How could policy become just? In a Rawlsian framework, justice is its own reward: it is the first principle of social organization. Behavior in accordance with just objectives is then essentially rooted in the motivational power of norms: to know the good is to do the good, in the Platonic formulation.

The world of politics is not driven by justice. In the international system, speaking truth to power has a long record of futility; engagement of national interests is a more viable mechanism. This piece sketches the interconnections among international justice, environmental protection and poverty alleviation. It argues that resolution of long-standing and bitterly contested considerations of justice on an international scale are necessary (but hardly sufficient) conditions for responding adequately to environmental degradation and, reciprocally, the current international commitment -- fragile though it sometimes seems -- to environmental protection offers a mechanism for redressing injustice. Moreover, deterioration of both macro and micro environments deepen poverty and exacerbate its exactions in this generation and those to follow. Thus, reciprocally, poverty alleviation must always contain a significant environmental component: solutions cannot exacerbate degradation and should optimally serve dual objectives.

An unfortunate ideological rift which is built on these connections has developed though a discourse of international inequality and environmental responsibility (Dryzek 1997). Precisely because of the history of globally and locally destructive development, remediation of environmental damage is constructed as a “Northern” concern in conflict with the South. Environmental concerns are a “luxury” in poor countries, the dominant discourse goes; but in any event reparations are due from those whose wealth was built on globally socializing externalities of growth (Agarwal and Narain 1992). Inferior position in a decidedly hierarchical world economic system constrains both will and capacity for environmental solutions. At the White House conference on global warming in 1990, India’s greenest environment minister, Ms. Maneka Gandhi, argued that poor nations necessarily put development before environment; democratic institutions ensured that "legitimate aspirations" of the poor to catch up as soon as possible to rich-nation standards could not be denied:

"When we cannot afford to set apart resources even to replace the unacceptable pesticides which affect the health of the people today, can we afford to make investments to avert a global problem which will be manifested 50 years hence, particularly when we are not contributing to the creation of the global problem? (Hindustan Times 19-04-90)"

This construction is not normatively incorrect, but is unfortunate if environmental
remediation -- of whoever’s fault -- is thereby undermined. This would be an unjust outcome because in almost all social settings the poor are the first victims of environmental stress, decline and catastrophe. In Rawlsian terms, it is not only impossible to justify their current status, but a fortiori impossible to justify increasing their burdens. Moreover, the rich within poor countries benefit from the same destructive way of being in the world that characterizes a higher percentage of individuals in richer countries: the units of analysis are inappropriate for conclusions about justice. Poor nations are the units of a Southern discourse of inequality; poor individuals suffer the indignities and risks of poverty. If there is to be a threat to agriculture from increased ultraviolet radiation or climate change, it is the richest farmers who are most adaptable, the poorest who are least able to adapt. If forests are depleted, alternative building materials, subsistence foods, marketable goods and fuels are least available to the poor. Increasing flood vulnerability first strikes those who have little choice about the location of their housing. The high ground belongs to the well off, wherever they live. But the international system is made of nations, not individuals.

The implication is that discussions of international justice must proceed on multiple levels simultaneously; scale is critical. Development discourse has, through a recent critique of centralized and oppressive states, come to valorize decentralization, devolution, local participation. In this “celebration of the local” (Herring 1998), difficult issues of representation and authority are de-emphasized. The critique from ecological science has to do with the scale of ecological systems -- inevitably supra-local and therefore necessitating supra-local vision, monitoring and institutions. The normative critique is that local claims may pre-empt benefits of use of nature in ways which would not pass a Rawlsian test. Justice, either intergenerational or cross-sectional, is not necessarily served if locality implies ownership. If community A’s traditional terrain (which may well have been taken from community B centuries back) contains gold or oil, and community B’s turf only sagebrush and scrub thorn, is the windfall presumptively a legitimate proprietary claim of A based on territorial propinquity? Where would the authority to adjudicate reside? In the rush to celebrate the local, such questions have been avoided, but arise sharply in coming to just solutions to distributive questions.

