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Speaker: **Anna Stilz, UC Berkeley**

Paper: **Collective Self-Determination and International Authority in Climate Governance**

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Collective Self-Determination and International Authority in Climate Governance

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Let's begin with a problem. In the future, a sustainable solution to climate change will likely require authoritative international institutions to regulate many matters that have long been regarded as the province of national decision-making (Bodansky 1999). Global environmental institutions may also need to depart from consensual models of decision-making, and attach significant costs to state behavior to incentivize compliance.

Now, global carbon mitigation is guided by the 2015 Paris Agreement, a decentralized, relatively weak institution (Bodansky, Brunnée, and Rajamani 2017; Moellendorf 2022). Under Paris, every five years states are required to declare their nationally determined contributions (NDCs) to climate change mitigation. This permits countries to determine their national contributions in ways tailored to their circumstances, and it preserves latitude for sovereign autonomy. But there are no binding legal obligations to achieve states' NDCs. Instead, Paris relies on a process of international scrutiny known as "pledge and review." States are required to report their emissions biannually; these reports are subject to expert review; and every five years, a global "stocktake" is held, to assess how efforts are proceeding with respect to the Agreement's stated goal of limiting global temperature rise to "well-below" 2°C. Though the expectation is that states will enhance their mitigation efforts over time, this ratcheting of contributions is left to national deliberation. So Paris relies mostly on public pressure and shaming to influence state behavior.

Many observers argue that Paris's decentralized, voluntary process "facilitated an agreement that otherwise might have been impossible" (Moellendorf 2022). But there are reasons to worry that Paris does not do enough. First, it does not ensure that states' voluntary pledges will suffice to hit the 2° C goal.[1] Second, Paris provides no compliance mechanisms to

[1] According to the latest Climate Tracker data, states' 2030 pledges put the world on track to experience 2.5°C of warming by 2100. Taking into account states' actual policies and actions, that estimate is revised upward to 2.7°C. See https://climateactiontracker.org/

ensure that states make good on their pledges; it only requires that states make a good-faith effort toward their pledged goal. Third, Paris does nothing to regulate other issue-areas where robust international climate governance is needed, including forest conservation and land use, climate adaptation and relocation, and the looming future decision about whether to engage in geoengineering to mitigate climate change's worst effects.

So, while the issue is controversial, I believe that in the future global environmental institutions will need to take on law-making functions that go significantly beyond Paris, and beyond any law-making functions that international institutions have performed so far.[2] In addition to being a currently salient issue, climate change governance provides a good case for exploring three philosophical questions around the legitimacy of international authority.

First, how might future global climate governance be made legitimate? A legitimate institution, as I define it, has (a) a moral permission to make law and policy and to attach significant costs to non-compliance with its rules; and (b) a claim-right against other actors (individuals, states, and competing global governance bodies) not to interfere with its activities. The definition I adopt is agnostic about whether subjects of a legitimate institution always have duties to obey its rules, but it holds that legitimacy correlates to at least *some* obligations—namely, the obligation not to interfere with, compete with, or resist the institution's efforts to issue and ensure compliance with its directives. What could make future climate governance legitimate, in this sense?

Second, would such extensive international authority stand in tension with the values of collective self-determination or sovereignty, to the extent those are genuine values? Theories of collective self-determination and sovereignty hold that each society's internal affairs should be the exclusive concern of its citizenry. Can future climate governance be compatible with this?

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[2] This assessment might seem at odds with international relations scholars who argue that the "top-down" approach of the Kyoto Protocol, with its rigid targets and timetables, led to international gridlock on climate change. David Victor holds that more ambitious progress will result from "climate clubs," non-universal groups of states that set flexible, nonbinding targets in a "bottom-up" process and provide selective incentives for states to meet them (Victor 2011, chs. 7-8) I don't disagree with Victor's assessment of the best way to kickstart ambitious climate cooperation, but even he expects that cooperation will need to expand, deepen, and develop enforcement mechanisms over time. This paper explores the legitimacy of the "deepened" institutions that might be needed in the farther future.

Finally, how should future climate governance be structured—should these institutions be structured democratically, or authorized in some other way?

This paper sketches a theory of legitimate international climate authority, laying out a set of sufficient conditions for future climate governance to be legitimate. I argue that international climate authority will be legitimate if:

(1) It is required to define and enforce rules of morally mandatory cooperation constitutive of a global society that secures equal self-determination for individuals and collectives;
(2) Its legislation meets minimal conditions of substantive justice;
(3) It is multilaterally authorized by a qualified majority of representatives of the world's peoples; and
(4) The climate governance authority is limited, leaving space for self-determining peoples to order their institutions in a manner that reflects their distinct priorities and values.

The idea behind my view is that strong international organizations are necessary to secure each people's right to govern itself, and to protect it against impositions from other states. A collectively self-determining people must inhabit a collective-autonomy-guaranteeing global order.

In developing this view, I rely on a *domestic analogy* between individual and collective self-determination. Just as self-determining individuals should be free to pursue their ends within some personal sphere of choice (defined by basic liberties), so too, I argue, political communities should be free to pursue their ends within some collective sphere of choice, normally protected against interference from foreign powers. By "interference," I refer to the intentional imposition of force or costs to induce a target agent to act on the interferer's judgment rather than their own. Coercion, force, military intervention, efforts at regime change, and economic sanctions all count as "interference," on this definition. Other forms of external influence—e.g., rational persuasion or offers of mutually beneficial interaction—do not count as "interference," since they do not attempt to place the target in a situation where they have no reasonable alternative but to act in accordance with the interferer's wishes. These actions point out reasons in favor of a given choice, but leave it to the target agent to freely decide whether to act on them.

While the bounds of a people's sphere of non-interference have traditionally been interpreted as isomorphic with a people's territory, I argue that internal sovereignty should be understood differently. Internal sovereignty consists, not in an absolute claim against interference within territorial borders, but in the conjunction of three weaker claims: (1) a set of *sovereign liberties* compatible with the mutual coexistence of equally self-determining communities; (2) a claim that any foreign interference be justified by morally mandatory international purposes; and (3) a claim that all foreign interference be horizontally structured and multilaterally authorized.

So while collective self-determination has often been thought to stand at odds with external constraints on the choices of self-determining groups, with mandatory integration into international organizations, and with cosmopolitan duties of global justice (Rawls 1996; Miller 2008; Walzer 2008), I believe this is wrong. In my view, collective self-determination should be seen as not merely as a formal freedom, but as a freedom that must be adequately resourced by global background institutions; and collective self-determination requires the construction of global governance structures necessary to constitute a *system* of collectively self-determining peoples that can coexist on equal terms.

The domestic analogy central to my paper has frequently been criticized. It is said to be inconsistent with normative individualism: the idea that human beings, and not groups like peoples or states, are the ultimate units of moral concern (Beitz 1999; Valentini 2015; Caney 2005). So in Section 1, I explain why I think collective self-determination is fully consistent with normative individualism, and why I see the domestic analogy as appropriate. Once we acknowledge that the right to collective self-determination is derived from the interests of the individual members of a political group, I believe there is no further problem with using the domestic analogy to understand what self-determination amounts to, and how mutual claims to self-determination might be made compatible with one another. With the proper individualistic value-foundations in place, the domestic analogy proves illuminating.

Section 2 then develops the analogy between individual and collective self-determination. Here I lay out three widely accepted principles for theorizing the autonomy/liberty connection in the individual case, and I extend analogues of these principles to theorize the connection

between collective autonomy and sovereignty. I stress that just as individual self-determination does not underwrite a libertarian view of freedom, construed as a right to negative liberty from all interference, collective self-determination does not entail a right to *unqualified Westphalian sovereignty*. A people's rightful sovereignty is bounded by negative duties to respect the autonomy of other individuals and collectives, and positive duties to guarantee the global background conditions of autonomy for all. Conformity with these duties may require interfering with states, in some areas, to enforce common standards of behavior.

Section 3 argues that authoritative global governance institutions are required to specify and enforce the duties that bound a people's sphere of rightful sovereignty, and explains why such institutions must be representative of the world's peoples if they are to be legitimate. The paper concludes by venturing some hypotheses about how future climate governance institutions might be designed.

