Abstract

Ongoing conflict over the fair allocation of greenhouse gas emissions among nations is a significant impediment to progress in international climate change negotiations. This article considers the strengths and weaknesses of a crucial argument within the allocation debate asserting the atmospheric capacity to absorb greenhouse gases should be distributed on an equal per capita basis. While noting the argument’s many appealing qualities, the paper argues that the per capita perspective also encompasses important practical and ethical limitations. Besides potentially encouraging population growth and discriminating against those with greater (but still legitimate) energy needs, early evidence suggests that the equal per capita idea may hinder progress in climate change talks by invoking a more absolutist and uncompromising rhetoric of rights. Alternative ideas of fairness, such as the distinction between subsistence and luxury emissions, or the Common Heritage of Mankind idea, offer a more flexible mix of egalitarian and other allocation principles that should be considered carefully, even by those sympathetic to the equal per capita perspective.

It is widely accepted that the success of an international environmental treaty often depends on a shared perception of its fairness to all parties (Albin, 2000; Parsons and Zeckhauser, 1995; Grubb and Sebenius, 1992). Yet when it comes to the issue of climate change, the specific definition of “fair” remains controversial and uncertain, thereby posing a significant stumbling block to any agreement (Rose, 1998). In particular, conflicting views of fairness have hamstrung attempts to allocate the right to emit greenhouse gases among nations. This controversy has led one commentator to declare the emissions allocation issue the “Gordian knot” of climate change policy (Victor, 2001). For those interested in the continued progress of climate change negotiations, therefore, it is crucial to understand the roots of these disagreements over fairness in detail. This essay considers the strengths and limitations of one prominent and controversial view in that debate: the idea that each person is entitled to an equal share of the atmospheric capacity to absorb greenhouse gas (GHG) emissions. While ethically enticing for its simplicity and clarity, the equal per capita argument also raises difficulties that must be addressed if climate change negotiators are ever to cut the Gordian knot that binds them.

The equal per capita argument has attracted a large amount of attention and support in the world of climate change policy. Numerous advocates and scholars (including the present author) have followed the Global Commons Institute (Meyer, 1999) and India’s Center for Science and Environment (CSE) in promoting the idea (Baer et al., 2000; Sagar, 2000; Kinzig and Kammen, 1998). Any climate change treaty, this position concludes, must eventually be based on an equal per capita distribution of GHG emissions rights (possibly after a long transition period) in order to be legitimate. This is in spite of the fact that current national per capita emissions of GHGs vary dramatically, with industrialized nations an order of magnitude or more beyond the levels of less economically developed countries. A CSE paper summarizes the idea...
eloquently and persuasively: “In a world that aspires to such lofty ideals like global justice, equity, and sustain-
ability, this vital global common [the atmosphere] should be shared equally” (Agarwal and Narain, 1991).

Advocates tend to formulate the equal per capita argument in terms of an equal right to the atmosphere. This is a somewhat unprecedented ideological maneuver: historically, talk of “environmental rights” has focused on unfair burdens borne by poor and minority communities. The punishing concentration of pollution and other environmental harms on such groups is both well documented and widely opposed around the world. Frequently, protesters invoke a right to escape these burdens based on our common humanity and the notion that everyone must carry their fair share of the global pollution load. The strategy is hard to argue with—concentrated environmental burdens clearly violate the UN Declaration on Human Rights, for example, which guarantees each person “a standard of living adequate for the health and well-being of himself and of his family.”

In the parlance of political philosophy, the equal per capita argument transforms this environmental right from a negative to a positive one. In other words, it asserts an environmental right as an entitlement to a specific natural resource, rather than a protection against undue ecological harm. In this manner, positive environmental rights start to resemble property rights: assertions of ownership and control over a small part of a global resource. While many negative rights can also be recast in positive terms (do I have a negative right to avoid unhealthy concentrations of NO$_x$ and SO$_2$, or a positive right to a fair share of the world’s clean air?), this is not a distinction without a difference. A positive environmental right frequently implies an equal share of the so-called global commons—natural resources like the atmosphere or the deep ocean currently beyond the ownership or control of any individual or nation. As such, this new environmental right goes beyond the problem of concentrated environmental burdens to assert a more radically egalitarian and property-like idea. In its strongest form, a positive environmental right of this type is asserted to be a full-blown human right: a non-negotiable, equal share of a global resource.

