

Forward-Looking Transitional Climate Justice

Written by Kirk Lougheed

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KIRK LOUGHEED, FEB 15 2023

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Transitional justice usually refers to approaches to justice that focus on addressing past injustices in a way that allows societies to move forward peacefully. Sonja Klinsky and Jasmina Brankovic (2018) argue that transitional justice also applies to issues of climate justice. With respect to climate change, certain actors have been wronged by other actors, and the former are owed transitional justice. This type of justice is most often backward-looking in that it focuses on past wrongs. In this chapter, I develop a form of transitional justice that is forward-looking. This type of justice focuses on anticipating and addressing harms that will occur in the future. I argue that if forward-looking transitional justice is legitimate, then certain individuals in wealthier countries who will be negatively impacted by more effective climate policy are owed transitional justice.

Introduction

For the purposes of simplicity, I assume that climate change poses a significant existential threat to the human species. Likewise, I assume that all adult humans have *some* responsibility to help resolve the climate crisis, though this responsibility varies by degree (of course, this also means assuming it would be a bad thing if the humans species went extinct, though this is not uncontroversial – see, for example, Benatar 2008). The planet is rapidly warming, and we need to figure out how to slow this down drastically or stop it altogether.

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1. What Is Transitional Climate Justice?

Transitional justice is discussed most commonly in situations where serious injustices have occurred, including those surrounding racist and colonial procedures and policies, in addition to war crimes and genocide. A key feature of transitional justice is that it emphasises strategies needed to move forward peacefully even if these strategies sometimes involve sacrificing certain aspects of justice in order to achieve peace:

The goal of transitional justice processes is to recognize and at least partially remedy injustices while also building a sense of unity or solidarity. Such processes have included a range of mechanisms, most particularly accountability

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measures such as amnesties, prosecutions, and truth commissions; reparations for those harmed; and institutional reforms that aspire to prevent future harms (Klinsky and Brankovic 2018, 3).

Finally, in an encyclopedia entry on transitional justice, Nir Eiskovits (2017) writes,

The term 'Transitional Justice' has come, in recent years, to designate a field of academic inquiry, as well as political practice, concerned with the aftermath of conflict and large- scale human rights abuses. Theorists and practitioners of transitional justice focus on the most effective and legitimate ways of addressing past wrongs and moving towards the (re) establishment of a decent civil order.

Notice that these definitions of transitional justice focus almost exclusively on the aftermath of wars and/or human rights abuses (for more examples, see Elster 2004, Futamura 2008 and Graybill 2020; for a more detailed account of transitional justice, see Teitel 2000). In *The Global Climate Regime and Transitional Justice*, Sonja Klinsky and Jasmina Brankovic (2018) seek to challenge these definitions by applying concepts from transitional justice to issues of climate justice. They explain that many of the people most adversely impacted by climate change are in developing countries. This is yet another way that developing countries suffer at the hands of wealthier nations. The result of such suffering indicates that many developing nations are entitled to some sort of compensation as a matter of basic fairness and justice. Moreover, if we cannot stop or significantly slow down climate change, then the entitlements of developing countries will only continue to increase. In this context, transitional justice approaches not only help determine appropriate compensation for the developing nations in question, but they also suggest ways to improve things going forward, including by getting wealthier nations to reduce their greenhouse gas (GHG) emissions drastically.

An important connection between transitional justice and climate justice is that for both, the question of justice occurs across space and time. Klinsky and Brankovic (2018, 21) explain that '[t]ransitional justice is... both a conceptual framework and a set of mechanisms that have come to be used around the world to redress harms that occurred in the past, as well as to address their repercussions in the present and for the future'. Similarly, some of the tensions in climate justice 'revolve around the distribution of causal responsibility for GHG emissions across time and space; the scope of obligations toward those most affected by climate change; and the relationship between climate action and broader inequalities in human well- being and access to sustainable development' (Klinsky and Brankovic 2018, 16). The global contributions of GHG production are uneven along with the purported benefits of such emissions (Klinsky and Brankovic 2018, 16). Likewise, the negative effects of climate change are not the same throughout the world, including with respect to the times in which they occur. Insofar as transitional justice offers guidance about how to address injustices that are spatially or temporally distributed, it can provide useful practical strategies for addressing climate injustice.