**Does Justice Matter? Markets and Global Environmental Goods**

Karl Polanyi concluded presciently in the pre-ecological age of 1944 (1957:184): "The economic argument could be easily expanded so as to include the conditions of safety and security attached to the integrity of the soil and its resources -- such as the vigor and stamina of the population, the abundance of food supplies, the amount and character of defense materials, even the climate of the country which might suffer from the denudation of forests, from erosions and dust bowls, all of which, ultimately, depend upon the factor land, yet none of which respond to the supply-and-demand mechanism of the market. Given a system entirely dependent upon market functions for the safeguarding of its existential needs, confidence will naturally turn to such forces outside the market system which are capable of ensuring common interests jeopardized by the system."
“Such forces outside the market system” typically means the state. Just as the embeddedness of local commons logically necessitated a larger scale of authority in the “tragedy of the commons” model (Herring 1991), only cooperation at the international level would address the potentially global tragedy of the commons. A species-level learning process has dramatically expanded not only the scale over which control of environmental processes must be exercised, but the breadth of implications for economic life. The institutional problem is not only that authority on a scale equal to the scale of ecological processes is difficult to manage -- there is no global state -- but also that governance within such structure as exists -- essentially international soft law regimes -- is undermined by its unfairness; justice matters. This point is clear with regard to international environmental protection, where the North-South divisions etch the justice arguments sharply, but is equally clear with regard to intra-national disparities between centers and peripheries.

Emergence of a global nature regime with state-like properties is a genuinely new manifestation of Polanyi’s "double movement." It co-exists uneasily with a global neo-liberal economic regime. There is a contradictory dialectic in the global demand that the international system become more a market, absent state meddling, and the simultaneous global demand that market failures and externalities (of which ecological integrity is perhaps the most egregious) be considered in global terms. Global neo-liberalism, which is not about justice or ecological integrity, but about growth, may prove unhealthy for global environmental cooperation and success. Globalization of markets and market reforms in the former socialist bloc, for example, have had a perverse effect on protection of endangered species under regulations of the Convention on International Trade in Endangered Species. Eastern European and Russian entry into the market operating with hard currency and fewer constraints on trade has accelerated depletion of endangered species in India (Herring and Bharucha, 1998).

Illustrating this contradiction between liberalization and global public goods more starkly is the Montreal Protocol on Substances that Deplete the Ozone Layer (1987). Montreal is often cited as a rare example of global cooperation to prevent catastrophe despite conflicting claims of sovereignty and justice. It establishes international regulations for phasing out substances that deplete the stratospheric ozone layer; markets are to be rigged in the first instance and over-ridden by state intervention in the second -- monitoring, criminalization of production processes, products, regulation of trade in restricted items, planning for technological restructuring, compensating losers, and so on. The process which produced the ozone regime, however, was conflictual -- issues of both interest and justice, predominately assuming a North-South framing, blocked collective action until alterations in the regime answered concerns from the South. Agreement on an ozone treaty required at least partial resolution of deeply disputed claims about international justice. Before the London amendments which allowed India and China to join the Protocol -- an event which was the sine qua non for the treaty’s effectiveness, then Minister of Environment of India (Mr. Z.R. Ansari) said:

The developing countries muster the resources to meet the minimum needs of
their citizens at great sacrifice. These countries will be unable to spare further resources for the substitutes to CFCs. The poor of the developing countries will look askance at a government that spends resources on substitutes to CFCs to prevent depletion of the ozone layer ...while they continue to wallow in poverty, hunger, disease and ignorance (Rosencranz and Milligan 1990: 313).

This claim eventually won out over objections of richer nations; the “polluter pays” principle with compensation to poor nations was adopted, allowing India and China to sign on. There should be no question that much of the appeal to social justice was instrumental, part of a dramaturgy staged by relatively wealthy elites who claim to speak for the poor. It is also true that real benefits from the global environmental crisis -- consultancies, travel, appointments, market niches, employment -- are captured not by the global poor, but the relatively well-off in both North and South. Nevertheless, at the normative level, Mr. Ansari was right; issues of international justice cannot be ignored if global commons issues are to be resolved. Unresolved issues of justice place some limits to the effectiveness of Montreal (though in this particular treaty, these limits are minimized by the market structuring effects of the accord).

