Emergency Climate Governance: Surveying Provincial Opportunities for Leadership on Emissions Mitigation through Emergency Management Legislation

by

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We acknowledge and respect the Lək̓ʷəŋən (Songhees and Xʷsepsəm/ Esquimalt) Peoples on whose territory the university stands, and the Lək̓ʷəŋən and W̱SÁNEĆ Peoples whose historical relationships with the land continue to this day.

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Abstract

Greenhouse gas emissions are undeniably the greatest contributor driving a changing climate, and as the climate continues to change, we have moved into a climate emergency with increasingly frequent, longer, and more severe climate-driven disasters and biospheric destabilization. This thesis takes up the question of what it means to deal with the climate emergency as an actual emergency, not a symbolic one, and how emergency power could be exercised for drastic change. Provinces appear the most capable head level of government to engage with the climate emergency as a real emergency through provincial emergency management (EM) legislation, and in doing so could benefit provincial jurisdiction with a sensitivity to regional contexts while also bolstering nationally (and globally) felt climate action. Provinces are constitutionally tied to high GHG emitting industry, and EM is already tied to traditional emergencies, many of which a changing climate is exacerbating. But most of the focus in emergency management, as it relates to the climate-driven aspects of hazards, remains on response and recovery. EM should be leveraged to further include the mitigation of emergency, and directly consider the climate case, meaning GHG mitigation and reduction. In making the argument for provincial EM to be exercised for emergency climate governance, this thesis considers the hypothetical opportunities and benefits to be had from emergency climate action, the conceptual potential for the application of EM for climate action in different provincial political contexts, and offers some practical examples for how EM could be engaged through EM regulations and emergency planning to impact the highest GHG producing and emitting sectors in all provinces. To explore this, British Columbia and Alberta are comparatively assessed, with these provinces representing the two different provincial sub-types (more climate action progressive and more climate action restrictive) that appear to bear the most meaning for whether real provincial emergency action on the climate emergency would occur in Canada. This thesis also attends to the dangers and fears associated with emergency power use, and offers lessons learned from past province-led emergency response, including during the COVID-19 pandemic. The thesis culminates with reflection on how its arguments might translate into three potential futures, with lessons for each: widespread provincial emergency climate action; asymmetric emergency climate action; or, no provincial emergency climate action.

Table of Contents

Supervisory Committee ii
Abstract iii
Table of Contents iv
List of Figures v
Acknowledgments vi
Introduction 1
Provincial Climate Emergency Governance 9
Project Design and Methods 15
Provincial Comparative Case Study: A Justification of Case Selection 15
Research Methods 19
Factors not Addressed: Indigenous Emergency Management and Climate Governance 20
Chapter Outline 21
Chapter 1: Climate Action Barriers, Emergency Power Dangers, and Opportunities through a Different Provincial Approach 23
Obstacles to Traditional Climate Policy 24
Emergency Powers History 29
Dangers of Emergency Power 35
Opportunities for Provincial Emergency Powers 42
Emergency Powers in a Liberal Democracy 59
Chapter 2: Provincial Emergency Power Capabilities and Hypothetical Applications 64
Provincial Emergency Power Capabilities 64
Political Contexts: Similar Opportunities, Divergent Interests 74
Pandemic Lessons for Provincial EM 84
Chapter 3: Emergency Management use for Climate Emergency Mitigation; Alberta and British Columbia Case Study Comparison 93
Part One: Key Emissions Sectors and EM Climate Qualities 93
EM legislation and 'climate' or 'environment' in Alberta 96
EM powers for four key sectors in Alberta: The EMA 97
EM legislation and 'climate' or 'environment' in British Columbia 99
EM powers for four key sectors in British Columbia: The EDMA 101
Part Two: Provincial EM Mitigation in Practice 104
Regulation-Making 105
Emergency Plans 119
Chapter 4: Summative Analysis and Final Reflections 122
Final Reflections and Future Realities 131
Future One: Widespread Emergency Climate Governance 133
Future Two: Asymmetric Emergency Climate Governance 138
Future Three: A Climate Emergency, with or without Emergency Action 144
Bibliography 155

List of Figures

Figure 1: Total GHG emissions in kt CO_2 eq for key sectors of analysis in AB (chart) 83

Figure 2: Total GHG emissions in kt CO_2 eq for key sectors of analysis in BC (chart) 83

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Introduction

Canada's ecosystems, biodiversity, and environmental stability are being steadily undermined as climate-related hazards and disasters compound and cascade, and our society is experiencing the consequences in myriad ways. As has been thoroughly documented, our current path is unlikely to allow for human life in any comfort or stability. Ineffective climate action in Canada contributes not only to global risks, but also to the quality, safety, and sustainability of life in Canada. Over a quarter-century of formal commitments to greenhouse gas (GHG) reductions, since the 1992 Earth Summit, Canada has met none of its national emissions reduction targets. At various points Canada's emissions have risen rather than fallen. Regionalism and frequent changes to federal leadership cannot excuse this. If we are to avoid worse disasters, as well as a worse international reputation for failing to contribute to solutions, something serious must change. In the ordinary sense of the term, climate disruption is an emergency. This project explores one option for serious change by considering emergency action being wielded by governments as a tool for substantial emissions mitigation. Urgently needed changes are not necessarily out of reach for Canada's institutions, but Canada's traditional federal-led responses to national emergencies may not be the answer to the climate emergency.

The 'environment' is not formally in the division of powers in the *Constitution Act, 1867* and therefore does not explicitly fall to any one head of government. This, naturally, has provoked questions over 'environmental' authority.[1] Jurisdiction over various industries and programs that most obviously affect the environment (including the climate) divide between Provincial and Federal heads of power. For example, Ottawa controls fisheries, and Provincial governments

[1]For example, see *Friends of the Oldman River Society v. Canada* (Minister of Transport), 1992 CanLII 110 (SCC), [1992] 1 SCR 3; *R. v. Hydro-Québec*, 1997 CanLII 318 (SCC), [1997] 3 SCR 213; and, *R. v. Crown Zellerbach Canada Ltd*., 1988 CanLII 63 (SCC), [1988] 1 SCR 401.

control most land-based natural resource development. Such constitutional realities complicate effective national climate action, as a result of jurisdictional disputes, ideological division, and political tensions. However, leaving the environment indeterminate from the point of view of federalism is not necessarily a problem for good climate action. Since the state of the environment impacts us all, it would not make much sense for any single head of government or department to have sole responsibility, in the same way that no single department can be solely responsible for the 'welfare' of Canadians.[2]

The political and legislative elements of emergency climate governance will be at the core of this project. However, I do not suggest that all levels of government can equally address climate change through emergency power. The political puzzle about climate change as a real emergency, not a symbolic one, is that the climate emergency is urgent, it is complex, it impacts almost everything across the planet, and the changes needed must come rapidly. But the resolution of the emergency may have to occur over decades,[3] so the changes must be longstanding: rapid reversion to pre-emergency behaviour would just restore emergency conditions.

All this speaks to a problem in how Canadian constitutional law addresses emergency power. Federal emergency powers can override ordinary provincial powers. However, legislative parameters complicate federal control over climate change for the duration and scope needed.

[2] Of course, this indiscriminate role of stewardship over the environment becomes a serious concern when key players who are responsible for things that seriously impact the environment are not mitigating the negative impacts of their affairs, and we all suffer the consequences. In many ways, this is the problem which has been plaguing the stability of our climate.

[3] The lag between the human activities that contribute to atmospheric carbonization and the impacts that ultimately follow can last decades or even centuries. For example, from J.S. Maloy: rising average temperatures increase heat-related deaths, decrease productive labor hours, and raise the costs of maintenance for human infrastructure… more frequent and longer-lasting droughts in some regions, and higher annual rainfall in others make costly disruptions to agriculture more likely… more frequent and more destructive weather events will require greater public spending on flood prevention, recovery from disasters, and the residential or commercial abandonment of some inhabited areas… sea-level rise will contribute to similar impacts, including the relocation of communities and interruption of commerce, while increased sea temperatures will negatively impact a wide range of marine life used as food… and, significant geographic shifts in the habitat of various nonhuman species will affect human food supplies and exposure to disease-carrying agents. (*See* Maloy, "Beyond Crisis and Emergency: Climate Change as a Political Epic," 105).

Federal incursion in provincial jurisdiction is also a major irritant for precisely those provinces with most control over key climate-disrupting industries. Under our current constitutional order, provincial emergency powers therefore appear to be better placed to govern responses to the climate emergency to the extent needed in immediacy, temporality, and scale.

Constitutionally, Canada has dealt with major emergencies through the federal powers implied in the *Peace, Order, and Good Government* (POGG) clause and subsidiary legislation. The most relevant implied powers are known through judicial rulings[4] as the 'emergency power' and 'national concern' branches of the POGG clause. Neither appears to align with or allow for the complexities of scale and temporality of climate responses.

Conventional emergencies vary but typically share high levels of urgency and scale.[5] A matter of national concern, from a conventional sense, is something that impacts the whole nation and should be addressed accordingly. In any ordinary sense, climate change is an emergency and of national concern in urgency and scale.

Legally, however, the central factors for either branch are 'duration' and 'scope'. In Canada's *Emergencies Act*, the main current expression of POGG's emergency branch, an emergency is "an urgent, temporary and critical situation that seriously endangers the health and safety of Canadians or that seriously threatens the ability of the Government of Canada to preserve the sovereignty, security and territorial integrity of Canada."[6] Further, an emergency in the federal

[4] The POGG powers have evolved into being recognized through delineations of three distinct branches: the emergency branch ("the temporary and extraordinary need for national regulation of a particular subject matter"); the residual/gap branch ("the power to make laws on matters that are not enumerated" in the *Constitution*); and the national concern branch ("the power to make laws in relation to matters that go beyond local or provincial concerns or interests, and are, due to their inherent nature, concerns of the Dominion of Canada as a whole"). The two most relevant branches for discussions on climate emergency governance are the emergency and national concern branches.
[5] Nomi Claire Lazar, *States of Emergency in Liberal Democracies* (Cambridge: Cambridge University Press, 2009),7.
[6] Emergencies Act, RSC 1985, c 22 (4th Supp).

sense is such that no other federal law, nor the provinces or territories, could deal with it.[7] The national concern branch identifies a national concern as something that is distinctly identifiable (a specific issue) that inherently concerns Canada as a whole. It requires federal rather than local or provincial power, without otherwise disabling overall provincial power.[8]

The central issue here is a disjuncture and gap in what POGG powers could do to address climate change as an emergency. The Supreme Court has repeatedly deferred to Parliament's (if not also the Governor in Council's) judgment in finding a rational basis for the existence of the emergency, but it imposes the requirement that the declaration be temporary.[9] Yet climate change is a "long emergency."[10] The powers entailed require sustained action, not a short-burst fix. GHG reduction is theoretically a temporary issue, ending when GHGs reach adequate thresholds. But such a transition could take decades, involving federal intrusions that Courts are unlikely to permit.[11] The ambiguity and restrictions involved weigh heavy on the prospect of success.

For different reasons, the national concern branch appears unhelpfully constricted. Under tests standardized in the 1988 *R. v. Crown Zellerbach Canada Ltd*.[12] case, POGG action for a national concern "must be marked by a singleness, distinctiveness and indivisibility that clearly

[7] The criteria that the federal government needs to prove are met in order to rely on the emergency branch to pass legislation were set out in the *Reference re Anti Inflation Act*, and are that: 1) legislation must be of a temporary nature, 2) there must be evidence that it was rational to conclude there was a crisis, and 3) there must be an emergency. ("The Use of the Peace, Order and Good Government Clause in Canada's Constitution," ACLRC, accessed January 7, 2025, https://www.aclrc.com/blog/2020-7-6-the-use-of-the-peace-order-and-good-government-clause-in-canadas-constitution/).

[8] "Peace, Order and Good Government," *The Canadian Encyclopedia*, acessed February 2025, https://www.thecanadianencyclopedia.ca/en/article/peace-order-and-good-government.

[9] See Re: *Anti-Inflation Act*, 1976 CanLII 16 (SCC), [1976] 2 S.C.R. 373, supra note 172 at 378.

[10] James Howard Kunstler, *The long emergency: Surviving the end of oil, climate change, and other converging catastrophes of the twenty-first century*, (Open Road and Grove/Atlantic Publishing, 2007).

[11] Nathalie Chalifour, "Canadian Climate Federalism: Parliament's Ample Constitutional Authority to Legislate GHG Emissions through Regulations, a National Cap and Trade Program, or a National Carbon Tax," *National Journal of Constitutional Law* 36, no. 331 (2016), 360. Chalifour cautions that if Parliament wanted to rely on the emergency branch, it would be safest designing short-term, kickstart legislation or possibly designing longer-term policies with a built-in sunset clause and/or periodic review to emphasize the temporary nature of the law.

[12] *R. v. Crown Zellerbach Canada Ltd*., [1988] 1 S.C.R. 401.

distinguishes it from matters of provincial concern."[13] Yet many provinces have existing regulatory measures relating to climate issues, such as GHG regulation (like energy efficiency standards). Although such measures could co-exist with federal regulation, it is more likely that it would elevate tension, provincial objections, and policy failure.[14] A current example of this is Saskatchewan's refusal to conform to the *Greenhouse Gas Pollution Pricing Act*'s[15] (GGPPA) home-heating oil tax modifications.[16] Without strong industry control options for federal power, only tentative hope exists for achieving what is needed.

If the national concern branch were exercised for climate policy, it could simply perpetuate Canada's overarching tendency to opt for the lowest common denominator to appease all heads of government. Moreover, the intertwined and wide-ranging issues involved in mitigation include pollution, energy, and natural resources (mainly provincial matters), and the same could be said about the climate emergency's impacts. All this renders national concern powers ineligible for the emergency action needed. I respond to this apparent impasse by suggesting that federal emergency governance need not be considered the only option for the climate emergency: provinces appear to have many of the tools to lead the charge.

Provincial emergency power is primarily expressed through emergency management (EM) legislation. Less encumbered by the limitations of federal emergency power, provinces could do what POGG powers cannot. Without the political divisiveness, economic costs, resource allocation problems, moral contention, and international relations questions that all complicate

[13] *R. v. Crown Zellerbach Canada Ltd*., 458 at para 72.
[14] The Pan-Canadian Framework and its ultimate reliance on federal imposition for benchmarking action exemplifies these issues as provinces sought different methods to meet expectations, and in doing so, the federal government too leniently allowed for alternatives to stringent carbon regulations, such as carbon price targets instead of emissions targets, weakening the overall capability of the nationally collaborative action.
[15] References re Greenhouse Gas Pollution Pricing Act, 2021 SCC 11, [2021] 1 S.C.R. 175.
[16] "Sask. government introduces law to stop collecting carbon tax on natural gas," CBC News, accessed April 22, 2024, https://www.cbc.ca/news/canada/saskatchewan/government-introduces-law-stop-collecting-carbon-tax-natural-gas-1.7030339.

federal power, provincial emergency powers can more efficiently and directly enact contextually aware climate action.

It is also important to demonstrate that ordinary provincial powers are not enough. Provincial *emergency* action brings advantages that normal provincial climate policy does not. First, provincial emergency power would be able to instate more stringent regulatory, taxation, or operational policies and measures. It could touch almost all the key sectors contributing to GHG emissions - without normal policy delays and devolutions of climate action stringency. Second, fossil-fuel industry pressure could not as easily seep into emergency decision-making or independent action, if at all. Thirds, emergency power generally, benefitted by the opportunities for its provincial implementation, could also be key for overcoming other traditional barriers that plague more stringent climate action generally, including common psychological aversion to big changes, the unknown, or difficult decisions, and recurring arguments that more incremental or technology-oriented changes will fix the problem, rather than stopping what is contributing to the problem. These obstacles include, as Karl Coplan has put it, "the cultural cognition challenges facing the reality of climate science (and the) related tendency of major legislation to be responsive to an observed crisis rather than an anticipated one,"[17] although worsening climate-driven disaster is increasingly visible. Slow-developing technological transitions and traditional compromise-oriented policy development will not get us the changes we need with fossil fuel influence pervading such decision-making. In the same way, climate federalism oriented around solidarity has only produced weak national climate action, as climate action averse provinces dilute the proposed or pursued stringency of climate policy. Fourth, provincial emergency power, specifically for climate change prevention and mitigation, can also be instated immediately and it

[17] Karl S. Coplan, "Fossil fuel abolition: Legal and social issues," *Columbia Journal of Environmental Law* 41, no.2 (2016), 241.

can set a clear direction. Incremental policy change through more traditional policy implementation can send mixed signals; sometimes it is a new climate policy, followed shortly after by a policy benefitting industry tax that fossil fuels companies benefit from, if not also seeing these companies be subsidized. Climate action through this contradictory incrementalism not only contributes to transition delay but also obfuscates the imperative for action. Radical change through EM would both benefit the consistency and credibility of climate action while also setting a direct target. EM also remains flexible to learning and adaptation as climate action brings change, but the contradictions of traditional policy related to climate and emissions would not so easily cloud the value or complexion of what a fossil fuel phase out entails. Every day that the emergency continues our future felt consequences worsen. Urgency is crucial to emergency action.

