

The Environment as our Common Heritage

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I am pleased and honored to be with you tonight. I want to thank you all for coming, and to thank the many people whose efforts made this award possible. I specially want to thank Dorothy Andersen and her late husband, Alfred Frederick Andersen, whose commitment and generosity led to the creation of the Fair Sharing of the Common Heritage Award.

In keeping with this award's spirit, I want to share with you a few thoughts on the idea of our common heritage.

What does it mean to say that the environment is our "common heritage"? On one level this is a simple statement of fact: when we are born, we come into a world that is not of our own making. The air we breathe, the water we drink, the natural resources on which our livelihoods depend, and the accumulated knowledge and information that underpin our ability to use these resources these wisely – all these come to us as gifts of creation passed on to us by preceding generations and enriched by their innovations and creativity.

Yet once we take seriously – as I do – the proposition that this common heritage belongs in common and equal measure to us all, we move beyond a positive statement of facts to a normative declaration of ethics. We move beyond an understanding of what *is* to an assertion of what *ought to be*.

To say that the environment belongs in common and equal measure to us all does not mean that we have inherited a free gift with no strings attached. For our common heritage carries with it a common responsibility: the responsibility to share the environment fairly amongst all who are alive today, and the responsibility to care for it wisely to ensure that our children, our grandchildren, and the generations who follow will share fairly in our common heritage, too.

Once we move onto the plane of morality, the proposition that the environment is our common heritage is no longer a simple matter. Indeed, the claim that the environment belongs in common and equal measure to us all may strike some as a utopian ideal – nice-sounding words but devoid of practical content.

Yet I believe that the fair sharing of our common environmental heritage is not only a real possibility, but that it is in the process of becoming a reality here in the United States and across the world.

In making this claim, I do not wish to minimize the great environmental challenges that lie before us. From local landscapes burdened by toxic pollution and reckless resource extraction to the global threat of climate change, we can see the fruits of greed and short-

sightedness, the results of the failure of our society and others to live up to the moral imperative summed up in the phrase, “fair sharing of the common heritage.”

But I am also mindful of the words of the late Raymond Williams, who wrote: “To be truly radical is to make hope possible rather than despair convincing.” And I am conscious of the great steps forward that humankind has made, and that through our struggles we continue to make, on the road to establishing that the environment is our common heritage both as a matter of moral principle and as a matter of law.

A clean and safe environment as a human right

Already today, the principle that the environment belongs in equal and common measure to all can be found enshrined in the most fundamental of legal documents: the constitutions of national governments and states.

For example, the constitution of the Commonwealth of Massachusetts – the official name of my home state – says: “The people shall have the right to clean air and water.” That’s a direct quote.

The Constitution of the Republic of South Africa, adopted in 1994 following the demise of the apartheid regime, states: “Every person shall have the right to an environment which is not detrimental to his or her health or well-being.”

These constitutions – and many others at home and abroad – embrace the bedrock principle that access to a clean and safe environment is a human right.

It is not a privilege to be allocated on the basis of political power.

It is not a commodity to be allocated on the basis of purchasing power.

It is a right held in common and equal measure by all.

Of course, translating this lofty constitutional principle into on-the-ground practice is neither automatic nor simple. But the fact that the right to a clean and safe environment is embedded in constitutions around the world testifies to the great power of the common heritage ideal. And it helps undergird and inspire efforts to translate this right into law and practice.

The environmental justice movement

The environmental justice (or EJ) movement is a prime example of such efforts. In combating disproportionate pollution burdens imposed upon low-income communities and people of color, the EJ movement today is claiming – or reclaiming – the right to a clean and safe environment.

An important tool for EJ activists, indeed for everyone who cares about the quality of the air they breathe and the water they drink, is right-to-know legislation such as the U.S. Emergency Planning and Community Right to Know Act (EPCRA), passed in 1986 in the

wake of the chemical disaster in Bhopal, India. EPCRA requires industrial polluters to disclose their releases of hundreds of toxic chemicals, and makes this information available to the public through the annual Toxics Release Inventory. The simple fact that polluters know that the public has access to this information sometimes is enough to change their behavior – particularly when the right to know is coupled with communities actively voicing the demand for a clean and safe environment.

When communities stand up against polluters, they are sometimes accused of “nimby-ism,” the not-in-my-back-yard philosophy that simply deflects pollution burdens onto other communities. The environmental justice movement has a clear and compelling reply to this charge: “Not in anybody’s back yard.”

But it would be utopian to imagine that we will be able prevent all pollution anytime soon. We can and must continue our efforts to reduce pollution, but we cannot expect to eliminate it altogether, at least not in our lifetimes.

