of a wide and overlapping political consensus, at least among those who share intergenerational concern.

Selective Mirroring

To quell some initial anxieties, it is perhaps worth clarifying the open-ended and non-alienating character of the proposal. One temptation would be to view the call for a global constitutional convention as a fairly naked plea for world government,

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a prospect that would be deeply alienating—indeed anathema—to many. However, that is not my intention. Though it is possible that a global constitutional convention would lead in this direction, it is by no means certain.

At a minimum, no such body could plausibly recommend any form of "world government" without simultaneously advancing detailed suggestions about how to avoid the standard threats such an institution might pose. Moreover, it seems perfectly conceivable, even likely under current ways of thinking, that a global constitutional convention would pursue what we might call a *selective mirroring* strategy. Specifically, a convention would seek to develop a broader *system* of institutions and practices that reflected the desirable features of a powerful and highly centralized global authority but neutralized the standing threats posed by it (for example, it might employ familiar strategies such as the separation of powers). In all likelihood, one feature of a selective mirroring approach would be the significant preservation of existing institutions to serve as a bulwark against the excesses of any newly created ones. Whether and how such a strategy might be made effective against the perfect moral storm, and whether something closer to a "world government" would do better, would be a central issue for discussion by the convention.

Objections

In principle, selective mirroring may take many forms, including some very radical ones, a few of which may seem to undermine the proposal for a global constitutional convention. While I do not wish to dismiss these ideas outright, since they may well be worth discussing *within* a global constitutional convention, it may be worth saying why I do not regard them as strong objections to the very idea.

One thought is that we should all simply make changes in our personal lives to address the climate problem and thereby establish new collective practices. For instance, some propose that individuals take radical action in their consumption behavior by embracing green lifestyles of various shades. On robust versions of this view, a global constitutional convention may seem unnecessary or perhaps irrelevant. Individuals acting alone can achieve the aims of institutional reform, and without unnecessarily generating new threats.

While I agree some voluntary personal action and lifestyle change can be helpful (both directly and indirectly), in my view this approach is unlikely to generate a fully adequate or even "sustainable" solution to the perfect moral storm, whether in the case of climate or more generally. One reason is that, collectively and politically, the

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idea that we can solve genuinely global, intergenerational, and ecological problems through individual action seems akin to suggesting an anarchist approach. While this is difficult to rule out on conceptual grounds (perhaps a suitably sophisticated, well-motivated set of individuals could pull off an anarchist utopia, especially if "uninfected" by our normal—nonanarchist—habits and dispositions), nevertheless most political philosophers reject anarchism. For instance, when it comes to addressing large-scale social problems, anarchism often seems too informationally demanding, unduly motivationally optimistic, and overly vulnerable to defection. Notably, the same worries seem to infect attempts to solve climate change and other global environmental issues through individual lifestyle change alone.

A second approach that might undermine the need for a global constitutional convention is the proposal to pursue climate policy through voluntary agreements between nation-states as traditionally organized and conceived. This idea is reflected in current international climate policy in the "pledge and review" approach agreed to in the Copenhagen Accord, and still popular among many in the international community as the basis for the next round of agreements (scheduled to be completed in Paris in 2015 and to cover the post-2020 period). This approach is structurally similar to individual anarchism, but as played out between nation-states. Accordingly, it must answer many of the same objections. (For instance, while nation-states may find it easier to share sufficient information for coordinating purposes, the motivational and defection challenges remain significant.) More generally, as with the traditional tragedy of the commons analysis, it is easy for the intergenerational challenge to get lost. In this respect, it is notable that, according to mainstream analyses, the Copenhagen pledges are not remotely adequate to the stated intergenerational goal of avoiding more than two degrees Celsius of total anthropogenic warming. Again, stronger ways of filling the institutional gap seem necessary.

A third approach would attempt a slightly more robust globalism resting on national institutions, but without explicit intergenerational institution building. In the climate case, this approach is represented by the United Nations Framework Convention on Climate Change and the Kyoto Protocol, both of which promote global environmental norms (including those of equity, responsibility, rights, and intergenerational protection). Unfortunately, this strategy has so far proven inadequate to the task, largely because of the dominance of national institutions and their familiar—short-term and economic—concerns, and because of the failure to link climate with other issues, such as trade sanctions.[16]

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Unsurprisingly, issue-specific agreements between nation-states as currently constituted find it difficult to deal with the genuinely global and profoundly intergenerational aspects of the perfect moral storm, at least outside of a wider institutional context such as a constitutional convention might seek to create.

