HUMAN RIGHTS QUARTERLY

Equity Decisions: Economic Development and Environmental Prudence

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1. INTRODUCTION

Environmental danger, ironically, has engendered new concern and interest on the part of many countries and people towards the environment, and towards one another. This paper will suggest that a common sense ethic of equity demands that those who have caused a wrong should correct it if possible. Some countries may not be able to do so at present. But we in the United States can, and other industrial countries can as well. Why should we? Because it is in our self-interest to do so. But that is only one reason. It is also the right thing to do. This is no less a reason, though perhaps less motivating. Without a notion of what is right, what we ought to do might deteriorate into what we actually do.

The Brundtland Report established a precedent of linking environmental decisionmaking and economic development issues. Environmental risk and equity were given a public format. We, for example, in the developed countries, have used products such as chlorofluorocarbons (CFCs) in refrigerators and other appliances. When released, these CFCs deplete the stratospheric ozone layer, diminishing its capacity to shield the earth from ultraviolet wave lengths. This has not only hastened the depletion of the ozone layer but may also contribute to global warming. Such effects were not intentional, but we are responsible nonetheless. Those outside the Western developed world that use products like CFCs are also accountable (e.g., Eastern Europeans, China, Brazil, and India).

The problem is more pressing because recent evidence indicates that environmental hazards from CFCs may be of greater magnitude and...
destructiveness than first projected. Ozone depletion has accelerated at a rapid rate. Moreover, because CFCs have an estimated lifetime of 100 years, their combined cumulative consequences could be exponentially still greater over time than what is now being experienced.

The magnitude and scope of these issues and decisions clearly transcend national borders. National security must be redefined to include environmental issues. This has set the stage for both international cooperation such as the Montreal Protocol and for greater environmental responsiveness. The Montreal Protocol, signed in 1987 by nearly all CFC-using countries of the world, launched a significant effort to phase-out the use of CFCs by the year 2000 in developed countries, and by the year 2010 in developing countries. To help implement the Protocol, a Multilateral Environmental Fund (money to be used in the phase-out of CFCs) was established to provide compensation to developing countries to assist them in meeting the costs of phase-out activities. The World Bank will be the administrator of this Multilateral Fund, carrying out policies determined by the Executive Committee for the Montreal Protocol concerning funding and the monitoring of CFC phase-out projects.

The Multilateral Fund in support of the Montreal Protocol, and others likely to emerge in support of other areas of sustainable development, may represent the dawning of a new ethic regarding nature. One acknowledges that it is weak and muted, and easily silenced. But it is present, and can be nurtured. This ethic has a long history, but has only reached international prominence recently—remarkably recently. The ethic is international; it transcends the confines of particular habitats and customs. Indeed, the guiding spirit of this ethic is that of global cooperation and equitable burden sharing in combating a common threat. The Multilateral Environmental Fund is but one sign of the growing sense of equitable burden sharing in this area. Oddly enough, the environmental crisis has fostered a climate conducive to the economic development of less fortunate nations—a development funded by the resources of more affluent countries.

Environmental abuse is not a product of any specific political system. In the end, responsibility for environmental destruction is shared by individual people, organizations, and countries whose immediate self-interest was without long-term vision or knowledge. But the challenge remains: how can governments be motivated to care about environmental issues? The world is pressed by many concerns of immediate standing, the more dramatic ones being starvation, war, and abject poverty. These can easily override such seemingly abstract concerns as that of ozone depletion. After all, how many people read Nature or Science or other technical journals, or watch PBS or

BBC. One goal of Global Environmental Funding is to make the phenomenon more real by making environmental dangers part of the concrete concerns of more and more individuals.

In this paper we will outline several theories of equity and explore their implications in the specific context of stratospheric ozone depletion and the phasing out of CFCs.

First, we argue that equity matters are public, accessible, and basic to the culture that we live in, and that the legitimation of equitable treatment in a particular context depends on participation in the decisions, as well as the costs and benefits of these decisions.

Second, we look to expand the notion of utility to include that of equity, so that individuals and communities in our discussion may draw satisfaction not only from fulfilling their own needs but also from the knowledge that others' needs are being fulfilled.