The strategy of utilizing positive environmental rights offers real advantages in terms of both ethics and politics. The position’s initial moral attractiveness is evident. Egalitarian thought holds a long intellectual pedigree, while in practice everything from birthday cakes to voting rights are distributed on the basis of equal shares for everyone. Furthermore, other prominent approaches to distributive justice apply poorly to the climate change context. Consider, for example, the approach to allocating resources formulated by English philosopher John Locke. Locke famously asserted that productive labor creates property rights, and therefore those who first use and develop a natural resource are its rightful owners. While his influential ideas have under-
written public policies ranging from agrarian land reform to water law, they make little sense in the climate change context. Rewarding nations or industries that have largely exhausted the atmosphere’s ability to absorb GHGs on the Lockean basis of their beneficial “prior use” of the resource is an odd proposition indeed. It violates well-established norms of international law like the “polluter pays” idea, which insists that those creating an environmental mess should bear the cost of cleaning it up. To paraphrase a former US Member of Congress, granting shares of the atmosphere on such a basis sounds more like a Lockean right of prior “abuse.”

The equal per capita idea also has political advantages. Despite contributing the lion’s share of the world’s greenhouse emissions to date, the United States has reiterated that it will not ratify any climate change treaty without “meaningful participation” by developing nations. Yet developing nations have shown little interest in reducing their emissions until the developed economies historically responsible for the problem move first. An equal per capita allocation offers a possible way out of this impasse. Already endorsed publicly by India, such an allocation would catalyze more active participation in the treaty system by developing nations, dramatically increasing the pressure on the United States and other climate change laggards to act.

So far, so good—and yet the more one considers the equal per capita argument, the harder it is to shake certain reservations about the idea. The first, and perhaps least significant, involves the ticklish question of population. Some complain that an equal per capita right to the atmosphere encourages population growth, further jeopardizing the environment (Claussen and McNeilly, 1998). While empirically debatable (would nations really promote pro-natal policies on such a relatively flimsy basis?), this criticism doggedly follows the equal per capita idea. Of course, one can solve the problem by selecting a fixed baseline year by which to allocate the rights on a per capita basis, or provide only a limited additional allotment for future population growth. But while pragmatically effective, any such maneuver dilutes the moral qualities of the proposal that make it so appealing in the first place. If the global atmosphere is really something to which all persons are equally entitled—a true human right—then setting a deadline and saying some people born after that date do not get a full share denies the equal humanity of later generations.

In addition, the simplicity of the idea raises other difficult ethical questions. Does a poor writer living in a garret in St. Petersburg, for example, have the same entitlement to the atmosphere as one living in San Diego, or do the cold Russian winters (heating being a major source of GHG emissions) merit additional
phase-in times and other suggestions to make the idea

capita advocates recognize this concern, and offer long
fundamental human right, I risk hardening my position
constructing my equal share of the atmosphere as a

the best course either normatively
to ask if strict adherence to the equal per capita ideal is

surely worth defending even in the face of high costs and
tributions of wealth (Smith, 1996). Some principles are
change emissions that would entail still greater redis-

arguments based on historical responsibility for climate

ethical position, of course, and indeed there are
tailoring the allocation principle to adjust for
these various mitigating factors, however, again threat-
tens to undermine its initial advantages of clarity and
simplicity as a basic human right.

Finally, the absolutism and intuitive appeal of the
equal per capita position may also be a significant
political liability. The existing record of international
climate change negotiations is instructive here. Initial
emissions reductions under the Kyoto Protocol (the only
formal allocation of GHG emissions to date) eschewed the
per capita perspective in favor of a more pragmatic
starting point: current emission levels. In fact, the Kyoto
agreement embraced “grandfathering” as its basic
distributive principle, taking actual 1990 emissions of
developed nations as the baseline for purely practical
reasons, and then making relatively modest adjustments
based on the parties’ “common but differentiated”
responsibility for the problem. This outcome occurred
despite the less commonly reported fact that equal per
capita arguments were quite prevalent in the two years of
negotiations leading up to the Kyoto accord (Raymond,
2003). Despite their rhetorical prominence, such argu-
ments had little apparent influence over the final
outcome.