Environmental regulation as solution to global commons dilemmas ultimately suffers from lack of political authority. In turn, willingness of nation-states to cede authority hinges on agreement on the public good in question and the justice of solutions; there is disagreement on both. States as unitary actors sign treaties, representing themselves internationally as agents of complex societies, and as capable of controlling behavior. Both claim and capacity are suspect. The Montreal process in India was restricted almost entirely to the governing class -- a thin stratum of politicians and officials and concerned elite NGOs and private capital. The obligations and costs of Montreal were not debated or ratified in any process that widened this social base. Neither consumers nor small-scale industry (the bulk of ODS users) in India were meaningfully engaged in the planning process. This is where adjustment pain will fall. Whatever remedies to the international justice question worked in the 1991 London amendments, there is as yet no remedy to the injustice that will be done internal to the country with respect to technological change.

2 Maneka Gandhi remarked to me in 1993 on the scientific consensus on ozone threats: “they tried to scare us with talk of cancer; this is really about money.” See Herring 1999.
Nevertheless, the ozone regime should prove more effective than what could be called “nature treaties” such as the World Heritage Convention, the Convention on International Trade in Endangered Species, the International Tropical Timber Agreement, other international environmental treaties, where direct issues of livelihood are at stake and normative and political claims against state interference are strong (Herring and Bharucha 1998). In important respects, the ozone problem was unique. Concentration of production -- at least of CFCs -- in relatively large firms globally and nationally facilitates regulation. Treaty-induced alterations in the global market compel rational businesses to invest in alternatives. Most importantly, because of its esoteric and indirect ramifications in the economy, and the compensation fund for direct producers, it is not clear that publics will ever know the costs of Montreal, nor who is paying them, despite the dramaturgy of North-South conflict which surrounded negotiation of the regime. Successful rigging of global markets in ODS was possible because new market niches advantaged richer nations and their firms, which already dominated the global production of ODS. In more industrialized nations of the South, rigging of the international market provided successful structural pressure on both internationalists in the business class and states concerned with their place in the global economy. Amendments in London provided a “polluter pays” principle which promised redress of international injustice. None of these conditions applies to international nature policy.

But market-rigging creates an inconsistency between international normative regimes of economics which is not missed in the South. The magic of the market (liberalization) and market failure (environmental externalities) are used simultaneously to exhort poor nations to incur economic and political pain. At a normative level, pressure to let the market rule despite national "adjustment pain" while reining in the market when a global interest is at stake is politically corrosive on grounds of international justice.\textsuperscript{3}

Skepticism in India, for example, about the fairness of outcomes and good faith of major players in the Montreal process has not been resolved. India's national implementation Task Force questioned the distributive outcome: "The allocation of per capita consumption limits is disproportionate ... and appears to be arbitrary ... The USA after implementing control measures ... would consume about 2.2 million tonnes of CFC-11 and 12 up to the year 2000 [compared to India's limit of about 0.1 million tonnes]. On a per capita basis [this] works out to be 97 grams

\textsuperscript{3} Ashish Kothari (1996) argues that structural adjustment in India accelerates environmental degradation. Shekar Singh (1993: 14) argues that liberalization of export policy, "reportedly necessitated by the World Bank," has greatly increased the danger to plants, sandalwood forests and coastal areas among other resources. Though liberalization in pure form poses increased environmental risks almost by definition (there being no market mechanism to value most ecofunctions), the balance in India is difficult to discern at this stage but needs urgent attention.
and 8461 grams for India and USA respectively (Report of the Task Force 1993: 27; see Herring and Bharucha 1998)." India’s continued compliance with Montreal is explicitly contingent on resolution of important issues of international justice.

