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## Climate Change and the Duties of the Disadvantaged: Reply to Caney

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*Abstract: Discussions of where the costs of climate change adaptation and mitigation should fall often focus on the ‘polluter pays principle’ or the ‘ability to pay principle’. Simon Caney has recently defended a ‘hybrid view’, which includes versions of both of these principles. This article argues that Caney’s view succeeds in overcoming several shortfalls of both principles, but is nevertheless subject to three important objections: first, it does not distinguish between those emissions which are hard to avoid and those which are easy to avoid; second, its only partial reference to all-things-considered justice means it cannot provide a full account even of climate justice; and third, it assigns to the poor very limited duties to meet climate change costs, even where they have created those costs, which may incentivise them to increase emissions. An alternative pluralistic account which avoids these objections is presented.*

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## Climate Change and the Duties of the Disadvantaged: Reply to Caney

### 1. Introduction

Significant measures to mitigate and adapt to climate change need to be taken if the most severe of its harmful effects are to be prevented. But where should the costs of climate change mitigation and adaptation fall? In a recent article in this journal, entitled ‘Climate Change and the Duties of the Advantaged’, Simon Caney has sought to answer this question, defending what he calls a ‘hybrid view’.<sup>1</sup> This view is of special interest because, as the name suggests, it appeals to several independently weighty moral considerations, giving particularly prominent roles to historical responsibility for pollution and current ability to pay.

In this article I argue that, despite its evident appeal, Caney’s hybrid view has its own weaknesses. Its treatment of *disadvantaged* persons and their duties is especially problematic. The hybrid view’s indifference to the circumstances polluters face and only partial reference to wider justice issues leaves some polluters unduly disadvantaged by harsh duties. Perhaps the biggest problem is that the very disadvantaged – the global poor – have very limited duties of climate justice on the hybrid view. Such weaknesses are absent from an alternative, equally pluralistic approach to assigning the costs of climate change-induced harm, which I simply call ‘the pluralistic account’.

I start by describing the ‘polluter pays principle’ and ‘ability to pay principle’, and show how they are brought together attractively in Caney’s hybrid view (section 2). I

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<sup>1</sup> Caney 2010. Parenthetical references in the text refer to this article. For an earlier presentation of the hybrid view see Caney 2005.

then offer three objections to Caney's position, under the headings 'the disadvantaged polluter', 'the disadvantaged saint', and the 'license to pollute' (sections 3-5). Towards the end of the paper I present my preferred pluralistic account, and show that it is not subject to the four objections (section 6-8).

## **2. Polluter pays, ability to pay, and the hybrid view**

One well known account of where the costs of climate change abatement should fall is the *polluter pays principle* (PPP), which holds (roughly) that those agents who have created harmful climate change are responsible for the full cost of its abatement (204).<sup>2</sup> In both academic discussions and in international negotiations, where developing countries such as Brazil have favoured the principle, the relevant agents are usually treated as states (205-6). But a more plausible interpretation of PPP says that individuals should pay for the costs of harmful climate change in proportion to their contribution.<sup>3</sup>

As Caney notes, PPP has several limitations (210-13). Some portion of climate change does not derive from human action, or is attributable to persons who to the dead, and in such cases there is no polluter who can pay. In addition, some persons could only satisfy their duties under PPP by driving themselves below a decent standard of living, and it is often supposed that this generates an asymmetry between rich countries, who must abate climate change, and poor countries, who are allowed 'subsistence emissions'.<sup>4</sup>

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<sup>2</sup> Shue 1999; Neumayer 2000.

<sup>3</sup> Caney suggests that corporations, sub-statal political authorities, and international financial institutions should also be subject to PPP (219-20; cf. Caney 2005).

<sup>4</sup> Shue 1993; 1995.

Recognizing these limitations, Caney's favoured version of PPP, which we may distinguish as 'PPP\*', not only leaves aside non-human and previous generation climate change costs but also those caused by the poor:

Persons should bear the burden of climate change that they have caused so long as doing so does not push them beneath a decent standard of living (PPP\*) (218).

Caney proposes a 'history-sensitive' variant of the *ability to pay principle* (ATP) to deal with the 'remainder': that is, to assign climate change mitigation and adaptation costs necessitated by nature, previous generations, or the global poor.<sup>5</sup> ATP simply states that costs of mitigation and adaptation should be met by the wealthy, in proportion to their wealth (204, 213). Caney's preferred variant of ATP, which he calls 'ATP\*\*', states that costs of mitigation and adaptation should be met by the wealthy, in proportion to their wealth, but also assigns greater responsibilities to abate global warming to those whose wealth has been generated unjustly, in this generation or previous ones:

The duties to bear the Remainder should be borne by the wealthy but we should distinguish between two groups - (i) those whose wealth came about in unjust ways, and (ii) those whose wealth did not come about in unjust ways – and we should apportion greater responsibility to (i) than to (ii) (ATP\*\*) (218).