While Kyoto was a small step in what will surely be a
lengthy allocation process, the initial absence of any per
capita principles should inspire reflection among the
idea’s advocates. It is well established among both
supporters and critics of the idea that an equal per
capita distribution of emissions would entail the
redistribution of large sums of wealth among na-
tions—possibly totaling billions of dollars annually
(Rose et al., 1998). High costs do not disqualify an
egalitarian appeal with less risk of encouraging popula-
tion growth, discouraging compromise, or discriminat-
ing against groups with more energy intensive living
needs. A full discussion of that range of alternatives
would require its own essay, but two bear mentioning
here. One worthy variant might follow philosopher
Henry Shue (1993) in asserting a non-negotiable human
right to a minimum level of “subsistence” emissions for
each person, with the remaining “luxury” emissions to
be distributed in some other manner. Interestingly,
Shue’s argument is at least broadly consistent with
another famous approach to allocating property, that of
the German philosopher Immanuel Kant. Kant argued
that any ethical property system must provide a basic
level of ownership for everyone. His view is not strictly
egalitarian, however, in that it permits unequal distrib-
utions of property beyond a subsistence level based on
other factors, including patterns of prior resource use
(Gillroy, 2000). Interestingly, similar Kantian argu-
ments appeared in negotiations leading up to the Kyoto
Protocol, including specific references to the vital
distinction between “luxury” and “subsistence” emis-
sions (Raymond, 2003). As a theory that protects a basic
share of emissions for everyone, yet allows some
flexibility beyond the subsistence level, the Kantian
perspective offers a promising synthesis of the opposing
ideas of grandfathering based on the status quo and
equal rights for all.

Another intriguing idea would be to designate the
global atmosphere as the “common heritage of man-
kind” (CHM) to be managed collectively for the benefit
of all nations, as has already been done in UN treaties
regarding the ocean and outer space. The CHM idea
denies any individual rights to a particular resource,
insisting instead that the resource be treated as the
common property of all nations and citizens. Thus, the
UN Convention on the Law of the Sea classifies
deep ocean minerals as a common heritage resource, to be developed only with the consent of the United Nations and to the significant benefit of all nations of the world (including those with no coastline at all). A similar idea underlies the ongoing efforts to maintain Antarctica as a world park free from commercial mineral development, and to prevent the private development and exploitation of the moon and other nearby objects in outer space.

By eliminating individualistic “rights talk,” the CHM idea might also facilitate more creative international agreements regarding climate change while still preserving the appealing egalitarian qualities of the per capita arrangement. Under the appropriate conditions, collective ownership and management regimes of various natural resources have flourished for centuries without traditional state control (Ostrom, 1990). As the forces of globalization create more “stateless places” resembling the global commons, alternatives to private property like CHM might be expected to grow in importance (Geisler, 2003). That said, the concrete impacts of the CHM idea to date are modest, limited to resources that no one is currently able to exploit economically. If and when these resources are subject to stronger commercial pressures, the strength of the CHM idea will be sorely tested as private entities and nations assert their exclusive ownership claims in pursuit of new sources of wealth.

Crafting an equitable resolution to the climate change problem is a monumental task that remains critical to any long-term resolution of the problem. In seeking a fair outcome, an equal per capita distribution of the global atmosphere holds great promise, as well as broad support, and should not be discarded lightly. Yet the attractions of a positive environmental right to the atmosphere—its simplicity and absolutism—also represent its biggest challenges. Defining fairness for allocating GHG emissions in terms of a positive environmental right poses some important problems, both theoretical and practical, that may unduly inhibit climate change negotiations. As negotiators continue to struggle with the Gordian knot of emissions allocation, advocates of the equal per capita position would do well reconsider the idea in comparison to other perspectives like the Kantian and CHM alternatives, with a critical but sympathetic eye.

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References