While the paper investigates how international climate governance could be made legitimate, it does not address whether international climate authority is feasible in current circumstances, nor how best politically to bring it about. To guide practical action, the theory must therefore be complemented by further information about feasible policy options and political strategy. I leave open whether international climate governance institutions should be pursued right away, or whether—because their pursuit might currently prove counterproductive—climate-concerned agents should opt for "second-best" political goals, postponing the construction of international climate governance institutions to the farther future. These questions of strategy and feasibility are extremely important, but I reserve them for future work.

1. Collective Self-Determination

I begin by saying more about what collective self-determination is, and why it is valuable. A key issue is whether to explain the value of collective self-determination in *holistic* or *derivative* terms. On a *holistic* approach, political groups themselves are seen as agents with a claim to make their own choices and to set and pursue their own ends. On a *derivative* approach, the claim to collective autonomy of a political group is derived from the claims of the individual

members of that group. I take a derivative approach. One problem with the holistic view is that it is not clear what is valuable about the self-rule of a collective agent, or how we should weigh the claims of autonomous groups against the claims of autonomous individuals when the two conflict (Wilson 2021).

On my view, collective self-determination is valuable because it serves an important individual interest in avoiding *alien coercion*. While the state is necessary to protect individuals' autonomy—by securing their basic liberties, defining property rights, ensuring a fair distribution of income and wealth, and providing public goods—state coercion also poses a presumptive threat to autonomy, because it subjects individuals to a superior power that governs their lives, which they cannot escape. Government deprives its constituents of the ability to act on their practical judgments in many domains, and it poses a threat of domination to them. Individual autonomy is particularly threatened by *alien coercion*: coercion that bears no relation to the judgments, priorities, and values of those subjected to it. Life under an alien coercive institution will be experienced as though a hostile, threatening force controlled many of one's choices and activities. So I believe individuals have a weighty interest in avoiding alien coercion. This interest is furthered when the coercive institutions that govern people reflect the shared judgments and commitments of those ruled by them.

My idea is that when an individual participates in the shared commitments of a self-determining group, and when the government imposes laws and policies on the basis of those shared commitments, its use of political coercion will not be *alien* to the individual members of that group. When the state reflects its citizens' shared commitments, in complying with it, they are not subjected to an alien will. Rather, these citizens comply independently: they see reason to comply, since they affirm their state's standing to decide and enforce justice on their behalf.

Of course, many will be skeptical that political groups can share commitments: we know that all political communities feature deep disagreements. It is certainly true that people disagree over which laws to enact or what social and cultural values to endorse. But I believe that, despite these disagreements, members of a political group can often share a second-order commitment to associate together in institutions that they accept as a legitimate way to define and enforce justice among themselves (to recognize Parliament, or the Constitution, say, as a

source of valid law). When citizens share such institutional commitments, then even though each individual citizen is unlikely to endorse every law and policy, there is still an important sense in which *her* judgments and priorities are reflected in government decisions. She is not coerced by a hostile agency, but rather by an institution that she accepts and believes to be justified or appropriate. This enables her to relate to the state and to the constraints it imposes in a valuable way.

To see the kind of commitment I have in mind, consider the 2004 US election: I voted for Kerry. But though I did not vote for Bush, I believed that the candidate chosen through our democratic procedures should be the one to assume office, even if that was not the person for whom I voted. My aim that Kerry win was nested within a more fundamental shared commitment that our constitutionally chosen candidate should take power. Because I shared this commitment to the U.S. mode of decision-making, Bush and his policies were not simply imposed on me, as they might have been if, say, a foreign country had invaded and installed Bush in office. Rather, Bush's assumption of office was something I saw myself as having reason to accept and support.

Of course, one might object that it is quite unlikely that all citizens in a territory will unanimously affirm membership in their state. Yet I believe non-unanimity is not a problem for the theory, since dissenters' objections fall into one of two categories: *either* (1) these objections ought to be morally discounted, because the dissenters have no claim against alien coercion; *or* (2) these dissenters do have a *pro tanto* claim against alien coercion, which translates to a *pro tanto* duty for the state to reconfigure its institutions to afford them greater self-governance, e.g. through internal autonomy, federalism, or secession.

Some dissenters' objections ought to be discounted because the claim against alien coercion is a moralized one. Individuals have a claim to make decisions about their lives, including decisions about how they wish to be governed, but only insofar as their decisions are compatible with respecting the equal autonomy of others, on a reasonable interpretation of what that duty entails. Suppose I hold you back while you are trying to stab me, thus thwarting your unjust attempt to kill me (Stilz 2019, 100). It is not reasonable for you to press the objection against my action that it subjects you to alien coercion. To have a claim against alien

coercion, an individual must attempt in good faith to comply with a natural duty of justice which requires respect for others' equal autonomy. When someone's actions are clearly inconsistent with any reasonable interpretation of this natural duty, it may be justified to subject them to alien coercion.

This has two implications. First, only *reasonable cooperators* willing to respect and protect the equal autonomy of others can have claims to self-determination. To count as reasonable cooperators, people must have moral priorities of a certain sort: they must be willing (a) to respect what I call *basic justice*, which requires the protection of essential individual rights, and (b) they must be willing to engage in a project of morally mandatory cooperation under law to specify, protect, and fulfill these rights. Second, because of (b), dissenters from the state who are too few or too dispersed to be capable of territorial organization in minimally just institutions will also lack claims against alien coercion, even when their priorities are otherwise morally reasonable. To specify and enforce basic rights, legal jurisdiction over most matters—the prevention of violence, the establishment of property rights, environmental and transportation policy, the regulation of public space, and so on—must be territorially defined. So, if a dissenter refuses participation in *any* feasible territorial institution that can carry out these morally mandatory tasks, her dissent can be justifiably overridden, as inconsistent with her basic natural duties of justice to respect and secure the equal autonomy of others.

Yet there are scenarios where alienated dissenters have priorities that are (a) consistent with the provision of basic justice, and (b) where they *can* organize themselves into minimally just, representative territorial institutions. Here I believe the dissenting group has a *pro tanto* claim to enjoy greater self-determination, and the state has *pro tanto* reason to redraw its political boundaries to accommodate this claim. This *pro tanto* reason can sometimes be outweighed by other important values, like the need to prevent conflict, human rights violations, or serious risks to the stability of just institutions. But the claim to self-determination is weighty, and it will often tell in favor of internal autonomy or secession.

My account of collective self-determination is controversial, and I defend it more fully elsewhere (Stilz 2019, chs. 4-5). But here I want to stress the individualist foundations of the view. The reason why we ought to care about collective self-determination, and to prioritize it in

the design of our international order, is that to the extent feasible and consistent with basic justice, collective self-determination ensures that morally reasonable individuals are not coerced in ways they cannot endorse, and are not subject to domination at the hands of the state. For that reason, groups with common political commitments ought to be allowed to govern themselves, when their aims are consistent with basic justice and can feasibly be territorially addressed.

I will not say more here about the value of collective self-determination, since I am most interested in what that value requires in terms of the structure of our international order. To get a grip on that further question, I propose to deploy a classic analogy between autonomous individuals and autonomous collectives. The idea is that we can more readily understand the rights and duties of autonomous groups when we model our account on our prior and better-developed understanding of the rights and duties of autonomous individuals. By "autonomy," I refer to an individual's ability to reflect upon, and to endorse or revise, her central life-commitments for what she authentically judges to be good reasons, and to carry out those commitments in action. We have over 200 years of well-developed liberal theory about the connection between the value of individual autonomy and claims to liberty: this can provide a model or template for understanding autonomous peoples and their claims to sovereignty. This strategy of argument, common in the history of political thought (Wolff 1934; De Vattel and Fenwick 1964; Kant 1999), is called "the domestic analogy." Michael Walzer describes the analogy as follows: "if states…possess rights more or less as individuals do, then it is possible to imagine a society among them more or less like the society of individuals" (Walzer 2008, 58).

Yet the domestic analogy is widely held to be dubious. The reason for skepticism is that collectives are not moral persons: given this difference, some argue that they should not be treated as autonomous entities. As Charles Beitz puts it, "states, unlike persons, lack the unity of consciousness and the rational will that constitute the identity of persons" (Beitz 1999, 81).[3] For this reason, Beitz holds that groups cannot claim a right to non-interference analogously to

[3] Since I will go on to disagree with it in some respects, I should say that I have learned a great deal from many (re)readings of Beitz's classic discussion of the domestic analogy and would never have written this paper without it. I also note that in his later work, Beitz is sympathetic to rights that protect "values with a collective dimension," such as self-determination (Beitz 2009, 113).

individuals, because groups lack the distinctive capacities that would make their autonomous choice of ends valuable. I agree with Beitz that states are not moral persons. But we should not conclude from this, as Beitz does, that states lack rights to autonomy and non-interference.

