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A Review of "Climate Justice: Vulnerability and Protection," by Henry Shue

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Henry Shue's *Climate Justice: Vulnerability and Protection* offers an extremely useful and readable guide to the key challenges, workable objectives, and possible responses to a major—if not the major—global problem faced today. For anyone interested or working in the area of international carbon emission control and remediation, this book places the subject in a combined philosophical and economic development framework while imposing an overarching principle of fairness.

Henry Shue presents an interesting and informative collection of essays and articles on climate change and the need for a method of global response to deal with the prickly issues of global warming. (In some of the later chapters or essays, "global warming" is replaced with the term "climate change.") Shue covers a wide array of issues including classification and identification of the major players in the global climate justice drama, the vastly different perspectives of the major players, the essential elements of any viable global warming solution, and his repeated theme: the four fundamental questions that any plan of climate justice must address.

The seventeen chapters of the book represent seventeen essays or articles written by Henry Shue between 1992 and 2013. The earliest ones lay the foundation for those that follow. Given the twenty-year span of the readings, the reader is afforded a rare opportunity to actually observe and track the evolution of how Henry Shue understands climate justice. As one small example, in the earliest chapters, Shue argues for a minimum subsistence level of emission for a poor country necessary for it to survive.[1] He later modifies that position, arguing for a minimum subsistence level of energy availability or access.[2] This more advanced position indicates that the key issue for

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1. HENRY SHUE, CLIMATE JUSTICE: VULNERABILITY AND PROTECTION 1, 7 (2014) ("The poor in the developing world would be guaranteed a certain quantity of protected emissions . . . .").

2. *Id.* at 7 ("I now think that . . . what the poor need to be guaranteed in order to satisfy their subsistence rights is energy, not emissions . . . .").

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poor countries is not what their level of emission from carbon fuel consumption is, but rather whether it has access to adequate levels of energy necessary for production and development.[3]

The relatively long introduction is very important to read. It provides the reader with the information necessary to connect the chapters of the book, which were originally written as freestanding, independent articles. In fact, in contrast to most policy books, the reader can jump around the book, focusing on just the topic of a particular chapter without needing a great deal of preparation from previous chapters or leaving some issues uncovered for later chapters. At the same time, because the chapters were independent essays, with minimum modification when combined into book form, one encounters considerable repetition of the same arguments and the same outline of positions throughout the book.

Beginning in the introduction and really developed in the first several essays (chapters) of the book, Henry Shue paints a very rich and detailed picture of the central issues of "climate justice."[4] To begin, the central question for him is "[h]ow can we limit the dangers resulting from climate change without driving additional hundreds of millions of people into poverty?"[5] Shue posits that the major dividing lines are between rich countries that have exploited carbon resources in the past to get to their current level of economic development and poor countries that have not realized such economic development.[6] Furthermore, in the current context of climate change, these poor countries face the very real problem of being forced to make developmental sacrifices to correct or limit global climate wrongs or climate distortions, which they had no part in creating.

Introduced formally in chapter two and repeated in each of the subsequent early chapters comes what are called the four questions of justice[7]:

1. What is a fair allocation of the costs of preventing global warming that is still avoidable?

2. What is a fair allocation of the cost of coping with the social consequences of global warming that will not in fact be avoided?

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3. *Id.* at 7–8, 11.
4. *See generally* SHUE, *supra* note 1.
5. *Id.* at 4.
6. *Id.*
7. *Id.* at 48.

3. What background allocation of wealth would allow international bargaining (about topics like issues one and two) to be a fair process?

4. What is a fair allocation of emission of greenhouse gases (over the long term and during the transition to the long term)?

Collectively, this series of essays offers an extremely useful primer on the major issues, positions, and alternative strategies that make up the climate justice landscape. This collection stands out as one of the few that mixes realistic strategies within the context of sound economic and philosophical principles. There is a long list of themes, which include, but are not limited to the following:

1. The classic public finance issue of who pays for a service or activity: (a) those at historic fault or who receive benefit, (b) those committing future damage or receiving future benefit, or (c) those with the current and future ability to pay.

2. Distinction between subsistence emission versus luxury emission and who sacrifices what and when.

3. The intergenerational challenge of any climate justice solution, a theme repeated in a number of essays.

4. Stages of emission reduction: no-regret phase followed by real mitigation.

5. Definitions and concepts of "fairness": What does "being fair" mean? At the same time, what does "equity" mean and how might one attempt to realize such equity?

6. What rights of people and nations need to be protected.

7. An honest appraisal of the extremely low probability of any "rich" nation's leadership actually volunteering to reduce its economic

activities and standard of living to reduce global greenhouse gases.

8. An outline of possible climate change resolutions that could succeed.

9. A brief appraisal of some recent international agreements such as the Kyoto Protocols and what one can and cannot expect from such accords.

