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CLIMATE CHANGE:

GOVERNMENT, PRIVATE PROPERTY, AND INDIVIDUAL ACTION*

by Paul Babie**

INTRODUCTION

Climate change is a private property problem. Some may react strongly to such a bold claim—after all, private property is seen as a solution to the crisis, as illustrated by the current fascination with the “commodification”¹ and “proptertization”² of carbon through “cap-and-trade”³ schemes.⁴ Notwithstanding the current fashionability of legislative responses to climate change, in the last year governments seem to be backing away from taking bold action.

In late 2009, the United Nations climate talks in Copenhagen failed to produce a successor agreement to the Kyoto Protocol⁵—participants opted instead for a weak political agreement.⁶ Throughout 2010, this compounded the inability of national governments, especially those of the major developed nations such as the United States⁷ and Australia,⁸ to mitigate greenhouse gas (“GHG”) emissions through “cap-and-trade” legislation aimed at permitting the purchase and sale of rights to emit GHG.⁹ Governments let their initiatives lapse.¹⁰ Some more cynical might say the failure of Copenhagen galvanized the resolve of such governments to oppose mitigating legislation of any kind.¹¹ Finally, at the end of 2010, the Cancún UN climate talks, rather than focusing on mitigation through binding political agreement, issued a set of agreements, a major portion of which aims at adaptation to the changes wrought by the un-mitigated emission of GHG.¹²

As matters currently stand, as of January 1, 2013, the day Kyoto expires, the world will have no binding limits on GHG.¹³ For many,¹⁴ this fact causes real alarm. And it ought to, for this governmental failure stands as a depressing indictment of the effects on people of anthropogenic climate change. Bjørn Lomborg, the self-proclaimed “skeptical environmentalist,”¹⁵ puts it this way:

The risks of unchecked global warming are now widely acknowledged: a rise in sea levels threatening the existence of some low-lying coastal communities; pressure on freshwater resources, making food production more difficult in some countries and possibly becoming a source of societal conflict; changing weather patterns providing favorable conditions for the spread of malaria. To make matters worse, the effects will be felt most in those parts of the world which are home to the poorest people who are least able to protect themselves and who bear the least responsibility for the build-up of greenhouse gases . . . Concern has been great, but humanity has so far done very little that will actually

prevent these outcomes. Carbon emissions have kept increasing, despite repeated promises of cuts.¹⁶

Another way of looking at humanity’s inaction may simply be the recognition, by governments if not yet by humanity as a whole, that what is necessary is nothing short of wholesale change to the dominant concept of private property. This brief essay aims to explain why private property, touted as recently as last year as the saviour to the challenge posed by climate change, may in fact be the source of the problem and why we need to take individual, personal action rather than wait for governments to act for us.

WHAT PRIVATE PROPERTY IS

We begin with liberal theory, from which the dominant contemporary concept of private property emerges.¹⁷ Liberalism concerns itself with the establishment and maintenance of a political and legal order which, among other things, secures individual freedom in choosing a “life project”—the values and ends of a preferred way of life.¹⁸ In order for life to have meaning, some control over the use of goods and resources is necessary; private property is liberalism’s means of ensuring that individuals enjoy choice over goods and resources so as to allow them to fulfill their life project.¹⁹

In simple terms, the liberal conception of private property is a “bundle” of legal relations (or rights) created, conferred, and enforced by the state (through law) between people in relation to the control of goods and resources.²⁰ At a minimum, these rights typically include use, exclusivity, and disposition.²¹ One can use one’s car (or, with few exceptions, any other tangible or intangible good, resource, or item of social wealth), for example, to the exclusion of all others, and may dispose of it. The holder may exercise these rights in any way to satisfy personal preferences and desires.²² Alternatively, crafting this in a way that comports with the language of liberal theory—rights are the shorthand way of saying that individuals enjoy choice about the control and use of goods and resources in accordance with and to give meaning to a chosen life project.