A fourth approach recommends reform predominantly at the state level, and in particular proposes the creation of specifically national intergenerational institutions. This is the dominant approach in the small body of work that has taken seriously the need for specifically intergenerational institutional reform. It is reflected in a number of proposals made by academics and others, such as for the creation of ombudsmen for future generations, special legislative representatives, distinct legislative chambers, and trustees of the democratic process.[17]

On the face of it, the states-first approach is a more promising strategy than either individual action or limited globalism, and so deserves serious consideration. Nevertheless, it too has shortcomings. On the one hand, there are logistical worries. For one thing, the simultaneous creation of distinct institutions within each nation-state, with appropriate powers with respect to existing institutions, may pose a much larger challenge than even the more direct approach of beginning at the global level. For another, plausibly, even when the national task is complete some kind of integration at the global level would still be needed to deal with problems like climate change.

On the other hand, it is not clear that national representation for future generations is even appropriate. First, in considering serious climate effects that play out over many centuries and millennia, the importance of current national arrangements and their geographical boundaries is likely to fade dramatically given global development, migration, and other factors. Second, it is far from clear that reform designed to fill the institutional gap should replicate the basic structural features of current institutions. In particular, even if existing nation-states were likely to persist over the relevant time periods, there would be a strong case for designing intergenerational institutions differently, so as not to reproduce obstacles to intergenerational concern. For all these reasons, it seems doubtful that proponents of genuinely intergenerational institutional reform should resist the call for a global constitutional convention.

Guidelines for a Convention

The call for a global constitutional convention *as such* is my central, quasi-pragmatic proposal. Nevertheless, I will now advance a few more specific

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suggestions about how interested parties might move on to develop the idea of the convention further. These suggestions serve as guidelines or benchmarks against which more concrete proposals might be developed and judged. As such, they are more prescriptive than the proposal itself, and are intended to promote a subsequent *internal* debate among those who accept it.[18] Though fairly modest in themselves, they stand in stark contrast to the status quo.[19]

Relational Characteristics

One set of guidelines concerns how the global constitutional convention relates to other institutions. The first guideline concerns relative independence:

> (1) *Autonomy*: Any global constitutional convention should have considerable autonomy from other institutions, and especially from those dominated by factors that generate or facilitate the tyranny of the contemporary (and the perfect moral storm, more generally).

Thus, for example, attempts should be made to insulate the global constitutional convention from too much influence from short-term and narrowly economic forces.

The second guideline concerns limits to that independence:

> (2) *Mutual Accountability*: Any global constitutional convention should be to some extent accountable to other major institutions, and they should be accountable to it.

Thus, for example, though the global constitutional convention should not be able to decide unilaterally that national institutions should be radically supplanted, nevertheless such institutions should not have a simple veto on the recommendations of the convention, including those that would result in sharp limits to their powers.

A third guideline concerns adequacy:

> (3) *Functional Adequacy*: The global constitutional convention should be constructed in such a way that it is highly likely to produce recommendations that are functionally adequate to the task.

Thus, for example, the tasks of the global constitutional convention should not be assigned to any currently existing body whose design and authority is clearly unsuitable. In my view, this guideline rules out proposals such as the Royal Society's suggestion that governance of geoengineering should be taken up by the United Nations' Commission on Sustainable Development,[20] or

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the Secretary-General's recommendation of a new United Nations' High Commissioner for Future Generations.[21] Though such proposals may have merit for some purposes (for example, as pragmatic, incremental suggestions to highlight the importance of intergenerational issues), they are too modest, in my opinion, to reflect the gravity of the threats posed by climate change in particular, and the perfect moral storm more generally.

Aims

A second set of guidelines concerns the aims of the global constitutional convention. Here, the perfect moral storm analysis would suggest:

> (4) *Comprehensiveness*: The convention should be under a mandate to consider a very broad range of global, intergenerational issues, to focus on such issues at a foundational level, and to recommend institutional reform accordingly.
>
> (5) *Standing Authority*: Though the convention may recommend the establishment of some temporary and issue-specific bodies, its focus should be on the establishment of institutions with standing authority over the long term.

These guidelines are significant in that they stand against existing issue-specific approaches to global and intergenerational problems, and encourage not only a less ad hoc but also a more proactive approach. In particular, the global constitutional convention might be expected to recommend institutions that would be charged with identifying, monitoring, and taking charge of intergenerational issues as such. For example, such institutions should address not only specific policy issues (such as climate change, large asteroid detection, and long-term nuclear waste) but also the need to identify similar threats before they arise.