On the derivative approach to collective autonomy developed above, the state's right to autonomy is justified, not because the state itself is a moral person, but because the state's autonomy rights serve to protect important interests of its members. I have argued that state autonomy is justified to the extent that it serves individuals' interests in avoiding subjection to alien coercion. State autonomy, on my view, is derived from the value of *individuals'* autonomous capacities*,* namely individuals' shared capacities to set their political ends *together*. Beitz is therefore correct to hold "that it is only considerations of personal autonomy, appropriately interpreted, that constitute the moral personality of the state" (Beitz 1999, 83). But he fails to note that considerations of personal autonomy have both a private and a political aspect. True, as autonomous individuals, we have interests, as "institutional takers," in just governance and in the protection of our private autonomy rights. But as autonomous individuals, we also have interests in being treated as *rational deliberators*, whose opinions matter and should be at least partly reflected in how our society is arranged. Once we acknowledge these political autonomy interests, then we can say that so long as a state appropriately represents the shared political commitments of its constituents as to how to govern themselves, its moral standing *does* rest on (an aspect of) the personal autonomy interests of its members, namely, their political autonomy interests.

Where justified, state autonomy rights are genuine corporate rights, not bundles of individual rights. Similarly, a university has corporate rights (e.g., to property) that are justified in part because they serve the shared interests of the university's members, but the university's corporate rights cannot be reduced to any bundle of rights held by individuals. (No set of faculty, staff, or students owns campus buildings, for example: only the university as a corporate entity owns these buildings). Analogously, while the existence of state autonomy rights is justified because this serves the self-determination interests of the state's members, the state's right to autonomy cannot be reduced to any bundle of rights held by individuals.

True, not all political groups will have rights to autonomy, on my derivative view. We have reason to recognize the state's corporate autonomy only on condition that it adequately underwrites the private autonomy of its members, by protecting the rights constitutive of basic justice, including security rights, subsistence rights, and core personal autonomy rights. In addition, to have a claim to non-interference on grounds of self-determination, a state must be appropriately viewed as representing the shared commitments of its citizenry, under conditions that enable their free deliberative reasoning, which requires protection of their rights to free expression, free association, and public political dissent. Only states that meet these conditions will have claims to collective autonomy. States that fail to adequately represent all or part of their citizenry, or violate basic justice, may not have claims to autonomy and non-interference.

With these individualistic foundations in hand, though, I propose that we can use the domestic analogy. Because my approach can justify irreducibly collective autonomy rights, it makes sense to employ the domestic analogy to theorize the scope and limits of these rights. Autonomous individuals are thought to be owed a sphere of liberty in which to set and pursue their own ends, but no plausible theory of individual liberty holds that it is absolute and unlimited. From Kant and Mill on, liberal thinkers have argued that while individuals do have claims to an important sphere of liberty, that sphere is bounded by enforceable duties to others. Since the claim to individual liberty is clearly limited, my hunch is that a society's rightful sovereignty must similarly be limited by enforceable duties to others. Thus, the domestic analogy promises to help us clarify the *scope, extent,* and *limits* of an autonomous community's claim to sovereignty, a key issue at stake in thinking about future climate governance.

2. The Domestic Analogy

In this section, I draw on several prominent liberal analyses—from Kant, Mill, Rawls, and Raz—of the connection between individual autonomy and liberty, to generate a template from which to theorize the analogous connection between collective autonomy and sovereignty.[4] I develop three widely accepted principles for theorizing the autonomy/liberty connection:

[4] Of course there are important differences between these thinkers, some of which I highlight in passing. But here I am mostly interested in certain broad similarities of structure among their accounts. While some interpreters

1. *The Negative Duty Principle*: Individuals' spheres of liberty are limited by negative duties to respect the freedom of others.
2. *The Independence Principle*: Individuals' spheres of rightful liberty must ensure their *independence,* their ability to make non-subordinated choices about core, identity-related aspects of their lives.
3. *The Positive Duty Principle*: Individuals' spheres of liberty are limited by positive duties to distribute the material goods and social protections necessary to enable the exercise of autonomy for all.

Let's begin with the *Negative Duty Principle.* From Kant and Mill on, liberal thinkers have argued that autonomous individuals are owed some sphere of liberty in which to set and pursue their own ends. But no plausible theory of individual liberty holds that it is absolute and unlimited: both Kant and Mill classically argued that an individual's sphere of liberty is bounded by duties to other free persons. Thus, Kant holds that "an action is *right* if it can coexist with everyone's freedom in accordance with a universal law" (Kant 1999, 6:231). An autonomous agent's sphere of liberty must be limited to conditions of coexistence with the liberty of others. Since right, on Kant's view, is connected with an authorization to use coercion, individuals can be justifiably coerced to respect the boundaries of others' spheres of freedom.

Mill likewise argues that individual liberty is limited by a regard to others, and that the autonomous individual can justifiably be interfered with to enforce these limits. The main difference is that whereas Kant identifies the boundaries of an individual's sphere of liberty with their rights to body and property, Mill defines the boundaries of a person's domain of liberty with reference to certain fundamental interests. Each autonomous individual

> should be bound to observe a certain line of conduct towards the rest. This conduct consists, first, in not injuring the interests of another, or rather, *certain interests, which either by express legal provision or by tacit understanding, ought to be considered as rights* [emphasis mine]; and secondly, in each person's

might dispute that Kantian right is grounded in a regard for autonomy, there is a well-established line of Kant interpretation which holds that the claim to external freedom derives from the value of *humanity*, our rational capacity to set and pursue ends (Pallikkathayil 2010; Wood 1999; Korsgaard 1996). I assume here that this interpretation of Kant's political thought can be defended, so that Kant too can be classed as an autonomy thinker.

> bearing his share…of the labors and sacrifices incurred for defending society and its members from injury and molestation (Mill 2008, 73).

For both thinkers, the freedom to which autonomous agents are entitled is a *limited* sphere of freedom, defined by a set of rights.

I believe we should follow Mill and specify the domain of liberty with reference to certain fundamental interests that ought to be considered as rights. (I am skeptical of the claim, made by some Kantians, that our rights to body and property can be specified without any reference to interests). Fundamental in specifying the domain of liberty is our interest in shaping our own lives through the choice of comprehensive goals, projects, and relationships; or—differently put, but I think ultimately the same idea—our "higher-order" interest in forming, revising, and rationally pursuing a conception of the good (Rawls 2005, 30): call this our *autonomy-interest*.[5]

The precise boundaries of individuals' sphere of liberty are defined by others' duties to respect, protect, and/or promote the autonomy-interest in certain specified ways. To assess *which* specific correlative duties should be associated with the autonomy-interest, we must compare the strength of the autonomy-interest against the strength of others' interests in being free, in a given context, from the burdens of proposed duties to respect/protect/promote it. So the autonomy-interest must be weighed against others' urgent interests, in not suffering harm, in the provision of public goods, in meeting their needs, and so on. I won't engage in the complex project of specifying the precise bounds of individual liberty here. Since the autonomy-interest is a very fundamental one, I assume, following tradition, that the autonomy-interest will justify the imposition of at least some correlative duties on others to respect basic individual liberties, such as the freedom of religion, association, and expression, and the freedom to choose one's occupation, whether or not to marry, and whether or not to start a family. These freedoms afford individuals control over core, identity-related features of their

[5] Especially in his later work, Rawls emphasizes the *political nature* of his conception of autonomy. As members of private associations and religious groups, citizens may not always regard it as desirable to be autonomous. Nonetheless, from a political perspective, citizens are to be regarded as having the moral power to form, revise, and rationally pursue their own conceptions of the good. This political grounding is distinct from a view (e.g., Raz's) that would ground autonomy in a comprehensive conception of human flourishing. I favor Rawls's political grounding, but since I don't think anything I say turns on whether the value of autonomy is politically or comprehensively justified, I won't engage this issue.

personal lives, areas where the autonomy-interest is of great weight. Outside the basic liberties, individual freedom of choice is often justifiably limited by duties to respect or fulfill the weighty interests of others.