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<sup>5</sup> See Shue 1999, 537-40; Moellendorf 2002, pp. 97-100.

Caney's approach to distributing the costs of climate change mitigation and adaptation, which he calls the 'hybrid view', consists of PPP\* and ATP\*\* arranged in lexical order, PPP\* being applied first, and ATP\*\* being applied only to the remainder left by PPP\*.

PPP\* and ATP\*\* together form an attractive account of assigning climate change costs. PPP\* introduces a strong element of 'responsibility sensitivity' while both PPP\* and ATP\*\* introduce a strong concern with the fairness of the distributive pattern: PPP\* excuses the worst off from paying for their pollution, thereby advantaging them, while ATP\*\* assigns remaining costs to wealthier persons, again benefiting the disadvantaged. The main weakness of PPP\* can be seen as being overcome by the addition of ATP\*\* to handle the otherwise problematic remainder while the main weakness of ATP – its indifference to historical responsibility for climate change – is addressed by the move to ATP\*\* and the lexical priority given to PPP\*.

The real strength of Caney's view is these complementary characters of PPP\* and ATP\*\*.<sup>6</sup> But the view is not without its problems. In each of the next three sections I present a criticism of the hybrid view, the overall focus being on its treatment of disadvantage.

### **3. The disadvantaged polluter**

PPP\* is indifferent to disadvantage above the threshold of poverty. This may seem a strength when we compare polluters to otherwise similarly positioned non-polluters, for (at least above Caney's poverty threshold) it may seem reasonable to hold polluters to account for acting in harmful ways that non-polluters have declined. But polluters are not

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<sup>6</sup> See Jagers and Duus-Otterström 2008.

always making their decisions from relevantly similar circumstances to non-polluters. For instance, it is unreasonable to expect people in very cold countries to spend similar amounts on heating as people in temperate regions, and unjust to make them carry the full burden of their excess carbon emissions.<sup>7</sup>

There is a relation of the foregoing argument that may appeal even to the committed environmentalist who denies that big polluters should ever be subsidised by (relative) non-polluters. Among polluters there will be those who do so out of necessity (for warmth, say, or to produce drinking water in arid countries), and those who do not (perhaps they like powerful cars and the jetset lifestyle). Surely it is unfair to make these two groups pay the same for each kilo of carbon they emit. The first group are victims of circumstance, while the latter are simply indulgent consumers.

In the course of defending his approach to human rights against climate change-induced harms, Caney recognizes the distinction between fundamental interests and luxuries as morally weighty.<sup>8</sup> His account of assigning the costs of climate change would benefit from recognizing a similar distinction.

#### **4. The disadvantaged saint**

PPP\* assigns climate change costs to polluters, rather than to the unjust in general. This generates the unacceptable result that someone who pollutes moderately and otherwise leads a life devoted to realising the ends of justice will face a greater liability than

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<sup>7</sup> Caney 2009 cites Neumayer 2004 on this point while criticizing Agarwal and Narain 1991's suggestion that each individual should be allowed equal emissions, but he does not seem to have taken it into account in his own position on assigning costs.

<sup>8</sup> Caney 2006, 262-3.

someone who pollutes slightly less but has benefited from great injustices. The lower polluter may even be able to pollute less precisely because of those injustices – maybe they have spent their Nazi gold on wind turbines.

The obvious reply here is that principles for assigning the costs of climate change are not intended to resolve all injustices. Other principles do that. Two responses come to mind.

The first response concerns the coherence of Caney's position. Between introducing ATP and settling on ATP\*\* Caney considers ATP\*, which assigns climate change costs on the basis of levels of wealth and origins of wealth, with those whose wealth was generated in *climate-endangering* ways taking on more costs. Caney rejects this ATP\* in favour of ATP\*\*, which also assigns climate change costs on the basis of levels of wealth and origins of wealth, but with those whose wealth was generated in *unjust* ways taking on more costs. This is a good move to make, as there is no moral difference between a climate-endangering injustice and a non-climate endangering injustice of similar magnitude. But it undermines the suggestion that principles for assigning the costs of climate-induced harm can not be expected to address justice more generally.<sup>9</sup> Furthermore, while it is true that PPP\* makes some allowance for wider distributive justice considerations, as it exempts the poor, wider distributive justice concerns are only partially accommodated, as above the poverty threshold all that matters is one's responsibility for pollution, not one's responsibility for injustice. This asymmetry in the structure of ATP\*\* and PPP\* does not appear to have a justification.

