

Responsibility

Why we Can't Avoid

Responsibility

- Climate change responsibility: invidious, awkward but increasingly identifiable - eg Heede for 90 companies and Barrett for consumption-based accounting
- Culpability and valuation/attribution of damage can both be engaged with by analogy with other fields
- Paris stocktakes and transparency are bound to raise the questions "shouldn't you be doing more?" and "shouldn't you be contributing more?" - bounded responsibility seems an unavoidable part of the assessment when the going gets tough

Managing Responsibility

- Most transitional justice policy attempts have included systems for managing responsibility from harm
- Are a range of possible options, and many actual processes have used more than one simultaneously
- What might the range of responsibility options be in the climate context?

A Range of Responsibility Measures

Full legal liability	Mid-range responsibility and/or “Soft” accountability measures	Amnesty
<p>Use of international or domestic law to hold those responsible legally to account</p> <p>May be existing international law, or institutions created for this purpose</p>	<p>Lustration policies may remove power from key individuals</p> <p>Truth commissions seek some public accountability with softer consequences than full legal responsibility</p>	<p>Those responsible – en masse or individually – are granted amnesty from responsibility</p>

The Logics of Responsibility

Full legal liability

Legal action can punish perpetrators and send clear signals to others about the seriousness of actions and to act differently

Can be used as an incentive to push actors towards other forms of cooperation

Mid-range responsibility and/or "Soft" accountability measures

Lustration deals with individuals without full costs of trials

Mid-range or softer measures may be able to deal with larger numbers of people, more ambiguous causality, or systemic, collective responsibility

May be a less expensive option than full trials

Amnesty

May be used when are concerned that powerful actors will be spoilers

Are sometimes overturned later on (based on international law)

Responsibility and Climate?

Full legal liability	Mid-range responsibility and/or “Soft” accountability measures	Amnesty
<p>Pursuing legal efforts through existing or created international law (e.g. international torts, human rights law etc.)</p> <p>Pursuing or using domestic law to hold state and non-state actors legally accountable</p>	<p>No obvious applicability of lustration policies</p> <p>Soft accountability measures could include: a) formal acknowledgement of and/or apologies for historical responsibility; b) equity indicator bundles with historical responsibility included; c) backdoor acknowledgement through increased support and stronger mitigation targets</p>	<p>Negotiated full or partial limit to the extent of historical responsibility</p>

APPLICABILITY OF TJ RESPONSIBILITY MEASURES

- Principles for legal liability may just happen, through national and international court or tribunal decisions over 20 or more years
- A common international amnesty would require a treaty, and is unlikely to be negotiable
- Lustration is attractive but unlikely; hopefully happens automatically
- Formal apologies are unlikely and probably unnecessary to unlock developing country NDC action; acknowledgement of responsibility may be part of an ultimate "loss and damage" settlement and/or later framework for contributions satisfying developing country conditionality
- Paris system could over time develop a responsibility-tinged "going rate" for action and contributions: beneficial to accelerate this