Third, we invoke moral rules that have as their principle aim the consideration of others in the context of choice as well as a distributive principle that insists that the least well off must be made better off. We suggest that funds for development reflect a notion of positive rights.

Fourth, we envision equity considerations as evolving in a cultural climate that is appreciative of moral inquiry, and we place equity considerations in the context of other forms of inquiry. Equity considerations are informed by historical circumstance and culture. They are therefore public, self-corrective, and can be tied to efficiency factors.

Finally, we suggest that there are several important trends in the consideration of equity as it relates to environmental constraints and economic development, and that these provide a rich area of inquiry which is of fundamental importance for international cooperation and environmental decisionmaking.

II. HISTORICAL SETTING FOR EQUITY CONSIDERATIONS

We begin by exploring the historical setting for equity in social or public choice contexts. We do so by stating several propositions concerning equity.

A. Equity is Public: The Importance of Participation

Considerations of equity are ancient and have been expressed in various cultures. In the West, there have evolved disparate and competing ways of envisioning equity or fairness. What interests us is the fact that equity considerations are public. By public we mean that equity decisions are objective and they reflect the culture one lives in. Equity decisions in our culture have to do with being able to participate and decide on matters that affect us; equity decisions impact citizenship.

Those citizens participating in the polis are accorded the function of pursuing equity and facilitating justice. Justice, equity, and balanced action are the backbone for ethical transactions. While only citizens, for example, could participate in the polis in ancient Greece, issues of fairness and equity nonetheless found a public forum in which they could be discussed. Equity is not a private mental state. It is a public fact. Equity is a norm; it serves as a standard for what we ought to do, how we ought to decide, and how we ought to act. Participation in the polity, as has been long recognized, is a mark of citizenship and responsibility.

The social structure that we live under reveals the values that underlie our decisionmaking. What we value, what we find just, are as real as the culture that we live in. And they are expressed in the institutions, or bureaucracy, that are erected to administer equity. What specific issues like CFCs provide are the opportunity for bureaucracies to be impartial vehicles for fair distribution? Impartial moral and social rules are embodied in a public body; and in this case an international body: The World Environmental Fund. One possible result is greater civic participation as well as economic development. The public facts of equity are as real as the propositions of Euclid.

One exciting dimension of the global response to CFCs is the public, international, and participatory support for ameliorating a wrong because of an impending environmental danger. Justice, or equity, is public; it does not exist solely in the minds of individuals. Equity is neither strictly an abstract rule of the mind nor solely the expression of a preference of one's desires. It has the smell of the real and of the important, and it requires participation to be realized.

B. Equity and Inquiry: Expanding Participation

The enlargement of the polis, participation, and equity was ignited by the Renaissance, the Reformation, and the Enlightenment. From the Renaissance came a rediscovery of classical thinkers coupled with the rise of experimental science. With the Reformation there emerged a further


thought traditionally considered fair and right was the limitation of constraints placed upon one by the state. Liberalism contended that society itself prospered from the cumulative effect of individuals pursuing their own interests. The function of government was deemed to be merely the promotion of participation in the market place. Such was Adam Smith’s economic vision, and this vision he thought would result in forms of development and prosperity.6

According to the classical utilitarian view of economic action, self-interest motivates action. Utilitarians would contend that it is in our own self-interest to care about how environmental factors may undermine our quality of life. The ethical theory that Smith, and later Bentham and Mill articulated, was that what counts in the calculus of utility is the satisfaction of one’s interests, to think for oneself, to believe in the kind of God one chose, and to be represented and participate in the decision making processes that affected one’s life. Rights are perhaps now extended to other domains such as the environment. The idea that rights are universal and are owed in particular to those who have little remains essential to the concept of a right.