Moreover, provinces have not only an opportunity but also a responsibility to act first. As law professor Jocelyn Stacey has explained, most emergencies are local or regional events and fall primarily within the constitutional authority of the provinces: property and civil rights (s. 92(13)), municipalities (s. 92(8)), generally matters of a local nature (s.92(16)), and management of forest resources (s. 92A) (relevant to wildfire emergencies).[18] Further, under section 3 of the federal *Emergencies Act*, federal emergency powers are justified only if an emergency "exceed[s] the capacity or authority of a province to deal with it."[19] Any assessment of the appropriateness of the federal *Emergencies Act* engages a multi-jurisdictional test,[20] but put simply, this keystone document for emergency action indicates that provinces should deal with

[18] Jocelyn Stacey, "Commissioned Paper: Governing Emergencies in an Interjurisdictional Context," Public Order Emergency Commission, 2022, 4, https://publicorderemergencycommission.ca/files/documents/Policy-Papers/Governing-Emergencies-in-an-Interjurisdictional-Context-Stacey.pdf.
[19] *Emergencies Act*, R.S.C., 1985, c. 22 (4th Supp.), s. 3 (a).
[20] Jocelyn Stacey, "Interjurisdictional Accountability for Interjurisdictional Problems," *Man. LJ* 46 (2023), 119.

emergencies before Ottawa steps in, and that they should do *whatever they can* (with their full available capacity).[21] Additionally, under the *Emergencies Act*, the federal government has discrete categories of measures it can implement specific to each of the categories of national emergency; conversely, most provincial legislation authorizes *all measures necessary* to address the emergency.[22] Challenges pertaining to the open-endedness of this power will be discussed through the first and fourth chapters, but the main point is that the capability of a province to act should be considered closely: 'inability' is different from dereliction of duty. Provinces *should* be dealing with the climate emergency however they can.

The legal and constitutional language on emergency in Canada differs from actual emergencies in the real world, in the same way social problems are not policy problems until government leadership pronounces them to be so. Climate change "emergency" is an example of this: this real emergency extends beyond Canada's traditional emergency law, and it would be useful for legal and constitutional language of emergency to take this into account. But as it stands, emergency power enacted by provincial governments could better initiate necessary emissions reductions and long-lasting climate-conscious transitions. This project will investigate what a Canadian response to climate change might look like within the 'emergency' context if provincial governments were the main drivers of action, and if serious mitigation aims of provincial EM took center stage.

A closing note is due in these introductory remarks on the question of political will formation. Some provinces have been markedly less willing to act than others, and it is likely that the highest emitting provinces will still be among the least likely to take action. This is not a thesis

[21] Canada's Emergency Management Framework sets this scalar standard. *An Emergency Management Framework for Canada, 3d ed* (Ottawa: Public Safety Canada, 2017), https://www.publicsafety.gc.ca/cnt/rsrcs/pblctns/2017-mrgnc-mngmnt-frmwrk/2017-mrgnc-mngmnt-frmwrk-en.pdf.
[22] Stacey, "Commissioned Paper: Governing Emergencies in an Interjurisdictional Context," 15.

about that problem of will formation. But it is a thesis that takes into account the veto role of these provinces in delaying adequate federal climate action, even when political will was available elsewhere in the country. Furthermore, it recognizes that surprising openings have proven to be possible at the provincial level even in these provinces, and that more willing provinces could do greater things if they took their own path towards urgent action. Willing provinces could also catalyze a greater climate movement, motivating or implicating action in those initially less inclined.

Provincial Climate Emergency Governance

This project, inspired by growing research on provincial climate leadership, argues that provincial emergency powers could effectively serve as a response to the climate emergency. To do this, it focuses on provincial EM legislation to address climate change, with particular emphasis on mitigative action on GHG emissions. Pursuing this means addressing the theoretical, hypothetical, and practical features of applying provincial emergency powers to climate change. I include dangers and opportunities involved, legislative capabilities available, and meaningful applications. A comparative focus on British Columbia and Alberta addresses differences in the availability of emergency power depending on differing political complexions and dispositions towards climate policy. Provinces have histories of emergency responses, including prominent roles in climate action and national emergency management,[23] and they could play such a role again.

[23] See Kathry Harrison, "Climate Governance and Federalism in Canada," in *Climate Governance and Federalism: A Forum of Federations Comparative Policy Analysis*, ed. Alan Fenna, Sébastien Jodoin, and Joana Setzer (Cambridge: Cambridge University Press, 2023), 64–85; and Jörg Broschek, "Federalism, Political Leadership and the Covid-19 Pandemic: Explaining Canada's Tale of Two Federations," *Territory, Politics, Governance* 10, no. 6 (2022): 779–798. doi:10.1080/21622671.2022.210151.

EM is traditionally composed of four pillars: mitigation/prevention, preparedness, response, and recovery. The key pillar for this project is mitigation/prevention. Mitigation is a sustained action to reduce or eliminate risk to people and property from hazards and their effects.[24] In EM, 'hazards' include natural and manmade circumstances that pose risks of damages and disaster. Mitigation addresses both core components of risk: probability and consequence.[25] Climate-specific emergency action is still rare, and when it does happen, mitigation and prevention get far less attention than response and recovery. Climate responses also continue to privilege behavior change over system change and fail to challenge fossil-fuel capital's power.[26] Positioning climate change as *the* emergency and squarely privileging mitigation would be of great benefit. If we do not stop these base factors driving the emergency, we will slip further into emergency, with worse disasters and constant response becoming the norm. We should all want better than that.

Four secondary lines of inquiry help advance this project's primary focus: 1) If climate emergencies lack discrete beginnings and endings, which institutional arrangements minimize the consequences for policy formation? 2) What social and governance dangers might arise from formal emergency declarations to govern climate change? 3) Does widespread or asymmetric provincial climate emergency governance seem more likely, and what benefit could asymmetric action still bring to Canada's climate action? 4) Could governing on climate change through an "emergency" frame instigate more efficient, effective, and longstanding climate action in Canada, and if so, how?

[24] Prevention is a term often synonymously tied to mitigation in EM, if not indicating a more hardline approach to reducing potential emergency.
[25] In EM, there is a linkage between disaster preparedness, hazard mitigation, and risk reduction. *See* Robert O. Schneider, "Climate change: an emergency management perspective," *Disaster Prevention and Management: An International Journal* 20, no. 1 (2011): 53; Jane Bullock, GD Haddow and DP Coppola, "Mitigation, Prevention, and Preparedness," *Introduction to Homeland Security* (2012): 435.
[26] Peter Somerville, "A critique of climate change mitigation policy", *Policy & Politics* 48, 2 (2020): 355.

Indeed, it would be no small feat to see fossil fuel producer provinces enact EM for climate. Politically, it seems less likely. But this does not mean the value of the opportunities should be overlooked. Provincial energy complexions change, as do politics; Overton windows open, climate action outside of laggard provinces can shift markets and energy realities, and emergencies can influence perspectives. These features will be considered through the second chapter in relation to the prospect of climate EM in more climate action averse provinces. But on the point of asymmetric governance, with more climate-progressive provinces appearing more likely to engage EM for climate (if any provinces would), a few notes of the value in the asymmetric option must be stated upfront. Each will be discussed in more depth throughout the project with final reflections in chapter four. First, we must consider the issue of joint decision trap. In work on Canadian climate federalism, Kathryn Harrison has elucidated the issue of waiting on unity to act, particularly on climate issues. Most evident from the 1990's to the early 2000's, when Canada began to pursue emissions reduction, the least ambitious (and most fossil fuel-dependent) provinces vetoed national solutions for emissions reduction and resisted both provincial and federal action.[27] Provincial resistance to federally proposed climate action[28] was reinforced by economic competition, and accordingly, without provincial consensus to increase climate policy stringency, or federal unilateralism imposing climate policy, a 'stuck at the status quo' dynamic became the reality for Canada's climate policy.[29] But as Brendan Boyd and Andrea Olive have pointed out, starting around 2007 some provincial leadership on innovation began providing optimism for cross-provincial learning and widespread climate action in

[27] Kathryn Harrison, "Climate Governance and Federalism in Canada," chap. in *Climate Governance and Federalism: A Forum of Federations Comparative Policy Analysis*, eds. Alan Fenna, Sébastien Jodoin, and Joana Setzer (Cambridge: Cambridge University Press, 2023), 64. See also Kathryn Harrison, *Passing the buck: Federalism and Canadian environmental policy*, UBC Press, 1996.
[28] GHG emissions reductions commitments at the 1992 United Nations Framework Convention on Climate Change, and Canada ratified the Kyoto protocol in 1998, followed by the related development of Canada's Action Plan 2000 to help meet Kyoto targets.
[29] Harrison, "Climate Governance and Federalism in Canada," 70.

Canada.[30] Fossil fuel path dependence and persisting climate-action-averse politics have kept some provinces (e.g. Alberta, Saskatchewan) from engaging in more serious climate action, but others have acted (e.g. British Columbia, Quebec).

As we consider how to address a very real climate emergency, acknowledging that some provinces may be less likely to use EM for climate, the value of asymmetric climate governance is threefold. These points are also predicated on the notion argued above that provincial governments appear most capable to deal with climate change as an emergency. First, as noted, the joint decision trap of climate politics can render unified action weak, if any action comes at all. Provincial EM is not reliant on widespread unification; rather, it promises benefits from the ability to engage EM power with contextual awareness for local situations and needs. Even if some provinces remain staunchly against greater climate action, a coalition of the willing could engage EM for climate, and when facing an emergency, all effort helps. Second, an uncharacteristic emergency, climate change impacts the entire planet, just as actions anywhere in the planet can impact is perpetuation or its remediation. Practical and political ethics features of this argument will be discussed throughout the thesis, but the main point here is that for those who wish to see a catastrophe-ridden future avoided, any major action would help, literally. Emergency power provides an almost unprecedentedly impactful tool. And third, with contributing features of the climate emergency being tied to industry and energy, changes for sustainability and low-carbon alternatives will impact markets, labour opportunities, energy affordability (and security), and economies, with the potential (already evident in certain

[30] Brendan Boyd and Andrea Olive, eds., *Provincial Policy Laboratories: Policy diffusion and transfer in Canada's federal system* (University of Toronto Press: 2021). Examples include the 2007 Western Climate Initiative (WCI) between British Columbia, Manitoba, Ontario and Quebec; Continued meetings (albeit relatively inconsequentially) of the Canadian Council of Ministers of the Environment (CCME); Alberta's output-based carbon pricing for tar sands producers in 2007 and its 2017 *Oilsands Emissions Limit Act*; British Columbia's 2008 revenue-neutral carbon tax and its 2024 output-based pricing system; Quebec's 2014 joining with California in the first emissions trading scheme to extend coverage to small sources (Cap-and-Trade); and Ontario's closing of its five remaining coal-fired power plants between 2003 and 2015 (*Ending Coal for Cleaner Air Act*).

provinces) to benefit each.[31] The impact that a transition at the emergency level could have on these areas could serve to sway interests in initially reluctant provinces towards phasing out fossil fuels, looking to align with those benefits to be had. Indeed, perhaps no provinces will engage EM for climate governance, but with an exploration of the climate emergency and provinces' relationships to it, this project serves to hold value, meaning, and importance for the whole spectrum of potential futures, from widespread to asymmetric to no emergency action.

In pursuing an emergency powers argument for climate, this project also necessarily grapples with the very real dangers for liberal democracy. However, it outlines climate emergency power use that aligns with liberal democratic values, one that sustains the liberal democratic state. Carl Schmitt's link between emergencies, emergency powers and ultimate 'sovereignty' continues to incite questions.[32] But this project rejects Schmitt's disregard for the norms and laws of liberal constitutionalism.

This project also does not advocate Andreas Malm's insistence that civil disobedience (justified as emergency action) is strictly necessary if the government is not doing enough.[33] This project further stimulates the discussion about how governments *could* do enough, and rejects the notion that sabotage and property damage, which Malm supports in *How to Blow Up a Pipeline*, will benefit a democratic society, no matter how noble the reasons might be. Although both Schmitt and Malm add valuable perspectives to the discussion on the capacity and potential of emergency powers, this project is not advocating for unconstitutional action, rights violations, or unlawful rebellion. This project is interested in the opportunities that government action through

[31] See Rabia Ferroukhi, Alvaro Lopez-Peña, Ghislaine Kieffer, Divyam Nagpal, Diala Hawila, Arslan Khalid, Laura El-Katiri, Salvatore Vinci and Andres Fernandez, "Renewable Energy Benefits: Measuring the Economics," *International Renewable Energy Agency* (2016): 22-53.
[32] See John P. McCormick, "The Dilemmas of Dictatorship: Carl Schmitt and Constitutional Emergency Powers," *Canadian Journal of Law & Jurisprudence* 10, no. 1 (1997): 163–187. For Schmitt, in a state of emergency, the norms of a legal order give way to the political act, the act of decision in the face of hostile threats, and that decisionism power rests in the hands of the sovereign (or the executive). (Douglas Casson, "Emergency Judgment: Carl Schmitt, John Locke, and the Paradox of Prerogative," *Politics & Policy* 36, no. 6 (2008): 945).
[33] Andreas Malm, *How to Blow Up a Pipeline*, (Verso Books, 2021).

emergency power could bring to climate action while exercised within constitutional parameters, absent rights abuse, for the benefit of a transition that does not rely on civilian-led disruption.

The emergency discussed here is also not the disruptive impact of a phase-out of fossil fuels itself. Such disruptions do underscore the need for justice and compensatory job and lifestyle opportunities (or ideally, superior opportunities) in any transition: government support during and afterwards will be crucial.[34] Instead, this project focuses on abating impending global disaster and the essential first step in that mission, mitigating GHG emissions, is also the largest.

Emergency action must be strategic, constitutional and just. But our pulses should be rising over the climate emergency, and ideally, we should all be working together and doing our utmost. Provinces can greatly contribute through EM, and it is absurd to suggest that any province is incapable of making substantial change – economic, industrial and political changes have all happened before and can again. Of course, however, some provinces seem more likely prospects than others, and this will be discussed in chapters 2 and 3. But a central goal of this thesis is to show that the tools for emergency climate action are available. At best, this project's findings could inform a future where widespread emergency climate action could substantially benefit abatement, without abusing rights, but shifting lifestyles and norms towards a better future. At worst, no province takes emergency climate action, but even then, this project would still inform understanding about the relationship provinces have (and should have) with Canadian climate action, GHG mitigation, and emergency response. The remainder of this introduction clarifies my methods and justifies the focus on Alberta and British Columbia. I also

[34] New infrastructure and low-emissions technology, as well as new job opportunities and programs for those needing to shift away from phased-out fossil fuel opportunities will be crucial for the transition to be equitable.

clarify my reasons for omitting related topics, state the intended contributions to academia and Canadian climate governance research, and outline the forthcoming chapters.

Project Design and Methods

Provincial Comparative Case Study: A Justification of Case Selection

Alberta (AB) and British Columbia (BC) were selected to compare for this project for several reasons. Both have had (and still have) significant ties to major GHG emitting industries. Both have played active roles in intergovernmental energy and climate politics, though with varying (sometimes adversarial) ambitions. At various times, such as during the COVID-19 pandemic, both provinces have exercised their EM legislation during emergencies; and both provinces have made various "state of emergency" declarations about climate change, including various local jurisdictions in each and their capital cities.[35] Both provinces have also gone through major shifts in their dominant industries, encouraging the notion that change could happen again.

Starting in the 1870s, what is now Alberta transitioned from two centuries of fur trade to ranching (1870's and 1880's), then to agriculture (the "wheat boom" beginning in 1896), and then to coal. Natural gas wells took centre stage in the mid-20th century, and oil and gas dominated from the 1970's onwards. Bitumen now represents almost all future fossil fuel growth beyond 2025. Recently, renewable energy development has grown in Alberta, predominantly in wind and solar energy: it is one of the best locations in Canada for both.[36]

[35] "Climate emergency declarations in 2,359 jurisdictions and local governments cover 1 billion citizens," Climate Emergency Declaration, last updated September 2024, https://climateemergencydeclaration.org/climate-emergency-declarations-cover-15-million-citizens/.
[36] However, provincial moratoriums and development regulations have been argued by critics such as Canadian Climate Institute's Rick Smith as decisions that will throttle a booming industry, increase electricity rates, and drive away investment. ("Alberta's renewable energy restrictions will throttle a booming industry and drive away investment,"
Canadian Climate Institute accessed November 3, 2024, https://climateinstitute.ca/news/albertas-renewable-energy-restrictions-will-throttle-a-booming-industry-and-drive-away-investment/).

British Columbia's economic drivers (industry focus) have not shifted so precisely from one dominant resource to the next.[37] In British Columbia, the fur trade dominated the early 19th century, followed by a gold rush (1858).[38] By the 1880's local forestry, small farms, and complex rail, road and water transport grew in importance, while coastal settlements were supported by fishing and canneries.[39] Forestry became the main component of BC's economy through the 20th century,[40] while BC began to exploit all the above-listed natural resources to an unprecedented extent. BC coal was first mined in the mid-19th century and grew into a prominent fixture of its economy. Today, mining, forestry, agriculture, fish and food, and natural resources including renewable energy all contribute to BCs current economic base. Hydroelectricity is the province's largest source of electrical power generation.[41]

In summary, it is untrue that fossil fuel energy such as coal or oil and gas are the 'way it has always been', or 'the way it has to (or should) be': change, development, and progress through transition are closer to the truth about provincial development.

