

Climate justice involves more than a fair distribution of benefits and burdens: It requires radical, structural change

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As part of our series on the Dahrendorf Symposium, [Anna Grear](#) writes on the concept of 'climate justice'. Broadly speaking, climate justice incorporates a view of the effects of climate change as an ethical issue relating to principles such as social and environmental justice. She argues that climate justice is best illustrated by focusing on the nature of 'climate injustice', and that rather than simply requiring a fair distribution of the effects of climate change, climate justice will require radical structural change if it is to be realised in practice.



On 23rd September 2013, the global High Level Advisory Committee to the Climate Justice Dialogue, an initiative including former presidents and other leaders from a range of relevant fields (politics, science, business, civil society and academia) [issued a Declaration on Climate Justice](#). The [Declaration](#) sets out five priorities for securing 'a just and sustainable future;' empowering those most affected by climate change; reducing emissions; establishing a new investment model; enforcing accountability; and building strong legal frameworks.

The emergence of the concept and language of 'climate justice' in national and international policy agendas and debates in Europe and beyond is undoubtedly a valuable and timely contribution to reflections on the social and legal aspects of climate change. There are, however, significant reasons to be wary of future dangers facing the language and concept of 'climate justice,' for critical scholarship reveals a genuine possibility that the concept (just as ['human rights' and 'sustainable development' before it](#)) will fall prey to corporate co-option in the service of 'business as usual.'

Indeed, it is painfully obvious that neither human rights law nor environmental regulation and governance regimes have to date delivered the paradigm shift required by the climate crisis. In his [extensive 2013 review](#) of environmental governance, Stephen Turner argues that 'the global legal architecture' is thoroughly *implicated* in the root causes of environmental degradation— that 'the very design of the law itself is fundamentally predisposed to environmental degradation and forms part of a dysfunctional global legal architecture which *cannot* achieve environmental sustainability.' Key to Turner's critique is the power, position and legal form of the corporation. Given extensive evidence of the [corporate colonisation of human rights law](#) and of [corporate influence over key institutions of the global order](#), the vexed question of whether the concept of 'climate justice' can break with this impasse can by no means be lightly dismissed.



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It may even be that 'climate justice' is especially vulnerable to cooptation, because by focusing on justice we are perhaps more likely to consider a solution 'just' or 'more just' whenever even the smallest progress is made. Such semantic vulnerability stems, in part, from the traditional hierarchical language of justice itself: In talking about

climate justice we may be drawn to particular acts of justice or injustice and it may become too easy to overlook the more demanding and complex structural issues pointing to the need for much more radical, systemic engagement and transformation.

None of this analysis implies that 'climate justice' language should be abandoned – far from it. It does suggest, however, that its meaning must be forged in an ongoing critical reflexivity, and be contended for in the light of discursive mutations highly likely to emerge from corporation-friendly juridical, economic and political ontologies and practices of power.

How can we approach this? Perhaps we should start with the recognition that 'climate justice' will be best illuminated and achieved, not by a reflection upon the positive characteristics of climate justice (important as those are) but by a sustained genealogical reflection – informed by critical legal scholarship – upon the contours and characteristics of climate injustice.

When we look through this lens, we realise that the climate crisis is and always was a crisis of human hierarchy. Moreover, this hierarchy problem relates directly to the law's conception of what constitutes a legal subject: law's fundamental conception of agents as rational and disembodied emerges from a critical socio-historical account as being operatively fundamental to [a juridical privileging of the corporate form](#).

The search for a substantive and genuinely inclusive climate justice, therefore, should be informed by – amongst other things – the need to 're-engineer' the corporation's juridical constitution. Second, it should be informed by the need to expand our conception of what a legal subject is and ought to be – in part, through transformations in juridical standing and the development of new advocacy and process practices, and in part via a reformulation of legal personhood itself. Finally, it should also take account of the need to diversify legal conceptions of agency and to embrace adaptive, complex self-governance responses emerging in non-state and commons-based initiatives.

A focus on climate injustice demonstrates what climate justice requires even beyond an equitable distribution of benefits and burdens. Achieving climate justice requires digging into the deep structural issues producing a thoroughly tilted juridical field, which if unaddressed, will always run the risk of defeating climate justice initiatives. A notion of climate justice needs to be forged in the light of critical reflection on climate injustice, to emerge as semantically alert, reflexively open, adaptive and capable of fluid forms of resistance to inevitable future attempts at its cooptation and capture.

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Anna Grear is the Founder and Director of the Global Network for the Study of Human Rights and the Environment, Founder and Co-Editor in Chief of the well-respected Journal of Human Rights and the Environment, and a legal theorist whose work focuses largely upon questions of the law's construction of the human being and of the human relationship with the world, broadly conceived.



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