* This is a revised version of Paul Babie, *Private Property: the Solution or the Source of the Problem?*, 2 *AMSTERDAM L. F.*, no. 2, 2010 at 17, <http://ojs.uvu.vu.nl/alf/article/view/124/231>.

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Notice, though, that in this definition, such rights exist only as a product of relationship between individuals. This is significant, for it focuses our attention on the fact that where there is a right (choice) to do something, there is a corresponding duty (a lack of choice) to refrain from interfering with the interest protected by the right.²³ Rights would clearly be meaningless if this were not so. As concerns a particular good or resource, then, the liberal individual holds choice, while all others (the community, society) are burdened with a lack of it. C. Edwin Baker summarizes the idea of rights and relationship this way: “[private] property [i]s a claim that other people ought to accede to the will of the owner, which can be a person, a group, or some other entity. A specific property right amounts to the *decisionmaking authority* of the holder of that right.”²⁴

Private property, then, is not merely about the control and use of goods and resources, but also significantly about controlling the lives of others.²⁵ Using evocative and graphic language, Roberto Mangabeira Unger puts it this way:

[t]he right [choice] is a loaded gun that the rightholder [the holder of choice] may shoot at will in his corner of town. Outside that corner the other licensed gunmen may shoot him down. But the give-and-take of communal life and its characteristic concern for the actual effect of any decision upon the other person are incompatible with this view of right²⁶

Identifying the importance of relationship reveals the fact that private property and non-property rights overlap; choices made by those with the former have the potential to create negative outcomes—consequences, or what economists call “externalities”—for those with the latter.²⁷ At the highest level of generality, Unger’s “gunman” is vested with absolute discretion to “an absolute claim to a divisible portion of social capital[]” and that “[i]n this zone the rightholder [can] avoid any tangle of claims to mutual responsibility.”²⁸ The individual revels in “a zone of unchecked discretionary action that others, whether private citizens or governmental officials, may not invade.”²⁹

Every legal system acknowledges this problem and, in doing so, seems to accept that with rights come obligations towards others.³⁰ The state, through law, creates private property, just as through that same law (what is more commonly known as regulation), it is said to mediate the socially contingent boundary between private property and non-property holders. This is, in fact, the essence of private property—state conferral of self-serving rights that come with obligations towards others.³¹

Yet there is something much more disturbing lurking just below the surface of what appears to be state control aimed at preventing harmful outcomes like those of climate change. What is really being conferred by private property is what Duncan Kennedy calls the legal ground rules giving “permissions to injure” others, to cause legalised injury.³² This is insidious, for “we don’t think of [them] as ground rules at all, by contrast with ground rules of prohibition. This is Wesley Hohfeld’s insight: the legal order permits as well as prohibits, in the simple-minded sense that it *could* prohibit, but judges and legislators reject

demands from those injured that the injurers be restrained.”³³ And they are invisible, in the sense, that

when lawmakers do nothing, they appear to have nothing to do with the outcome. But when one thinks that many other forms of injury are prohibited, it becomes clear that inaction is a policy, and that law is responsible for the outcome, at least in the abstract sense that the law could have made it otherwise It is clear that lawmakers *could* require almost anything. When they require nothing, it looks as though the law is uninvolved in the situation, though the legal decision not to impose a duty is in another sense the cause of the outcome when one person is allowed to ignore another’s plight.³⁴

This brings us full circle to the broader liberal theory with which we began, for the importance of relationship in understanding private property reveals an important, yet paradoxical, dimension of choice. It is simply this: the freedom that liberalism secures to the individual to choose a life project means that in the course of doing that, the individual also chooses the laws, relationships, communities, and so forth that constitute the political and legal order. In other words, in the province of politics people choose their contexts (through electing representatives, who enact laws and appoint judges who interpret those laws), which in turn defines the scope of one’s rights—choice, decisionmaking authority—and the institutions that confer, protect and enforce it (bearing in mind the ground rules of permission as well as the ground rules of prohibition). Individuals as much choose the regulation of property as they do the control and use of goods and resources.³⁵

HOW PRIVATE PROPERTY FACILITATES THE EXTERNALITIES OF CLIMATE CHANGE

When we focus on relationship as central to private property and the political-regulatory contexts we choose, we begin to see something else that was always there, although it was hidden from our view. The externalities of private property create many other types of relationship in which the lives of many are controlled by the choices of a few.³⁶ Anthropogenic climate change is a stark example.