AB and BC have also been chosen because they represent two provincial sub-types within Canada on energy policy. Inspired by Douglas Macdonald's *Carbon Province, Hydro Province*, and Angela Carter's *Fossilized,* this project will distinguish between 'Climate Leader Provinces' and 'Climate Laggard Provinces'. Macdonald distinguishes between petroleum producing (fossil-fuel oriented) provinces and hydroelectricity-producing ones (renewable

[37] This is also not to mention the comprehensive work being done on the concerns that a fossil fuel dependency brings into economic stability, including boom and bust (staples economy) threats exacerbated by international market trends for transitions to renewables.
[38] J. Lewis Robinson, "British Columbia," *The Canadian Encyclopedia*, Historica Canada, last edited March 7, 2024, https://www.thecanadianencyclopedia.ca/en/article/british-columbia.
[39] While also being main ports for coastal and interior products to move to world markets.
[40] The major expansion of the forest industry came, however, after the First World War when the Panama Canal opened and gave access to markets around the north Atlantic region.
[41] Currently 98 per cent of the power generated for BC's integrated grid comes from clean or renewable resources ("BC Hydro receives strong response to call for clean electricity to power economy," BC Gov News, accessed November 9, 2024, https://news.gov.bc.ca/releases/2024EMLI0068-001550#:~:text=Currently%2098%25%20of%20the%20power,more%20between%20now%20and%202030).

energy oriented) provinces. His hydro-provinces (my climate leader provinces) are more climate-friendly, because their electricity derives from hydro-electric power; the opposite is true for his carbon-provinces (my climate laggard provinces). But these terms are relative - neither AB, BC, nor any province has done enough. Although leader and laggard are more literary devices than precise categories, they represent two broad provincial sub-types, including political cultures, climate-action dispositions, and fossil-fuel connections to politics. Analyzing BC and AB in this way suggests this project's findings could be transposed onto similar provinces, helping to expand understandings of provincial climate emergency governance across Canada.

Laggard Provinces primarily refer to Alberta, Saskatchewan, and Newfoundland and Labrador. Key similarities amongst them include high economic dependence on and continued investment in fossil fuel industry; high per-capita GHG emissions; indifference, objection, or outright refusal to set emissions reduction standards through prices on carbon; and inconsistent and weak provincial climate action. Alberta produces a third of Canada's GHG emissions while only making up 12% of Canada's population, and the province has substantial ties to oil and gas with continuing interest in expansion. Most of Alberta's political history, with few exceptions, saw governments that strongly favoured the fossil fuel industry. Important to note, perhaps ironically, AB was the first province to in North America to adopt carbon pricing under the *Climate Change and Emissions Management Act*, and AB also took the lead in adopting output-based carbon pricing for tar sands producers in 2007.[42] But various critics have noted that AB's

[42] Kathry Harrison, "Climate Governance and Federalism in Canada," in *Climate Governance and Federalism: A Forum of Federations Comparative Policy Analysis*, ed. Alan Fenna, Sébastien Jodoin, and Joana Setzer (Cambridge: Cambridge University Press, 2023), 71; "History Lesson – Carbon Pricing in Canada," Brightspot Climate, last edited February, 2022, https://brightspot.co/library/history-lesson-carbon-pricing-in-canada/.

price-based tactics have been ineffective, with fatally high ceilings of allowable emissions and flexible adaptation options.[43]

Leader Provinces refer primarily to British Columbia, Quebec, and the Maritime provinces, with particular emphasis on Prince Edward Island. The leader provinces share diversification strategies to move away from fossil fuels industries; low or falling per-capita GHG emissions; emissions reduction standards through prices on carbon;[44] clearly identified and pursued emissions reduction targets; and stronger accountability mechanisms for climate action.[45] BC was the first carbon neutral government in North America, with carbon-neutral public sector operations since 2010. BC long had the strongest provincial broad-based carbon tax in Canada and is a leader in clean technology and low-carbon energy development. It also has stringent emissions reductions plans (on track to meet 2030 emission reduction goals).[46]

Implicit in a Canada-wide typology would be a middle category (neither leader nor laggard). Manitoba and Ontario share characteristics from each of the first two sub-types. As Macdonald has articulated, Manitoba produces substantial hydroelectricity and so is clearly not a strict "petro-province." Further, a new Electric Vehicle (EV) rebate supports a clean energy transition there. Yet Manitoba has also strongly opposed a greater federal carbon tax (or meeting federal standards) and was one of only three provinces whose emissions rose from 2005 to 2022.[47] Ontario has similarly opposed more stringent carbon pricing, especially since the 2018

[43] "Alberta's carbon pricing not best-in-Canada example," Pembina Institute, accessed January 8, 2025, https://www.pembina.org/blog/albertas-carbon-pricing-not-best-canada-example; "The more things change, the more they stay the same: Alberta revamps carbon pricing regime for large emitters," Osler, accessed January 11, 2025, https://www.osler.com/en/insights/updates/the-more-things-change-the-more-they-stay-the-same-alberta-revamps-carbon-pricing-regime-for-large/.
[44] British Columbia was the only province to intervene in support of the federal government's national carbon tax when it was challenged in court.
[45] See Sarah McBain, Thomas Gunton, Chelsea Mathieson, Martha Kilian, Matt Dreis, Simon Dyer, "All Together Now A provincial scorecard on shared responsibility to reduce greenhouse gas emissions in Canada," *Pembina Institute*, Calgary, Alberta, (2024).
[46] "BC confirms progress toward climate goals in latest accountability report," Canadian Climate Institute, accessed January 10, 2025, https://climateinstitute.ca/news/b-c-confirms-progress-toward-climate-goals-in-latest-accountability-report/.
[47] "Greenhouse gas (GHG) emissions in Canada from 1990 to 2022, by province" *Statista*, accessed November 20, 2024, https://www.statista.com/statistics/481142/greenhouse-gas-emissions-in-canada-by-province/.

election of the Doug Ford Progressive Conservative government. But has also expanded its EV supply, shut down its coal-fired power plants, and reduced GHG emissions by 22% from 2005 to 2022.[48]

Research Methods

The diverse levels of fossil-fuel dependence and political interests between Canadian jurisdictions offers an excellent natural experiment for research into climate change policy.[49] It allows comparison across different jurisdictional units (provinces) on how EM legislation, as well as political contexts, might impact provincially-led climate action and GHG emissions reduction. Though the climate emergency is an ongoing dynamic crisis, this project considers the potential of provincial EM legislation under relatively stable conditions, in its most recent forms. This does somewhat limit the scope of this thesis, as various legislation can govern emergencies in one way or another (e.g. public health acts or insurance law).[50] But the importance of EM for climate emergency governance should not be overlooked. This project presumes the crucial underlying importance of addressing climate change for human and biosphere sustainability, and for both emergency remediation and impending disaster avoidance (with the climate emergency involving both). EM provides a valuable tool for engaging with these concerns. Finally, as indicated above, this project aligns with the principles of a small-n case-study approach, focusing on AB and BC, and uses a mixed-methods research approach, relying on historical institutionalism and policy design analysis.

[48] "Greenhouse gas (GHG) emissions in Canada from 1990 to 2022, by province" *Statista*, accessed November 20, 2024, https://www.statista.com/statistics/481142/greenhouse-gas-emissions-in-canada-by-province/. It is also worth noting, these advancements were not all undertaken with the Ford government in power – the occurred or were in motion prior to Ford's election.
[49] Thad Dunning, *Natural experiments in the social sciences: A design-based approach*, Cambridge University Press, 2012.
[50] Stacey, "Commissioned Paper: Governing Emergencies in an Interjurisdictional Context," 2.

Historical institutionalism helps trace institutional patterns and relationships, whether progressive or restrictive, between federal and provincial climate action, climate policy and fossil fuels, and emergency management legislation (emergency power). Historical institutionalism also helps shed light on persisting asymmetries in Canada's climate policy outcomes. This method helps alleviate what Adam Wellstead calls an analytical limitation from viewing policy outcomes solely through rational actor behavior, incorporating instead a deeper understanding of the institutional mechanisms shaping policy trajectories over time.[51] Policy design analysis will be used here to supplement a more context-oriented evaluation of climate-related policy development, EM legislation, and its implementation in different provinces.

Factors Not Addressed: Indigenous Emergency Management and Climate Governance

The historical and ongoing impacts of colonization, land dispossession, and assimilationist policies are felt daily in Canada. The factors driving these issues involve the suppression and misrepresentation of culture; the appropriation of culture, land, and resources; the disconnection of people and their territories; the destruction of heritage and ecosystems; and the ongoing violent displacement or even killing of knowledge holders themselves.[52] These problems and the colonial structures that perpetuate them often suppress and distort Indigenous Knowledges in environmental research, governance, and decision-making, while also creating barriers for their inclusion.[53] Indigenous rights and self-determination, and the suppression of Indigenous Knowledges in EM must ultimately be addressed better, and the importance of this is not lost here. However, this project is primarily oriented around the opportunities directly related

[51] Adam Wellstead, "A historical institutionalist approach to understanding the ambiguities of environmental federalism: the case of Canada and open federalism" in *Open Federalism Revisited: Regional and Federal Dynamics in the Harper Era,* eds. James Farney and Julie M. Simmons (University of Toronto Press, 2021), 231.
[52] Álvaro Fernández-Llamazares, Dana Lepofsky, Ken Lertzman, Chelsey Geralda Armstrong, Eduardo S. Brondizio, Michael C. Gavin, et al., "Scientists' Warning to Humanity on Threats to Indigenous and Local Knowledge Systems," *Journal of Ethnobiology* 41, no. 2 (July 2021): 144-169.
[53] Fernández-Llamazares et al., "Scientists' Warning to Humanity on Threats to Indigenous and Local Knowledge Systems.," 144.

to current provincial EM legislation, through the lens of the *Constitution Act, 1867*. Future research should prioritize the integration of First Nations and Indigenous knowledge frameworks into collaborative, holistic, and culturally sensitive national and provincial climate policy discourse and EM legislation development.

Chapter Outline

This project consists of four further chapters, covering three phases of argument and a conclusion with three possible futures for climate emergency action. Chapter 1 presents the first phase, the argument's theoretical base. It first identifies the barriers and obstacles to real progress on climate policy under 'normal' legislative and regulatory practice. This clarifies how this project sees emergency powers (and particularly mitigation and prevention through provincial EM legislation) as benefiting climate action and overcoming policy obstructions. Next, I provide a brief history of provincial emergency powers to set the stage, and then consider the dangers of emergency power, challenges that emergency powers might face, how they could be overcome, and an appreciation of the opportunities they present. The chapter concludes with reflections on how emergency powers may operate in line with liberal democratic values.

Chapter 2 presents this project's hypothetical application, with a more targeted exploration of provincial emergency powers, provincial experiences with emergency, and provincial political contexts. It investigates what these things might indicate about differing provincial capacities and interests in governing climate change as an emergency. This chapter also reflects on lessons learned from provincial pandemic responses through EM governance, which was an instance where provinces took the lead in handling an uncharacteristic emergency of national scale.

Chapter 3 presents the third phase of this project's argument, the practical enactment of emergency climate power. The chapter's first part surveys key facets of possible EM mitigation for AB and BC by discussing the evaluative metrics of GHG emissions used to consider the effectiveness of mitigation options. This first part also reviews general emergency powers under provincial EM legislation in AB and BC and critically evaluates the explicit and implicit relationships between provincial emergency powers (in EM legislation), especially over mitigation, and climate change, the environment, and major emitting sectors. Part two provides examples of emergency power mitigation in practice in AB and BC.

Chapter 4 concludes the thesis. It offers final reflections on practical applications for emergency climate governance, and the implications of this thesis for provincial climate governance more broadly. Recounting key arguments and lessons gathered through the project, it includes a final clarification with examples on overcoming traditional climate policy barriers through provincial EM while avoiding rights and freedom violations. Issues raised through the project on the benefits of future EM legislative reform will also be recounted with suggestions for reducing the dangers and amplifying the effectiveness of provincial emergency power and on climate related action. The concluding section also evaluates relative capabilities for emissions reduction through EM between leader and laggard provincial contexts. Finally, this chapter attends to broader lessons about the climate issues we face, and this project's value beyond specific recommendations with reflections on three potential futures that follow from this project's arguments: widespread provincial emergency climate action; asymmetric emergency climate action; or, no provincial emergency climate action.

Chapter 1: Climate Action Barriers, Emergency Power Dangers, and Opportunities through a Different Provincial Approach

As climate disruption becomes increasingly recognized as an emergency (publicly and politically), more questions have risen about what governments will do about it and its consequences. Most Canadian climate change and climate federalism literature has focused on the federal government and its inability to develop national policy adequate to its international commitments.[1] Provinces often appear only within the context of national policy and international commitments.[2] Consequently, insufficient attention goes to provincially-led climate emergency governance options.

The first section of this chapter identifies the barriers to real progress on climate policy that is occurring under 'normal' legislative and regulatory practice, advancing the argument for applying emergency power. The second section outlines the development of emergency power in Canada, leading ultimately to provincial emergency management legislation, especially in BC and AB. The second section then outlines the theoretical underpinnings that justify emergency power with emphasis on the dangers. I identify major challenges to an argument for emergency powers on climate change, including rights derogation and abuse and significant norm-disrupting action. The third section then clarifies the opportunities arising from provincial emergency power (particularly in mitigation and prevention) benefiting climate action, overcoming common policy obstructions, and avoiding noted dangers. The chapter concludes with an explanation of how emergency powers could align with liberal democratic values in Canada.

[1] See for example, Tracy Snoddon, "Policy Forum: Carbon Taxes and Fiscal Federalism in Canada—A New Wrinkle to an Old Problem," *Canadian Tax Journal/Revue fiscale canadienne* 70, no. 1 (2022): 73-95; Allan C. Hutchinson, "Walking The Line: The Politics of Federalism and Environmental Change," *SCLR* (2d), no. 108 (2023): 53-64.
[2] For example see Mark Winfield and Douglas Macdonald, "Federalism and the Environment," in *Canadian Federalism: Performance, Effectiveness and Legitimacy*, eds.Grace Skogstad and Herman Bakvis (Toronto: Oxford University Press, 2008).

Obstacles to Traditional Climate Policy

The impact that politics have had on the creation of the climate emergency and on barriers to change that have led to its perpetuation must be acknowledged, so that reasons for an alternative approach through provincial emergency power can be best appreciated. Put bluntly, we can read the failure to address the mounting chaos of the climate crisis as an example of wider collective irrationality. In his work on climate disruption as a "long emergency", David Orr effectively points to a major theme of the human experience being self-inflicted and periodic societal collapse. Without the foresight to anticipate large problems ahead, or the summoning of wit to solve them in time, entire societies and civilizations have collapsed in various ways at various times throughout human history.[3] As Orr explained, whatever the particulars in these instances of collapse, the downward spiral leading to collapse always included a large dose of elite irresponsibility, who were often engaged in wishful thinking, denial, and groupthink abetted by rules that reward individual selfishness much more than group success.[4] In other words, Orr contends that the collapse of societies and civilizations often begin with failures of governance and politics. Although climate change might not be the feature that destroys civilizations per se, many signs point to an unaddressed climate emergency leading towards large-scale destruction, and the causes of this crisis, and persisting complications for remediating action to be taken are largely due to choices in politics and governance. A few key issues have had a particular influence on the political and governance problems contributing to the climate emergency that have made necessary climate action difficult under normal (not emergency) circumstances.

[3] David Orr, *Dangerous Years: Climate Change, the Long Emergency, and the Way Forward* (Cumberland: Yale University Press, 2016), 96.
[4] Orr, *Dangerous Years: Climate Change, the Long Emergency, and the Way Forward*, 96.

One main issue comes from social and political ties to fossil fuels, with the fossil fuel industry continuing to both drive greenhouse gas pollution and oppose decarbonization. [5] This resistance has been evidenced through many studies and has often manifest as climate change denial, or more recently as greenwashing. Moreover, while seeding doubt over climate science, fossil fuel interests also have commonly argued for the need to delay any mitigation initiatives that would slow economic growth.[6] In Canada, and around the world, the industry has proved to be highly successful in constructing an equivalence between fossil energy and general economic welfare such that a transition to renewable energy appears as a threat. Manipulation and falsehoods are common to these arguments, but the industry has directly influenced how citizens consider climate and fossil fuel issues, and how political decisions are made. Government subsidizations of the fossil fuel industry and direct connections between national and sub-national fossil fuel economies have also tied GHG-intensive industry to politics. Not all individuals involved in the fossil fuel industry are to blame for the perpetuation of fossil-fuel driven issues (though a greater recognition of the issues and pressure for better practice from industry employees would be beneficial).[7] But organizational ambition and ideological framing, or a 'culture' in the fossil fuel industry, has undeniably frustrated climate action. Fears of slowing economic growth, a fear that fossil fuel companies foster, is really about slowing profit. In truth, rapid implementation of the cheapest means of delivering power (such as solar power) would reduce energy costs and employ more people at lower capital costs.[8]

[5] Orr, *Dangerous Years: Climate Change, the Long Emergency, and the Way Forward*, 19; Daniel Nyberg, Christopher Wright, and Vanessa Bowden, *Organising Responses to Climate Change: The Politics of Mitigation, Adaptation and Suffering*, (Cambridge: Cambridge University Press, 2022), 43; There is a great deal of work done showing linkages between fossil fuel industry and climate change, for one example see Donald J. Wuebbles and Atul K. Jain, "Concerns about climate change and the role of fossil fuel use," *Fuel processing technology* 71, no. 1-3 (2001): 99-119.

[6] Nyberg, Wright, and Bowden, *Organising Responses to Climate Change: The Politics of Mitigation, Adaptation and Suffering*, 45.

[7] But of course, a crucial factor in generating willingness to leave a company or put oneself in a vulnerable position when pushing for change is that there is a relatively safe place to land no matter the outcome. The provision of such opportunity should be enhanced through sustainable transition job support. More sustainable energy alternatives (and the politics around it) are crucial here, but are beyond the scope of this project.

[8] See Federico Dell'Anna, "Green jobs and energy efficiency as strategies for economic growth and the reduction of environmenta1 impacts." *Energy Policy* 149 (2021): 1-15.