Can we transpose this model of the autonomy/liberty connection to the collective context? The thought would be that collective autonomy, like individual autonomy, must be limited to coexistence with the freedom of other individuals and collectives. Just as an autonomous individual's right to liberty is limited by the freedom of others (conceived in terms of protected fundamental interests), so too a group's right to collective self-determination should be understood as limited by the freedom of other individuals and collectives (again conceived in terms of protected fundamental interests). Rightful freedom is not the same as pure negative liberty: rightful freedom is bounded and constrained. So too, I believe, rightful sovereignty is not the same as unqualified Westphalian sovereignty: it is not a right to do whatever a people or state wants.

How might we delineate precise boundaries to groups' rightful sovereignty? Following Mill, I suggest that we need to rely on a notion of fundamental interests. Elsewhere I have defended the view that people have *fundamental territorial interests* in occupancy, basic justice, and self-determination. Each of these fundamental interests highlights a distinct, territorially connected facet of individual autonomy (Stilz 2019). Occupancy draws attention to the ways in which individuals' central life-projects are often bound up with specific geographical locations, so that interference with people's residence and use of these places undermines their comprehensive life-goals. To guarantee secure conditions for the exercise of autonomy, then, individuals should enjoy certain place-related locational rights. Basic justice highlights the core state protections necessary to guarantee individuals the ability to form, revise, and carry out self-endorsed commitments in central aspects of their lives. To secure their autonomy, individuals should enjoy membership in a minimally just state. Collective self-determination holds that to be politically autonomous, people need the opportunity to rule themselves through institutions that they endorse and that reflect their shared values and priorities. Where feasible and consistent with basic justice, international society should recognize claims to collective self-determination.

There is no space here to unpack and defend each of these fundamental territorial interests, so I must refer readers to other writings where I have tried to do so (Stilz 2019). Instead, building on my previous work, I propose that we invoke the fundamental territorial interests to help specify the boundaries of a group's rightful sovereignty. A group's rightful sovereignty, I propose, is in the first instance bounded by a negative duty not to harm others' fundamental territorial interests. (This is not the only limit to rightful sovereignty; I will add further limits later).

Why is there a negative duty to respect others' fundamental territorial interests? Note that the fundamental territorial interests are extremely weighty and urgent: when people are forced to abandon their place-related lives, denied membership in a minimally just state, or denied the right to collectively govern themselves, they experience serious harms. So long as prospective duty-bearers' fundamental territorial interests are adequately protected where they now live, it is hard to see how these duty-bearers would have an equivalently morally weighty interest in the freedom to interfere with other individuals' and collectives' opportunities for occupancy, basic justice, and self-determination. So the fundamental territorial interests seem urgent enough, compared with competing considerations, to justify the imposition on peoples of duties to respect them, at least so long as a *distributive proviso* is met. So long as Group X's fundamental territorial interests are adequately protected where they now are, Group X's rightful sovereignty does not extend to actions that violate, or threaten to violate, others' fundamental territorial interests, and X may be justifiably interfered with in undertaking such actions. But if Group X's fundamental territorial interests in occupancy, basic justice, and collective self-determination are not met where they now live, then actions that trespass on others' fundamental territorial interests may be justified. Group X may have an enforceable claim to the material and institutional resources necessary to guarantee their own fundamental territorial interests, and *modulo* qualifications of necessity and proportionality, their claim may justify interference with others.

The negative duty to respect others' fundamental territorial interests has implications for climate governance. Many small island states are forecasted to become uninhabitable by mid-century due to the high emissions of industrialized countries. This threatens, first, the

occupancy of members of these states*:* forced migration from their territory will undermine climate displacees' comprehensive life-goals, including their occupations, cultural practices, and important personal relationships. Climate change may also jeopardize victims' access to *basic justice*, by undermining individuals' subsistence rights and threatening their security, due to frequent natural disasters and increasing conflict over habitable space (Caney in Gardiner 2010). Finally, climate change threatens collective self-determination: members of small island states may in the future lose their territory, citizenship, and political institutions.

On the negative duty principle I've outlined, this means that industrialized states' high emissions are *not* a matter of internal sovereignty. Because the fundamental territorial interests of citizens of high-emitting states are secure, the negative duty suggests that their choice to sustain a high-emitting economy does not fall within their *rightful sovereignty*, since it threatens the fundamental territorial interests of others. This means that industrialized states' high emissions should not be regarded as an internal matter*,* justifiably insulated against foreign interference. The domestic analogy grounds the conclusion that were legitimate climate governance institutions to be established, they could justifiably interfere with high-emitting states to limit their emissions without violating their rightful sovereignty. Collective self-determination simply does not extend to choices that harm others' fundamental territorial interests.

This does not mean that international interference would be acceptable in every scenario, however, nor that international authority should supersede domestic authority on all matters. A further condition on legitimate international authority is that it must also protect and enshrine a claim to (limited) political sovereignty for self-determining peoples. Again, deploying the domestic analogy allows us to see this, by analogy to the second principle of *independence.*

An autonomous individual has an important claim to *independence*: she must be able to make non-subordinated personal choices in central areas of her life, secure against interference, manipulation, and coercion from other individuals and/or the state. This is a social status claim: it should be the autonomous individual, not others, who determines the course of her own life. This means others must lack the power to control or manage the agent's central life-choices, except insofar as the agent freely and voluntarily consents to their having that power, and

retains the ability to rescind her consent and escape the relationship if she wishes. Independence is not a general claim to negative liberty, but rather a claim to specific, enumerated *basic liberties*: it is a claim against having others, including government officials, determine one's most basic personal decisions. What gives the basic liberties their importance is the thought that an autonomous person must be free from subjection to another's will (including the will of the government) in setting her central life-goals (Kant 1999, 6:238).

For individuals, independence is most important when it comes to relatively comprehensive, pervasive choices, projects, and relationships: the kind of choices that structure many of our life-decisions, give meaning to our lives, reflect our deep convictions, and integrate our plans over time to shape our narrative identity (Raz 1986, 409). To coerce individuals in their core personal choices would express a relation of domination toward them. The coerced individual would be treated as someone who lacks self-sovereignty, which is insulting, demeaning, and symbolic of the coercee's social inferiority (Raz 1986, 372; Pettit 2012). For Raz, *independence* "attests to the fact that autonomy is in part a social ideal. It designates one aspect of the proper relations between people" (Raz 1986, 378).

Note that the freedoms constitutive of independence do not imply that there is any general claim to be free from all regulation and restriction. As Raz puts it, "the autonomous person chooses his own profession or trade. He may be denied the chance to cut down trees in the next field without any diminution to his autonomy" (Raz 1986, 409). Rawls too agrees that while individuals have a claim to a "fully adequate scheme" of basic liberties, there is "no priority…assigned to liberty as such, as if the exercise of something called 'liberty' has a preeminent value and is the main if not the sole end of political and social justice" (Rawls 2005, 292). Instead, what is essential is that the scheme of basic liberties protect a "central range of application" necessary for the development and exercise of the person's moral power of autonomy, allowing her to make non-subordinated choices about comprehensive aspects of her life.

Thus, the independent person should possess basic liberties, including, traditionally, the right to choose one's occupation and religion; to choose whether or not to marry, and if so, with whom; to choose whether or not to have children; to associate with others; to read, write,

speak, and think freely. At least in favorable social circumstances, these basic liberties are to be given priority over other social values: a basic liberty can be restricted only for the sake of another basic liberty, and not for other reasons. Outside the basic liberties, our conduct can be permissibly restricted by the state if there is sufficient reason to do so. Many prohibitions (e.g., traffic laws or a rule against entering the park after 10pm) do not plausibly subject individuals to the will of another in their central life-choices, and thus do not threaten their status as self-determining agents.

How might we extend the idea of independence, and its connection to basic liberties, to the collective context? Here I suggest that there is an analogous claim to collective independence: this is a key reason why international authority must be *limited* if it is to be legitimate. As with individual independence, collective independence is rooted in a people's interest in enjoying a recognized social status: it is the self-determining people, not others, who should have the right to make basic, identity-related decisions about their shape of their polity. Higher-level international institutions should not be able to claim jurisdiction over a people without articulating why their authority is essential to the fulfillment of morally mandatory international purposes, and there should be a general presumption against higher-level jurisdiction over basic, constitutional matters. International institutions should not be able to claim authority, for example, simply because these institutions deem themselves more efficient or effective at decision-making than the self-determining people would be. When international interference is exercised on such grounds—e.g., to enforce some countries' preferred constitutional arrangements or economic policies on other peoples—it wrongs the group subjected to it, treating them as wards lacking the capacity to determine their own affairs. This treatment is insulting and demeaning to the group: they are denied the standing to determine the course of their political lives.