While the science is complex, it is clear enough that humans, through their choices, produce the GHG that enhance the natural greenhouse effect, which heats the earth’s surface.³⁷ Among other effects, anthropogenic climate change results in drought and desertification, increased extreme weather events, and the melting of polar ice (especially in the north) and so rising seas levels.³⁸ We might call this the “climate change relationship.” Private property, as a concept, facilitates choice (both human and corporate) about the use of goods and resources in such a way that emits greenhouse gases.³⁹

Our choices about goods and resources cover the gamut of our chosen life projects: where we live, what we do there, how we travel from place to place and so forth. Corporate choices are equally important, for they structure the range of choice available to individuals in setting their own agendas, thus giving

corporations the power to broaden or restrict the meaning of private property in the hands of individuals.⁴⁰ Green energy (solar or wind power), for instance, remains unavailable to the individual consumer if no corporate energy provider is willing to produce it.⁴¹

Externalities do not end at the borders, physical or legal, of a good or resource; choices occur within a web of relationships, not only legal and social, but also physical and spatial. Who is affected? Everyone, the world over, is affected, with the poor and disadvantaged of the developing world disproportionately bearing the brunt of the human consequences of climate change⁴²—decreasing security, shortages of food, increased health problems, and greater stress on available water supplies. Indeed, as Jedediah Purdy argues,

[c]limate change threatens to become, fairly literally, the externality that ate the world. The last two hundred years of economic growth have been not just a preference-satisfaction machine but an externality machine, churning out greenhouse gases that cost polluters nothing and disperse through the atmosphere to affect the whole globe.⁴³

Consider human security. It will decrease both within countries affected directly by climate change, and in those countries indirectly affected through the movement of large numbers of people displaced by the direct effects of climate change in their own countries.⁴⁴ In the case of rising sea levels, for instance, sixty percent of the human population lives within one hundred kilometers of the ocean, with the majority in small- and medium-sized settlements on land no more than five meters above sea level.⁴⁵ Even the modest sea level rises predicted for these places will result in a massive displacement of “climate”

or “environmental refugees.”⁴⁶ Private property, by securing choice about the use of goods and resources to those in the developed world, makes all of this possible.

CONCLUSION: IS IT THE SOLUTION?

Nonetheless, private property and the commodification upon which it depends seem to be in vogue at the moment as a solution to anthropogenic climate change. Creating a proprietary interest in carbon that can be bought and sold is the answer—is the political choice, it is claimed and we believe—to the climate crisis. Is it really? We could just as easily say that the concept of private property is the primary culprit. Is it wise to entrust the solution to the concept that put us here? Or might it be more appropriate, as Mike Hulme suggests, to “see how we can use the idea of climate change—the matrix of ecological functions, power relationships, cultural discourses and material flows that climate change reveals—to rethink how we take forward our political, social, economic, and personal projects over the decades to come.”⁴⁷

Before we pin our hopes on it as a cure-all, we might ask first whether the liberal concept of private property is ripe for just such a reappraisal. We can choose, but we must do so with our eyes open to the reality: that private property and the contexts in which we live are in fact *our* choice, not that of governments. We can no longer wait for government to act, with cap-and-trade schemes or any other form of regulation. At the very least, it is not enough, and at worst, it will take too long. Now is the time to act. And only we can take action. In exercising choice about our context and about goods and resources, we must take responsibility for ourselves, rather than waiting for our governments to act for us.⁴⁸



Endnotes: Climate Change: Government, Private Property, and Individual Action

¹ See MARGARET JANE RADIN, *CONTESTED COMMODITIES: THE TROUBLE WITH TRADE IN SEX, CHILDREN, BODY PARTS AND OTHER THINGS* 1-16 (1996).