Klinsky and Brankovic (2018) outline a number of strategies for helping solve climate dilemmas and suggest that there are parallels between them and transitional justice. Such dilemmas are most often the result of tensions generated from wanting to hold various actors responsible for their contributions to climate change while at the same time wanting them to participate in future solutions. For example, one such solution is *fair burden sharing*. Klinsky and Brankovic (2018, 40) explain that '[i]t is hard to overstate the extent to which "fair burden sharing" has been used as a core strategy to address climate justice dilemmas... For instance, the Convention explicitly lays out that developing countries' abilities to develop must not be impeded by climate action and that developed countries are intended to take the lead on addressing change'. Another strategy is green growth and, as we will see, it is the most applicable to the strategy I develop later. Green growth rests on '[t]he idea [that] sustainable economic development is foundational in international climate policy' (Klinsky and Brankovic 2018, 44). Furthermore, '[a] recent review identified over eighty reports and policy documents published since 2009 by international and national organizations promoting "green growth" or "green economy"' (UNDESA 2012 quoted in Klinsky and Brankovic 2018, 44).

2. Forward-Looking Transitional Climate Justice

Notice that much of the above discussion of transitional justice is backward- looking. Certain parties have *already* experienced injustices as a result of climate change, so transitional justice is about what such parties are

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owed by various perpetrators. While these can be useful approaches to justice, I do not analyse them in this chapter. Instead, I develop what I call forward-looking transitional climate justice, which examines the future harms or injustices that will be experienced as a result of climate change. After summarising my account, I situate it within the current climate justice literature, with a particular focus on inter-generational climate justice.

What Is Forward-Looking Transitional Justice?

Forward-looking transitional climate justice has four criteria including identifying who will be harmed from climate change, accurately predict those future harms, compensating victims of climate-friendly policies, and doing so in a timely manner.

Individuals and/or institutions who will be harmed by climate change in the future

Forward-looking transitional justice applies to countries in the southern hemisphere that will continue to be harmed by climate change in the future. Sadly, it is obvious that we have not done enough to slow drastically or stop the warming of the planet, so such individuals and institutions will continue to be harmed in the future (indeed, that harm is only likely to increase without swift and drastic changes to global environmental policy). However, notice that there is another set of individuals and institutions also entitled to forward-looking transitional climate justice. These are people in wealthier nations that will be adversely impacted by climate policies (and remember, such policies are needed as a result of climate change). None of this is to deny that such actors are partly (sometimes quite significantly) responsible for the current climate crisis. But it nevertheless remains the case that they will be harmed by climate change in the future.

Accurately predicting the future harms of climate change

Forward-looking transitional climate justice involves relying on climate scientists to accurately predict the effects of climate change in the future. Furthermore, it also relies on social scientists (e.g., economists) to predict the outcome of environmental policies that need to be created and enforced to combat climate change. In other words, we need to know the myriad effects of climate change in order to accurately identify the parties harmed by it. A key component of forward-looking transitional climate justice is to be able to predict the harms of climate change in order to prevent them (or at least compensate victims in a timely manner).

Compensating victims of policy changes that harm individuals and/or institutions even though such changes are necessary

This is a key criterion and likely the most controversial in that its scope is intended to apply quite broadly. The actors most negatively impacted by climate change thus far tend to be in developing nations in the southern hemisphere. However, such nations would also benefit from more effective environmental policy and enforcement in the northern hemisphere. Still, this criterion requires compensating all parties that would be harmed by better climate policy. This means, for example, possibly compensating those in wealthier nations in the northern hemisphere who will lose employment because of policy changes. Later, I discuss in more detail what effective compensation might look like in certain cases.

Compensating victims before or as soon as these future harms become a reality

Related is the idea that victims need to be compensated immediately (or prior to) the harms becoming a reality because part of what might constitute the harm itself is the time between the initial harm and compensation. In this sense, harm comes in degrees. And the harm will be greater the longer a victim goes without receiving just compensation. For example, if a worker in fossil fuel industry loses her job because of changes in climate policy, she is harmed less if she is offered alternative employment sooner rather than later.