Unfortunately for global environmental protection, the major lesson from the Montreal process may be that the North-South structure is still important normatively and politically; that simultaneous global pressure for market rule and ruling the market is contradictory; that economically hurtful change in poor nations will require large flows from the North; and that there is not enough money to buy off all claimants with legitimate concerns about international justice. Maneka Gandhi said during the negotiation of the London amendments: "The resolution of these issues in respect of the Montreal Protocol to enable the developing countries to be partners in saving the ozone layer is an acid test of the willingness of the developed countries to promote a true partnership among all the countries of the world for managing global change." Absent the market-structuring effects of Montreal, more comprehensive environmental treaties will depend more on justice and political will to solve global commons dilemmas.

Nature Treaties: Disputes about justice in international negotiations of treaties protecting natural systems replicate structurally those outlined above. Partial resolution has come through an evasive maneuver. Discourse on “sustainable development” implicitly recognizes a limit to provision of the public good of environmental protection. That limit derives from livelihoods in nature for many of the poorest people in the poorest nations. Livelihoods are connected to “resource” use by very poor people, for whom interference in subsistence routines would be normatively suspect and politically difficult. One of the most severe contemporary problems in providing public environmental goods is that regimes of protection -- global or national -- are held to be unjust in the poorest parts of poor nations. Moreover, this perception undermines effective implementation of regimes of protection in cat-and-mouse games of local resistance to state authority under the normative claim of protection of subsistence routines.

Forest policy in India illustrates these dilemmas. Despite official gestures toward participatory or joint forest management, policy to ensure “sustainable use” remains controversial. Politically, the contradiction is between centralized bureaucratic control and devolution to States and communities. Normatively, there is conflict over conceptualization of forest dwellers’ daily practices as “concessions and privileges” (granted by the state) as opposed to rights inherently vested in local people. Environmentally, the conflict is between preservationist "deep ecology" and the social ecology of development favored by most activist NGOs (Herring 1991). Empirically, in terms of forest conservation, there are no easy conclusions and deep disagreements. Conflicting claims to resource stewardship, conservation values, employment and social justice are no easier to resolve in poor countries than in the old growth forests of the United States; the normative and political issues are homologous. How do we specify these trade-offs?

Conclusions: What Might Work? There is no space in this brief intervention to cover the intense debates around poverty, injustice and environmental protection. There are some areas
which deserve more policy attention: 1) **resurrection of the commons**: experiments in creating governance through restructuring of command-and-control systems to include joint-property and state-society linkages at a very local level may overcome some of the political inequality that corrodes governance of nature; eco-restoration projects with direct benefits to the poor promise justice with greening, but are administratively difficult. 2) **distributing and establishing intellectual property rights in biota**: as biotechnology enhances the prospects of commercializing biofunctions and genetic materials, those who have foregone the opportunities of exploiting through destruction of their environments need intellectual property rights and the benefits that flow therefrom. The alternative of vesting these rights in nation states, as the biodiversity treaty does, is not optimal from a justice or poverty-alleviation standpoint. 3) **land reform**: Pressures for cultivating ever more marginal land can be alleviated by rationing productive land and redistributing away from rentiers and speculators toward farmers; justice in land systems coincides with environmental protection. 4) **good-faith gestures**: Unless nations of the “North” provide real evidence of willingness to make some sacrifice on matters of global collective goods, cynicism in the “South” is validated and undermines meaningful governance. Compliance in governance of the global commons becomes more thinkable to the extent that the rhetoric about global community and shared sacrifices resonates with practice.

Part of the justice discourse in the South constructs environmental protection as a “luxury” which poor nations and people cannot afford; in a hierarchy of needs, human welfare comes first. This construction is counterproductive. More often than not, environmental protection is crucial to the poor, who are more primary product and natural-resource dependent than the rich. Fishermen, loggers, peasants, hunters and gatherers -- all are less able to escape environmental degradation than are the well off; moreover, all are better able to take advantage of labor-intensive nature-based opportunities than are the rich. The stake of the poor in environmental protection is fundamental. Nevertheless, it is precisely an uneven distribution of resource use and opportunities that makes global or even national solutions problematic in terms of justice. If the consumption of the center -- globally and nationally -- creates crises which force sacrifices from the periphery, constituting public authority to mandate and enforce those sacrifices will be impeded, often defeated. Thus justice is not simply the first principle of social systems, it is a necessary condition for efficacious policy.
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