As with individual independence, collective independence is most important when it comes to comprehensive, identity-defining choices, so it is not a claim against all restriction and regulation. Collective independence should protect a people's right to determine relatively comprehensive aspects of their political system, so long as these choices do not imperil basic justice or the collective self-determination of other peoples. The structure of their

constitutional legal order (for example, constitutional monarchy vs. republic, or presidential vs. parliamentary democracy), the regulation of property rights and the economy, and the design and use of public space would usually fall into this category. These choices are a central part of group self-determination, and we see a wide variation in how societies choose to structure these aspects of their social world. A socialist society might want to place its natural resources under collective control, establishing agricultural cooperatives or nationalizing extractive industries. Many indigenous peoples prohibit the alienation of tribal lands. Peoples should be provided a significant "regulatory option space" that enables them to shape their most central political and economic institutions without interference.

This suggests that a legitimate international order should recognize a subset of basic matters that each constituent community should have the right to determine for itself, insulated from interference by other peoples or international authority. Such a scheme of protected *sovereign liberties*, compatible with the mutual coexistence of equally self-determining communities, *constitutes* the status of collective independence. Within the scope of the constraints necessary to respect the equal autonomy of all, self-determining communities should be afforded some space to decide their affairs for themselves. Otherwise they will lack the independent status they are owed as a collectively autonomous community.

Let me turn now to the final principle for theorizing the connection between individual autonomy and liberty, the *Positive Duty Principle*. Most theorists hold that in addition to negative duties, individual autonomy also grounds *positive* duties to distribute the material goods and social protections necessary to enable autonomy's exercise. Raz argues that to be autonomous, one must have access to a rich menu of options and opportunities, and those options and opportunities must be *socially provided.* An adequate range of options must (a) provide for individuals' basic needs: not just survival needs, but also needs for a decent and worthwhile life; and (b) exhibit enough significance and variety to allow for the development of a wide range of human faculties. As Raz puts it, "to be autonomous and to have an autonomous life a person must have options which enable him to sustain through his life activities which, taken together, exercise all the capacities human beings have an innate drive to exercise, as well as to decline to develop any of them" (Raz 1986, 375).

Rawls similarly emphasizes that autonomous persons with the moral power to form, revise, and pursue a conception of the good are owed a fair opportunity to advance their ends: "all citizens must be assured the all-purpose means necessary for them to take intelligent and effect advantage of their basic freedoms" (Rawls 2005, lvii). A fair distribution of income and wealth helps to secure the *worth* of people's freedoms—their real, and not merely formal, opportunity to exercise their liberties (Rawls 1999, 22).

Liberal thinkers therefore agree that to lead an autonomous life, one must inhabit a society that secures its members' *positive freedom*. By this, I mean, not self-mastery, in the Berlinian sense, but the idea that our freedoms must be *positively resourced* if they are to be real opportunities rather than wholly formal options (Gould 1990, chap. 1; 2014, chap. 3; Sen 2004, 586; Pettit 2012, chap. 2). Interference with individuals' choices is justified when it is necessary to ensure that everyone's right to positive freedom is guaranteed: "a government whose responsibility is to promote the autonomy of its citizens is entitled to redistribute resources, to provide public goods and to engage in the provision of other services on a compulsory basis, provided its laws merely reflect and make concrete autonomy-based duties of its citizens" (Raz 1986, 417).

How might such positive duties to secure the background material and social preconditions of autonomy be transposed to the collective realm? What would an adequate range of options and opportunities for collective autonomy look like? I suggest that an adequate range of options would: (a) enable each society to secure basic justice for its members, and (b) respect the morally legitimate located life-plans of a society's inhabitants, while (c) providing them a significant range of choice for revising these commitments.

To secure basic justice, each self-determining people must reach a threshold of development where it has the material resources necessary to ensure that its members lead decent lives, and that they can establish and maintain just institutions. Members of international society therefore have a positive duty to ensure that every self-determining group has access to a territory and an economy that can meet these requirements. This is a sufficientarian duty that requires each people to contribute to other peoples' capacity to fulfill core civil and economic rights and essential ecological interests.

Second, an autonomy-promoting global society must also ensure that each self-determining group can sustain its members' current located life-plans and can access a sufficient range of options for revising them. By located life-plans, I refer to individuals' geographically situated goals, relationships, and projects, many of which depend on their secure access to, and continued use of, a certain territory. Most located life plans, for most people, involve shared practices. For a person to undertake a religious, recreational, educational, or work activity means being able to participate in the social practices that constitute these options and to access the physical spaces in which they unfold.

Consider nomadic Bedouin tribes in the Middle East, who maintain a pastoral economy herding sheep, goats, and camels. The Bedouins do not just have an interest in living in some decent place or other: they have an interest in living in Arabia, where they can carry on their valued way of life. Because individual Bedouins have important interests in enjoying security in their central life-commitments, an adequate range of options and opportunities for located life-plans should ensure them the option of continuing their practices, so long as they are consistent with their duties to others.

An adequate range of options should also afford people choices for revising their sociocultural practices, should they wish to do so. They must be effectively able to take up different modes of subsistence, or to change their religious and sociocultural traditions. For example, should younger generations of Bedouins cease to appreciate the Bedouin lifestyle, they should have effective options for revising their way of life. The idea is that individuals should be able to choose which ways of life they wish to pursue.

In justifying positive global social duties, of course, we must also consider the interests of other peoples in being free from the burdens such social duties would impose. Societies' interests in the freedom to determine their own futures will usually ground an important "division of labor" among states when it comes to fulfilling international duties to secure basic justice and adequate options (Beitz 2009, 106–17). In the first instance, domestic states are responsible for providing these goods to their own members, and there is a wide range of permissible variation in institutional arrangements that might do so. But other states have duties in respect of these interests as well. First, other states have negative duties not to act in

ways that would undermine the provision of basic justice and adequate options to foreigners. Second, other states have pro tanto positive duties to contribute to ensuring that foreign states have the requisite *capacity* to secure basic justice and adequate options for their members, and to step in in case of egregious failures, when doing so does not come at unreasonable cost. Such *pro tanto* positive duties can be strengthened and made more stringent by considerations of *contributory responsibility*. When other states have partially *caused* a foreign state to lack the capacity to secure basic justice and adequate options for its citizenry, they have a stronger reason to assist that state in restoring its capacity and they must bear more cost to do so.

As well as negative duties to respect fundamental territorial interests, positive global social duties have implications for future climate governance. A recent study predicts that, by 2070, temperature increases under a business-as-usual scenario could leave 30% of the globe's population outside the "human climate niche" that people have occupied for millennia (Xu et al. 2020). Due to industrialized societies' high emissions, other societies may soon find the habitability of their lands compromised in ways that will undermine their capacity to secure basic justice and an adequate range of options for their members. Since a people's governance capacity requires access to a habitable territory, other peoples will have a *pro tanto* positive duty to bear reasonable burdens (increasing with contributory responsibility) to contribute to global efforts to secure habitable territories for all. Authoritative future climate governance institutions could justifiably interfere with states to ensure that these positive global social duties are performed, without any derogation from those states' rightful sovereignty, since rightful sovereignty is bounded by positive duties to others. As I develop in more detail elsewhere, this could include the enforcement of duties to contribute to mandatory global taxation to fund *in situ* climate adaptation, or even duties to *redistribute* territory to people whose lands have become uninhabitable.

3. Lessons for Future Climate Governance

My basic argument so far has been that rightful sovereignty is bounded by negative and positive duties to respect and protect equal claims to self-determination. What conclusions can we draw for international climate authority? The final section of the paper develops a case for

constituting climate governance institutions that can publicly interpret and enforce peoples' autonomy-related duties. I further argue that, to be legitimate, these institutions must not only solve the climate problem, they must also inclusively represent the world's peoples.

Following Kant, I believe peoples can fulfill their duties to respect and protect others' equal self-determination only by establishing international juridical institutions. This is because different peoples will reasonably disagree about what precisely their autonomy-related duties amount to, and these disagreements require legitimate authority for their resolution. Just as Kant demands that self-determining individuals put in place a state that can serve as an omnilateral arbiter and enforcer of their rights, so too self-determining peoples must put into place international juridical institutions to enjoy rightful relations with one another (Ypi 2014).