Very early in his essay series, Shue introduces the big elephant in the room, intergenerational decision making.[8] Shue, who combines philosophy with economics in most of his writings, outlines in painful detail the problem of what economists call "the tyranny of the present."[9] Future generations literally do not exist in the present, yet their wellbeing depends on decisions in which by definition they can never have a vote. Any climate change resolution will involve the present and multiple overlapping future generations. This intergenerational issue poses the question: What is "fairness" over time?

Henry Shue, from the first essays on, builds a case that simple restrictions on carbon emissions, however devised, whether through carbon trading, emission controls, and other constrictions; will not resolve the problem.[10] Economic forces of the present generation will not allow so much control over future emissions. He further points out in several places that if the controls fall disproportionately on "poor" nations, the problem is compounded by an even higher degree of "unfairness."[11] Poor nations would be restricted in their own economic development due to historic actions taken not by them but by the very "rich" nations, who are now asking for their sacrifices. Since rich nations have the force of economics and politics to impose their will, the poor remain extremely vulnerable.

Shue's solution to the above dilemma is a major refocusing on alternative energy sources. He lays out the path that, without such a redirection, global climate change has virtually zero chance of coming to

8. *See id.* at 83 n.22 (introducing this concept for the first time); *see also id.* at 209 (discussing this concept in greater detail).

9. *See, e.g.*, Philippe Méral, *Future Generations and Economic Activities: The Case of the Social Discount Rate*, 27 F. FOR SOC. ECON. 1, 2 (1998); David W. Pearce, Ben Groom, Cameron Hepburn & Phoebe Koundouri, *Valuing the Future: Recent Advances in Social Discounting*, 4 WORLD ECON. 121, 123 (2003).

10. *See* SHUE, *supra* note 1, at, 16–17, 36–38, 48–51, 130–131.

11. *See id.* at 36–40, 182–89.

a future beneficial outcome or non-disastrous steady state condition.[12] Economic development, it is argued, cannot progress as before without dire consequences due to the worsening global emission problem. At the same time, preventing needed development of poor countries, in itself, would spell an even greater form of disaster.

Throughout the entire book, Henry Shue positions the United States as the principal obstacle to any workable and reasonable climate justice accord. He does not position, however, Europe or the European Union, Russia, Japan, and certainly not any of the developing countries in sub-Saharan African or any countries in Latin America as the obstacle to the climate justice accord. An unexplained position taken throughout all the essays, even the latter essays, Shue portrays China and India as poor countries with impoverished populations struggling to survive and worthy of the concessions and considerations given to any other poor country.[13] Curious.

By the end of the first decade of the twenty-first century, both China and India have become major global economic powers with an associated leap in the quality of life of many of their citizens. On the other hand, both the rural areas of China (especially of western China) and India do have poverty and in some cases even starvation. Given their current economic power, to call these countries "poor" would be a stretch. They certainly are developing economies, but can hardly be classified as "poor." This "poor" designation, used by Henry Shue, is a "get out of jail free card," which suggests that "poor" countries should not be held to the same standards of emission control as "rich" countries. He recognizes that "poor" countries pursuing a path of economic development identical to "rich" countries would lead to disastrous increases in emissions releases.[14]

One such example is the extraordinarily poor air quality of most major Chinese cities, especially Beijing, and many Indian cities, which speak to this very danger. That is, much of the economic development and progress China and India have gained within the last two decades has come from exploitation of carbon fuels and resources quite similar to what now developed countries did earlier. As the book predicted, their economic gains have come with associated extraordinary levels of pollution and environmental degradation, which affect not just those countries but also the globe.

Henry Shue's book ranges over a wide landscape of climate change and global warming issues. However, in the seventeen chapters of the book, Henry Shue does not mention race, ethnicity, or color. His

12. *Id.* at 323.
13. *See generally id.*
14. *Id.* at 180.

distinction is between poor countries and rich countries with a further distinction made between those poor countries with some bargaining power and those with virtually none. Given the parallel evolution during the same period of the early 1990s through the beginning of the twenty-first century of the environmental justice movement, some mention of it would be expected. More particularly, with the later development of an international environmental justice discussion, absence of even a single word referencing the fact that almost all the rich countries are of one color, Japan and South Korea being one exception, and all the poor countries being other colors (i.e., black or brown) seems a curious omission. There is not even a note stating that environmental justice issues do not play a major role in climate change discussion or that framing the conversation in the cloak of environmental justice, while possible, serves no useful purpose within the context of the arguments presented in the book.

An even more curious part of this collection of essays is chapter thirteen: Making Exceptions. Several readings of the chapter fail to explain its presence in a book on Climate Justice. Henry Shue has had, throughout his career, two major areas of scholarly inquiry: the first, climate justice, and associated issues of dealing with global climate change and necessary international accords to address this environmental time bomb, and the second, torture and behavior during conflict. Chapter thirteen is an essay on torture and issues of preventive action. In the final three and a half pages of the chapter, global warming is brought into the brew as an example of a preventable bad that could be averted.[15]

Overall, *Climate Justice: Vulnerability and Protection* stands out as an excellent treatment of a very difficult subject in a manner both broad and comprehensively deep.

15. *Id.* at 257–260.