Composition

A third area for consideration is that of the composition of the global constitutional convention itself. At this point, the perfect storm analysis suggests more surprising and demanding guidelines:

> (6) *Generational Representation*: Those expected to live during different time-periods, as parts of different birth cohorts, should receive distinct representation.
>
> (7) *Indefinite Time-horizon*: Representatives should be provided for a suitably long time horizon of at least centuries, and probably millennia.

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Special provision should also be made for longer-term representation for issues that merit it.

Each of these criteria emerges directly from the nature of the tyranny of the contemporary. Representatives are to be put in place to try to block many different kinds of buck-passing, covering a range of salient generational units.[22]

A further guideline concerns the units of representation:

(8) *Regionalism*: Representation should be designed to reflect large-scale ecological realities at a supranational level.

This guideline emerges from two theses, one negative and one positive. The negative thesis is that, ideally, delegates to the convention ought not to be considered as representatives of nation-states. Instead, as far as possible, the units of representation should be designed so as to cross national borders and encourage regional perspectives.

There are a number of reasons behind the negative thesis. Though I cannot go into all of them here, let me mention two that suggest their general flavor. The first is that the convention should not simply replicate at a higher level the concerns made manifest in existing institutions, partly because these are inadequate to address the perfect moral storm, partly because these concerns are represented in other ways, and partly because they often tend to inhibit and crowd out intergenerational concern. The second reason is that (as above) existing institutions do not, in any case, tend to track factors that are likely to be deeply relevant over many centuries and millennia.[23]

In light of such concerns, the positive proposal is that delegates should be selected as representatives of larger units that cross national boundaries, do so in ways that do not simply duplicate current (generational) geopolitical realities, and (ideally) are rooted in ecological facts that are likely to have long-term salience. For instance, one might select representatives from ecologically similar areas (such as the Arctic or large bioregions), or perhaps (to generate a smaller and more manageable total number of delegates) from continents or ecozones. (The latter would be my inclination.)

Scope

A fourth area for consideration by the convention is the place of humanity within its broader ecological and planetary context. Presumably, institutions focused on future generations should not themselves crowd out either concern for

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nonhumans or concern about humanity's wider role in the universe. For instance, the global constitutional convention should make recommendations about how concern for nonhuman nature is to be accommodated through new institutions, whether in terms of representation of those concerns or (perhaps more likely) in terms of the limits they suggest to the purview of other institutions. Such efforts are especially important given the ecological storm.

The issue of humanity's place is a complex and fundamental one, so the development of guidelines here is especially important. In the spirit of preserving some level of modesty in the guidelines, I therefore propose only:

> (9) *Human Boundaries*: The convention should make recommendations on how best to contain human activities and influence (including those of intergenerational institutions) in light of wider concerns for the nonhuman world and humanity's role in the universe.

Conclusion

This essay argues for a distinctive approach to the climate problem, understood as one manifestation of a wider ethical challenge. In the first part, I provided a brief analysis of where we stand, and made three basic claims. First, the standard analysis of climate change as a tragedy of the commons (or prisoner's dilemma) is a mistake. Second, this misdiagnosis is dangerous, since it obscures the deeper, yet underappreciated challenges of the tyranny of the contemporary and the wider perfect moral storm. Third, though they have several roots, these challenges are driven primarily by institutional failure and especially the neglect of intergenerational concern.

In the second part, I made a specific proposal about how to proceed. I argued that the current generation should take responsibility for addressing the institutional gap, and that a natural first step would be for morally serious actors to initiate a call for a global constitutional convention focused on concern for future generations. To push forward the discussion, I then advanced a number of guidelines concerning the characteristics, aims, composition and scope of the convention. Taken together, these guidelines begin to suggest a vision of how a global constitutional convention might be organized. As such, they are very much open to debate. What is less open to debate is the need to have that discussion. In my view, the time to take the future seriously in international affairs is upon

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us, and this requires a fundamental paradigm shift that moves us beyond the distinctively *inter-national*. To those who would dismiss such an enterprise as too utopian, here I will only echo George Washington's sentiments at the Federal Convention of 1787: "It is too probable that no plan we propose will be adopted. Perhaps another dreadful conflict is to be sustained. If, to please the people, we offer what we ourselves disprove, how can we afterwards defend our work? Let us raise a standard to which the wise and the honest can repair. The event is in the hand of God."[24]

NOTES

[1] Connie Hedegaard, Danish Minister for Climate and Energy (and subsequently EU commissioner on climate action), speaking two months before Copenhagen; cited in Michael Von Bulow, "Failure in Copenhagen is Not an Option". COP-15 Web Site (October 2, 2009).