A different kind of government-driven involvement is needed in this relationship for the industry trajectory to shift substantially, but other barriers could still hamper such action. Psychologically, we are creatures of habit: consistency is a natural desire.[9] We have become quite used to a fossil fuel society in Canada for work[10] and play.[11] A sense of entitlement to fossil fuel abundance developed through colonial institutions.[12] Many believe that changing a little to contribute to a solution, such as by paying a carbon tax or bussing instead of driving, is substantially more uncomfortable and problematic than continuing with our regular routines. Yet these routines allow a catastrophic crisis to mount. Not all people hold this perspective, of course, but it is prevalent enough that no overwhelming push from the public has forced the hand of Canadian governments,[13] and no solutions have been undertaken yet that are sufficient to the challenge. Uncertainty and unknown consequences also challenge climate action in a democracy, where decisions of citizens and political leaders often rest on being as close to certain as possible about the potential impacts of major change. No government can guarantee that their initiatives to mitigate climate change will work, and nobody can remember or read about an existence that was like what our existence would be if all necessary climate action were taken – it would be a reality that would function quite contrary to our histories of capitalism and colonial exploration, expansion, domination and growth. When people have trouble relating to an issue concerning big change, they often have trouble voting for it. [14] Although some progress in climate policy is

[9] Raymond Murphy, T*he Fossil-fuelled Climate Crisis: Foresight Or Discounting Danger?* (Springer Nature, 2020), 16.
[10] Energy used to power our machines, such as laptops, cellphones, and the lighting, heating, and cooling in our buildings are still predominantly derived from fossil fuels.
[11] People are also often excited by the prospect of affluence and amusement of buying (gas-guzzling) SUVs, crossovers, pickup trucks, and fossil-fueled thrills in the form of motorboats, four wheelers, snowmobiles, more lighting fixtures, bigger refrigerators, larger homes, etc.
[12] Murphy, T*he Fossil-fuelled Climate Crisis: Foresight Or Discounting Danger?*, 16; The implementation of John Maynard Keynes and William Beveridge's economic principles, among other things, provided a base for an exploitation of resources and opportunity-seeking for specialization to cement itself.
[13] This is not a universal experience however, as in different contexts, such as in Germany and the Scandinavian countries, a very different citizen-involved push has occurred.
[14] As Machiavelli had realized: "It ought to be remembered that there is nothing more difficult to take in hand, more perilous to conduct, or more uncertain in its success, than to take the lead in the introduction of a new order of things. Because the innovator has for enemies all those who have done well under the old conditions, and lukewarm defenders in those who may do well under the new. This coolness arises partly from fear

underway, public perception still hesitates at the importance and value of taking climate action as an emergency; climate action generally is still weak in Canada compared to what is needed, and climate emergency action is incredibly limited. To change this, public pressure will be important, especially in less climate progressive provinces, and these should be cemented in adequate climate literacy, ideally through discussions such as those offered here, to provoke policy change. At the same time, government leadership could both bring the changes now and encourage a greater understanding of what the changes will mean in practice, ideally encouraging continued citizen engagement. It could be particularly important for climate-leader provinces to display the benefits of action before climate laggard provinces. Such asymmetric provincial action will be discussed more in chapter 3. The main point here is that provincial EM could allow such pioneering action to be initiated swiftly, more complex policy shifts could occur through the momentum generated.

Even if emergency power could break through the above barriers, and greater climate action becomes the accepted path, the style of action must be well chosen. The belief in less hard-line or drastic action that does not disrupt social (fossil fuel) normality can make for insufficient action, an obstacle for what is necessary. For example, some find comfort in technological innovation, no matter how bad the environmental conditions. As long as necessary technology is invented and implemented before 'it all ends' we will be okay, so the argument goes. By most accounts, this kind of technological salvation will not happen.[15] Technology can

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of the opponents, who have the laws on their side, and partly from the incredulity of men, who do not readily believe in new things until they have had a long experience of them." (Niccolò Machiavelli, *The Prince*, translated by W. K. Marriot. 1st ed., G&D Media, 2019), 30.

[14] See Ronald B. Mitchell, "Technology is not enough: Climate change, population, affluence, and consumption." *The Journal of Environment & Development* 21, no. 1 (2012): 24-27; "Why relying on new technology won't save the planet," Lancaster University, SD, accessed March 15, 2025, https://www.sciencedaily.com/releases/2020/04/200420125510.htm; "Can tech save us from worst of climate change effects? Doesn't look good," The Harvard Gazette, accessed March 15, 2025, https://news.harvard.edu/gazette/story/2022/11/can-tech-save-us-from-worst-of-climate-change-effects-doesnt-look-good/; Thomas Dietz, "Political events and public views on climate change," *Climatic Change* 161, no. 1 (2020): 1-8.

[15] See Ronald B. Mitchell, "Technology is not enough: Climate change, population, affluence, and consumption." *The Journal of Environment & Development* 21, no. 1 (2012): 24-27; "Why relying on new technology won't save the planet," Lancaster University, SD, accessed March 15,

play a crucial role, such as through carbon dioxide removal (CDR) or carbon capture and storage (CCS). But if large-scale CDR implicitly justifies incremental business-as-usual climate policies, it can avert a political reckoning with bending emissions curves down, another substantial and necessary policy change.[16] As Stoddard et al. have written, by allowing an overshoot of the carbon budget, CDR promises to reduce the urgency of eliminating emissions, providing a form of "mitigation deterrence."[17] Similarly, "complex" integrated assessment models (IAMs) explore different emissions pathways and have become influential in global assessments that inform the Intergovernmental Panel on Climate Change (IPCC). They are used extensively in climate change mitigation literature.[18] But increasing the recognized pathways to a low-carbon future can be beneficial to broadening solutions just as much as it can skew the modeling to limit industrial disruption.[19] Different pathways may provide defensible strategies for hard-to-abate emissions, as with the agricultural sector,[20] but overall, these pathways, with 'technological salvation' arguments, eclipse mitigation initiatives that stop emissions. The key point is that factors contributing to the emergency must end.

In a democratic system, Orr argues that systemic change almost always happens slowly by accretion or suddenly and chaotically after a collapse.[21] The approaches to climate politics or policy in Canada thus far have not moved us much closer to what is needed to address the climate emergency, and often the barriers noted in this section keep us from it. Something more is needed. Through provincial EM (regulations), an interim push of great magnitude could occur

2025, https://www.sciencedaily.com/releases/2020/04/200420125510.htm; "Can tech save us from worst of climate change effects? Doesn't look good," The Harvard Gazette, accessed March 15, 2025, https://news.harvard.edu/gazette/story/2022/11/can-tech-save-us-from-worst-of-climate-change-effects-doesnt-look-good/.

[16] Isak Stoddard, Kevin Anderson, Stuart Capstick, Wim Carton, Joanna Depledge, Keri Facer, Clair Gough et al., "Three decades o f climate mitigation: why haven't we bent the global emissions curve?," *Annual Review of Environment and Resources* 46, no. 1 (2021): 668.

[17] Stoddard et al., "Three decades of climate mitigation: why haven't we bent the global emissions curve?," 665.

[18] Stoddard et al., "Three decades of climate mitigation: why haven't we bent the global emissions curve?," 667.

[19] Stoddard et al., "Three decades of climate mitigation: why haven't we bent the global emissions curve?," 667.

[20] Stoddard et al., "Three decades of climate mitigation: why haven't we bent the global emissions curve?," 668.

[21] Orr, *Dangerous Years: Climate Change, the Long Emergency, and the Way Forward*, 93.

to overcome these barriers, start and implement necessary transitions, and set a new paradigm of climate-conscious lifestyles and industrial operations, seriously tempering, or avoiding impending disaster.

The following section details provincial emergency power development, setting the stage to discuss the dangers and opportunities of emergency powers for climate change. Afterwards, I outline how, conceptually, the traditional barriers to climate action may be overcome, and the dangers of emergency power avoided, through provincial climate emergency power, and what initiating this power might look like politically.

Emergency Powers History

The first Canadian emergency plans were federal because they related to war. Several conflicts predate the *War Measures Act* in 1914, including the Boer War and the two Riel Uprisings. But war-based emergencies shaped the original development of special emergency powers. Federally led wartime administration set a precedent that troubled federal-provincial relations about emergencies. This included air raid precautions and provincial mandates to administer federal programs, including the production of wartime resources, internment and security, and military education and training. This prompted some court challenges and policy adjustments to account for the costs and clarify enforcement authority.[22]

National emergency powers continued to develop and evolve through the Cold War, going beyond a necessary link to war.[23] The federal government also started to push the

[22] John Lindsay, "The Power to React: Review and Discussion of Canada's Emergency Measures Legislation," *The International Journal of Human Rights* 18, no. 2 (2014): 162.
[23] John Lindsay explains: "The *Emergency Powers Act* was intended to provide 'adequate powers to deal with the type of situation that may be expected to arise, the government ha[ving] endeavored to avoid taking powers of the grave character which no democratic government wishes to have, as a government, unless those powers are really necessary for the safety of the state." (Lindsay, "The Power to React: Review and Discussion of Canada's Emergency Measures Legislation," 163).

provinces into emergency planning (paying much of the costs) while provincial governments became interested in their own emergency measures, also with Cold War apprehensions.[24] From the 1950s onwards, quite similar provincial emergency powers emerged across the country.[25] As Cold War tensions eased, the provinces' emergency planning changed further; Ottawa cut its demands for war planning and its financial support.[26] Despite the cutbacks, most provinces continued with their own emergency plans, and most required or urged municipalities do the same.[27]

When the federal *Emergencies Act* replaced the *War Measures Act* in 1988, with its modernized (and less discriminatory) emergency governance, all EM legislation paid more attention to handling domestic issues. Although the *War Measures Act* had explicitly contemplated "real or apprehended insurrection," recalling the two Riel uprisings, the *Emergencies Act* clarified domestic emergency powers and differentiated them from war. Another important feature of the *Act* was its updated operational order for emergency response: the new hierarchy of emergency and disaster response started with the local/municipal level, moving to the provincial level if necessary, and finally moving to the federal level if required.[28] This further emphasized provincial emergency power, and the responsibility for provinces to do whatever they could to handle emergencies. The Canadian constitution "institutionalizes" a federal–municipal divide by entrenching municipalities as mere "creatures" of each province (i.e., they exist exclusively under provincial jurisdiction). This means that while municipal governments are usually the most affected by disaster, EM policy and administration at the

[24] Joseph Scanlon, "Federalism and Canadian Emergency Response: Control, co-operation and Conflict," *Australian Journal of Emergency Management, The* 10, no. 1 (1995): 19.
[25] Lindsay, "The Power to React: Review and Discussion of Canada's Emergency Measures Legislation," 167.
[26] Scanlon, "Federalism and Canadian Emergency Response: Control, co-operation and Conflict," 19.
[27] Scanlon, "Federalism and Canadian Emergency Response: Control, co-operation and Conflict," 19.
[28] Stacey, "Interjurisdictional Accountability for Interjurisdictional Problems," 118.

federal level - which has the greatest ability to command resources - are not directly linked to municipalities. Provinces are in the middle and thus play a substantial role in EM for planning, resource allocation, and regulation setting, and accordingly, can have substantial influence on the direction of climate action through EM. Key historical instances reveal the power and effectiveness that provincial EM has had both on crisis resolution, and on advancing national imperatives.[29]

Prior to 1988, BC and AB exercised provincial emergency power on just a few key issues. In 1918, in response to a Spanish Flu epidemic, BC used emergency power to close public spaces, including schools, to mandate quarantines, and to bolster hospital capacities. Facing little resistance, these powers were mostly effective, and the most prevalent outcome for federal-provincial relations was an increased awareness of the importance of coordination in health policies to respond more effectively. Emergency measures to address the 1948 Fraser River flood included mass evacuations and resources for dike repairs and response. Overall, these measures were taken without much resistance and strengthened federal-provincial collaboration on flood control infrastructure.

In AB, provincial emergency powers developed similar capacities, with similar results. AB also exercised emergency power against the 1918 Spanish Flu epidemic, likewise, facing little resistance and strengthening federal-provincial health planning. And in 1943, AB used

[29] As Brendan Boyd has explained, "provincial leadership and collaboration have largely defined Canadian climate change policy throughout the twenty-first century, and provincial experience with climate action can provide valuable information and lessons for policy development moving forward." (Brendan Boyd, "Headwaiter or Headmaster: Examining the Relationship between Ottawa and the Provinces on Climate Change," 2016 CPSA Conference, Calgary, AB, pg. 2). See also Kathryn Harrison, "Climate Governance and Federalism in Canada," chap. in *Climate Governance and Federalism: A Forum of Federations Comparative Policy Analysis*, edited by Alan Fenna, Sébastien Jodoin, and Joana Setzer (Cambridge: Cambridge University Press, 2023), 64–85.

emergency power in response to a major flood in Lethbridge, ordering mass evacuations and bolstering recovery action, again with little popular resistance.

Since 1988, BC has used provincial emergency power for wildfires (2003, 2017, and 2021), as well as during the COVID-19 pandemic. For a discussion of the latter, see the second chapter, below. Wildfire-based emergency action received wide support, with most frustration surrounding slow response and limited long-term planning for future disasters. In each case the provincial powers also strengthened intergovernmental disaster response coordination, and bettered revenue stream opportunities from the federal government for provincial disaster recovery.

Since 1988, AB has also exercised provincial emergency power several times, including for the 2003 SARS outbreak, flooding in 2013, the Fort McMurray wildfire of 2016, and the COVID-19 pandemic. In each case (other than the pandemic; see below) the public generally accepted the provincial measures, satisfied because the province rather than Ottawa was acting. Yet concerns arose about the need for greater federal funding to aid recovery, and for some advanced emergency planning for future disasters.

In sum, these examples reveal that provincial emergency powers have been generally effective when used, and that provincial initiation was key in responding with contextual awareness while also pressuring more federal initiative and support. Provinces led the charge, not the federal government.

This last point has important implications in addressing Canada's climate action ambitions and development. More still needs to change in provincial EM, including real recognition of a

climate emergency. However, these experiences have also gradually modernized provincial EM law. Each disaster taught lessons in improving EM powers.

Over the past ten years, EM plans across Canada substantially modernized. BC revised its EM legislation most recently with the 2023 *Emergency and Disaster Management Act*[30] (EDMA). This new act substantially enhanced planning and regulatory requirements for ministers, non-government entities, and local authorities, while also establishing new roles and powers for ministers, and for non-government entities and infrastructure owners. The revisions included 1) requiring certain government ministries to prepare hazard-specific risk assessments and emergency management plans, 2) making rules to establish "treaty areas", where Modern Treaty Nations need to be consulted, cooperated with, and included through certain agreements, and 3) bringing into effect continuity planning for other parts of government, including the Legislative Assembly, the Executive Council (Cabinet), and the office of the Lieutenant Governor.[31] I discuss these changes in chapter 3.

In May 2024 amendments to AB's *Emergency Management Act*[32] (EMA) provided the Government of Alberta with more tools and options to tailor and focus supports to local authorities during an emergency response.[33] These changes ensured that the AB government

[30] Government of British Columbia, Ministry of Emergency Management and Climate Readiness, *Emergency and Disaster Management Act*, assented to November 2023, https://www.bclaws.gov.bc.ca/civix/document/id/complete/statreg/23037.
[31] "Modernized Emergency Management Legislation Risk Assessments and Emergency Management Planning," Government of British Columbia, Ministry of Emergency Management and Climate Readiness, accessed November 20, 2024, https://bcaem.ca/wp-content/uploads/EMCR-Slide-deck-Session-3-Risk-Assessment-Planning-July-26.pdf.
[32] Government of Alberta, Ministry of Public Safety and Emergency Services, *Emergency Management Act*, 2007, https://kings-printer.alberta.ca/1266.cfm?page=E06P8.cfm&leg_type=Acts&isbncln=9780779847808.
[33] "Emergency Statutes Amendment Act," Alberta Municipalities, last updated May 29, 2024, https://www.abmunis.ca/system/files/2024-05/2024%20-%20Bill%2021%20-%20Emergency%20Management%20Statutes%20Amendment%20Act%20-%20ABmunis%20Analysis%20%281%29.pdf.

could assume authority over local responses, and standardized local reporting requirements during an emergency.[34]

Key differences in provincial EM evolution mark both the language and the authorities involved. Regional differences in interest, political will, and cultural values have contributed to this divergence, as have choices made following different disaster experiences. Important detailed distinctions between Alberta and British Columbia EM, and their political contexts, come in the following chapter. These include the development of EM being related (or not) to climate and climate-driven related disasters. But the main point here is this: real-world conditions and circumstances change, and the criteria guiding emergency legislation, like most proactive legislation[35], can be changed as well; EM is changed most effectively by ensuring that it appreciates and reflects the state of real-world conditions. Highly damaging climate-related events occur annually in Canada, with increasing frequency and severity, and not all trigger emergency legislation, federal or provincial. Emergency management legislation has only relatively recently tied into climate, but that tie is of growing importance.[36] This section has briefly summarized the evolution and use of provincial emergency powers, and in BC and AB, supported the notion that provincially led emergency response can be contextually aware and effective, and shown that past provincial EM has helped develop EM capacity and comprehensiveness. Provincially led emergency response has also had a positive effect on national alignment with advancements in EM. Although some serious gaps remain in

[34] The new reporting requirements are identified in the bill (Bill 21) as "reporting any information required by the Minister at the times required by the Minister", these changes were not geared towards changing roles and responsibilities, unlike those of the EDMA. ("Analysis of Bill 21: "Emergency Statutes Amendment Act," Alberta Municipalities, last updated May 29, 2024, https://www.abmunis.ca/system/files/2024-05/2024%20-%20Bill%2021%20-%20Emergency%20Management%20Statutes%20Amendment%20Act%20-%20ABmunis%20Analysis%20%281%29.pdf.)

