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Overlapping consensus versus discourse in climate change policy: The case of Norway's Sovereign Wealth Fund

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ABSTRACT

This paper is motivated by the mismatch between emission of greenhouse gases and effective mitigation policies. Science now calls for every tool to be considered in order for radical changes to mitigate the situation more effectively. This paper considers Norway's huge Sovereign Wealth Fund which, although withdrawing investment from firms causing severe environmental damage, does not categorize climate change as 'severe environmental damage'. The main reason is a basis of overlapping consensus, which also hinders argumentation for this practice.

Overlapping consensus is part of the broader theory "Justice as Fairness" as conceived by John Rawls. The consensus is with regard to having a socially just system. The word 'overlapping' refers to people having different reasons for supporting the system. However using overlapping consensus for investment-strategies represents an extension beyond its original intention, and moreover, removes mitigating climate change from the agenda. Removing the basis of overlapping consensus opens up scope for value-based discourse conceived by Habermas' communicative action and discourse ethics. The immense severity of climate change demands value-based and substantial arguments from powerful sovereign wealth funds, to consider the acceptability of their practice.

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1. Introduction

Norway is the world's third largest exporter of petroleum, and the revenues received by the Norwegian state are stored in the Norwegian Government Pension Fund—Global ("The Fund"). The management of The Fund is guided by the Ethical Guidelines, which is based on the concept of overlapping consensus. The idea of an overlapping consensus, as it is understood in the Ethical Guidelines, can be traced back to the broader theory "Justice as Fairness" (Rawls and Kelly, 2001) by the American philosopher John Rawls. Overlapping consensus is about how to achieve stability within a socially just system. The consensus is regarding a system, but the consensus is 'overlapping' as it builds on people have different reasons,

premises and arguments for supporting the system. The consensus is not for the same reasons, all the way down (Nozick, 1974, p. 225; Rawls, 2002, p. 88). The first research question of this paper is: (1) do the Ethical Guidelines fall within the sphere of Rawls' idea of overlapping consensus?

Sovereign wealth funds¹ control an increasing part of the world's financial assets (Truman, 2007) and have become the largest concentration of capital ever in history. The Fund is one of the largest of such funds with an average share in the international stock market of more than 0,75% (Ministry of Finance, 2008–2009, p. 33). The managers of these funds meet and discuss corporate governance and ethics, including the Ethical Guidelines for the Norwegian Government Pension Fund—Global (Skaalmo, 2007). Sovereign wealth funds do

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¹ Common definitions are "government-controlled investment vehicles" or "special purpose investment funds or arrangements, owned by the general government" (Backer, 2009).

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coordinate their corporate governance to a certain extent (Ministry of Finance, 2006–2007, 2007–2008; Rios-Morales and Brennan, 2009). As this development progresses, the funds capture more and more power in the financial and political world. The interest in the Ethical Guidelines is therefore not limited to the shareholders of The Fund, but must be seen in this broad context (Backer, 2009).

Although petroleum has made Norway one of the most affluent countries in the world, the down side is that the industry generates almost 3% of global greenhouse gases. The issue of climate change adds to the problems of enormous gaps in living conditions between north and south, thus placing a special responsibility on the wealthiest and industrialised part of the world. Norway aims to become a leading country in combating climate change. In this respect the policy of The Fund with regard to climate change is of particular interest.