International juridical institutions are required for two interlocking reasons: first, what precisely needs to be done to fulfill the positive and negative duties that bound peoples' rightful sovereignty is highly underspecified. What these duties require is not simply obvious or transparent on reflection. These duties therefore demand more than a simple attempt to act in good faith to fulfill them; instead, they require peoples to cooperate in the construction of authoritative institutions that can further specify these duties. This is clear enough in the case of climate change: should we be aiming for a 1.5°C or 2°C target? Which states should make exactly which contributions to achieving this target? Should those that have emitted more historically do more? Should wealthier states do more? Or some weighted combination of the two? Should developing states be required to do less? How much less? Should some extremely poor states be exempt from contributing to carbon mitigation? Where should we set the threshold below which developing states are exempt?

Answering these questions requires a complex weighing of various moral interests, about which peoples can be expected to reasonably disagree, even if they try in good faith to respect the equal self-determination of other individuals and peoples. Further, these moral interests could also be served by multiple different sets of rules, so even if they share a weighting of the underlying interests, different peoples might reasonably come to different conclusions about precisely which rules should be taken to define their negative and positive duties to one another. This means in the absence of binding institutional specification, the boundaries to

peoples' rightful sovereignty remain unacceptably vague: too vague to guide action. Given their divergent moral understandings, peoples will not be able to come to a consensus as to what, precisely, their rightful sovereignty amounts to.

Because peoples will reasonably disagree about the boundaries to sovereignty, they need a way to resolve these disagreements while maintaining their independence and equality with one another—a way to resolve their disputes without *unilateralism*. For one powerful state or group of states to unilaterally impose its preferred scheme of climate rights and duties would wrong the others. There are two moral problems with unilateral enforcement.

First, it sets up an unacceptably hierarchical relationship. For Great Powers to unilaterally impose their preferred scheme of climate rules would make them legislators for the world, while other peoples would be disenfranchised, forced to obey the decisions that the Climate Great Powers make. Such a hierarchical international system objectionably subjugates those less powerful peoples.

Second, unilateral imposition fails to respect peoples' claims to be governed through a process that respects their rational deliberative agency, as equally authoritative interpreters of international justice. It communicates the stigmatizing message that excluded peoples and their members do not have sufficient rational capacity or good enough judgment to contribute to climate legislation. This is denigrating: peoples and their members have interests in being recognized and treated as autonomous rational deliberators, whose opinions matter and should be taken into account in deciding how climate governance should be structured. Surely it is better to decide and carry out the rules governing international society through a process that reflects the rational deliberations of all its members, rather than through imposition by force.

So, much as individuals have a duty to exit the state of nature, states too have a duty to commit themselves to international juridical institutions that can specify and enforce a public understanding of their sovereign rights and duties in a manner consistent with their reciprocal equality. For the two reasons just discussed, if those institutions are to be legitimate, joint co-determination of these climate governance institutions by the world's peoples is morally required.

In addition to representing the world's peoples, international climate authority must meet minimal conditions of substantive justice for peoples to have a duty to accept it. On a Kantian view, international authority is grounded in the need for multilateral specification and enforcement of peoples' underlying duties to respect the equal autonomy of others. But this grounding duty gives peoples no reason to comply with an international authority that clearly and obviously fails to secure individual and collective autonomy for those it governs. Such a system of climate law would not enable peoples to do justice to others. To have authority, then, climate institutions must be interpretable as aiming at the minimally just delineation of autonomy rights amid disagreement. If the authority instead disregards or violates the equal autonomy of individuals and peoples, it may not be unreasonable to refuse support for it.

To further develop this Kantian account, I want to contrast it with two alternative justifications of international authority. A traditional approach sees state consent as the main source of the legitimacy of international legislation: states are bound only by those international rules they have consented to accept. But the account I have sketched suggests that the *unreasonable* refusal of state consent may not always de-legitimize an international institution (Christiano 2015a; 2015b; 2020). A dissenting state may have morally unreasonable views inconsistent with their natural duty of justice, which requires respecting others as self-determining equals. Consider President George H. W. Bush's argument in 1992, against global regulation of carbon emissions, that "the American way of life is not up for negotiation." This argument fails to even acknowledge the costs that the American way of life imposes on others: it is essentially a refusal to justify US conduct. Such refusal is clearly inconsistent with the negative duty not to violate others' personal and collective autonomy rights,

Whether or not a given state's refusal of consent is unreasonable requires a contextual assessment. Non-consent to climate rules may not be unreasonable when a proposed climate scheme fails to secure core autonomy-interests of a state or its members. To ensure sufficient options for their citizens to lead autonomous lives, low-income countries require energy for economic development (Shue 1993). A low-income country may not unreasonably insist on powering its development via coal when no renewable energy options are available. But it is unreasonable to so insist when international assistance in developing renewable energy

infrastructure is forthcoming. Countries may also reasonably insist on compensation for citizens whose lives will be devastated by the dislocations of the energy transition (Gazmararian and Tingley 2023). It may not be unreasonable for a mining community to refuse compliance with climate legislation that destroys their livelihoods without compensation. But it is unreasonable to refuse cooperation where assistance is provided to retrain for new careers. So the judgment that state non-consent is unreasonable requires nuanced evaluation. Still, if state consent is refused on morally unreasonable grounds, I believe it is permissible to coerce the state to comply, since the specification of duties to avoid global environmental catastrophe is a morally mandatory aim (Christiano 2015a). The legitimacy of international climate legislation does not depend on unanimous state consent.

A different approach to international authority sees it as legitimated on broadly functionalist grounds. The idea that is that all states have reason to coordinate in pursuit of a morally mandatory goal, but since they disagree on how best to achieve this goal, so they "do better" by accepting the directives of an international climate authority (perhaps technocratically constituted), rather than acting on their own views about the best coordination outcome (Waldron 1999; Raz 1986). Maybe, then, if an international authority functions reasonably well at averting a climate crisis, the international community is simply obliged to accept it, whether or not it grants all the world's peoples representation and voice, at least so long as it is minimally moral in other respects, e.g. it does not undermine basic human rights and is not wholly corrupt. Some climate scholars argue, in this vein, that progress on climate governance will likely come about through Great Power "climate clubs," small groups of powerful countries—possibly the US, the EU, and China—that cooperate closely to develop ambitious climate rules and technocratic institutions to interpret them, and then impose these rules on the rest of the world's countries without their input, penalizing other states' noncompliance. So long as the rules successfully coordinate a solution to the climate problem, can states outside the climate club complain?

I think so. In the case of the domestic state, democratic theorists would doubt that the fact that institution does a reasonably good job at coordinating morally mandatory cooperation suffices to legitimate its rule. A benevolent dictator or military occupying force may ensure

security and order, protect human rights, and provide public goods in a given territory, but most democratic theorists would argue that this does not suffice to give these institutions legitimate authority over the people they govern, since these institutions do not adequately represent those they rule. They are not at all reflective of, or responsive to, subjects' judgments about how, and by whom, they should be governed.

I believe the legitimacy of international governance is similarly subject to a representation requirement. The functional capacity to coordinate a just solution to the climate crisis is not sufficient to legitimate international climate authority without inclusive representation. If the global institutions coordinating a solution to climate change failed to grant the world's peoples voice in the climate lawmaking process, peoples would have an important objection to their rule, despite the fact that they secure a beneficial solution to a global problem.

So how should future climate governance institutions be structured? Here I venture a few tentative hypotheses. First, to be legitimate, climate governance institutions should receive the authorization of what I call *reasonable cooperator states,* who pool their sovereignty to regulate issues of global environmental concern. Reasonable cooperator states (a) respect basic justice and adequately represent their own peoples, (b) recognize and respect foreign claims to personal and collective autonomy, (c) appreciate the threat that environmental catastrophe poses to these claims, and so (d) are willing to create and comply with global institutions of climate governance. To be legitimate, global climate governance institutions need to be authorized by reasonable cooperator states, in a multilateral treaty, and this treaty should reflect those states' shared judgments, worked out in common negotiations, about how climate change should best be addressed at the global level. For purposes of accountability, global climate governance institutions should also require the *ongoing* consent of reasonable cooperator states: were such states to withdraw their consent, this would be strong evidence of the illegitimacy of the global climate regime.

To count as a *reasonable cooperator*, a state must (1) protect basic justice for its own people, (2) exhibit responsiveness to public opinion, and (3) have some channel whereby its people can revoke the government's authorization to rule. A state must be adequately representative of its citizenry to have the moral standing to authorize legitimate international

institutions. But it need not necessarily feature Western-style elections, political parties, and competition for office, so long as there is sufficient evidence that the people endorse their constitutional arrangements and can revoke their officials' authorization to rule when sufficient numbers no longer support the government in power.