[35] For greater descriptions on the differences between reactive and proactive law (legislation), especially during times of crisis, see Vladimir Przhilenskiy, "Proactive Law and Reactive Law: Transformation of Legal Systems in the Face of Great Challenges," *Sravnitel Noe Konstitucionnoe Obozrenie* 29 (January 1, 2020): 39–55.

[36] Nirupama Agrawal, Indra Adjikari, and Nathan Yiu. "Disaster Risk in Canada–A Data-Driven Discussion," *Canadian Journal of Emergency Management* 1, no. 2 (2021): 10.

understanding emergency climate governance as a practical solution, such as political contexts, with these gaps to be addressed in forthcoming chapters, what is important next, in order to most effectively engage with the practicality of climate emergency governance being enacted, is dealing with the danger that emergency powers entail. To best overcome dangers to emergency governance, which this project holds that provincial climate emergency governance can, they must first be understood, which is the purpose of the next section.

Dangers of Emergency Powers

This sub-section explores the dangers of emergency power in crisis resolution, together with consideration of their application to emergency climate governance. This section focuses first on the negative reactions to emergency powers and poor framing: these might threaten the effectiveness of emergency powers being used for climate. With major instances of rights abuse from the past, discussion then turns to the biggest dangers of emergency powers for liberal democratic rights.

Changes to our loyalties, affections, and convictions, crucial for remediating the climate emergency, will be part of the danger to comfort and predictability of lifestyles we have come to know. Economist and op-ed writer Ross McKitrick has argued that, based on weather statistics and historical data, 'emergency' should not be a blanket statement for any given area. For places like Vancouver, McKitrick argues, there is no climate emergency.[37] But Western societies have become largely path-dependent on fossil fuels. Perceived entitlements to emit carbon, reinforced by powerful fossil fuel oligopolies, and expressed in consumer habits, identities, and values, all

[37] "Ross McKitrick: Reality check-there is no 'climate emergency' in Vancouver," Vancouver Sun, accessed September 20, 2024, https://vancouversun.com/opinion/op-ed/ross-mckitrick-reality-check-there-is-no-climate-emergency-in-vancouver.

contribute to a reluctance to change.[38] This structure has created an emergency far beyond any localized weather pattern; climate change is a well-documented global crisis, and all GHG emitting industry and activity contributes to the problem, regardless of the source.[39] The need to balance emissions with carbon capture (withdrawals) implies that most fossil fuels will have to be left in the ground, directly contrary to institutionalized expectations.[40] The resolution of this crisis cannot be a return to normal, but it will face special scrutiny from citizens who do not believe they personally face a climate emergency.

W. Bruine de Bruin argues that "climate crisis," "climate emergency," and "climate justice" actually generate less worry in the minds of the public than the phrases they were supposed to replace, such as "global warming."[41] The traditional notion of an emergency implies that a certain government or military entity can deal with it quickly. As with the judicial understanding of an emergency under POGG, it also implies that a return to "normal" after a relatively short and imaginable interval. These notions are both inaccurate in the climate case.

Climate emergency framing also risks invoking such fear[42] that it reduces engagement out of helplessness or avoidance.[43] Climate "deadline-ism" may be part of the problem: the narrative that we have a short and closing window to address climate change, means that the end of civilization awaits if that window closes without completing a solution.[44] Relatedly, as noted

[38] Murphy, T*he Fossil-fuelled Climate Crisis: Foresight or Discounting Danger?* 9.
[39] "IPCC Climate Change Reports: Why They Matter to Everyone on the Planet," NRDC, accessed January 8, 2025, https://www.nrdc.org/stories/ipcc-climate-change-reports-why-they-matter-everyone-planet; IPCC, 2023: *Climate Change 2023: Synthesis Report,* Contribution of Working Groups I, II and III to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change, [Core Writing Team, H. Lee and J. Romero (eds.)].
[40] Murphy, *The Fossil-fuelled Climate Crisis: Foresight or Discounting Danger?,* 52; J. Rogelj, et al*., in Special Report on Global Warming of 1.5 °C (*eds. V. Masson-Delmotte, V. et al*.) (IPCC, WMO, 2018).*
[41] See W. Bruine de Bruin, L. Kruke, G.M. Sinatra, *et al., "*Should we change the term we use for "climate change"? Evidence from a national U.S. terminology experiment," *Climatic Change* 177, 129 (2024).
[42] See Patrick Hodder and Brian Martin. "Climate crisis? The politics of emergency framing," *Economic and Political Weekly* (2009): 53-60.
[43] See Raven Cretney and Sylvia Nissen, "Climate politics ten years from Copenhagen: Activism, emergencies and possibilities," *Women Talking Politics* 15 (2019): 15-19.
[44] See Shinichiro Asayama, Rob Bellamy, Oliver Geden, Warren Pearce, and Mike Hulme, "Why setting a climate deadline is dangerous," *Nature Climate Change* 9, no. 8 (2019): 571-572.

by Andrew Jordan et al., setting urgent climate targets that are unlikely to be met can both delegitimize an issue and disengage important actors, including the electorate.[45] Targets reduced to simple metrics or indicators can also create an overly deterministic "illusion of control and a façade of simplicity."[46] In the case of climate change, human geography professor Mike Hulme notes the dominant indicator is "progress toward securing net-zero carbon emissions by a given date."[47] But seeing emissions reduction occur demands a proliferation of diverse policy goals, the very opposite of conditions under traditional states of exception.[48]

All this suggests a conundrum but no solutions. Compared to the legal parameters of POGG powers, however, provincial EM simultaneously allows for multi-sectoral changes to address an emergency as a key function of its purpose while also implementing regulations for sustained and longstanding emergency mitigation. However, this legislative strength does not inherently resolve tension for those who believe that more drastic climate action would be futile, or that it is unnecessary. These concerns emphasize why the explanation and framing of the purpose and methods of emergency power application for climate will be so crucial. As will be discussed in the forthcoming 'opportunities' section, provinces are in a good position to address these concerns more effectively than the federal government.

Dangers of emergency power use also come more explicitly through concerns over the derogation and violation of rights and freedoms. Even emergency powers exercised through a liberal democratic constitution can still be severely perverted in practice. Climate politics scholars Natalie Osborne and Anna Carlson have argued that climate emergency politics can

[45] Andrew Jordan, Tim Rayner, Heike Schroeder, Neil Adger, Kevin Anderson, Alice Bows, Corinne Le Quéré et al. "Going beyond two degrees? The risks and opportunities of alternative options," *Climate Policy* 13, no. 6 (2013): 752.
[46] Jordan, et al. "Going beyond two degrees? The risks and opportunities of alternative options," 752; Hulme, "Climate Emergency Politics Is Dangerous," 23.
[47] Hulme, "Climate Emergency Politics Is Dangerous," 23.
[48] Hulme, "Climate Emergency Politics Is Dangerous," 23.

undermine climate justice where, like in the COVID-19 pandemic, "discourses of emergency… serve(d) as tools through which the coercive and controlling powers of the state were sustained, maintained and legitimized."[49] This is also a popular argument in emergency power conspiracy circles, going so far as to even relate Canadian emergency power use to the violence of the Holocaust.[50] These comparisons are absurd, both for their conflation of violent oppression against inherent qualities, such as a Jewish lineage, with regulations subject to choice, such as having to put on a mask in order to enter a business, and their perversion of relating the consequences (violent physical punishment versus prohibited entry into a grocery store) for not aligning with the interests of the government enforcing those respective rules. Subhuman treatment and brutal execution are incomparable to things like mask mandates or travel restrictions. Disgraceful and misinformed distortion equivalencies between COVID-19 responses and the intentional implementation of the Holocaust have been soundly dispelled.[51] Yet this does not dismiss the importance of clarity in emergency power framing and activation. As will be discussed later in this section, where the *Emergencies Act* now provides explicit safeguards against such inhumane rights violation, provincial EM still generally lacks them. This does not preclude these issues from being safeguarded in the provincial case, and opportunities to avoid these dangers will be explained in the forthcoming opportunities section. However, even with clear framing and avenues to avoid dangers to rights, the lack of formal safeguards in EM would be well served by rights-protecting updates, which will be discussed in chapter four.

[49] Natalie Osborne and Anna Carlson, "Against a nation state of emergency: how climate emergency politics can undermine climate justice," *npj Climate Action* 2, no. 1 (2023), 1.
[50] Tina Askanius, Bàrbara Molas, and Amarnath Amarasingam, "Far-right extremist narratives in Canadian and Swedish COVID-19 protests: a comparative case study of the Freedom Movement and Freedom Convoy," *Behavioral Sciences of Terrorism and Political Aggression* (2024): 7-8.
[51] See Lyric Crane, "Holocaust Distortion and the COVID-19 Pandemic," (2022), *WWU Honors College Senior Projects*, 540, https://cedar.wwu.edu/wwu_honors/540; Jason Hall, "Politics of Memory: Holocaust Distortion in Relation to the Covid-19 Pandemic in the United States and Britain, 2020-2022," Master's thesis, University of Haifa (Israel), 2023.

To elucidate further the dangers of emergency power, three examples of Canadian emergency power misuse will be provided here; to avoid these issues best in climate emergency governance, they must be openly recognized and guarded against. The first example came during the Second World War with fears of a Japanese invasion. In February 1942, the federal Cabinet issued an Order-in-Council to remove and detain "any and all persons" from any "protective area" in the country,[52] and these powers were used to target Japanese Canadians along the West Coast. The Canadian government, under the *War Measures Act* (WMA), detained and dispossessed more than 90 per cent of Japanese Canadians. Their homes and businesses were eventually sold by the government to pay for the detention.[53] In 1988, Prime Minister Brian Mulroney apologized on behalf of the Canadian government for the wrongs it committed against Japanese Canadians, made symbolic redress payments, and cited this case as reason for replacing the WMA with the *Emergencies Act*. The legacy of abuse, however, remains strong in the minds of many Japanese-Canadians, among many other Canadians who have been disturbed by the perverted use of emergency power.

Another example came during the October Crisis of 1970. Leaders of the Front de libération du Québec (FLQ) were arrested and charged with a variety of offences, from murder to bombings, in 1966.[54] While awaiting trial, the captives spearheaded a call to arms for revolution. In October 1970, the FLQ kidnapped a British trade commissioner and a Quebec cabinet minister to advance the cause of an independent Quebec state.[55] The federal government responded by invoking the WMA. Everyone arrested under the *Act* was denied due process: habeas corpus was

[52] James H. Marsh, "Japanese Canadian Internment: Prisoners in their own Country." *The Canadian Encyclopedia,* Historica Canada. Last updated September 17, 2020, https://www.thecanadianencyclopedia.ca/en/article/japanese-internment-banished-and-beyond-tears-feature.
[53] Marsh, "Japanese Canadian Internment: Prisoners in their own Country."
[54] Dominique Clément, "The October Crisis of 1970: Human Rights Abuses Under the War Measures Act," *Journal of Canadian Studies* 42, no. 2 (2008): 160.
[55] Clément, "The October Crisis of 1970: Human Rights Abuses Under the War Measures Act," 161.

suspended. Freedom of the press was also limited under the *Act*, and rights of free expression were severely compromised. [56] The aftermath ultimately led to two major changes for reform and redress in the 1980s: the Canadian Security and Intelligence Service became the civilian security agency, replacing the RCMP,[57] and the *Emergencies Act* replaced WMA.

A more recent example of rights violations occurred in response to protests during the COVID-19 pandemic. The Federal Government invoked the *Emergencies Act* in February 2022 in response to a nearly month-long ("Freedom Convoy") protest which, initially seen as a demonstration against health restrictions, attracted people with a variety of grievances against Prime Minister Justin Trudeau's government.[58] Blaring truck horns, diesel fumes and makeshift encampments prompted many Ottawa businesses to temporarily close their doors and aggravated downtown residents, some of whom were harassed by the protestors.[59] Protestors also blockaded key border crossings to the United States.[60] The *Emergencies Act* justified temporary measures including giving law enforcement extraordinary powers to remove and arrest protestors, permitting exceptional search and seizure, regulating and prohibiting public assemblies, and directing banks to freeze assets and ban support for protest participants.[61] Although deemed narrowly justifiable by the mandatory post-emergency inquiry, challenges to the inquiry's conclusion led to Federal Court Justice Richard Mosley eventually ruling that the government's invocation of the *Emergencies Act* was unreasonable and violated the constitutional right of free expression.[62] To its end in 2025, the Trudeau Government continued to argue that its use of the

[56] Clément, "The October Crisis of 1970: Human Rights Abuses Under the War Measures Act," 167.
[57] Replacing the Royal Canadian Mounted Police in that role in 1984.
[58] "Emergencies Act ruling reopens emotional debate two years after huge protests," CTV New, accessed Januray 3, 2025, https://www.ctvnews.ca/politics/article/emergencies-act-ruling-reopens-emotional-debate-two-years-after-huge-protests/.
[59] "Emergencies Act ruling reopens emotional debate two years after huge protests," CTV News.
[60] "Emergencies Act ruling reopens emotional debate two years after huge protests," CTV News.
[61] "Ottawa's use of Emergencies Act against convoy protests was unreasonable, violated Charter, court rules," CBC News, last updated January 23, 2024, https://www.cbc.ca/news/politics/emergencies-act-federal-court-1.7091891.
[62] "Emergencies Act ruling reopens emotional debate two years after huge protests," CTV News, last updated January 24, 2024, https://www.ctvnews.ca/politics/emergencies-act-ruling-reopens-emotional-debate-two-years-after-huge-protests-1.6740473.

Emergencies Act was justifiable. In these examples, emergency powers that government deemed justifiable proved to pervert justice and abuse rights in practice. The history of federal EM actions under the War Measures Act and before is one of terrible racism, suffering, and then, decades later, apologies and reparations. These lessons must be taken into how climate emergency power is operationalized and will be key focuses in the forthcoming section on 'opportunities for emergency powers'.

An important point on the protection of rights under provincial EM must also be noted in conjunction with these examples of rights abuse. Unlike the *Emergencies Act*, which still saw rights abused the first time that a government used it, no provincial emergency legislation explicitly recognizes any rights as not subject to derogation (henceforth referred to as 'non-derogable rights'[63]), or the substantive limitations on these powers. Moreover, provincial statutes often contain residual clauses that empower a Minister or the Lieutenant Governor in Council to "issue orders of a type not otherwise enumerated, as long as they are necessary to addressing the emergency."[64] As constitutional scholar Ryan Alford has noted in reference to provincial emergency power exercised during the pandemic, a number of these orders "strained the limits of constitutionality, at best."[65] The scope and effects of these powers also exacerbate the problem of executive accountability during a crisis. Alford argued that the *Charter* was ill-suited to protecting individual rights during the pandemic, as there was already a "clear judicial tendency to accept the limitation of these rights for the sake of public health."[66] Such tendencies could

[63] In line with language used in international human rights law.
[64] Ryan Alford, "*The Absolute Limits of Canada's Emergency Powers: The Unwritten Constitutional Principles Entrench Rights that Remain Non-Derogable in Extremis*," Centre for Constitutional Studies, June 8, 2020, https://www.constitutionalstudies.ca/2020/06/the-absolute-limits-of-canadas-emergency-powers-the-unwritten-constitutional-principles-entrench-rights-that-remain-non-derogable-in-extremis/.
[65] Alford's examples include lockdowns (impacting freedoms such as freedoms of religion, expression, assembly and association, equality rights, and rights to life, liberty and security of the person), contact tracing via cellphone data (privacy rights) and resource allocation decisions in hospitals for end-of-life care (equality rights, and disability discrimination claims for example). Alford, "*The Absolute Limits of Canada's Emergency Powers."* See also*:* Sujit Choudhry, "*Part Two: COVID-19 & the Canadian Constitution*," Centre for Constitutional Studies, May 12, 2020, https://www.constitutionalstudies.ca/2020/05/part-two-covid-19-the-canadian-constitution/.
[66] Alford, "*The Absolute Limits of Canada's Emergency Powers."*

extend to public welfare emergencies (the most obvious category in the *Emergencies Act* for a climate change emergency). Additionally, during the pandemic provincial legislators even considered invoking the notwithstanding clause to foreclose *Charter* challenges to public health measures.[67] These concerns are all serious for future provincial emergency power use; in considering rights violations, how emergency powers are applied often supersedes why. The limitations of power and safeguards for rights in provincial EM would be well served by enhancement, which, as mentioned, will be discussed in the fourth chapter alongside additional beneficial advancements for provincial EM for climate.

Aside from reform, the following section addresses each of these issues, amplifying the value that provincially led emergency power could bring to climate action, both for overcoming traditional barriers to effective climate action and for avoiding rights abuse in the manner seen in past emergency power use. Whether perceived or factual, the dangers are serious. Even falsely perceived danger has the same effect as real danger when it comes to responsive action, and a best attempt at avoiding all these dangers should be paramount if emergency powers are to address climate change effectively. This means careful attention both to framing the use of the power and applying it. Overcoming these dangers in climate emergency governance will dominate the remainder of this chapter. This project does not see these noted dangers, if addressed, as insurmountable reasons to avoid emergency powers.