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Now, I situate my account within the broader climate justice literature. Ethicists have argued for two broadly competing methods of addressing climate justice. The first is isolationism, which suggests that issues of climate justice ought to be addressed on their own, not in conjunction with other issues (e.g., global trade, individual incomes, etc.). One motivation for this view is that it is simpler to address issues about GHG emissions, for example, in isolation from a number of possibly competing issues. Likewise, it also allows ethicists to side-step deep disagreements over which is the correct moral theory that ought to be applied to climate justice (Caney 2020; see also Meyer and Roser 2006). Integrationists, on the other hand, counter that 'it is best to treat the ethical issues posed by climate change in light of a general theory of justice and in conjunction with other issues (such as poverty, development and so on)' (Caney 2005; 2020). While I do not deny that isolationism is simpler, I reject the idea that these issues can actually be treated in silos. Policies that impact GHG emissions inevitably affect businesses and therefore also affect employment opportunities. This is true for those working in the fossil fuels industry in wealthier nations and also for those working in tourism in small island developing states. Theorists do not need to agree on an underlying ethical theory to see how these various issues are interconnected. Forward-looking transitional justice, then, clearly favours an integrationist approach to climate justice. The prudential reasons for doing so are strong.

Much of the climate justice literature is concerned with inter-generational justice. This concerns the degree to which the current generation has a moral obligation to future generations if it has any obligation at all. Though there is widespread disagreement about the details, most ethicists agree that future generations ought to be subjects of genuine moral concern. Of course, one longstanding problem regarding duties to future persons is Derek Parfit's famous non-identity problem. Since future persons do not yet exist, how could they have interests? Likewise, our decisions today shape which future beings will come into existence. If things had gone differently, then those beings would not exist. So, if a future being wishes, for example, that the environment had been left by previous generations in better shape, they are in effect wishing themselves out of existence. Much ink has been spilled by philosophers in many different contexts on the non-identity problem. I do not wade into this technical debate here. I only note that many think the problem is solvable and that we do indeed owe future persons moral consideration, even though the solutions themselves vary widely (see Parfit 1994). It is impossible to survey this ever-growing body of literature here, but I note the ways in which forward-looking transitional justice is consistent with many different approaches to inter-generational justice.

Sufficientarianism is one view of inter-generational justice that holds that all persons must have a quality of life above a certain threshold (Caney 2020; Meyer and Roser 2009). Of course, some have observed that identifying the precise threshold would be difficult or that, in certain cases, such a threshold would not be sufficient for justice. Egalitarians claim that this theoretical threshold is fairly high, especially in light of the gross inequalities in our world. Some argue that egalitarianism not only applies to the future as a whole, but it also entails that we not increase inequalities in future generations (Caney 2018; 2020; Hoegh-Guldberg, Jacob and Taylor 2019). Another interesting proposal defends a kind of growth sustainability, which says that the current generation can only maximise their own welfare inasmuch as it means the welfare of all future generations (not only the next few ones) will grow by 25% (Lavador, Roemer and Silvestre 2015).

One benefit of forward-looking transitional justice is that it is consistent with affirming the importance of inter-generational justice. My account focuses on the future of currently existing persons. Not only is this consistent with the claim that future generations are owed moral consideration, but it also has practical implications for such generations. If transitional justice is enacted regarding workers in wealthy nations who will be adversely affected by climate policies that we need to enact, those policies will be more likely to take hold. Not only does this benefit the particular workers in question, but also future generations who need us to stop the warming of the planet. There is thus a sense in which enacting the forward-looking transitional justice framework I describe would make it easier for inter-generational justice to obtain in the future. In order for this to be true, I need not endorse any particular view of inter-generational justice. The details of how my own account is enacted may well change with the details of inter-generational justice that one has in mind. My account is not only not at odds with inter-generational justice but is actually a way of securing it. This is a feature of my view, not my bug.