The legacy of this is the age in which we now live. Its legal heir is embodied in the UN Charter and the expansion of the doctrine of rights, equity being an essential right, and thus part of the world’s agenda. Rights are therefore historical and reflect one’s culture. While Enlightenment thinkers thought that equity was objective as science, they also made it a part of the fabric of science. Rights vary, and our notions of equity evolve. Even now, our notions of equity are evolving, becoming ever more inclusive and yet less modeled on the notion of social welfare. Culture varies, and our notions of equity evolve. Even now, our notions of equity are evolving, becoming ever more inclusive and yet less modeled on the notion of social welfare in religion or science. Recent centuries have seen a much more cultural and social relativist notion of rights evolve, and rights and issues of equity are now deemed historically bound, subject to correction and change, and reflecting what we take to be important. The most important ingredient of the self-corrective method of inquiry is, of course, participation by well-intentioned individuals. What we see as an advance, partially generated by the environmental movement, is a forum to discuss such issues. This is new. The growth of participation is one reason why we are hopeful.

III. FREE MARKETS AND UTILITARIANS: NEGATIVE RIGHTS AND FREEDOM

Freedom to pursue one’s interests, as long as they are not harmful to others, is a basic right. According to modern liberal thought, this fact, coupled with our moral sensibilities, results in the development of wealth. What liberal

impact and environmental analysis is now part of the decisionmaking process, at least to some degree. Environmental factors, in other words, now constrain the expression of negative rights. Negative rights—the right not to be interfered with, the right to allow people to pursue their interests fully, with market mechanisms alone as the sole vehicle—may not ensure environmental prudence. Moreover, traditional market mechanisms do not necessarily enlarge the participation of individuals, a central foundation for defining and evaluating the equity of public policies.9

Even in the field of economics, long the sole domain of utilitarians, equity is becoming an important feature of policy evaluation.10 With regard to CFC phase-out, how does one switch to non-CFC use in a reasonable fashion? Efficiency dominates, but not absolutely. Tradeoffs are recognized, and the importance of participation for achieving a fair process and outcome has been established.

IV. MORAL RULES, PARTICIPATION, AND DISTRIBUTIVE JUSTICE: POSITIVE RIGHTS

Moral rules legislate actions, and can be distributive in their implications for justice or fairness. Moreover, there is a relationship between the response to distribute equitably and to promote development, and the doctrine of positive rights.

For Enlightenment thinkers like Kant, equity considerations require consideration of others in one’s deliberations, and perhaps those that have not fared well. In this view, the “categorical imperative” legitimates an action because it forces one to consider whether anyone in similar situations could make the same decision. The equity decision has as its basis the consideration of others. It is a moral rule that enlarges the range of moral agents that can participate in the decisionmaking process; and that legitimation is strengthened by the fact that anyone can in principle make the same decision. What is fair and equitable is the attempt to include others in one’s own decision, premised on the understanding that they should do the same.

The second moral rule (under consideration) is one elaborated upon some twenty years ago by John Rawls.11 It is a rule about fairness in distribution based in part on self-interest. It is a moral rule that stipulates that when one does not know whether one will end up on the short end of things, it may be individually as well as socially desirable to set policy before the outcome is known to ensure that the least well off member of an affected group is as well off as possible. Rawls calls this acting under the “veil of ignorance.” The resulting equity rule is a rule that says: act fairly by ensuring an ex ante equitable distribution of burden and benefit. This rule will assure you of reasonable treatment even if you occupy the most disadvantaged role in society.

Such moral and equity rules figure in the mandate of world economic development, namely to compensate and help those that are worst off. But this is difficult. Distributive justice is what is of concern; how to distribute wealth so that the least well off do better, and to promote greater participation in decisionmaking processes. The CFC phase-out provides an interesting current example of this endeavor. Because there is considerable uncertainty about what the ultimate consequences of ozone depletion might be, it makes sense to move as quickly as possible to avoid a worst case exposure scenario, regardless of the geographic location. This entails compensating least developed countries (LDCs) to ensure their participation, and this clearly has distributional effects. But equity may not be the driving motive for many developing countries to contribute to this effort; rather it may be the motivating rationality of the “veil of ignorance” concerning what the effects on these developing countries of ozone depletion may be in the future.