[2] Carnegie Council mission statement, available at http://www.carnegiecouncil.org/about/mission/html (accessed 5/19/2014).

[3] These share a common core; however, real differences remain. See Gardiner, *Storm*, chapter 4.

[4] One issue may be the ambiguity between the generic use of the phrase "tragedy of the commons" (to mean "any tragedy involving some commons") and the more specific sense associated with the model. For instance, I once used the generic sense to refer to a tyranny of the contemporary as "the *real* tragedy of the commons" in an attempt to signal that it is a deeper "commons problem," and has more relevance to our current predicament, than Hardin's model. However, I now see that this may mislead. (See Gardiner, "The Real Tragedy of the Commons," *Philosophy & Public Affairs* 30.4 (2001), pp. 387–416.)

[5] This assumption is shared by many of its main rivals (though sometimes with reservations). See, for example, Elinor Ostrom, "A Polycentric Approach for Coping with Climate Change" (World Bank, 2009); Robert O. Keohane and David G. Victor, "The Regime Complex for Climate Change," *Perspectives on Politics* 9.1 (2010), pp. 7–23.

[6] David Archer *et al*., "Fate of Fossil Fuel CO2 in Geologic Time," *Journal of Geophysical Research* 110 (2006), pp. 1–6.

[7] The tyranny of the contemporary comes in many forms. One paradigm is the pure intergenerational problem (see Gardiner, *Storm*, chapter 5).

[8] Gardiner, *Storm*, chapters 3–4; see also Stephen M. Gardiner, "The Global Warming Tragedy and the Dangerous Illusion of the Kyoto Protocol," *Ethics & International Affairs* 18.1 (2004), pp. 23–39.

[9] This is not to say that those who advance the model are themselves *motivated* by buck-passing or corruption. Instead, the idea is that some framings tend to be accepted too readily in settings like the perfect storm.

[10] Note that the need to combat self-interest itself presupposes an ethical outlook that goes beyond it.

[11] *Perfect Storm*, p. 3.

[12] In my own view, the driving out of ecological concern is also very important, but I address it only briefly here (in the last guideline below).

[13] One way to facilitate a tyranny of the contemporary is to assign problems that encourage this tyranny to inadequate institutions.

[14] Drawn from the *Oxford English Dictionary*.

[15] Wil Waluchow, "Constitutionalism," *Stanford Encyclopedia of Philosophy* (2012).

[16] Gardiner, "The Global Warming Tragedy"; Scott Barrett, *Environment and Statecraft* (Oxford: Oxford University Press, 2005).

[17] See, for example, Andrew Dobson, "Representative Democracy and the Environment," in W.M. Lafferty and J. Meadowcraft, eds., *Democracy and the Environment* (Cheltenham, UK: Edward Elgar, 1996), pp. 124–39; Rupert Read, *Guardians of the Future: A Constitutional Case for Representing and Protecting Future People* (Weymouth, U. K.: Green House, 2012); Dennis F. Thompson, "Representing Future Generations: Political Presentism and Democratic Trusteeship," *Critical Review of International and Political Philosophy* 13(1) (2010), pp. 17–37. For an instructive overview, see Ludvig Beckman, "Do Climate Change and the Interests of Future Generations Have Implications for Democracy?" *Environmental Politics*, 17:4 (2008), pp. 610–624.

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[18] In Rawlsian terms, one might think of the bare proposal as advancing the concept of a global constitutional convention and the internal debate as concerning specific conceptions.
[19] Each guideline may be questioned, and I make no attempt at completeness. The idea is to further discussion by proposing standards to which more concrete visions of the global constitutional convention are *answerable*. Though some otherwise sympathetic to the general call may reject them, there is some burden on them to explain their reasons and defend alternatives.
[20] John Shepherd et al. 2009, *Geoengineering the Climate: Science, Governance and Uncertainty* (Royal Society, 2009); cf. Gardiner, "Some Early Ethics of Geoengineering," *Environmental Values* 20 (2011), pp. 163–188 at p. 165.
[21] Report of the United Nations Secretary-General, *Intergenerational Solidarity and the Needs of Future Generations*, 2013.
[22] See my account of the salience of "generations" in *Perfect Storm*, chapter 5.
[23] Another reason is that nation-states are too diverse in size, population, and power to make them appropriate organizational units.
[24] March 25, 1787. Quoted by Gouverneur Morris in Ferrand's *Records of the Federal Convention of 1787*.

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