² See Kevin Gray, *Property in Thin Air*, 50 *CAMBRIDGE L.J.* 252, 257-58 (1991).

³ See, e.g., American Clean Energy and Security Act of 2009, H.R. 2454, 111th Cong. (2009). This bill is also referred to by the names of its sponsors, Congressmen Waxman and Markey.

⁴ The popular press and media are filled with analysis of such schemes. For a recent example, see *Lexington: A Refreshing Dose of Honesty*, *ECONOMIST* (Feb. 4, 2010), http://www.economist.com/world/usa/displaystory.cfm?story_id=15453166.

⁵ Kyoto Protocol to the United Nations Framework Convention on Climate Change, Dec. 11, 1997, 2303 U.N.T.S. 148 (entered into force Feb. 16, 2005), <http://unfccc.int/resource/docs/convkp/kpeng.pdf>.

⁶ United Nations Framework Convention on Climate Change, 15th Conference of the Parties, Copenhagen, Den. Dec. 7-19, 2009, *Copenhagen Accord*, 2/CP.15, in *Part Two: Action Taken*, U.N. Doc. FCCC/CP/2009/11/Add.1 (Mar. 30, 2010), <http://unfccc.int/resource/docs/2009/cop15/eng/11a01.pdf>; see also BJØRN LOMBORG, *SMART SOLUTIONS TO CLIMATE CHANGE: COMPARING COSTS AND BENEFITS* 1 (2010); David King, Editorial, *No Cause for Climate Despair*, *NEWSIDENTIST*, June 16, 2010, at 3, <http://www.newscientist.com/article/mg20627652.900-david-king-no-cause-for-climate-despair.html> (noting that the Copenhagen talks at least gave the world a goal to avoid global temperature increases of 2 degrees Celsius); Fred Pearce, *Is it Time to Say Goodbye Cool*

World?, *NEWSIDENTIST*, June 15, 2010, at 8, <http://www.newscientist.com/article/mg20627650.401-is-it-time-to-say-goodbye-cool-world.html> (discussing the climate talks in Bonn, Germany). While COP 15 received global attention as an historic opportunity to produce an internationally legally binding successor to the Kyoto Protocol for the mitigation of anthropogenic climate change, COP 16, held from November 29, 2010 through December 10, 2010 in Cancún, Mexico, received understated coverage and sought modest outcomes, limited largely to incremental developments concerning multilateral processes for achieving industrialized country emissions targets and actions to reduce emissions, an agreement to prevent a gap between the Kyoto Protocol and its successor, clean development mechanisms to encourage investment in infrastructure aimed at reducing emissions, initiatives to protect the vulnerable from climate change, and various strategies aimed at adaptation to climate change. *The United Nations Climate Change Conference in Cancun, COP 16 / CMP 6, 29 November–10 December 2010*, UNFCCC [hereinafter *COP 16 / CMP 6*], http://unfccc.int/meetings/cop_16/items/5571.php (last visited Feb. 25, 2011).

⁷ See, e.g., Clean Energy Jobs and American Power Act, S. 1733, 111th Cong. (2009), <http://www.govtrack.us/congress/bill.xpd?bill=s111-1733>; Carbon Limits and Energy for America's Renewal (CLEAR) Act, S. 2877, 111th Cong. (2009), <http://www.govtrack.us/congress/bill.xpd?bill=s111-2877>; Clean Energy Act of 2009, S. 2776, 111th Cong. (2009), <http://www.govtrack.us/congress/bill.xpd?bill=s111-2776>; Clean Energy Partnerships Act of 2009, S. 2729,

111th Cong. (2009), <http://www.govtrack.us/congress/bill.xpd?bill=s111-2729>; American Clean Energy Leadership Act of 2009, S. 1462, 111th Cong. (2009), <http://www.govtrack.us/congress/bill.xpd?bill=s111-1462>; American Clean Energy and Security Act of 2009, H.R. 2454, 111th Cong. (2009), <http://www.govtrack.us/congress/billtext.xpd?bill=h111-2454>; see also NICOLA DURRANT, LEGAL RESPONSES TO CLIMATE CHANGE (2010). *But see America, China and Climate Change: Let's Agree to Agree*, ECONOMIST (Nov. 21, 2009), http://www.economist.com/displayStory.cfm?story_id=14915108 (arguing that the U.S. Senate was not the only party to blame; the negotiations leading up to Copenhagen sabotaged it by increasing the number of things on the table for discussion).