Positive rights, in contrast to negative rights described in the preceding section, are more closely related to those of distributive justice or equity (e.g., the UN Declaration on Human Rights). Positive rights are implicated in the context of environmental issues such as CFC use. To reiterate, negative rights traditionally have to do with governments ensuring that one’s liberties are not interfered with; that one can pursue one’s interests. This view is well known from Locke and Mill through Nozick.12 Positive rights are concerned with inducing change, in some contexts by righting past wrongs. Past wrongs like environmental degradation are compensated for by making amends for the past. Positive rights are also about having certain ends or goals, and then working towards their realization. Such goals can include those discussed above: enlarging the participation of citizenship, and fostering economic or environmental equity as judged by the condition of the least well off. Positive rights are closely tied to distributive justice—what we seek in responding to environmental danger or degradation. We use mechanisms such as the Environmental Fund to promote development at the same time that we correct the environmental consequences of our

actions. This is very much in the spirit of the Brundtland Report. Countries are obligated to participate.\(^{13}\)

V. RIGHTS, PARTICIPATION, AND DECISIONS ABOUT THE FUTURE

Environmental dangers like CFCs remind us to think about the future. Thinking about the future in environmental terms may generate an ethic of living with less, with distributing more, and with the task of changing perspectives. Decisions about intergenerational equity is part of what we consider now. When one makes a decision part of what one may consider, particularly when it comes to environmental issues, is how it will impact on future generations.

At one level of analysis, biologically, it is in our interest to do so. If the end point of evolution is successful reproduction, one of the main principles governing our behavior is the goal of selfishly trying to continue our gene pool,\(^{14}\) or our social pool. Selfishness in the hands of evolutionary biologists is altruistic: you help others if they are in your gene (or cultural) pool. There is greater inclusion inherent in this principle than ever before. The ambit of such decisionmaking is no longer circumscribed by one's particular gene pool or ethnic group—it now encompasses all of humanity. By thinking ahead, we act to curtail environmental dangers, to safeguard those in future generations, and to expand the consideration to include those in our current generation with less than we have.

One therefore speaks of “trust funds.”\(^{15}\) The cultural context for a fund is economic in import, but ecologically sane and directed towards “planetary funds” as one of our goals. We are taking a trust out for the future; those future generations that will inhabit this planet. We plan ahead for their future, by curtailing our own behavior, or at least by changing it. Equity considerations ensure that future generations will have an opportunity to live well, that positive rights will be extended to them, and that distributive deliberations will take them into account.

What we are witnessing is the enlargement of our moral space. This process has simultaneously allowed us to expand the idea of rights to include those classes of people that are future generations. To have rights is also to be the bearer of duties, and our duties are geared toward future generations. Environmental responsibility is central to an ethic of caring for those to come. Such responsibility inspires world bodies to adjudicate environmental wrongs and to balance our duties to the future generations against the welfare of the present generation.

When working from within a biological or physiological regulatory framework, thinking ahead involves moving beyond homeostatic kinds of regulation (or reasoning) to allostatic. Allostatic reasoning is about responding to something that is needed now, and that needs repair; it usually entails acquiring what is needed, or fixing some damage. But sometimes the damage can be so great that there is no fixing it. It would be better to avoid the damage altogether. Allostatic responses are about thinking about what is to come; it is about preparing for the future. They are anticipatory. Anticipatory reasoning is more evolved than merely reacting. What has made us good survivors in the natural world is anticipating danger, and then avoiding it. Such anticipatory reasoning and behavior reflects a more evolved capacity when thinking in terms of evolution and regulation. One key fact about CFCs and other environmental issues is that they force us to think ahead.

Rationality includes thinking about the future. Rationality is not simply about having a coherent set of beliefs, or about acting in optimal ways to achieve our goals. Again it is about knowing what goals we ought to be pursuing, discerning ways to satisfy them, and living with what Herb Simon has called “bounded rationality.” Our logic is not pure and other-worldly; we are not perfect optimizers; intelligence is better construed as satisfying our wants. But rationality is also about knowing what to satisfy in the first place. It is about our vision for the present and the future.