Opportunities For Provincial Emergency Powers

In response to the dangers of emergency power use and barriers to traditional climate policy discussed in the previous sections, this section lays out the opportunities and benefits of

[67] Alford, "*The Absolute Limits of Canada's Emergency Powers."*

provincial emergency power for drastically advancing climate action in longstanding ways while addressing the noted dangers and barriers. This section suggests how provincial emergency power can overcome apathy or disengagement from beliefs that the climate emergency is beyond solutions, by presenting rapid and effective change as feasible and effective. These powers can also foster a transition without a 'return to normal', which would be a problematic reversion to climate destruction. Such a forward-looking transition is the end goal of the emergency action and can be directed towards a better life overall than the previous 'normal'.[68] Maintaining constitutional rights at the greatest extent possible should endure through any emergency action. Provincial emergency power on climate can provide for this. That provincial sub-types vary in their emergency climate governance will be addressed in the second chapter. For now, the purpose is to clarify the conceptual connection between the benefits of provincial emergency climate governance without succumbing to the dangers.

Although still a relatively underexplored facet of climate action literature, various activist scholars provide conceptual support for emergency power to address the climate emergency. For example, climate, energy, and environmental strategist Dianne Saxe advocates for climate emergency declarations, for they reflect the circumstances of our situation. Yet Saxe also fiercely contends that a declaration will not accomplish anything unless it is followed by real action, and only significant changes to business as usual can meaningfully affect the trajectory we are on.[69] For Saxe, this means seeing policy that cuts emissions in key sectors, including buildings and transportation, and seeing political leaders (councils and governments) make decisions across

[68] While living in new climate conditions is set to arrive with or without radical climate action.
[69] "It's time to call climate change what it is - an emergency - and act accordingly," Corporate Knights, accessed September 28, 2024, https://www.corporateknights.com/perspectives/guest-comment/time-call-climate-emergency-act-accordingly/; Robert E. Gropp and James M Verdier, "From Climate Emergency to Climate Response," *BioScience* 70, no. 1, (2020): 3.

sectors with an emphasis on accelerating emissions-reducing and environment-friendly action, especially as it relates to budgets, infrastructure, and development.[70]

Traditional energy transitions at the needed scale would take more time than we have, based on past examples. Only some greater force can incite action. Climate policy analyst David Spratt, taking stock of limited climate action to date, turns to an emergency mode of response, with decisive government leadership and market intervention contrary to the dominant economic paradigm, as necessary to protect civilization.[71] Others such as cultural-political geographer Ben Anderson have argued that emergencies can trigger swift action, and therefore the emergency frame on climate can also be an important tool for social mobilization.[72] For Anderson, to declare an emergency is, on the one hand, to recognize that an undesired future is imminent and, on the other, to mobilize resources to ensure that it does not come to pass.[73] Anderson also recognized that treating something as an emergency does not necessitate a new future of unpredictable "otherness": something new *and better* can emerge post-emergency, neither a 'return to normal' nor an apocalyptic catastrophe.[74] Recent evidence also suggests that positive climate messaging, amplifying the value of taking action for the benefit of people in the face of a substantial challenge ("do this, so that"), can be more effective than negative messaging ("do this, or else that").[75] We do not have to be afraid of emergency mobilization for climate action, for it is an empowerment of our survival capabilities and it can bring us all a better future. But if emergency powers are to lead the way, truth-telling, clarity, transparency, accountability, and

[70] With the example of Vancouver city council, Saxe recognizes council initiatives that emphasize: considering zero emission areas (essentially car-free zones), road pricing and new parking rules; density bonuses for zero emission buildings; a climate trust/green bank to finance upgrades; adding e-bikes to the bike sharing program; a comprehensive waste reduction and diversion program for all city facilities; a procurement policy that prioritizes local food in city-run facilities; greening community events that the city runs, sponsors, and permits and; reducing greenhouse gas emissions and fossil fuel use in city-run buildings and vehicles.
[71] See David Spratt, "Reclaiming "Climate Emergency,"" *Filozofski Vestnik* 43, no. 2 (2023): 105-139.
[72] Ben Anderson, "Emergency futures: Exception, urgency, interval, hope," *The Sociological Review* 65, no. 3 (2017): 463-477.
[73] Anderson, "Emergency futures: Exception, urgency, interval, hope," 467-468.
[74] Anderson, "Emergency futures: Exception, urgency, interval, hope," 468.
[75] See Matthew J. Hornsey, and Kelly S. Fielding. "Understanding (and reducing) inaction on climate change," *Social issues and policy review* 14, no. 1 (2020): 23-29.

pragmatism are crucial for the most effective messaging and action. Spelling out the reality of the situation in a positive but honest light will be crucial and is often imperative for aligning widespread public action and creating legitimacy for a cause.[76] Several key aspects involved in the use of provincial emergency power for climate change will be discussed here: they can be understood as opportunities for a different approach to climate action and a new model for regulatory norms.

Provincial emergency powers offer three significant advantages for climate action. The first concerns the breadth and efficiency of emergency power. Under provincial emergency management, more stringent regulatory, taxation, or operational policies and measures could touch almost all key sectors contributing to GHG emissions and efficiently set integrated action and multi-sectoral policy alignment. Provinces (and provincial EM) have ultimate jurisdiction over all local or municipal governments and most provincial industry, and EM allows for an alleviation of fossil fuel infused contradictions in traditional policy development. Moreover, EM can overcome the incrementalism delays of traditional policy. Although some aspects of a sustainable transition occur at rates not necessarily receptive to forced increase, such as technological innovation,[77] other aspects are, such as phasing down problematic activities. Comprehensive and radical shifts, like those EM could provide, can contribute to altering a system, not just a practice, and hence promote more transformative change if they are accelerated.[78]

[76] See Ida Koivisto, "Transparency and Law", in *The Transparency Paradox* (Oxford, 2022; online edn, Oxford Academic, 2022), https://doi.org/10.1093/oso/9780192855466.003.0006.
[77] But this is no certainty; World War I and World War II both saw important and efficient technology advancements under the pressure of emergency action.
[78] Benjamin K. Sovacool, Frank W. Geels, Allan Dahl Andersen, Michael Grubb, Andrew J. Jordan, Florian Kern, Paula Kivimaa et al., "The acceleration of low-carbon transitions: Insights, concepts, challenges, and new directions for research," *Energy Research & Social Science* 121 (2025), 4.

A second advantage of emergency power, as discussed, is that climate change and climate-related disasters have been identified as emergencies in the social, scientific, and political context. This provides a rational connection between the issue and an emergency power response. With constitutionally allocated responsibility, and legislatively implied primary response, provinces can and should address this reality of an emergency.

A third crucial advantage of provincial emergency power are EM provisions for prevention and mitigation. These are generally comprehensive and are not necessarily as temporally confined as federal emergency powers are. The changes made could come swiftly and broadly and they could be more readily implemented than similar regulations at the federal level. This is particularly important for emergency power (and mitigation regulations in particular) to jump start and provoke longstanding change. In response to the issue of a fossil fuel path-dependence posing a transitional challenge, Benjamin K. Sovacool and his social science and energy research team have recognized that while an acceleration of fossil fuel phase out likely must impact path dependence from "the supply side and demand side, as well as business, culture, and regulations," if an accelerated transition does reach these elements, "it can create its own path dependence."[79] Put simply, "path dependence can be a barrier to acceleration or can also be an output from it."[80] More, we need not get stalled completely on the idea that it must always be a declared state of emergency for EM power to be exercised. As will be discussed in the third chapter, especially pertaining to BC's EDMA, EM mitigation phases can occur outside of declared states of emergency. This benefits longstanding power (durability) throughout the transition and into a sustainable future yet provincial EM also maintains contextual awareness

[79] Sovacool, Geels, Andersen, Grubb, Jordan, Kern, Kivimaa et al., "The acceleration of low-carbon transitions: Insights, concepts, challenges, and new directions for research," 4.
[80] Sovacool, Geels, Andersen, Grubb, Jordan, Kern, Kivimaa et al., "The acceleration of low-carbon transitions: Insights, concepts, challenges, and new directions for research," 4.

and ease of regulatory adjustment (flexibility) with feedback from the results of implemented changes informing adjustments (focus or stringency) as required.

Focusing closer on jumpstarting climate action, or spearheading transitions through emergency powers, three key situations in the literature point to how provincial emergency powers could be used. The first is facilitating a more climate-conscious connection between democratic practice and ecological design and biomimicry. This could transform fields such as agriculture, architecture, engineering, urban design, and transportation.[81] Combined with transformed energy efficiency and renewable energy, it is now technically and financially possible to design and implement requirements for cost-effective buildings, neighborhoods, and cities powered mostly or entirely by sunlight, and to reduce costs while increasing prosperity, resilience, and local control.[82] The government's role would be pivotal in connecting and deploying transitional opportunities in energy. This could help mediate popular tension over serious lifestyle shifts. The government could act as an initiator, facilitator, and early investor in research and deployment, without necessarily acting as owner and manager.[83] People and organizations involved in implementing government decisions, such as where and how infrastructure or clean energy alternatives are pursued, and who or which organizations would be involved, will retain some valued independence. This concept will be expanded upon further in chapter 3 as targeted flexibility in new mitigation practices. The main point, however, is that a "new reality" could offer superior efficiency and sustainability, leaving us better off while avoiding driving climate disaster. Provincial leadership provides an opportunity to focus on local regulation.

[81] Orr, *Dangerous Years: Climate Change, the Long Emergency, and the Way Forward*, 95. British Columbia's recently updated *Emergency and Disaster Management Act* offers a fairly effective template for how many of these advancements could be enacted.
[82] Orr, *Dangerous Years: Climate Change, the Long Emergency, and the Way Forward*, 95.
[83] Orr, *Dangerous Years: Climate Change, the Long Emergency, and the Way Forward*, 42.

The second way provincial EM could guide initiating legislation for substantial climate action would be through industry regulation. Provincial EM frameworks can reduce risks, such as more heat-resistant building codes, or land-use regulations to prevent or protect against flooding. But regulatory measures could also seriously impact fossil fuels, including keeping resources in the ground.[84] This being an essential component of reducing the central factor driving the emergency, and under provincial jurisdiction.

The third way that provincial EM could guide initiatory legislation is through planning and preparedness across provincial jurisdiction. For example, provinces could establish and mandate frameworks for emergency planning that include climate-specific risk assessments and response plans.[85] This proactive approach would help identify socio-economic vulnerabilities to climate disruption, allowing for strategies to mitigate climate emergency with respect to local contexts. Climate action would become integral to all decision-making.

A final note on the danger of rights abuse belongs here. As explored in the 'dangers' section, above, provincial emergency statutes do not explicitly protect non-derogable rights, and rights in general are less protected than under the federal *Emergencies Act*.[86] The *Emergencies Act's* preamble states that the Governor in Council is subject to the *Canadian Charter of Rights and Freedoms*, the *Canadian Bill of Rights*, and must have regard to those (non-derogable) rights in the *International Covenant on Civil and Political Rights*, of which Canada is a signatory, and

[84] *Constitution Act*, 1982 gives Provinces exclusive power to make laws dealing with the development, conservation and management of non-renewable resources and forestry resources, and to regulate the rate of primary production from these resources.
[85] Hulme, "Climate Emergency Politics Is Dangerous," 24.
[86] ICCPR incorporated derogation clause under Art 4 and prohibits derogation from Art 6 (right to life), Art 7 (prohibition of torture), Art 8 (prohibition of slavery and servitude), Art 11 (prohibition of imprisonment for inability to fulfill contractual obligation), Art 15 (prohibition of retrospective criminal law), Art 16 (right to be recognized as a person), and Art 18 (freedom of thought, conscience and religion). (Marew Abebe Salemot, "Non-derogable Rights during State of Emergency: Evaluation of the Ethiopian Legal Framework in Light of International Standards," *Hawassa UJL* 5 (2021): 175.)

that are not to be limited even in a national emergency.[87] Although such explicit protections are absent in provincial EM, three helpful responses to this danger will be acknowledged here.

First, Ryan Alford argues strongly on doctrinal (and judicial) precedent that answers for the provincial case must be sought outside of the *Charter,* as the Charter includes provisions for rights limitation and derogation (ss. 1 and 33), and also outside sections 91, 92 and 93 of the *Constitution Act, 1867,* as they merely stipulate the division of emergency powers (among others).[88] The ultimate source of our most fundamental rights, Alford has asserted, is the *Provincial Judges Reference*.[89] In it, Alford recognized, "Chief Justice Lamer recognized that the Preamble to the *Constitution Act, 1867* had embedded the principle of judicial independence of the *Act of Settlement, 1701* into the Constitution."[90] It thereby "created a substantive limit to both federal and provincial legislation."[91] For Alford, this principle bolsters up the *Charter* right to judicial independence ("which, unlike the unwritten constitutional principle, is also subject to both limitation and derogation"[92]). Further, Alford argues that Canada's constitutional guarantee of a constitution similar in principle to that of the United Kingdom entrenches the principle of an independent judiciary from the *Act of Settlement*.[93] More, human rights in the *Act of Settlement* are fundamentally aligned with those (non-derogable) in the *United Nations' International Covenant on Civil and Political Rights*[94] (ICCPR), which were entrenched in response to rights

[87] Emergencies Act, RSC 1985, c 22 (4th Supp).
[88] Alford, "*The Absolute Limits of Canada's Emergency Powers."*
[89] *Reference re Remuneration of Judges of the Provincial Court (P.E.I.)* [[1997] 3 S.C.R. 3.
[90] Alford, "*The Absolute Limits of Canada's Emergency Powers."*
[91] Alford, "*The Absolute Limits of Canada's Emergency Powers."*
[92] Alford, "*The Absolute Limits of Canada's Emergency Powers."*
[93] And also the principles in five other statutes essential to the United Kingdom's Constitution. Alford recognizes these statues: *Confirmatio Cartarum 1297* (the statutory enactment of Magna Carta, as clarified and amplified by the Six Statutes of Due Process); the *Petition of Right, 1628,* the *Act Abolishing the Star Chamber, 1640*, the *Habeas Corpus Act, 1679,* the *Bill of Rights, 1689,* and the *Act of Settlement, 1701*. (Alford, "*The Absolute Limits of Canada's Emergency Powers."*).
[94] UN General Assembly, *United Nations' International Covenant on Civil and Political Rights*, United Nations, Treaty Series, vol. 999 (December 16, 1966), article 8 s. 3(a), https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights.

abuse during wars, insurrections, and emergencies.[95] With other constitutional experts, Alford helps make an argument that the judiciary can protect rights even under emergency conditions, relying on constitutionally entrenched protection mechanisms, and also that an increased awareness on the importance of rights protection imparts wisdom on governments that should deter the prospect for future rights abuse. Indeed, certain protections were in place while rights were abused in the Canadian history, but from those abuses have come a reckoning. Government is aware more than ever of tensions around rights abuses, and the constitutional challenges that arose post-pandemic, alongside other relatively recent legislative redress (embedded in the *Emergencies Act*), have seemed to establish a political climate that sees those rights not identified as non-derogable, like freedom of movement or freedom of assembly, as increasingly safeguarded from infringement. Lessons learned from past rights abuse also serve to amplify the importance of the safeguarding of rights through the judiciary, while they too should have encouraged greater caution for governments, enforcing the value that infringements of any rights should be avoided to the greatest extent possible during every emergency, no matter the scale. This principle may not be new, but the modern political climate, in the context of more frequent redress of past rights abuse, and an amplified visibility of the importance of rights protection, should solidify this point, and the judiciary can serve to uphold this principle in practice with an increasingly attuned attention to these issues. Beyond matters of legality, courts have become increasingly open to reviewing decisions based on the grounds of unreasonableness, reflecting "a growing awareness of the need to ensure that decisions made by public authorities are not only legal but also reasonable and fair."[96]

[95] This principle, Alford holds, is also the only source of that right which would continue to provide protection should a legislature invoked the notwithstanding clause (s. 33) to override the *Charter* right not to be subjected to arbitrary detention (s. 9), as section 9 is explicitly subject to section 33. (Alford, "*The Absolute Limits of Canada's Emergency Powers.")*.

[96] "Appeals and Judicial Review: Navigating the Changing Legal Landscape," Minhas Lawyers, accessed March 15, 2025, https://www.minhaslawyers.ca/appeals-and-judicial-review/.

Second, Jocelyn Stacey helps explore a case from 2022 where judicial power intervened in a prolonged state of emergency in BC, providing a demonstrated effect of judicial defence against provincial emergency power. As Stacey noted, the case occurred because of sinkholes in Sechelt, BC, deemed a local emergency, and the Minister's renewal of that state of emergency declaration in seven-day intervals for over three years.[97] The defendant governments relied on BC's *Emergency Program Act* (now EDMA) and were successful with the courts ruling that the powers had exceeded the lawful and reasonable exercise of power in not exercising action with the urgency and immediacy that such a prolonged state of emergency should have required.[98] Although a rare occurrence for provincial EM to be challenged in court, Stacey holds that this case demonstrates courts as "willing to read in implicit limitations to the definition [of emergency]… [and] require the government to provide some justification for its use of emergency powers."[99] This case is especially important for the climate emergency, as its timeframe and severity is susceptible to fluctuation.