This paper builds upon well-substantiated evidence, primarily channelled through the Intergovernmental Panel on Climate Change, that the climate change we are now facing is mainly man-made (IPCC, 2001, 2007a,b). However, the situation now looks worse than IPCC projected just two years ago. This is primarily due to the global emission path in 2000–2008, as well as new knowledge concerning cumulative effects in the ocean and on land—so-called carbon cycle feedbacks (Anderson and Bows, 2008; House et al., 2008). With the current mitigation policies, it is now extremely unlikely to be able to avoid a more than 2 °C temperature rise above pre-industrial level—the expressed policy goal with regard to a new global agreement. Even a temperature rise of 4 °C demands fundamental changes in our approaches. “Ultimately, the latest scientific understanding of climate change allied with current emission trends and a commitment to ‘limiting average global temperature increases to below 4 °C above pre-industrial levels’ demands a radical reframing of both the climate change agenda, and the economic characterization of contemporary society.” (Anderson and Bows, 2008, p. 3880) In light of calls for radical changes of the current economic regime, ethical guidelines of sovereign wealth funds are potentially powerful policy initiatives. The second and last research question of this paper is (2) what is the policy effect of simply removing the basis of overlapping consensus for the Ethical Guidelines, with regard to the issue of climate change? This research question takes us on to a debate between Rawls and Habermas, which is a continuous thread in the general section of this paper.

Highlighting this issue now is also motivated by the current evaluation process concerning the Ethical Guidelines (Ministry of Finance, 2008–2009), as well as the lack of academic and public debate concerning the role of overlapping consensus with regard to mitigating climate change.

2. The idea of overlapping consensus

“Justice as Fairness” consists of two major components; a method for deciding on the principles of justice, and the specific principles derived from this method. The method belongs to the contract tradition of political philosophy, claiming that acceptance in some form is necessary in order for a state to execute power legitimately. Based on this requirement for acceptance, Rawls introduces principles for a

just society which the inhabitants of a society will support. A main strand of thought in these principles is that all human beings’ political and civil rights must be protected, and that all people with the same ability and effort must be secured the same access to attain different positions (Føllesdal, 2002, pp. 11–12). Justice as Fairness is a theory of social justice, and overlapping consensus is about how to achieve stability within the socially just system. “If we are to live peacefully together in a modern society with many and contradictory convictions, all reasonable (‘free and similar’) persons will have to acknowledge that it is necessary to adjust their political convictions and instead build society on what achieves overlapping consensus” (Skirbekk et al., 2007, p. 291) (my translation). When this paper refers to Rawls’ theory, it refers to the relevant part of his theory concerning overlapping consensus.

2.1. Overlapping consensus on the constitutional essentials

Rawls applied the idea of overlapping consensus to the so-called constitutional essentials. This section looks into what Rawls defined as the constitutional essentials, and why the idea of overlapping consensus is applied to these limited areas. The constitutional essentials are defined as follows:

“Of course, it is too much to expect complete agreement on all political questions. The practical aim is to narrow disagreement at least regarding the more divisive controversies, and in particular those that involve the constitutional essentials (section 13.5); for what is of greatest urgency is consensus on those essentials”, for example:

- (1) The fundamental principles that specify the general structure of government and the political process; the powers of the legislature, executive, and the judiciary; the limits of majority rule; and
- (2) the equal basic rights and liberties of citizenship that legislative majorities must respect, such as the right to vote and to participate in politics, freedom of thought and of association, liberty of conscience, as well as the protection of the rule of law.” (Rawls and Kelly, 2001, p. 28)

In the citation above Rawls emphasizes that the practical aims and urgency of the matter require overlapping consensus with regard to the constitutional essentials. In Rawls’ key article “The idea of an Overlapping Consensus” (1987, p. 3) he provides a more specific description: “The first feature of a political conception of justice is that, while such a conception is, of course, a moral conception, it is a moral conception worked out for a specific kind of subject, namely, for political, social and economic institutions.”

As further explained in Section 4 below, the relevant constitutional essentials in the case of the Guidelines are the Norwegian Ministry of Finance and the Norwegian Central Bank, Norges Bank. The Council on Ethics makes recommendations based on the Guidelines, but it is the Ministry of Finance which makes the decision based on recommendations both from the Council on Ethics and Norges Bank. Can the Council on Ethics be part of the constitutional essentials? It was established in 2004 and both the institution as well as their mandate, the Ethical Guidelines, is up for discussion in

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