In thinking about the future, our conceptions of the environment and how the economy is fundamentally related to the health of the environment are changing. Moreover, our frameworks for understanding who we are, and how we behave towards the environment continue to evolve. Hopefully, the trend is that of developing an ecological state of mind; that is, a way of behaving that sustains the environment while promoting economic development. Policy judgements will depend on the expression of such changing frameworks; but always lingering is the omnipresent fact of overpopulation. Responding to this issue is in everyone's interest. Doing so will require cooperation.

VI. COOPERATION: BRIDGING EFFICIENCY AND EQUITY

Common resources are being consumed at rates that decrease their collective value and use; if they belong to no one, will any one care? The ozone layer does not belong to anyone. And we have been forced to care. We are in the midst of responding collectively to a commons dilemma. The
positive result is that as one increases citizenship and responsibility through the implementation of programs like the Montreal Protocol, the global commons—the air that we breathe, the ozone layer that shields us from the sun, the weather that nurtures our crops, etc.—increasingly becomes our shared place. Environmental responses, correcting wrongs while promoting positive rights, and maintaining the global commons while balancing efficiency with equity, are among the exciting consequences of the Montreal Protocol and the Environmental Fund.

The Environmental Fund, as Barber Conable, the former president of the World Bank has noted, is a vehicle to get people cooperating. As he observes, it is the poor people of this planet who suffer from "environmental degradation." The burden is on all of us to promote thinking about the future where norms of cooperative ownership with regard to the environmental commons are invoked. Common bonds that include others as decisionmakers and that foster the sharing of information and keeping one's promises are routes toward cooperative behavior. Cooperation also depends on equity and efficiency. Cooperation works best when the majority is satisfied with the distribution, when few feel envy, and when the worst off are rendered better off.

No doubt a perception of well-being lies at the heart of equity considerations, and facilitates cooperation. Politics and economics are part of well-being; but so are health, religion, and family. Cultural differences in this regard vary dramatically. Cooperation occurs, because it serves the majority's interest. Of course, shortsightedness is a present danger and an alluring fact.

Trust is also an important factor for cooperative behavior. Recipient nations need to trust that donor nations are sincere in their commitment to righting these environmental wrongs, and to working closely together. We look to cooperate—perhaps more than is realized—until we are disappointed. The CFC context is serious enough to warrant cooperation. Nonetheless, mistrust exacerbated by moral hazard will inevitably appear. This can impact the efficiency of the phase-out of the CFCs, in addition to the equity issues of fair distribution. While there is some room for tit-for-tat or game theoretic responses, what we want to induce is greater cooperation, which again will be country specific.

We cooperate and share the environmental burden. We do so because the incentives for all parties are in place to eliminate CFC use, while working to promote economic development for the disadvantaged. The allocation of resources will depend on need and merit; equity judgements will take these factors into account. They are perfectly compatible with efficiency issues. Of course moral hazards and cheating will emerge, and do, ad nauseam. This is circumvented by monetary incentives, industrial obligations, political and social agreements, and mechanisms for checking or documenting the actual phase-out.

The climate is right for downsizing our conception of development; more is not always better. We realize that, at least some of the time. But gluttony is an omnipresent factor. More and more does not result in satisfaction or satisfaction, and wanting more becomes like a bad addiction.

Why shouldn't the developing world have what we have had, use what we have used, and exploit what we did? They cannot because our science says that they cannot without endangering us all. Whatever our political persuasions, the environmental pressure is on; alternative ecological-economic strategies are being implemented. Maturity is currently what is most necessary. This means moving beyond ego-centricism towards a consideration of others. Moral rules that dictate an enlarged participatory moral space with consequences and compensation factored into the enlarged equity function are partly what we are after.

The implications for policy are that such moral notions as those outlined tend to foster cooperation. They act as glue in facilitating social action. In this regard sending off the right kinds of semiotics, or meanings, are fundamental for cooperation. And cooperation helps us to express some of our shared values. Environmental-economic cooperation speaks to the sacrifices one makes on an individual and social basis. It reveals a fragile good.

VII. PRACTICE: RULES OF EQUITY

The above discussion points to the centrality of equity in environmental policy. Let us now consider how equity might be promoted in practice. We point to three related criteria for judging equity: procedural or process equity, ex post or outcome equity, and evidentiary equity.