What does the common heritage principle have to say, then, about the pollution that will not be prevented in the foreseeable future?

I believe there is a two-part answer to this question. First, pollution burdens should be distributed fairly, as advocated by the EJ movement, rather than concentrated in specific communities.

Second, polluters should pay for their use of the limited waste-absorptive capacities of our air and water. When polluters pay, they have an incentive to cut pollution above and beyond what is required by regulations. In keeping with the principle that the environment belongs in common and equal measure to us all, the money the polluters pay should be distributed fairly to the public, as we are the ultimate owners of the air and water.

A common heritage climate policy

As an example of how this dimension of the common heritage principle could be translated into effective policy, consider the “cap-and-dividend” climate bill that was introduced a year ago in the U.S. Senate by Maria Cantwell (D-Wa) and Susan Collins (R-Me), a bill they plan to reintroduce in the new Congress with additional sponsors.

The Cantwell-Collins bill, officially called the Carbon Limits and Energy for America’s Renewal (CLEAR) Act, would put a ceiling (that is, a cap) on U.S. carbon emissions from burning fossil fuels. To bring fossil fuels into the nation’s economy, the oil and gas and coal companies will need to buy permits at monthly auctions. The total number of permits, fixed by the cap, will decline over time as we transition to a clean-energy economy. As the permits become more scarce, their price will go up.

Most of the money from the permit auctions – 75% – will be returned directly to the American people in the form of equal per person “dividends” paid out monthly via ATM withdrawals, electronic deposits into bank accounts, or checks in the mail. The other 25% will be devoted to clean energy investments.

Unlike the cap-and-trade proposals that have repeatedly failed to pass the United States Senate, the Cantwell-Collins bill has no free permit giveaways to polluters. The polluters pay. And the permits are not tradable – any more than other sorts of permits, like hunting permits or driving permits, are tradable – so that unlike cap-and-trade, the bill does not create a new sandbox for Wall Street to play in.

If enacted into law, this cap-and-dividend policy not only will curb carbon emissions. It also will translate into very concrete practice – and into people’s pocketbooks – the principle that our country’s share of limited capacity of the Earth’s atmosphere to absorb carbon emissions belongs to all Americans in common and equal measure.

Crop genetic diversity as the common heritage of humankind

As a final example of how we can apply the common heritage principle to real-world challenges, I want to talk about seeds – specifically about rice, wheat, maize, and the other crops on which we depend for our survival. These crops originated through what Charles Darwin called “artificial selection,” whereby the earliest farmers saved and replanted seeds of those plants over successive generations that did best at providing palatable and nutritious food. In this way, they bred new species that would never have come into existence without the guiding hand of human intervention.

This is perhaps the greatest example in history of what economists sometimes call “investment in natural capital”: human actions that positively enhance the ability of the environment to sustain our well-being in the long term.

Over the millennia since their ancestors first domesticated plants, generations of farmers have bred hundreds of thousands of diverse crop varieties. This diversity is what enables plant breeders today to respond to outbreaks of new insect pests and crop diseases by finding resistant varieties.

Crop diversity is sustained in the field largely by small farmers, most of them in the global South – maize farmers in southern and central Mexico; rice farmers in India, Bangladesh, and southeast Asia; potato farmers in the Andes; and so on. In so doing, these farmers provide an enormously valuable service to humankind, a service for which they currently receive no compensation.

In this case, the fair sharing of our common heritage does not only mean protecting crop diversity from a genetic version of the enclosure movement that privatized common agricultural lands in 18th century Britain. It also means devising ways to reward small farmers, above all in the historic centers of crop genetic diversity in Latin America, Asia and Africa, for their vital contributions to long-term human food security.

There is much in common between small-farmer movements around the world, many of which have banded together under the umbrella of the international alliance known as Via Campesina, and the movement for environmental justice and efforts to forge a fair climate policy here in the United States.

In these and other diverse arenas, these new environmentalists are upholding the moral principle that the environment, as our common heritage, should be shared fairly within the present generation and cared for responsibly on behalf of future generations.

This is why I say that the common heritage principle not a utopian aspiration. It is a powerful, living force in the world today. But we cannot be complacent. Much has been achieved, but much remains to be done. As we join, each in our own way, in the common struggle to make this moral principle a practical reality, we can take heart both from the victories of those who came before us, and from the knowledge that we have allies across the globe.

We can take heart from the words penned by the 19th century anti-slavery minister Theodore Parker, words repeated and made famous in more recent times by Dr. Martin Luther King, Jr.: “The arc of the moral universe is long, but it bends toward justice.”

We can take heart from the evidence all around us that history is on our side.

Thank you.