Third, few rights, including non-derogable ones, should be at risk of abuse for the types of actions that climate emergency power would entail, given its GHG emissions reduction aims (and supply-side emphasis). Climate emergency powers would not be targeting individuals per se, they would be targeting sectors and industry. Of course, this focus would impact people, but the basic mission is to alter those things that contribute most to the emergency, which are emissions-intensive activities and high emitting sectors. This ambition implicates technology and machinery more than it does individuals. Behaviour will shift in compliance with regulations and stricter standards, but the powers used to instate such changes do not require derogation of

[97] Stacey, "Commissioned Paper: Governing Emergencies in an Interjurisdictional Context," 7.
[98] As Stacey has explained, "the Court interpreted the statute to have an implicit temporariness requirement and, in the absence of any steps by the governments to resolve the situation, could not be said to be a situation that required "prompt coordination of action" *(Rosewall v Sechelt (District of), 2022 BCSC 20, paras 22-42, 75-85). (*Stacey, "Commissioned Paper: Governing Emergencies in an Interjurisdictional Context," 8).
[99] Stacey, "Commissioned Paper: Governing Emergencies in an Interjurisdictional Context," 8.

individual rights in the way a vaccine mandate or racist targeting would, for example. By regulating industry EM will influence the demand-side of the fossil fuel issue, necessarily impacting the supply side, wherein most consumer behaviour lies, but not explicitly limiting individual rights or freedoms. In the scenario this project advocates, with fossil fuel phase out, and especially in conjunction with the needed and anticipated low-carbon advancements (in infrastructure and opportunities), people will retain the power of choice in how they live their life, but fossil fuels will become more expensive and less accessible while low-carbon alternatives do the opposite. These shifts in practice would not easily serve to shut down society. Rather, they would forcefully encourage adaptation and evolution to preserve comfort, security, and peace, in more sustainable and ideally more enjoyable ways amidst a decarbonizing global market. This would also help avoid increasing response and recovery costs for increasing disaster, which would far exceed those needed to facilitate the sustainable transition.[100] Moreover, on the human rights issue, many human rights lawyers and activists argue that human rights protection urgently requires fossil fuel phase out, and are increasingly worse off without it.[101] Accelerated policy to address the climate issue can invigorate passion about it, bolstering its cause and setting standards, and confirming government engagement.[102] Policy discourse is vacuous unless implemented in changed practices: the key variable is not so much policy formation as it is implementation.[103] Provincial emergency climate action has capacities

[100] This is not a new realization, see, e.g., "Climate Dollars and Sense Preventing Global Warming Is the Cheap Option," The Guardian, accessed March 15, 2025, https://www.theguardian.com/environment/climate-consensus-97-per-cent/2014/apr/22/preventing-global-warming-cheaper-than-adapting.
[101] See Harro van Asselt, "Governing fossil fuel production in the age of climate disruption: Towards an international law of 'leaving it in the ground'," *Earth System Governance* 9 (2021): 1-9; "Fatal fuels: Why human rights protection urgently requires a full and equitable fossil fuel phase out," Amnesty International, accessed March 15, 2025, https://www.amnesty.org/en/documents/pol30/7382/2023/en/; "Request for an advisory opinion on the Climate Emergency and Human Rights submitted to the Inter-American Court of Human Rights by the Republic of Colombia and the Republic of Chile," Fossil Fuel non-Proliferation Treaty, 2023, https://climatecasechart.com/wp-content/uploads/non-us-case-documents/2023/20231218_18528_na-13.pdf.
[102] Murphy, T*he Fossil-fuelled Climate Crisis: Foresight Or Discounting Danger?* (Springer Nature, 2020), 16.
[103] Murphy, T*he Fossil-fuelled Climate Crisis: Foresight Or Discounting Danger?* (Springer Nature, 2020), 16.

and heads of power to make changes quickly and in locally attuned ways, and it could seriously accelerate the movement towards greater climate action.

Now, none of these proposed strengths for judicial protection and rights safety are as explicit as those protections in the *Emergencies Act*, nor are they guaranteed. Reform in provincial EM would be useful to address this issue and better explicitly protect rights, as will be discussed in the fourth chapter. But these justifications in defense of EM for climate being safeguarded by the judiciary and being less dangerous in their application than traditional emergency powers encourage that provincial emergency power need not be taken off the table where rights are concerned.

To conclude this section's outlining of EM opportunities, attention will be directed, given the novelty and reality of local action and local awareness of emergency conditions, to how provincial emergency power could also link EM to cultural shifts in favour of a more sustainable transition. In the case of the COVID-19 pandemic, an uncharacteristic emergency, the predominant messaging for push to overcome the emergency was to get things back to 'normal'. The heavily relayed 'new normal' mantra employed to motivate support for regulations such as face-mask mandates, physical distancing (social distancing), and quarantines, that would get us back to the pre-Covid normal was useful to some degree, at least in that these regulations were effective when adhered to. But the 'new normal' messaging also generated substantial backlash. People did not want a new normal, let alone one that involved such uncomfortable practices. The essential difference between this case and the climate case, however, is that we are heading towards new climate conditions no matter how badly we do not want them. Indeed, drastic climate action may invoke resistance, and such discontent can, as Sovacool et al. put it, "become a lightning rod for a wider range of those discontent with governments, which can crystalize into

a crisis of legitimacy."[104] This, of course, is not an uncommon tension in Canadian climate politics, and if happening in response to emergency climate governance, especially if it results in the removal of a party willing to engage in climate emergency governance, it would be severely detrimental to more drastic climate action. But the imperative decision we have in the climate case is whether we act to make our new reality a safer and more sustainable space, or we continue our emergency-producing behaviour and see an ongoing increase and worsening of disaster events. Unlike traditional emergencies, whether we act or not, our current realities will not be our future realities – our normal is going to change. Moreover, transitioning proactively towards a more sustainable future will involve discomfort and some major shifts to our fossil fuel realities. But unlike the pandemic case, the changes that a climate action transition entails holds the potential to make our lives *more* comfortable, more stable, and more enjoyable than the ones we currently have.[105] The value EM has to foster a positive transition should not be discounted.

Aided by research from Benjamin K. Sovacool et al., Sarah Walton et al., and Janet Stephenson, we can also recognize various examples of relatively rapid cultural transformations where a change to one element of culture lead to consequential changes in others.[106] For example, the spread of ideas can grow to dominate previous mindsets, and supported by key legislative changes, can invoke massive shifts in behaviors (campaigns for abolitionism, human

[104] Benjamin K. Sovacool, Frank W. Geels, Allan Dahl Andersen, Michael Grubb, Andrew J. Jordan, Florian Kern, Paula Kivimaa et al., "The acceleration of low-carbon transitions: Insights, concepts, challenges, and new directions for research," *Energy Research & Social Science* 121 (2025), 4.

[105] "Renewable energy – powering a safer future," United Nations: Climate Action, accessed March 20, 2025, https://www.un.org/en/climatechange/raising-ambition/renewable-energy; "Transitions at the Heart of the Climate Challenge," World Bank Group, accessed March 20, 2025, https://www.worldbank.org/en/news/feature/2021/05/24/transitions-at-the-heart-of-the-climate-challenge. The first phase in getting to this next reality is phasing out that which is currently fills these roles, and in doing so, funding structures can be shifted, job opportunities will change and grow, and lifestyles can become more affordable and accessible, among other benefits.

[106] Sovacool, Geels, Andersen, Grubb, Jordan, Kern, Kivimaa et al., "The acceleration of low-carbon transitions: Insights, concepts, challenges, and new directions for research," 8; Sara Walton, Annie Zhang, and Conor O'Kane, "Energy eco-innovations for sustainable development: Exploring organizational strategic capabilities through an energy cultures framework," *Business Strategy and the Environment* 29, no. 3 (2020): 812-826.

rights and gender equity, and even a recent upsurge in veganism in the UK).[107] New technology can engender new practices and ways of understanding the world (railways, cars and smartphones).[108] More, sometimes involuntary change can encourage new behaviours that become standardized and widespread practice, brought about by new ways of thinking, as has happened with the continued prevalence of videoconferencing and hybrid work options developed through pandemic lockdowns.[109] With support in Stephenson, Sovacool et al. hold that policy can be particularly effective in culture change by "establish(ing) the conditions that give people agency to adopt different practices or materiality that align with normative and shared aspirations."[110] The example Sovacool et al. point to is "the bundle of provisions in Norway that enabled the rapid uptake of electric vehicles by a population that was already predisposed to aspire to these technologies."[111] Climate action through EM might overlap in some ways with regard to its ability to set regulations but not overly restrict methods for meeting requirements. The technology change that is encouraged by EM regulations (to be discussed in chapter 3), such as renewable energy alternatives, can be pursued by independent business and industry owners with market freedom, and the benefits for energy security and affordability that low-carbon energy brings those who employ them could benefit financial stability of businesses, a predisposed interest for all owners. Of course, supportive government investment in this transition will be important, but the power of EM to influence beliefs and practice should not be overlooked.

[107] Sovacool, Geels, Andersen, Grubb, Jordan, Kern, Kivimaa et al., "The acceleration of low-carbon transitions: Insights, concepts, challenges, and new directions for research," 8.
[108] Sovacool, Geels, Andersen, Grubb, Jordan, Kern, Kivimaa et al., "The acceleration of low-carbon transitions: Insights, concepts, challenges, and new directions for research," 8.
[109] Sovacool, Geels, Andersen, Grubb, Jordan, Kern, Kivimaa et al., "The acceleration of low-carbon transitions: Insights, concepts, challenges, and new directions for research," 8.
[110] Sovacool, Geels, Andersen, Grubb, Jordan, Kern, Kivimaa et al., "The acceleration of low-carbon transitions: Insights, concepts, challenges, and new directions for research," 8; Janet Stephenson, "Using the Cultures Framework for Policy Analysis," in *Culture and Sustainability: Exploring Stability and Transformation with the Cultures Framework*, (Cham: Springer International Publishing, 2023): 153-189.
[111] Sovacool, Geels, Andersen, Grubb, Jordan, Kern, Kivimaa et al., "The acceleration of low-carbon transitions: Insights, concepts, challenges, and new directions for research," 8.

Climate regulations are fundamentally oriented towards improving our overall freedoms and opportunities; although restricting certain fossil fuel practices (the phase out), this action and the opportunities for low-carbon alternatives (and their benefits) would bring a transition to a more sustainable future. This goal would outweigh the discomfort of fossil fuel restrictions in favour of enhanced future safety, freedoms, and opportunities. As expressed by political theorist Maria Paola Ferretti, perpetuating the climate disaster will negatively impact the standards of life for future people, and indeed determine (albeit indirectly) how many and which individuals will live in the future, and the quality of their lives.[112] Freedom is crucial for allowing people the opportunity to set ends for themselves and to change their preferences,[113] and by continuing to amplify rather than relieve the climate emergency we will restrict the capacity for freedoms to be exercised in future society as climate-driven destruction increasingly limits safety, accessibility, and opportunity. These restrictions would come from climate-driven issues such as rising sea levels and extreme weather events, increased extreme temperatures, food, water, and housing scarcity, disproportionate impacts to marginalized and impoverished populations, forced migration, and energy insecurity. Appreciating the value of a new future reality that sustains and improves overall freedoms, rather than one severely restricted by climate disaster, provincial EM can recognize, with provincial sensitivity, which high emitting sectors need to shift and efficiently guide those changes through plans and regulation. Its enactment of these shifts can be predicated by and aligned with a clear notion of their importance for an overall better future, including what they help us avoid. These messages are not new in climate activism, but their conveyance in conjunction with emergency level climate action will be essential in upholding the

[112] Maria Paola Ferretti, "Present risks, future lives: social freedom and environmental sustainability policies," *The Journal of Ethics* 27, no. 2 (2023): 175.
[113] Ferretti, "Present risks, future lives: social freedom and environmental sustainability policies," 176.

clarity of ambition and purpose of the powers, and for explaining why the actions are not just to avoid catastrophe but also contribute to bettering future livelihoods.

As discussed, the pandemic emergency powers were problematic and such uses should be avoided. But in the climate case, with scientific projections strongly indicating the future we approach, absent drastic action, avoiding emergency action on the prospect of blowback would make the feared disasters a reality: avoiding restrictions for present comfort threatens future prosperity. Rationally, it seems it would be better to act in prevention of such a future amidst some level of uncertainty for how bad that future might really become rather than wait for that future to actualize and wish we had done more. Without exaggerating the term, it appears a new normal (in practice) is needed, but this new normal, never to return to current fossil fuel dependence, would ultimately benefit freedoms and opportunity for sustaining the things we value[114] through transition. Almost anything enjoyed currently could be enjoyed with a low-carbon alternative through the development of appropriate infrastructure and technological progress, which is ideally the counterpart to fossil fuel phase out. EM power, framed and enacted through this frame, may also help further ease tension over the transition and encourage cultural shifts towards greater advocacy of climate action for the benefit of future freedom and opportunity. A cultural shift brought about through legal action necessarily requires social support, and explicit clarity on what climate emergency powers are attempting to do and why will be essential if the movement is to have hopes of gaining popular support and political traction.

[114] Beyond the preservation of lives, this includes safeguarding businesses, ensuring accessibility to basic resources such as food and water, good air quality, providing the opportunity for leisure and enjoyment, especially in the natural world, and general wellbeing with hazard reduction.

Now, this is not to say that any of the needed changes will be more agreeable to governments or to all people - the needed changes will be uncomfortable and will likely cause turmoil – but as this section has outlined, proactive provincial initiation of major changes through their own EM could allow for more contextually aware and regionally sensitive policy. This would maintain provinces' often coveted autonomy, and, contrived effectively, could at least limit future federal impositions, matching or outpacing national emissions targets and climate action. Also, fair and contextually aware regulation, guided by provinces, can serve to overcome traditional barriers to a rapid green transition: fossil fuel influence on policy, normalized societal love of convenience, dispositions favouring the status quo (largely fossil fuel based), and concerns over uncertain futures. In response to the issue the fossil fuel vested interests can have in traditional climate policy development, an enhancement of a transition with fossil fuel phase out can amplify the value of those businesses and industries that will become increasingly valuable as alternatives. As Sovacool has also recognized, the success of low-carbon and renewable industry could attract attention and followings that "trigger innovation races, learning and low-carbon technology diffusion."[115] This feature of the transition has also been considered a politically important counterweight to fossil fuel interests, by "building broad-based coalitions supporting ambitious transition policies."[116] But in final support of the claim that provincial climate emergency action can function without rights abuse, we can also suggest how substantial shifts in practices and regulations under emergency powers could function within a liberal democratic state without compromising fundamental values or norms.

[115] Sovacool, Geels, Andersen, Grubb, Jordan, Kern, Kivimaa et al., "The acceleration of low-carbon transitions: Insights, concepts, challenges, and new directions for research," 5.
[116] Sovacool, Geels, Andersen, Grubb, Jordan, Kern, Kivimaa et al., "The acceleration of low-carbon transitions: Insights, concepts, challenges, and new directions for research," 5; Eric Biber, Nina Kelsey, and Jonas Meckling, "The political economy of decarbonization: a research agenda," *Brook. L. Rev.* 82 (2016): 605-644; Andrew J. Jordan, and Brendan Moore, *Durable by design?: Policy feedback in a changing climate*, (Cambridge University Press, 2020); Kelly Levin, Benjamin Cashore, Steven Bernstein, and Graeme Auld, "Overcoming the tragedy of super wicked problems: constraining our future selves to ameliorate global climate change," *Policy sciences* 45, no. 2 (2012): 123-152.

Emergency Powers in a Liberal Democracy

This section aims to further quell objections to emergency power, on the grounds of rights derogation, injustice, or government unaccountability. It elucidates the liberal democratic framework under which climate emergency power can function. David Orr has said that the great irony of the liberal systems of our time is that the longer it takes for governments and political systems to align with the way the Earth works as a biophysical system, the larger and more intrusive they will have to become.[117] But this project is interested in powers under EM legislation without triggering the noted dangers. Academic contributions from Nomi Claire Lazar, and selected ideas of John Locke, Thomas Hobbes, Niccolo Machiavelli, Carl Schmitt, and Immanuel Kant guide this section.

In any liberal democratic regime, tensions surround the balance between restraint, justice, rights and freedoms; and urgency of action, the maintenance of order, provision of security, and preservation of the state. Alongside these tensions are concerns about accountability and stability, which directly relate to a constitutional regime's practical functioning, and how those under the regime *feel* that the regime is functioning. These various factors come to a dramatic head during emergency and crisis; failure to confront a crisis effectively can result in significant loss of life and property, and also incite terrible unrest in, or destruction of, a democratic state.[118] As Nomi Claire Lazar has noted, emergencies and emergency powers are overwhelmingly discussed with reference to a dichotomy between norms and exceptions. This framework fundamentally rests on Carl Schmitt's understanding that emergency inherently involves the suspension of rules and norms.[119] Although this dichotomy between norms and exceptions

[117] Orr, *Dangerous Years: Climate Change, the Long Emergency, and the Way Forward*, 164.
[118] Lazar, *States of Emergency in Liberal Democracies*, 2.
[119] Lazar, *States of Emergency in Liberal Democracies,* 3.

dominates discussion on emergency powers, it is a problematic framework for understanding emergency governance in a liberal democracy. Guided by Lazar, a more pluralistic view on emergency power is more useful and more theoretically sound.

Machiavelli, Schmitt, and Hobbes differed profoundly on addressing an emergency, and why. But they agreed that humans exist in perpetual disorder that only a state can overcome. For Machiavelli, Schmitt, and Hobbes, emergency powers are to be used in exceptional circumstances without any need for justification beyond the existence of those circumstances. Exceptional circumstances may require exceptional power to preserve the state and its liberties. Although this power for climate action may not be opposed universally, this project is interested in emergency action that would be most widely accepted and longstanding, and already substantial tensions related to accountability and rights abuse would be worsened through this form of authoritarian leadership in contemporary Canada.