Finally, my account of forward-looking transitional justice also fits well with numerous views on social discounting and climate change. Social discounting involves questions about the extent to which future persons should be considered

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in our current policies if at all. Time discounting is the view that we should discount the value of future persons. However, some argue that this wrongly discriminates against people based on the time at which they are alive, which is morally arbitrary (Caney 2020; Caney 2014; Parfit 1984, 480–486). Regardless of what one thinks about this type of discounting, my account does not force one to take a particular stance. Claiming that certain people that currently exist, including those in wealthy countries, are owed transitional justice, does not mean that future persons are not also owed things related to climate justice. Again, when it comes to the practical matter of enacting policies that will help improve the climate for persons that will exist in the future, forward-looking transitional justice is likely helpful.

As the reader can likely tell by now, my primary defense of forward-looking transitional justice is prudential. However, I hope I have shown that this prudential defense can also be used to bolster various underlying theories of inter-generational justice that occupy much of the literature on climate justice. Instead of providing a further technical argument in support of forward-looking transitional justice, next I show how it can be applied in a current real-life case. In the next section, I examine transitional justice for workers in the test case of the Alberta Tar Sands in Canada. Much of what I say there generalises to other relevant cases. An advantage of applying forward-looking transitional justice is that it can make enacting effective climate change policy easier than it would be otherwise. Finally, I agree with Klinsky and Brankovic when they say that, ultimately, multiple approaches to solving the climate crisis are likely necessary. I do not pretend that this is the only approach or that forward-looking transitional justice is the only type of justice at stake with respect to the climate crisis. However, this is an approach that has yet to receive sufficient attention, and it is noteworthy how well it can support other, better-established theories in the climate justice literature.

3. Applying Forward-Looking Transitional Climate Justice: The Alberta Tar Sands

In this section, I apply some of my ideas about forward-looking transitional justice to the case of the oil industry in Alberta, Canada. This example helps illustrate the importance and efficacy of forward-looking transitional justice.

The Economic Impact of the Tar Sands

The Alberta Tar Sands were discovered by settlers well over a century ago, and some form of commercial oil production began prior to World War II. Due in large part to the exploitation of the tar sands, , Alberta became one of the wealthier provinces in Canada beginning the 1970s and accelerating during the oil boom of the 2000s. Cities in Alberta, such as Fort McMurray, Edmonton and Calgary, have received significant economic benefits from the sands (Barnetson and Foster 2014, 352; Heyes et al 2018, 253). Right now, '[i]n terms of corporate taxes, oil sands producers pay federal and provincial corporate income taxes at a current combined rate of 27 percent; they also benefit from special tax provisions available to all Canadian oil and gas production' (Heyes et al 2018, 245; for more details about oil taxation in Canada see KPMG 2015).

Moreover, tax revenue in Alberta is tied to the price of oil. Between 2005–2015, the price of oil was, on average, \$100 per barrel, reaching a high of over \$160 per barrel in June 2008 (see Alberta Government 2022, Macrotrends n.d.). Over that period, the Albertan economy was booming and the government of Alberta took in larger tax revenues. Moreover, Canadian provinces provide a portion of their tax revenue to the federal government, and the federal government collects higher revenue from wealthy provinces and redistributes them to poorer provinces. During the period of the economic boom, therefore, Alberta was a major contributor of money that was redistributed to other Canadian provinces and territories. For example, '[a] ccording to a 2005 report by the Canadian Energy Research Institute, Ottawa will rake in \$51 billion in corporate taxes from the tar sands between 2000 and 2020, while Alberta will take home only \$44 billion' (Nikiforuk 2010, 158). This is not to mention the fact that at the provincial level, the Albertan government has consistently failed to collect the amount in royalties it ought to from oil companies – for the landmark public inquiry that made this painfully clear, see the Our Fair Share report (2007). For example, 'the province makes much less from its dirty oil than do Norway, Alaska, New Mexico, or even Louisiana' (Nikiforuk 2010, 158). While the federal government cannot be blamed for mismanagement at the provincial level, this problem serves to disenfranchise the average Albertan resident. However, in 2020, the price of crude oil hovered between \$50–60 per barrel. As a result, Alberta's economy is struggling as royalties from oil rise and fall with the price of a barrel. Alberta is now in the unfamiliar situation of asking for financial assistance from the federal

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government.