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<sup>9</sup> Cf. Caney's (2005, 763) suggestion that 'an adequate account of people's environmental responsibilities cannot be derived in isolation from an understanding of their 'economic' rights and duties'.



The second response is that it is hard to see how other principles could fill in in the required way here. Suppose we have a principle that restores Nazi gold (or its value) to the (saintly) descendents of its rightful owners at the cost of those who have illegitimately claimed it. If the gold is still extant, all well and good, and if it is not extant but we can take its value from the bank accounts of the illegitimate beneficiaries that is just as good. But what if the only way to restore the full value of the gold to its rightful owners is to transfer their pollution-induced liability to the illegitimate beneficiary? What if this clean tyrant will knock down the wind turbines he erected if anyone tries to take them from him, but will begrudgingly pay the carbon costs of the wronged descendents, if only the state will issue him with an invoice? It seems that PPP\*, by insisting that the carbon costs of the wealthy are paid by polluters alone, will militate against this corrective principle, and stand in the way of justice.

Of course, we could state that PPP\* gives way to other principles of justice in cases such as this, but to make these other principles the first port of call even on question of climate justice restricts principles of climate justice considerably. Surely we should want our principles of climate justice to be sufficient to answer the question ‘is this allocation of the burdens of climate change just?’. As the answer here is ‘we can’t tell until we consult this other corrective principle’, I would suggest that that corrective principle must be a further principle of climate change justice that Caney’s account overlooks.

In reply Caney has suggested that I must ‘assume that [PPP\*] would reject a scenario in which their [the saint’s] ‘climate debt’, so to speak, is paid off by the man

who illegitimately has some of their money'.<sup>10</sup> And he points out, fairly, that PPP\* just says that (non-poor) persons should 'bear the burden of climate change they have caused', which need not take the form of lowering their own greenhouse gas emissions, and may take the form of emissions trading or other transactions.

I do not feel that this succeeds in addressing the objection. The problem was not that PPP\* would *prevent* the tyrant from paying off the saint's climate debt. Rather, the problem is that PPP\* does not *insist* on the saint's debt being paid off in that way. PPP\* only assigns duties to polluters, not to persons who are unjustly wealthy, so whether the tyrant pays off the saint's climate debt is up to the tyrant. While, in my view, it is an advantage of PPP\* that it allows emissions trading and other measures that allow the burden of tackling climate change to be allocated efficiently, this endorsement of voluntary exchanges does nothing to correct a situation in which one person unjustly refuses to pay another's climate change abatement costs until the state requires him to do so.

## **5. The license to pollute**

PPP\* is 'poverty-sensitive' in that people below a certain level of wealth do not have to pay for their pollution (218). In this way PPP\* is a partially 'sufficientarian' view – it says that the poor are entitled to special assistance to bring them up to a sufficient level of advantage.<sup>11</sup> A number of objections have been raised against sufficientarianism. One troubling issue is, as Richard Arneson puts it, that 'the underlying considerations we care about seem ineluctably scalar, so one would think fundamental moral principle should

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<sup>10</sup> Personal communication.

<sup>11</sup> An important early discussion of sufficientarianism is Frankfurt 1987.

reflect this underlying moral fact'.<sup>12</sup> PPP\* insists that there is some level of poverty at which persons are entitled to full relief from the cost of their pollution but marginally above which they must bear the full cost of their pollution. It is hard to justify such small differences in wealth making such huge differences in obligations.

There is a further objection raised against sufficientarian views that is especially important when considering PPP\*. In general, sufficientarianism has the implication that those who are below the threshold are not obligated to meet the costs of the choices for which they are responsible. While this seems plausible to many people in cases of urgent need (for example, where an alcoholic needs a liver transplant), PPP\* appears to be committed to a form of 'responsibility insensitivity' that is not widely accepted. It says that the poor have no duty to bear the costs of climate change, even for that part of climate change they have caused, if it improves their condition at all. This is to give the poor a license to pollute. Suppose a poor person has access to clean energy, but meets his heating needs with marginally cheaper but vastly more polluting coal. Surely, if we are concerned by global warming, we should be concerned with discouraging such behaviour? As Caney himself puts it, '[w]e should not take pollution as a given and then act in a reactive fashion: rather, we should be pro-active and take steps to minimize the likelihood of excessive pollution'.<sup>13</sup> Merely reacting to the poor's pollution rather than deterring it is bad for the climate and has no justification from justice.