Procedural or process equity relates to ex ante assurances that an equitable mechanism is in place that allows all countries equal access to funding from the Environmental Fund in the phase-out of the CFCs. Procedural equity also assures that procedures are transparent and understandable.

Ex post equity is concerned with the distribution of consequences among stakeholders, both economically and environmentally. Ex post equity may also consider in evaluating the fairness of a given set of outcomes the level of effort undertaken ex ante by a stakeholder in avoiding undesirable outcomes.

The third equity factor is evidentiary. A process promotes evidentiary equity to the extent that it promotes the discovery of evidence informing decisions about a particular context and ensures that this evidence is accessible to all stakeholders. Thus, evidentiary equity is concerned both with the level of knowledge generated about a context as well as how this knowledge is shared. Evidentiary considerations are important, for they place equity in a context where inquiry and evidence matter; and that is just what we want. Evidentiary equity is also central to legitimization.

The importance of these equity criteria in environmental policy choices has received considerable attention in the context of siting hazardous facilities. Procedural equity is critical in ascertaining whether a site should be located in a certain place. This analysis exists alongside ex post considerations for how to compensate, if need be, if something goes awry. Both of these can only be accomplished with integrity if evidentiary equity is present. Similar considerations apply to the CFC context.

From the point of view of practice, achieving equity on all of these criteria is clearly a complicated affair. The discussion points to four principles that may be helpful to policy makers.

i. Equity is public. Equity facts are objective. Equity is not simply what goes on in the mind divorced from the world. Equity considerations convey the values that our culture thinks are ultimately important in judging fairness of burdens and benefits. Equity is also normative. It provides standards by which we evaluate our decisions and actions.

ii. Equity and inquiry are mutually supportive. Equity requires participative inquiry for legitimization reasons and for the adjudication of conflict among rights. Inquiry also promotes evidentiary and process equity.

iii. Utilitarian considerations have a place, though limited, in judging equity. Individual freedom of action should be maximized. But this needs to be balanced against minimal negative rights. Moreover, decisions need to have as broad a scope as possible, including the welfare of as many people as possible.

iv. Two moral laws (categorical imperative and the veil of ignorance) are operative. Both expand the consideration of others, and are not, in this context, incompatible with utilitarian orientations. Positive rights in addition to negative rights are the intellectual foundation and mandate of world development; distributive justice and positive rights are bound together. Moral categories that force one to consider whether others could make the same decision, and which force one to distribute more equitably provide normative moral rules for cooperation.

Each of the above draws on cooperation, which is a key to equity. The motives to cooperate are mixed, and moral hazards abound. The key is to discern ways to promote participation; participation in the decisionmaking process is part of the advance in culture. Participation can engender responsibility. And it is responsibility for decisionmaking that one wants to foster.

VIII. CONCLUSION

Rationality in the modern age is about, in part, juggling competing frameworks, in addition to trying to satisfy our goals. As we have indicated, rationality includes finding ways to enlarge the public moral space so that the resolution of environmental-economic conflicts can have some legitimacy. We have stressed four factors that are instrumental for rational action. One is that moral-equity judgements are objective and real and part of our cultural legacies. Second, rights or the ends of man are part of the very process of inquiry and tied to our historical evolution. Thirdly, two moral categories are essential to this process. Finally, the goals of this process are to achieve fair distribution so as to right wrongs, to ameliorate human despair, to compensate for disparity with the vision of positive rights, and to increase participation as the ideal of citizenship.

Rationality requires the ability to allow the many variants of equity consideration to operate, at times within the same public arena. It is the ability to live with competing frameworks that one encounters in the modern age. Because there is no one moral order for all, nor is there simply the acceptance of irreconcilable frameworks with little prospect of adjudication, one works to forge common bonds.

As we have indicated, equity or moral inquiry is hypothetical and self-corrective like other forms of inquiry. And one of the goals of such inquiry is to promote greater participation, greater bonds amidst the appreciation of differences. Normatively, the legitimization process expands individual knowledge and communicative abilities.