⁸ Other jurisdictions, such as Australia, are currently embroiled in their own attempts to enact climate change legislation, see, e.g., Carbon Pollution Reduction Scheme Bill 2009 [No. 2], Oct. 29, 2009, ISSN 1328-8091 (Austl.), and a suite of complementary legislative enactments (noting that they were all defeated in the Australian Senate on December 2, 2009).

⁹ *But see* Gerald Trautetter, *The US and China Joined Forces Against Europe*, SPIEGEL ONLINE (Dec. 8, 2010) (citing cables that the United States and China worked together to prevent any binding agreement at Copenhagen); *The Road from Copenhagen: The Experts' View*, NATURE REPORTS CLIMATE CHANGE (Jan. 28, 2010), <http://www.nature.com/climate/2010/1002/full/climate.2010.09.html> (noting that the outcome of the Copenhagen climate summit was merely an agreement to meet again in twelve months in Mexico); Scott Barrett, *How to Prevent Climate Change Summit from Failure*, YALEGLOBAL (May 1, 2009), <http://yaleglobal.yale.edu/content/prevent-climate-change> (recommending the United States to negotiate a skeleton agreement that lays a foundation to allow for improvements over time).

¹⁰ See Stefan Theil, *A Green Retreat: Why the Environment is No Longer a Surefire Political Winner*, NEWSWEEK (July 12, 2010), <http://www.newsweek.com/2010/07/12/a-green-retreat.html> (discussing the climate politics that have slowed the movement towards meeting environmental goals); *Climate-change Policy: Let it Be*, ECONOMIST (July 29, 2010), <http://www.economist.com/node/16693691> (noting that although President Obama instructed lawmakers to “tackle our addiction to fossil fuels,” the energy bill unveiled on July 27, 2010 did not further that initiative); see also *America's Climate Policy: Capped*, ECONOMIST (July 31, 2010), <http://www.economist.com/node/16693293> (stating that although the Senate's retreat from cap-and-trade may lead to a carbon tax, it currently leaves “a dreadful mess”); *Carbon Pollution Reduction Scheme*, AUSTRAL. GOV'T DEP'T OF CLIMATE CHANGE & ENERGY EFFICIENCY (May 5, 2010), <http://www.climatechange.gov.au/media/whats-new/cprs-delayed.aspx> (reporting that the Prime Minister decided to delay the implementation of the Carbon Pollution Reduction Scheme due to the lack of bipartisan support and slower process on global action on climate change); *Rudd Delays Carbon Scheme Until 2012*, SYDNEY MORNING HERALD (Apr. 27, 2010), <http://www.smh.com.au/business/rudd-delays-carbon-scheme-until-2012-20100427-tp29.html?comments=41> (noting that the Senate is seven votes short of passing the carbon pollution reduction scheme).

¹¹ See *Leaders: Cooling the Earth*, ECONOMIST: THE WORLD IN 2011 (Nov. 22, 2010), <http://www.economist.com/node/17492961> (arguing for the broadening of the climate change approach and for climate-ready development, even if it is not climate-proof); *Carbon Pollution Reduction Scheme*, AUSTRAL. GOV'T DEP'T OF CLIMATE CHANGE & ENERGY EFFICIENCY (May 5, 2010), <http://www.climatechange.gov.au/media/whats-new/cprs-delayed.aspx>; COP 16: *Cancun—Corporate and Complicit*, THE LAZY ENVIRONMENTALIST (Dec. 18, 2010), <http://thelazyenvironmentalist.blogspot.com/2010/12/cop-16-cancun-corporate-and-complicit.html> (arguing that the United Nations is no longer protecting the interests of its people or the planet).