It may seem that I misinterpret Caney here. He says, after all, 'that if one holds, as I do, that people should not fall beneath a certain standard of living then the Polluter Pays

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<sup>12</sup> Arneson 2010.

<sup>13</sup> Caney 2005, 769.

Principle should be qualified to prevent it being the case that people are made to pay for emissions needed for their *fundamental survival*' (213). So it may be suggested that Caney would only allow the poor to forgo the environmental cost of their pollution if it was essential for their survival. But I think that Caney intends the exemption to be much broader. Elsewhere, including in the formal statement of PPP\* (218), the 'fundamental survival' condition for exemption is replaced with a much less strict 'decent standard of living' condition. This exemption is supported with the thought that 'the standard of living in China is much lower than the USA' (213). The fact that Caney describes his principle as 'poverty-sensitive' rather than, say, 'survival-sensitive', also suggests that he has in mind a principle that would exempt the majority of the Chinese population given that they are much poorer than most Americans. It seems, then, that PPP\* would exempt poor people from paying for pollution that makes their lives slightly better, even if it will make the lives of other people – including equally poor people – much worse. This approach to giving the poor special treatment is wrong because it only considers one side of the equation: it minimizes their duties to bear costs, but ignores the fact that this undermines the rights of all, and especially the poor, to be protected from climate change. Though ATP\*\* ensures that the wealthy are obliged to cover the cost of emissions generated by the poor, it is surely undesirable to increase the overall amount of emissions that have to be met in this way, especially as some emissions may have effects that are beyond the capacity of the rich to abate.

Now it is true that, in some places, Caney does seem to want to assign duties to the poor. He says that 'it is worth noting that although I have argued that the most advantaged have a leading responsibility to play, my argument also places duties on the

least advantaged as well. For if they can develop in ways that do not involve high levels of fossil fuel combustion, and can do so without great cost to themselves, then it would be wrong for them to pursue a high emissions policy' (220). The way that the argument is supposed to place duties on the disadvantaged is by ensuring that the worst off have the '*ability* to attain a decent standard of living' (213, my emphasis). In correspondence Caney notes that this 'builds in a kind of responsibility-sensitivity', and clarifies that '[t]he core idea' is that '[p]ersons are allocated those emissions needed to grant them the "ability" to attain a decent standard of living and persons are then responsible for how they use these emissions'. As he puts it elsewhere: 'Each person is entitled to that level of emissions required for them to attain a minimal decent standard of living'.<sup>14</sup>

I have two comments on this line of response. First, there is strong textual evidence to suggest that Caney's concern is with ensuring the poor have a decent minimum of living, not only with ensuring that they have the ability to achieve this minimum. The main statement of PPP\* does not mention the poor's ability or any similar notion, but is rather concerned with 'not pushing them beneath a decent standard of living' (218). And in explaining the rationale for PPP\*, Caney says that 'if one holds, as I do, that people should not fall beneath a certain standard of living then the Polluter Pays Principle should be qualified' (213). So while Caney now holds that the poor's ability to achieve a decent minimum is what matters, this is at odds with at least some of what he has written. In particular, it constitutes a substantive revision of PPP\*.

Second, while the 'ability' response does indeed introduce an element of responsibility sensitivity, it does not do so in a way that fully addresses the problem of

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<sup>14</sup> Caney 2009, 213.

the polluting poor. To take the earlier example, suppose that the difference in price between coal and clean energy, small as it is, is the difference between a decent minimum being achievable and a decent minimum being impossible. In that case, even a revised, ability-focused version of PPP\* would have to allow the poor to choose the much more polluting option without facing any penalty, as without coal the poor cannot achieve the decent minimum. While we should, of course, have special concern for the poor, there is surely some limit to the amount of emissions they should be allowed to emit without penalty, even if those emissions are necessary for them to have the ability to achieve a decent standard of living.

## **6. A Pluralistic Approach**

The hybrid view has a problem with disadvantage: it disadvantages some polluters in spite of their already difficult circumstances; it disadvantages others in spite of their overall contribution to justice; and it allows the disadvantaged poor to pollute with impunity.

In spite of the above criticism, I believe that Caney is correct to favour a view that draws on several opposed moral considerations when assigning the costs of climate change. Indeed, I believe that, in focusing on responsibility and in giving the worst off special attention, he has captured much of what justice has to capture. He has, on my view, gone astray mostly in his interpretation of what these considerations require of our principles of justice, but his general approach correctly identifies a fundamental pluralism of moral values. I will now describe my preferred form of pluralism about justice and its application to climate change costs.