In order to get a better sense of just how reliant on oil Alberta is, consider that some have suggested that Alberta suffers what is known as the 'resource curse' and 'Dutch disease'. The former occurs when a region is overly reliant on one resource such that it negatively impacts governance (perhaps in the form of lobbies and special interest groups) and also hurts educational outcomes (i.e., individuals forgo educational opportunities in favour of high-paying jobs in the booming resource sector) (Heyes et al. 2018, 253). The latter occurs when a boom in one sector pulls resources away from other sectors, sometimes to the point of causing entire industries to collapse. Many have suggested that the decline in manufacturing in Canada was at least in part sped up because of the oil boom, which in turn exacerbated the financial dependence on oil (Heyes et al. 2018, 254; see also Saches and Warner 1996 and Beine et al. 2021; for a dissenting view, see Krzepkowski and Mintz 2013). For better or worse, then, the Albertan economy is intimately connected to profits from the tar sands.

Forward-Looking Transitional Climate Justice in Alberta

The extraction and use of oil from the Alberta Tar Sands does, without a doubt, negatively impact the climate. Canada is not on track to meet its commitments under the Paris Agreement. In order to do so, it would need to enact new stricter climate policies to limit the use of fossil fuels significantly, including limiting the extraction of oil in the tar sands. However, if forward-looking transitional justice is legitimate, then it applies to those in Canada (and particularly those in Alberta) that will be negatively impacted by such policies. This is because the policies are the result of the need to address climate change. And, as such, climate change is the ultimate cause of the policies that will inevitably impact the lives of individuals in significant ways. More effective climate policy will (i) limit extraction in the tar sands and thereby limit the royalties received at both the provincial and federal levels; and (ii) in light of (i) there will be fewer direct (and indirect) jobs in the oil industry in Alberta.

There are many different ways that forward-looking transitional justice could be applied to the case of Alberta, but here are some specific recommendations:

- The creation of any 'green jobs' (both private and public) should include a mandate to hire a certain number of workers from jobs contributing to climate change (e.g., workers from the tar sands).
- The government should pay for full-time retraining if and when required. The pay should be the same (or close to the same) as what the worker received for their previous salary. This is expensive, but offering small stipends to someone with a mortgage and family will not work.
- Inasmuch as possible, workers should be given jobs similar to the previous ones they had. In many cases this may seem impossible, but many jobs have similar levels of physical and intellectual difficulty. Workers should also be given the same degree of responsibility if and when possible. Do not turn a senior manager in the oil industry into a day labourer in green energy to only wonder why they drop out of the programme.
- Do not just attract those who explicitly care about climate change to green jobs. Make the compensation and jobs themselves attractive enough to draw the brightest and most creative minds. We need as many innovators as possible. Motivating innovation with attractive jobs is not in itself wrong.

There are significant temporal and financial components required to enact these proposals. Indeed, some will hold that the relative costs are so high that the proposals are unrealistic and cannot reasonably be implemented. This is where Klinsky's and Brankovic's explanation of 'green growth' is helpful. They explain that green growth affirms that 'sustainable economic development is foundational in international climate policy' (Klinsky and Brankovic 2018, 44). Furthermore, they observe that '[a] recent review identified over eighty reports and policy documents published since 2009 by international and national organizations promoting "green growth" or "green economy"' (UNDESA 2012 quoted in Klinsky and Brankovic 2018, 44). Going green does not have to be viewed as making an economic sacrifice. This is because:

Green development is based on three key concepts: economic growth can be decoupled from rising greenhouse gas emissions and environmental degradation; the process of "going green" can itself be a source of growth; and "going green" is part of a virtuous circle that is mutually reinforcing with growth (World Bank and People's Republic of China

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2021, 217, quoted in Klinsky and Brankovic 2018, 44).

Green development includes ecological costs when calculating total costs. This allows for long-term development that will not have undue ecological costs. Indeed, '[t]he rapid increase of green growth raises hopes that it could address the very negotiating impasses highlighted as problematic in the strategy for fair burden sharing' (Klinsky and Brankovic 2018, 46; see also Zhang and Shi 2014). Finally, 'green growth provides an avenue for the private sector to be more involved in climate change action. If economic growth and ecological protection could be combined, it would present profit incentives for the private sector at all scales' (Klinsky and Brankovic 2018, 46).