¹² COP 16 / CMP 6, *supra* note 6.

¹³ Indeed, the recently concluded U.N. Climate Change Talks held in Cancún, Mexico accept the inevitability of international and domestic failure to mitigate anthropogenic climate change by adopting a number of mechanisms aimed at adaptation to the effects of such climate change. See *id.*; Press Release, UN Climate Change Conference in Cancún Delivers Balanced Package of Decisions, Restores Faith in Multilateral Process, U.N. Press Release (Dec. 11, 2010), http://unfccc.int/files/press/news_room/press_releases_and_advisories/application/pdf/pr_20101211_cop16_closing.pdf (detailing the components of the Cancún Agreements).

¹⁴ See *Climate Change*, GALLUP (last visited Feb. 3, 2011), <http://www.gallup.com/tag/Climate%2bChange.aspx> (providing synopses of current public perceptions of climate change, biodiversity, clean water, and air quality).

¹⁵ Bjørn Lomborg, <http://www.lomborg.com> (last visited Feb. 4, 2011).

¹⁶ LOMBORG, *supra* note 6, at 1.

¹⁷ See Alan Ryan, *Self-Ownership, Autonomy and Property Rights*, 11 Soc. PHIL. & POL'Y 241-58 (1994) (discussing the different theories of self-ownership); Gerald Gaus, *Property and Ownership*, in OXFORD HANDBOOK OF POLITICAL PHILOSOPHY 1-4 (David Estlund ed.) (forthcoming Mar. 2011), <http://www.gaus.biz/PropertyOwnership.pdf> (last visited Feb. 4, 2011) (noting that the liberal theory “stresse[s] an intimate connection between a free society and the right to private property”); Joseph William Singer, *How Property Norms Construct the Externalities of Ownership*, in PROPERTY AND COMMUNITY 57, 66-70 (Gregory S. Alexander & Eduardo M. Peñalver eds., 2010) (stating that norms, or what Charles Taylor calls “social imaginaries,” shape one's understanding of legal institutions including private property).

¹⁸ See MICHAEL J. SANDEL, LIBERALISM AND ITS CRITICS 1 (1984) (discussing different arguments concerning the freedom of choice and the weight of values, such as toleration, freedom, and fairness, in making decisions); J.W. HARRIS, LEGAL PHILOSOPHIES 277-300 (2nd ed. 2004).

¹⁹ See JOSEPH WILLIAM SINGER, INTRODUCTION TO PROPERTY 2 (2nd ed. 2005); JEREMY WALDRON, THE RIGHT TO PRIVATE PROPERTY (1988); STEPHEN R. MUNZER, A THEORY OF PROPERTY (1990).

²⁰ See SINGER, *supra* note 19, at 2.

²¹ MARGARET JANE RADIN, REINTERPRETING PROPERTY 121-23 (1993). This builds, of course, upon the groundbreaking work of Anthony M. Honoré, *Ownership*, in OXFORD ESSAYS IN JURISPRUDENCE 107 (A.G. Guest ed., 1961), who identified eleven ‘standard incidents’ of ownership.

²² This begins with John Stuart Mill's “self-regarding act.” JOHN STUART MILL, ON LIBERTY (Gertrude Himmelfarb ed., 1974 (1859)); see also Singer, *supra* note 17 (outlining how property norms assist in determining the difference between a truly self-regarding act and one that is not); MUNZER, *supra* note 19, at 3-9 (arguing for a pluralist approach to property).

²³ See generally WESLEY NEWCOMB HOHFELD, FUNDAMENTAL LEGAL CONCEPTIONS AS APPLIED IN JUDICIAL REASONING: AND OTHER LEGAL ESSAYS (Walter W. Cook ed., 1919), http://www.archive.org/stream/fundamentallegal00hohfuoft/fundamentallegal00hohfuoft_djvu.txt (providing the journal articles in published book format); Wesley Newcomb Hohfeld, *Some Fundamental Legal Conceptions as Applied in Judicial Reasoning*, 26 YALE L.J. 710 (1917) (continuing the earlier discussion of basic legal concepts).