Herbert Simon articulates the scientific ideal in this way: “How do we design a world in which each man can have a variety of rich experiences and activities without making unacceptable demands upon resources?” This is a question about intelligence, about problem-solving, and about effi-
ciency. Logic is bounded by context, tools, and goals; one speaks of bounded reason and local problem solving. Rationality is knowing which problems to solve, which ends one should pursue, and knowing what local justice, or local equity, amounts to and how to achieve it.21

Moral rules are legitimated by considering whether environmental decisionmaking takes into account whether anyone in the same position should make a similar decision and whether the result will be distributive towards the worst off and compensatory towards their needs and their development. Utility functions are directed towards this aim. We also live with tradeoffs and conflicting views. What we do as rational agents is to provide contexts in which inquiry can predominate.

What one ought to try to do is to enlarge the equity-environmental public arena. The moral arena is enlarged when we consider future generations, when we construct a trusteeship linking the environment and our current technological actions. There is little doubt that Bacon’s dictum rings true “knowledge is power,” or as Simon put it, “technology is power.”22 The point is not to reify technology, because we know that it can be bad as well as good. The Western enlightenment vision of the growth of knowledge and its instantiation figure in everything from the CFCs that we use and their substitutes to getting to Jupiter, to growing larger cattle, to producing better corn and maze, and to altering the climate to fit our needs. But unintended consequences (e.g., CFCs) are commonplace.

The other side to the optimism expressed in this paper is the squalor that we witness, and developmental enterprises often do not help.23 Even planetary trusts and stewardships are replete with moral hazards for those with something to gains, and with continued loss for those living at the edge. Moreover, poverty continues as a plague throughout most of the developing world, and one wonders about the danger of welfare clients and the psychology of dependence. One also hears that natural disasters (e.g., the recent volcano in the Philippines) will offset the effects of global warming, fueling inaction as opposed to action in response to environmental danger, and indirectly decreasing cooperation among those nations which have and those which do not.

Another cautionary note is that while we have emphasized participation, democratic ideals can be inefficient; it is possible that greater participation may engender less effective decisionmaking because no one can agree. The task is to find ways so that decisionmaking does work.

Environmental problems and their solutions like the CFC example provide some insight as to how this can occur. Civic responsibility is the republican ideal. Our task is to encourage citizens—in this case, world citizens—to support the development of those less well off, without exacerbating the problem, and while being trustees of the environment.

Our conceptions of ourselves continue to evolve. In the environmental context, this means that more does not mean better; growth has limits. Human development means, in part, as the United Nations has defined it, “the expansion of choice.” But sometimes the expansion of choice is not the issue, and is merely an alternative to what we have now. As the United Nations and World Bank assert, it is the very “challenge of development” to promote health, education, the empowerment of women, and the expression of democracy. Now the environment is included in that challenge. A self-corrective method of inquiry into equity now needs to be incorporated into decisionmaking processes. A worthy end is to foster participation and equity in decisionmaking, both because it is in our self-interest to do so, and because we ought to because it is the right thing to do.

Finally, the Montreal Protocol limiting CFC use serves as a model of cooperation for nations working towards a common environmental goal. It is oriented towards the consideration of future generations and it adheres to a general consideration of world development. Like the Law of the Sea it is a good example of our working together in maintaining the commons, and finding social arenas to discuss the conflict over private resources and public commons. Ultimately the border between them blurs. The steps to the Montreal Protocol have evolved over the last twenty years, and no doubt will continue to do so. Cooperation among nations is essential, and cooperation decreases with the breakdown of communication. Signing the Protocol is a promissory note, and payoffs await future implementation and cooperation. It all hangs on economic incentives, which after all are a major motivation.

But for an ephemeral moment we witness a public context in which the discussion of equity is legitimated. This inquiry into equity and consideration of environmental resources occurs through the medium of moral rules. Such rules promote the consideration of others and distribute and reinforce positive rights, while ensuring that the majority prospers as it participates in a fragile human advance. Within this context one discerns how decisionmaking and the delicate balance between nature, rights, and our transactions may be balanced.

22. Simon, supra note 19.