What about *unreasonable non-cooperator states?* Their non-consent does not de-legitimate global climate governance, although it grounds "second-best" duties to create special channels of representation for the opinions of those states' citizens. Unreasonable non-cooperator states come in two varieties. The first variety is adequately representative, and secures basic justice for its people, but it refuses consent to morally mandatory climate cooperation on wholly unreasonable grounds (e.g., "the American way of life is not up for negotiation."). If feasible, I believe such states can be coerced to comply without their consent, and I say more below about how that might work.

The second variety of unreasonable non-cooperator state either fails to adequately represent their people, or to secure basic justice within their territories. Requiring such states to consent to a climate treaty would not make climate governance compatible with their citizens' autonomy, since these states themselves do not respect their citizens' autonomy-claims. Still, their citizens do have autonomy-claims, including a claim to be represented in the design of global climate policy: their (reasonable) opinions matter even though their state is not currently a good channel for conveying these opinions. International society has no right to legislate climate law without consulting them. Here there is reason to look for "surrogate representatives" from such societies (for example, stakeholders from major civil society groups), including them in the climate legislation process. Thus, climate legislation should be authorized by a combination of representatives of reasonable cooperator states and surrogate representatives for the peoples of unreasonable non-cooperator states.

Note that my proposal represents peoples, not individuals. This contrasts with a more individualist-majoritarian conception of global democracy that would represent individual *global citizens*, and which holds that global governance authorities should be authorized by individuals directly, through global democratic elections on a "one person, one vote" basis (Goodin 2007).

Why represent peoples, rather than individuals? I offer both an instrumental and an intrinsic reason. First, peoples have distinctive shared interests that need to be considered in the global climate legislation process for its outcomes to be just. I think these interests can best be considered by representing the groups most likely to articulate them. Consider, for example, future global decision-making about geoengineering: I doubt this issue is best decided through a global "one person-one vote" referendum or election. There are a number of risks from proposed geoengineering methods, like solar radiation management. It could negatively impact plant photosynthesis, or significantly lessen rainfall in certain parts of the world. It is not unlikely that geoengineering would benefit *most* global citizens, by reducing the earth's temperature, but at the same time impose very severe costs on some, by destroying agriculture or severely harming ecosystems in their countries.

Such costs to minority interests are likely to go unconsidered in an individualist-majoritarian global democracy. In a domestic context, we rely on the media, associational and social ties, and shared educational institutions to gain some (imperfect) understanding of our compatriots' interests that can inform our vote. While there is a global media and some global social and associational ties, these networks unify mainly elites, and they exclude large parts of the world entirely. This means that it is hard for ordinary citizens of the Netherlands, say, to get a good grasp on the interests of those in the Central African Republic, and vice versa, and it is unlikely that their votes would take adequate account of global minority interests. So I think the institutional set-up most likely to lead to substantively just climate legislation is one that grants peoples' representatives the ability to articulate their interests in the global law-making process.

A second, more intrinsic, reason to represent peoples is that individuals value and identify with their peoples. There is an important relationship between respecting individuals as autonomous equals and showing respect to the various groups to which they belong. Individuals are "pigeonholed" and stereotyped by others as belonging to socially salient groups, and they often self-identify as members of such groups. So individuals' interests in being treated with respect are closely bound up with the ways in which the groups to which they belong are perceived and treated. That gives reason to recognize self-determining peoples on the international stage. Not recognizing peoples in climate governance would fail to reflect the

affiliations many individuals care about. And failure to respect peoples' sovereign status would risk vicariously stereotyping and denigrating their members.

While I believe climate governance institutions should represent the world's peoples, I do not believe the legitimacy of climate legislation depends on its receiving all peoples' unanimous consent. Instead, I believe we should require major climate legislation to receive the support of a qualified majority of representatives of the world's peoples before taking effect. These qualifications should be designed to protect socially salient, vulnerable constituencies against domination by undifferentiated global majorities. Thus, we might require that climate legislation receive support from a majority of peoples in both the Global North and the Global South, a majority of the world's indigenous peoples, and/or a majority from each geographic or eco-region.

Once climate legislation does receive the consent of a qualified majority of the world's peoples, I believe that it should be considered binding on all the world's peoples, and climate authorities should have the power to order member states to impose trade sanctions on states that refuse to comply with climate legislation. As I mentioned earlier, some states may refuse consent to morally mandatory climate cooperation on wholly unreasonable grounds. Here, I believe other states are licensed to coerce the unreasonable state to comply, subject to two caveats. First, there must be a process of justification by which the non-cooperator state's reservations are publicly shown to be unreasonable. Second, it is important that whatever coercive sanctions are applied to the non-cooperator state, they not interfere directly with the state's rule within its territory, since that would jeopardize its citizens' interests in protection from alien coercion. Still, there are "horizontal" sanctioning mechanisms that can be applied to states without interfering directly within their territory, such as tariffs, trade sanctions, and carbon border adjustments. Along these lines, William Nordhaus recommends a set of "climate amendments" to international trade law that would levy a uniform percentage tariff on goods from countries that refuse to participate in international climate governance (Nordhaus 2015). These sanctioning measures exert pressure on recalcitrant states, incentivizing them to cooperate with the climate regime, but they do not subject these states' members to rule by an alien political power.

One concern is whether these proposed measures will prove sufficiently robust to induce widespread compliance. While the effectiveness of economic sanctions is hotly contested in the empirical literature, even the more optimistic studies find modest results, arguing that sanctions produce compliance in about one-third of cases (for this figure, see Hufbauer, Schott, and Elliott 1990; for criticism see Pape 1997; for an argument that sanctions are more effective at shaping state behavior when they are threatened than when actually applied, see Hovi, Huseby, and Sprinz 2005). But the purpose of tariffs and economic sanctions, as I see it, is not to compel unreasonable states to consistently act against their will. Rather, it is (1) to stabilize climate cooperation among reasonable states, and (2) over time, to convert unreasonable states to climate action, by changing the domestic distribution of power within them, and thus altering their preferences.

International relations scholars emphasize that state preferences regarding climate policy are primarily determined by conflict among domestic groups (Aklin and Mildenberger 2020; Hale 2020; Colgan, Green, and Hale 2021). While significant majorities of national publics voice unconditional support for climate reform (Tingley and Tomz 2014), entrenched anti-climate sectors (e.g., the fossil fuel industry) often prove politically influential in opposing climate action. When pro-climate forces are powerful enough in domestic politics to overcome their anti-climate opponents, their states tend to embrace climate cooperation on the international stage. Economic sanctions can play two roles in enabling this process. First, sanctions can stabilize cooperation between states where pro-climate forces are already dominant, by reducing the incentive for their economically important industries to move to countries with weaker climate policies. Second, economic sanctions can weaken the ascendancy of anti-climate interests in states where they are currently entrenched, by reducing international demand for their products, the value of their assets, and—with time—their domestic political leverage. This provides an opening for new political coalitions to form and strengthen.

True, such economic pressure will be most effective at shifting state preferences when it is combined with economic aid and technology transfers that, over time, help to bolster pro-climate forces, by aiding the development of renewable energy and new low-carbon industries in their countries, creating demand for their products, and offering workers in carbon-intensive

sectors viable "exit options." So to provide stable inducement for climate cooperation, economic pressure needs to be combined with international resource and technology transfers and support for domestic social safety nets. Such policies, if maintained, can progressively shift the preferences of unreasonable states over time, reducing the climate scheme's reliance on purely coercive strategies to maintain cooperation. Once pro-climate forces are powerful in most domestic states, international climate cooperation will be stable, and coercion for remaining unreasonable states will be easier to muster.

So my hypothesis is that future climate legislation should be authorized by an assembly of representatives of the world's peoples, through qualified majority voting, and that it should be enforced through a combination of carbon tariffs among states and material inducements for the development of pro-climate coalitions abroad, reducing the incentives for states to flout their climate duties.

Aklin, Michaël, and Matto Mildenberger. 2020. "Prisoners of the Wrong Dilemma: Why Distributive Conflict, Not Collective Action, Characterizes the Politics of Climate Change." *Global Environmental Politics* 20 (4): 4–27.

Beitz, Charles R. 1999. *Political Theory and International Relations*. Princeton University Press.