²⁴ C. Edwin Baker, *Property and its Relation to Constitutionally Protected Liberty*, 134 U. PA. L. REV. 741, 742-43 (1986) (emphasis added).

²⁵ See Morris R. Cohen, *Property and Sovereignty*, 13 CORNELL L.Q. 8, 13 (1927).

²⁶ See ROBERTO M. UNGER, THE CRITICAL LEGAL STUDIES MOVEMENT 36 (1986).

²⁷ Cf. Singer, *supra* note 17, at 59 (juxtaposing the castle or ownership conception of property with the environmental or good neighbor conception).

²⁸ UNGER, *supra* note 26, at 37-38.

²⁹ *Id.* at 38.

³⁰ Singer, *supra* note 17, at 60-61.

³¹ See JOSEPH WILLIAM SINGER, ENTITLEMENT: THE PARADOXES OF PROPERTY 204 (2000).

³² DUNCAN KENNEDY, SEXY DRESSING ETC. 90-91 (1993) (emphasis in original).

³³ *Id.* at 91 (internal quotations omitted).

³⁴ *Id.* (emphasis in the original, footnotes removed).

³⁵ I am most grateful to Joseph William Singer for bringing this crucial point to my attention. See also PROPERTY AND COMMUNITY (Gregory S. Alexander & Eduardo M. Peñalver eds., 2010), and the essays collected therein.

³⁶ For additional information on social-legal relationships, see WILLIAM TWINING, GENERAL JURISPRUDENCE: UNDERSTANDING LAW FROM A GLOBAL PERSPECTIVE 1-7 (2009), http://www.ucl.ac.uk/laws/academics/profiles/twining/gen_juris.pdf.

³⁷ See Steve Lonergan, *The Human Challenges of Climate Change*, in HARD CHOICES: CLIMATE CHANGE IN CANADA 45 (Harold Coward & Andrew J. Weaver eds., 2004) (arguing that changing land use and increased fossil fuel consumption are primary contributors to GHG).

³⁸ *Id.* at 51-53.

³⁹ See Jedediah Purdy, *Climate Change and the Limits of the Possible*, 18 DUKE ENVTL. L. & POL'Y F. 289 (2008).

⁴⁰ Cf. Lonergan, *supra* note 37, at 50 (noting that it will be necessary “to find a way to maintain a reasonable level of global economic output while reducing our level of fossil-fuel energy consumption”).

⁴¹ However, alternative sources of energy such as solar panels are available to households.

⁴² IPCC, *2007: Summary for Policymakers*, in CLIMATE CHANGE 2007: IMPACTS, ADAPTATION AND VULNERABILITY CONTRIBUTION OF WORKING GROUP II TO THE FOURTH ASSESSMENT REPORT OF THE INTERGOVERNMENTAL PANEL ON CLIMATE CHANGE 7, 7 (Martin Parry et al. eds., 2007), <http://www.ipcc.ch/pdf/assessment-report/ar4/wg2/ar4-wg2-spm.pdf>.

⁴³ JEDEDIAH PURDY, A TOLERABLE ANARCHY: REBELS, REACTIONARIES, AND THE MAKING OF AMERICAN FREEDOM 187 (Alfred A. Knopf ed., 2009).

⁴⁴ See Lonergan, *supra* note 37, at 51 (arguing that climate change results in “environmental refugees”).

⁴⁵ *Id.*

⁴⁶ *Id.*

⁴⁷ MIKE HULME, WHY WE DISAGREE ABOUT CLIMATE CHANGE: UNDERSTANDING CONTROVERSY, INACTION AND OPPORTUNITY 362 (2009).

⁴⁸ See generally JAMES HANSEN, STORMS OF MY GRANDCHILDREN: THE TRUTH ABOUT THE COMING CLIMATE CATASTROPHE AND OUR LAST CHANCE TO SAVE HUMANITY (2009).