Utilitarians are wrong to suggest that justice, properly construed, can be reduced to promoting utility.<sup>15</sup> But there is also more to justice than the view that we should solely be concerned with making the worst off fare as well as they can,<sup>16</sup> or the luck egalitarian view that we should focus on making distributions reflect individual choices.<sup>17</sup> I suggest, however, that these three approaches to justice – that is, utilitarian justice, Rawlsian justice, and luck egalitarian justice – taken together constitute an appealing account of distributive justice. In other words, my suggestion is that a distribution is better, the more it (1) increases overall levels of advantage, (2) increases the levels of advantage of the worst off, and (3) increases the extent to which levels of advantage correspond to responsible action, in the sense that, the more (morally or prudentially) praiseworthy a choice is, the greater are the benefits associated with it.

I have defended this view, which I call *the pluralistic account*, at greater length elsewhere.<sup>18</sup> Here I want to focus on its advantages as an approach to assigning the costs of climate change, especially relative to Caney's position. On the pluralistic account, any given cost of climate change is to be allocated in that way which best promotes advantage levels, with increases in the advantage levels of the worst off and those who have made better choices being more valuable than increases in the advantage levels of the better off and those who have made worse choices. The main advantage this account has relative to

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<sup>15</sup> See, e.g., Mill 1991. Of course, some other utilitarians, both classical and contemporary, do not see their enterprise as concerned with justice at all.

<sup>16</sup> This is Rawls' difference principle, which Rawls (1999) himself combines with other principles.

<sup>17</sup> See Arneson 1989; Cohen 1989.

<sup>18</sup> Knight 2008; Knight 2009. My position draws on Richard Arneson's recent work, starting with Arneson 1999.

Caney's hybrid view is the fact that it offers a closer fit with the relevant moral considerations.

### **7. Three objections revisited**

I will now explain why the pluralistic account is not subject to the three objections I have advanced against the hybrid view.

*The disadvantaged polluter revisited.* The pluralistic account recognizes that it is unfair to make people in cold countries pay the full carbon cost of heating themselves because that makes them disadvantaged through no fault of their own relative to people in temperate countries, who can be warm at a low carbon cost without having to go through the expense and upheaval of relocation. Part of the burden of disadvantaged polluters should be passed on to the rest of the global population on account of the pluralistic account's concern with making distributions reflect praiseworthiness, rather than where people happen to be born. But it recognizes that, given utilitarian concerns with efficiency and greater disadvantages held by others, it may be appropriate for disadvantaged polluters to pay some of their excess carbon costs. That is, disadvantaged polluters should be given some incentive to seek less polluting lifestyles, which dovetails with the fact that the globally most disadvantaged can not usually be expected to pick up a share of the disadvantaged polluters' tab. The pluralistic account also generally recognizes the significant moral difference between victims of circumstance, who have to pollute to secure an adequate level of well-being, and indulgent consumers of polluting luxuries, treating the first group as more praiseworthy and less advantaged and thus entitled to greater assistance.



*The disadvantaged saint revisited.* The pluralistic account is obviously not subject to the objection that it would treat the clean tyrant better than the polluting saint. It does not distinguish between climate injustice and other injustices, and would recognize the saint as in possession of a lower level of advantage than that to which he is entitled, given the character of his choices, while the reverse is true of the tyrant.

*The license to pollute revisited.* The pluralistic account is not committed to any cut-off point, beyond which people are considered so poor that they cannot be given significant duties. It has the means to impose the necessary penalties on polluting activity among the poor on account of both the utilitarian and luck egalitarian strands of the view. Someone who increases carbon emissions decreases overall levels of advantage and in so doing becomes less praiseworthy, so there is both a direct (responsibility-based) and indirect (utilitarian incentive-based) argument for decreasing their level of advantage. This is to be balanced against the Rawlsian case for increasing the poor's level of advantage. In some cases, making the poor pay for their pollution – for instance, through a tax on coal fires – will improve the overall position of the worst off as the cost of the duties they are thereby under is outweighed by increased protection of their rights against being harmed by climate change. The pluralistic approach reflects the fact that justice has a special concern for the poor, but it does not interpret that as giving them carte blanche to pollute.

## **8. Conclusion**

I conclude that the pluralistic account provides a more compelling account of assigning the costs associated with climate change than does Caney's hybrid model. The pluralistic

account (1) acknowledges that some emissions are less objectionable than others, (2) consistently takes the best position that, in assigning costs, all-things-considered justice is what matters, and (3) assigns duties to meet climate change costs to the poor, preventing avoidable pollution.

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