———. 2009. *The Idea of Human Rights*. Oxford University Press.

Bodansky, Daniel. 1999. "The Legitimacy of International Governance: A Coming Challenge for International Environmental Law?" *American Journal of International Law* 93 (3): 596–624.

Bodansky, Daniel, Jutta Brunnée, and Lavanya Rajamani. 2017. *International Climate Change Law*. Oxford University Press.

Caney, Simon. 2005. "Cosmopolitan Justice, Responsibility, and Global Climate Change." *Leiden Journal of International Law* 18 (4): 747–75.

Christiano, Thomas. 2015a. *Climate Change and State Consent*. Cambridge University Press Cambridge.

———. 2015b. "Legitimacy and the International Trade Regime." *San Diego L. Rev.* 52:981.

———. 2020. "The Arbitrary Circumscription of the Jurisdiction of the International Criminal Court." *Critical Review of International Social and Political Philosophy* 23 (3): 352–70.

Colgan, Jeff D., Jessica F. Green, and Thomas N. Hale. 2021. "Asset Revaluation and the Existential Politics of Climate Change." *International Organization* 75 (2): 586–610.

De Vattel, Emer, and Charles G. Fenwick. 1964. *The Law of Nations; Or, The Principles of Natural Law*. Vol. 4. Oceana. https://lonang.com/wp-content/download/Vattel-LawOfNations.pdf.

Gardiner, Stephen. 2010. *Climate Ethics: Essential Readings*. Oxford University Press. https://books.google.com/books?hl=en&lr=&id=rR8TDAAAQBAJ&oi=fnd&pg=PR13&dq=climate+ethics+essential+readings&ots=RjAq1XX72K&sig=QeYmU4Q902CkcKDtSN3hatW-KNA.

Gazmararian, Alexander F., and Dustin Tingley. 2023. *Uncertain Futures: How to Unlock the Climate Impasse*. Cambridge University Press. https://books.google.com/books?hl=en&lr=&id=-jDEEAAAQBAJ&oi=fnd&pg=PR11&dq=tingley+dustin+uncertain+futures&ots=lHRgVovTUR&sig=VQT5jFCla56SX3tGMu9CGimoVyE.

Goodin, Robert E. 2007. "Enfranchising All Affected Interests, and Its Alternatives." *Philosophy & Public Affairs* 35 (1): 40–68.

Gould, Carol C. 1990. *Rethinking Democracy: Freedom and Social Co-Operation in Politics, Economy, and Society*. Cambridge University Press. https://books.google.com/books?hl=en&lr=&id=z7rJuy_h9PAC&oi=fnd&pg=PR9&dq=carol+gould+rethinking+democracy&ots=84tGPhMoDF&sig=S0BoiMS5re7VgCCowIBz6OlndPk.

———. 2014. *Interactive Democracy: The Social Roots of Global Justice*. Cambridge University Press. https://books.google.com/books?hl=en&lr=&id=UhZEBAAAQBAJ&oi=fnd&pg=PR9&dq=carol+gould+interactive+democracy&ots=c2rz_kKjnv&sig=kf2pm3PAIiI2OjW0kF9DV2GdmZo.

Hale, Thomas. 2020. "Catalytic Cooperation." *Global Environmental Politics* 20 (4): 73–98.

Hovi, Jon, Robert Huseby, and Detlef F. Sprinz. 2005. "When Do (Imposed) Economic Sanctions Work?" *World Politics* 57 (4): 479–99.

Hufbauer, Gary Clyde, Jeffrey J. Schott, and Kimberly Ann Elliott. 1990. *Economic Sanctions Reconsidered: History and Current Policy*. Vol. 1. Peterson Institute. https://books.google.com/books?hl=en&lr=&id=etyVmnPOrG8C&oi=fnd&pg=PR11&dq=hufbauer+economic+sanctions&ots=Th7Hnh_d4O&sig=NdEDV_sCxpNYT_sBfC5VBWVcarI.

Kant, Immanuel. 1999. *Practical Philosophy*. Cambridge University Press.

Korsgaard, Christine Marion. 1996. *Creating the Kingdom of Ends*. Cambridge University Press. https://books.google.com/books?hl=en&lr=&id=nCTa3KWuY9kC&oi=fnd&pg=PR9&dq=korsgaard+christine&ots=MKAT-BOScQ&sig=6N41YBUT64STxS71xV9J4tUHj0I.

Mill, John Stuart. 2008. *On Liberty and Other Essays*. Edited by John Gray. Oxford University Press.

Miller, David. 2008. "National Responsibility and Global Justice." *Critical Review of International Social and Political Philosophy* 11 (4): 383–99.

Moellendorf, Darrel. 2022. *Mobilizing Hope: Climate Change and Global Poverty*. Oxford University Press. https://books.google.com/books?hl=en&lr=&id=o2NjEAAAQBAJ&oi=fnd&pg=PP1&dq=moellendorf+hope&ots=XYwh42Riyj&sig=x2zRv1PojYocQdmyf_DvvGQ8WLc.

Nordhaus, William. 2015. "Climate Clubs: Overcoming Free-Riding in International Climate Policy." *American Economic Review* 105 (4): 1339–70.

Pallikkathayil, Japa. 2010. “Deriving Morality from Politics: Rethinking the Formula of Humanity.” *Ethics* 121 (1): 116–47.
Pape, Robert A. 1997. “Why Economic Sanctions Do Not Work.” *International Security* 22 (2): 90–136.
Pettit, Philip. 2012. *On the People’s Terms: A Republican Theory and Model of Democracy*. Cambridge University Press.
Rawls, John. 1996. *The Law of Peoples*. Harvard UP.
———. 1999. *A Theory of Justice: Revised Edition*. Harvard university press.
———. 2005. *Political Liberalism*. Columbia university press.
Raz, Joseph. 1986. *The Morality of Freedom*. Clarendon Press.
Sen, Amartya. 2004. *Rationality and Freedom*. Harvard University Press.
Shue, Henry. 1993. “Subsistence Emissions and Luxury Emissions.” *Law & Policy* 15 (1): 39–60. https://doi.org/10.1111/j.1467-9930.1993.tb00093.x.
Stilz, Anna. 2019. *Territorial Sovereignty: A Philosophical Exploration*. Oxford University Press.
Tingley, Dustin, and Michael Tomz. 2014. “Conditional Cooperation and Climate Change.” *Comparative Political Studies* 47 (3): 344–68. https://doi.org/10.1177/0010414013509571.
Valentini, Laura. 2015. “On the Distinctive Procedural Wrong of Colonialism.” *Philosophy & Public Affairs* 43 (4): 312–31. https://doi.org/10.1111/papa.12057.
Victor, David G. 2011. *Global Warming Gridlock: Creating More Effective Strategies for Protecting the Planet*. Cambridge University Press. https://books.google.com/books?hl=en&lr=&id=pfuSar62i8wC&oi=fnd&pg=PR5&dq=victor+global+warming+gridlock&ots=YuvylnlTw8&sig=OPlfFYsG_dWrgKN-EKsbFGwG7p8.
Waldron, Jeremy. 1999. *Law and Disagreement*. OUP Oxford.
Walzer, Michael. 2008. *Spheres of Justice: A Defense of Pluralism and Equality*. Basic books.
Wilson, James Lindley. 2021. “An Autonomy-Based Argument for Democracy.” *Oxford Studies in Political Philosophy Volume 7* 7:194.
Wolff, Christian. 1934. “Jus Gentium Methodo Scientifica Pertractatum.” *(No Title)*. https://cir.nii.ac.jp/crid/1130282270209049728.
Wood, Allen W. 1999. *Kant’s Ethical Thought*. Cambridge University Press. https://books.google.com/books?hl=en&lr=&id=_Ots-Bq9Cb8C&oi=fnd&pg=PR13&dq=allen+wood+kant%27s+ethical+thought&ots=U5wS0HS-a2&sig=odHPhLQm1udAA6jQhSqsiaObq6I.
Xu, Chi, Timothy A. Kohler, Timothy M. Lenton, Jens-Christian Svenning, and Marten Scheffer. 2020. “Future of the Human Climate Niche.” *Proceedings of the National Academy of Sciences* 117 (21): 11350–55. https://doi.org/10.1073/pnas.1910114117.
Ypi, Lea. 2014. “A Permissive Theory of Territorial Rights.” *European Journal of Philosophy* 22 (2): 288–312.