This is not to say that there are no challenges when introducing green growth strategies. For example, there are numerous definitions of 'green growth', some of which conflict with each other. But if the definition of 'green growth' is too vague, it is unlikely to be sufficiently motivating (Klinsky and Brankovic 2018, 47). The most significant challenge would be if green growth turns out to be fundamentally incompatible with the current economic paradigm. In this case, there would need to be a significant change in thinking before we could properly consider green growth an option. Such a shift would no doubt be quite difficult to make in Alberta (Klinsky and Brankovic 2018, 48-57). So, I do not deny that there are challenges to implementing green growth strategies. But it seems to me that they are well worth tackling since green growth could be a way to ensure transitional justice for workers who would otherwise lose employment opportunities. We need to stop thinking of going green in terms of economic loss. This need not be the case. While my recommendations will sometimes lead to high start-up costs, these could potentially pale in comparison to future economic gains.

This is not intended to be a comprehensive guide to forward-looking transitional justice in Alberta. But it does show that there are tangible strategies that could be put in place to enact forward-looking transitional justice. Furthermore, this type of transitional justice is likely to make such policy changes easier to enact and enforce. In Alberta, environmental policies that do not come with this sort of transitional justice are viewed as a threat to the livelihood of many individuals in the province (this is a psychological claim about individuals, but my above explanation of the economics of the sands should show that it is quite plausible). Thus, the development of forward-looking transitional justice ensures that individuals are given what they are owed and can make better environmental policy significantly more feasible.

My development of forward-looking transitional justice can help make environmental policy changes in Alberta more feasible because it shows a way such policies could garner public support. Albertans have already been hurt by climate change. I realise this sounds counterintuitive given that the tar sands clearly have a negative impact on the climate. But workers in the tar sands have already lost jobs because of the decline in the price of oil, in addition to a pipeline not getting built (I do not claim the price of oil is only impacted by climate concerns – i.e., the desire to burn less fossil fuel – this clearly is not the case; however, it need only be partly responsible for the decline of oil for my point to stand). Inasmuch as these losses are the result (in part) of climate change (and policy), then workers have indeed been adversely impacted by climate change. Furthermore, as we continue to move to 'green solutions' and anti-oil and anti-pipeline sentiments continue to rise in Canada, there will be fewer opportunities for employment in the Albertan Tar Sands. Indeed, by all accounts the future is quite bleak for anyone hoping to have secure employment in the tar sands. This is not to mention the billions of dollars lost in royalties by less extraction in the tar sands and lower oil prices in general.

By providing Albertans with forward-looking transitional justice (particularly for those who currently are or have been working in the oil industry), environmental policies will be easier to implement. By offering transitional justice, Albertans would be more likely to perceive that they are being treated fairly. They are thus more likely to cooperate with the environmental policies needed to help slow down and/or stop the planet from warming.

Conclusion

Forward-looking transitional climate justice anticipates potential harms to currently existing persons caused by climate change. If forward-looking transitional justice is legitimate, then those in wealthier countries working in the fossil fuel industry have certain entitlements inasmuch as they will be harmed by more effective climate policy. I

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discussed the Albertan Tar Sands as an example of a region heavily dependent on oil revenues and one where individuals will be harmed by more effective climate policy. I further showed that one advantage of enacting forward-looking transitional justice in a case like Alberta is that more effective environmental policies are likely to be accepted. Yet another advantage of my view is that it is consistent with various accounts of inter-generational justice that emphasise moral obligations to future generations that do not yet exist.

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Written by Kirk Lougheed

About the author:

Kirk Lougheed is Assistant Professor of Philosophy and Director of the Center for Faith and Human Flourishing at LCC International University. He is also a Research Associate at the University of Pretoria. He has published over 30 peer-reviewed articles or book chapters, appearing in such places as *Philosophia*, *Ratio*, *Res Philosophica* and *Synthese*. He is author of *The Epistemic Benefits of Disagreement* (Springer 2020), *The Axiological Status of Theism and Other Worldviews* (Palgrave 2020), *Ubuntu and Western Monotheism* (Routledge 2022) and is editor of *Four Views on the Axiology of Theism: What Difference Does God Make?* (Bloomsbury 2020) and co-editor (with Jonathan Matheson) of *Epistemic Autonomy* (Routledge 2022).