Kant offers a more liberal perspective that finds its roots in the concepts of rights and duties. The fundamental principle of right, according to Kant, is the maximization of freedom in accordance with freedom of others. Kant presents this principle as a priori.[120] So as rational beings, Kant contends, humans act on maxims that we determine, rationally, could be universal law, which is to say that humans are able to rationalize action as acceptable so long as it can coexist with everyone's freedom.[121]

However, a serious problem arises here. Even if an emergency were dire, the statesman must simply do nothing, if the available solutions would violate the leaders' perfect duties and compromise political ethics.[122] Conceptualizing emergency governance as something that never

[120] Immanuel Kant, *The Metaphysics of Morals* (Cambridge University Press, 2017), 230-231.
[121] Kant, *The Metaphysics of Morals,* 230.
[122] Lazar, *States of Emergency in Liberal Democracies*, 64.

steps into the territory of exceptionalism, so as to ensure universally acceptable law is always the result, reduces emergency governance to silence and inaction.[123] One can therefore appreciate why the norm/exception dichotomy is problematic for emergency climate governance, especially in Canada.

John Locke helps guide a more pluralistic conception of emergency governance than the classic dichotomy. According to Lazar, Locke's framework presents no reason, in principle or in fact, that liberalism cannot confront emergency.[124] Locke's framework for liberalism is embodied by a leader (statesman) who is alive to politics and partisanship, grounded in experience, appreciative of empiricist and inductive methods for decision-making, and committed to liberal values and principles in a combined way that the Machiavellian, Hobbesian, and Schmittian statesmen are not.[125] In the Lockian model, the statesman still acts in the best interest of the state and its preservation,[126] which can include powers that trump certain laws when necessary. But Locke concedes the notion that a statesman may put themselves at risk for the state, accepting punishment for their actions should punishment be deserved.[127] The provincial leader would act aware of provincial contexts, subject to public and judicial reprimand, and constrained by parameters of EM legality. And indeed, clarity and honesty in the purpose of any emergency powers used is crucial. Locke's institutions are means to an end (not an end in themselves), are derived from experience and are partly inductive in nature (not committed to changelessness), and are operationalized with a publicly acknowledged purpose in mind (rather than from a sovereign's own perspective) all because the executive is always held

[123] Especially when an emergency is imbued with conflict, such as the climate emergency is.
[124] Lazar, *States of Emergency in Liberal Democracies*, 65.
[125] Lazar, *States of Emergency in Liberal Democracies*, 65.
[126] A necessary prerequisite for what we understand here as good leadership.
[127] This is a concept popularized by Locke and supported by other significant political thinkers including Alexander Hamilton, James Madison, John Jay, and Thomas Jefferson.

accountable to the citizens of the state, rather than being exceptional and above norms. As has been noted, the judiciary also plays a meaningful role in accountability.

This Lockean framework allows us to explore emergency powers coincident with liberal-democratic values. It acknowledges the operation of institutions involves agency, allowing for emergency governance that can adapt and respond to emergencies without suspending norms. It is through this framework that this thesis pursues the question of provincial climate emergency power. Indeed, advancements in formal rights protection in EM to bolster accountability is desired, but even without the benefits of such changes this framework provides a conceptual blueprint for climate EM to be engaged with awareness of and respect for avoiding abuses and rights violation.

Priming discussion on applying provincial EM for emergency climate action in chapter two, this first chapter has elucidated preliminary features of an argument for provincial emergency powers being a viable and effective option for more drastic climate action. Through provincial EM, opportunities could shift behaviour, structures, and dispositions. These powers could overcome traditional barriers to climate policy, including a common reluctance of people to pursue an unknown future, particularly if it seems threatening to the comforts they have come to know, to provide a better and more sustainable reality. It could also do this without the contradictions between climate action and fossil fuel subsidization, or benefits for fossil fuel organizations, typical of regular policy development. For climate, EM powers can enact change without succumbing to fossil fuel ambitions that often water down the stringency of any regularly developed climate policy and actually (and swiftly) make meaningful change to phasing-out fossil fuel reliance. These powers can also be pursued with contextual awareness and understandings of local interests, needs, and areas for improvement, providing an opportunity to

see action be more suitable to a given provinces' circumstances than what national emergency power (or climate policy) would. And these powers could operate without violating human rights (though not necessarily appearing at risk of this concern anyway), while enacted through a framework aligned with liberal democratic values.

Chapter 2: Provincial Emergency Power Capabilities and Hypothetical Applications

Chapter 1 discussed dangers and opportunities of emergency powers. Building on that chapter and its insight, this chapter moves to the next stage of an argument for provincial emergency power, which is the hypothetical application of emergency power through EM. In doing that, it considers the specific capacities of EM legislation in Canadian provinces with an emphasis on Alberta and British Columbia, including their relationship to climate and the environment. It considers key differences in political contexts between the two provinces, and what these relationships suggests about the likelihood of emergency climate governance in these two provinces. From these comparisons, implications are derived for leader and laggard provinces generally. The chapter concludes with a brief survey of provincial emergency leadership and response during the COVID-19 pandemic, a case with important lessons for what provincial emergency action should aim for and avoid during an uncharacteristic emergency. The chapter therefore serves as preparation for the series of insights into the practical engagement of EM for climate in chapter 3.

Provincial Emergency Power Capabilities

Emergency powers for all heads of government are designed to reckon with emergencies, hazards, and disasters. Such events include geophysical or biological events or the results of human action or error, whether malicious or unintentional, including technological failures and accidents.[1] However, provincial states of emergency have overwhelmingly related to wildfires, floods, or extreme weather;[2] the exceptions include the COVID-19 pandemic, and a few cases

[1] "National Emergency Response System," Public Safety Canada, accessed November 3, 2024, https://www.publicsafety.gc.ca/cnt/rsrcs/pblctns/ntnl-rspns-sstm/index-en.aspx#role.
[2] Agrawal, Adjikari, and Yiu, "Disaster Risk in Canada–A Data-Driven Discussion," 21.

related to transportation, technology, and epidemics.[3] Thus, although it has historically dealt in briefer periods, and although climate change fits poorly with traditional EM, provincial EM already links to a changing climate, increasingly impacting most traditional hazards. This is important for connecting provincial EM to climate change as an emergency, reflecting the scientific and biophysical realities that arise from a changing climate. The following section contributes to this discussion by reviewing provincial emergency powers and surveying how provincial EM relates to the climate emergency. This includes its advantages in practice relative to normal climate policy and as an alternative to federal emergency power imposition.

Disaster and emergency studies professor John Lindsay has helpfully devised a typology for provincial emergency powers, dividing the most common provincial emergency powers into six main activities: 1. Authorize necessary action; 2. Control location of people; 3. Use property and control resources; 4. Require service; 5. Powers to search, arrest and fine; 6. Miscellaneous.[4] Various provincial EM acts have been updated following the pandemic,[5] but these categories from Lindsey's pre-pandemic work are still useful. In what follows, I also consider the four pillars of EM (prevention/mitigation, preparation, response and recovery) and how they relate to climate-driven emergency. Broad similarities across provinces will be noted in this survey, but I will emphasize the 2023 *Emergency and Disaster Management Act*[6] (EDMA) in BC, and the

[3] Timeframes in most of these declarations have, however, been relatively short, rarely eclipsing 90 days. For examples of exceptional circumstances for emergency declarations, see "P.E.I, declares emergency, ready to take over ferries," *The Globe and Mail*, August 25, 1966, accessed September 11, 2024, https://www.proquest.com/docview/1316369027?sourcetype=Historical%20Newspapers; "Recalling the 2003 blackout: 20 years since North America's largest power outage," CityNewsEverythwere, accessed March 28, 2025, https://toronto.citynews.ca/2023/08/14/2003-blackout-20-anniversary/; "Joint statement on Province of B.C.'s COVID-19 response, latest updates," *news.gov.bc.ca*, accessed September 11, 2024, https://news.gov.bc.ca/releases/2021HLTH0042-001206.
[4] Lindsay, "The Power to React: Review and Discussion of Canada's Emergency Measures Legislation," 168.
[5] Including those of Alberta, Saskatchewan, British Columbia, Manitoba, and Nova Scotia. Predominant shifts include an extension of state of emergency declarations timeframes to be 90 days in the case of pandemics.
[6] Government of British Columbia, Ministry of Emergency Management and Climate Readiness, *Emergency and Disaster Management Act*, assented to November 2023, https://www.bclaws.gov.bc.ca/civix/document/id/complete/statreg/23037.

Emergency Management Act[7] (EMA) in AB, updated in May 2024.[8] Although 'recovery' is indispensable to EM, the following section emphasizes prevention, mitigation, preparation, and response. Powers in provincial and territorial EM legislation[9] are assigned to the relevant government minister or the local authority, or both, as determined by jurisdiction. In some provinces the powers of each level of authority are identical, but usually the provincial government holds powers which local authorities do not have, and under Section 92 (ss.8) in the *Constitution Act 1867*, which makes municipalities creatures of the provinces, provincial governments can always override local authority.[10]

The first powers of interest concern 'authorizing necessary action'. As Lindsay notes, almost every EM legislation begins by granting emergency powers: a statement allows the government in question to take any action considered necessary (under provincial constitutional powers) to ensure public safety and to resolve the emergency.[11] Then, throughout the legislation in each new section related to authorizing action, descriptions follow the particular powers of EM law. These generally cover general roles and administrative capacities of power, along with capabilities and focuses of EM enforcement in practice, and provisions for reviews, repeal and amendments of the given act. Powers in this category are frequently associated with measures that authorize or require a person, infrastructure or regulated entity owner, or jurisdiction to act. As Lindsay described, this often involves the EM minister or Lieutenant Governor in Council, giving those aforementioned entities the authority to implement their emergency plan, or assign

[7] Government of Alberta, Ministry of Public Safety and Emergency Services, *Emergency Management Act*, 2007, https://kings-printer.alberta.ca/1266.cfm?page=E06P8.cfm&legtype=Acts&isbncln=9780779847808.
[8] BC and AB have further emergency powers outlined in their *Public Health Acts*, but their area of focus is less directly linked to climate change, except with downstream policy areas such as zoonotic epidemic transmission.
[9] Territorial powers are included in this for purposes of reference, but this thesis emphasizes the autonomy, constitutional powers, and authority of provinces.
[10] Lindsay, "The Power to React: Review and Discussion of Canada's Emergency Measures Legislation," 168.
[11] Lindsay, "The Power to React: Review and Discussion of Canada's Emergency Measures Legislation," 168.

authorities to delegate emergency powers.[12] This can also include, Lindsay notes, powers to make regulations or bylaws during an emergency, which is often restricted to the province.[13]

The second category of powers relate to controlling the location of people. This power can be controversial, especially due to the limits on the protection of mobility rights within the country under the *Charter*. However, this provincial power is rarely used unless to prevent access to severely affected or threatened areas, such as with fires and floods. In evacuations, for example, this power is designed to preserve human life. Lindsay recognized that most provinces requiring evacuation combine the order with an obligation to care for evacuated people and their property.[14] Lindsay further clarifies that some provinces (Ontario, Quebec, British Columbia, Prince Edward Island, Newfoundland and Labrador, and Nunavut) also allow the government to close public or private places during emergencies or prevent entry into identified buildings.[15] This does not mean, however, that these powers are restricted to such applications. For instance, this power resembles those in the Federal *Emergencies Act* that were exercised during the COVID-19 pandemic against the 'Freedom Convoy' protests. In BC, the power is listed as a recovery power, allowing the Minister to prohibit the entry "into any structure or land, by any person and for any purpose related to protecting the health, safety or well-being of persons… property or of objects or sites of heritage value, or… to recover from the emergency."[16]

The third category, the use of property and control of resources, is immensely important here, as many GHG emissions arise from industries, fuels, and machinery in private hands. As Lindsay explained, during a declared emergency, all Canadian jurisdictions provide for the

[12] Lindsay, "The Power to React: Review and Discussion of Canada's Emergency Measures Legislation," 168.
[13] Lindsay, "The Power to React: Review and Discussion of Canada's Emergency Measures Legislation," 168. This power can also be related to relocating habitation to less at-risk locations should an area become increasingly prone to disaster.
[14] Lindsay, "The Power to React: Review and Discussion of Canada's Emergency Measures Legislation," 169.
[15] Lindsay, "The Power to React: Review and Discussion of Canada's Emergency Measures Legislation," 169.
[16] *Emergency and Disaster Management Act* 2023, S. 89.

government to requisition, use or dispose of property, but the precise wording varies.[17] Lindsay also reminds readers that these powers were carried forward from the Second World War to peacetime emergencies.[18] This power can include the demolition or removal of natural (trees, crops) or made (structures) things, or landscapes, in order to prevent or alleviate an emergency.[19] The other major power, Lindsay explained, is the ability to regulate essential resources and, under some circumstances in a handful of provinces, "to take over the control and care of utilities, services and industries deemed critical to (emergency) response."[20] Controlling essential resources and services can also mean the power in some provinces, including BC[21] and AB[22], to fix prices.[23]

Category four involves those powers that obligate individual or organizational action to address or resolve the emergency. Lindsay helps to demonstrate that this category parallels powers over property or service regulation and control. All current legislation across Canada, except in the Yukon, empowers their government to have qualified persons or classes of persons render their specialized services.[24] This can also include the contentious power to conscript other persons to meet an emergency (Alberta, Saskatchewan, Nova Scotia, New Brunswick, PEI, the Northwest Territories and Nunavut).[25] That power does not exist in BC. The ability of a government to require specialized service, such as the skills provided by a structural engineering degree or specialized driver's license, or simply to conscript, with or without compensation, threatens violating constitutional rights and creates other dangers of abuse associated with

[17] Lindsay, "The Power to React: Review and Discussion of Canada's Emergency Measures Legislation," 169.
[18] Lindsay, "The Power to React: Review and Discussion of Canada's Emergency Measures Legislation," 169.
[19] *Emergency and Disaster Management Act* 2023, S. 76.
[20] Lindsay, "The Power to React: Review and Discussion of Canada's Emergency Measures Legislation," 169.
[21] *Emergency and Disaster Management Act* 2023, S. 75.
[22] *Emergency Management Act* 2000, S. 19.
[23] The wording varies and may or may not be linked to the control of essential resources.
[24] Lindsay, "The Power to React: Review and Discussion of Canada's Emergency Measures Legislation," 170.
[25] Lindsay, "The Power to React: Review and Discussion of Canada's Emergency Measures Legislation," 170. Example in Alberta's EMA at *Emergency Management Act* 2000, S. 19.

emergency power.[26] So good reasons exist to handle it with caution in appreciation of its dangers.[27]

The fifth category of emergency powers encompasses powers to search for, arrest and fine. In emergency situations these powers, normally carried out by the police, can be delegated to (imposed upon) provincial government agents. This allows a government representative who is not a recognized peace or police officer to enter and search a premises without a warrant.[28] In BC, "the minister may authorize the entry without warrant into any structure or onto any land by any person for the purpose of taking emergency measures."[29] Provisions in AB are almost identical.[30]

Imposing fines is another emergency power bordering on a police function. Only the Northwest Territories' *Civil Emergency Measures Act 1988* lacks provisions for offences and imprisonment or fines.[31] The fines vary across the country and some legislation differentiates between individuals and corporations. Lindsay noted that most powers of detention align with Manitoba's *Emergency Measures Act, "*which allows a peace officer to arrest someone committing an offence to establish their identity, collect evidence or prevent repeating offences under the act."[32] This controversial power must be exercised with extreme caution if at all, but its use in climate emergencies seems unlikely, at least in the approaches that this project advocates. The preeminent possibility suggesting its use would be in response to internal resistance to

[26] The United Nations' International Covenant on Civil and Political Rights states: 'no one shall be required to perform forced or compulsory labour," although this is qualified later: 'for the purpose of this paragraph the term "forced or compulsory labour" shall not include: (iii) Any service exacted in cases of emergency or calamity threatening the life or well-being of the community' (UN General Assembly, *United Nations' International Covenant on Civil and Political Rights*, United Nations, Treaty Series, vol. 999 (December 16, 1966), article 8 s. 3(a), https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights). So, the power available through emergency legislation is legally and normatively valid in the international community.
[27] Lindsay, "The Power to React: Review and Discussion of Canada's Emergency Measures Legislation," 171.
[28] Lindsay, "The Power to React: Review and Discussion of Canada's Emergency Measures Legislation," 171.
[29] *Emergency and Disaster Management Act* 2023, S. 76.
[30] *Emergency Management Act* 2000, S. 19.
[31] Lindsay, "The Power to React: Review and Discussion of Canada's Emergency Measures Legislation," 171.
[32] Lindsay, "The Power to React: Review and Discussion of Canada's Emergency Measures Legislation," 171.

emergency power declaration and resistance to adhering to regulations.[33] Framing the powers in a clear and rational way, with the powers acting to facilitate a sustainable shift and a just transition in conjunction with other government initiatives, such as the provision of alternative employment opportunities (in low-carbon alternative sectors) and infrastructure development, should help reduce the potential of insurgence. Additionally, that punishment for non-compliance for climate related regulation would be regulatory restrictions on industry operations (foreclosure until standards are met) rather than powers exercised directly over individuals could help avoid resistance and insurrection. Yet the possibility of retaliatory resistance, from employees of regulated industry, for example, remains a concern to be aware of. Transition job opportunities in alternate (low carbon) industry would be supremely beneficial.

The sixth, 'miscellaneous' category includes powers that only some provinces adopt. Such powers include waste management in Ontario, and control over the movement of diseased persons or livestock in Manitoba. Most provinces provide for emergency payments or other resource commitments during an emergency.[34] Importantly, several provinces have powers to construct works or make repairs (including AB and BC), and Nova Scotia and BC echo Ottawa in allowing governments to assess damage to works or to the environment.

The 'four pillars of EM' recognize the focus on emergency preparation and mitigation in BC and AB's respective EM legislation. Prevention/mitigation, preparation, response and recovery are staples of EM across Canada, following years of integration with international and cross-governmental learning on EM and refining approaches.

[33] It is worth mentioning that, related to resistance, most EM legislation does not allow public insurrection to be deemed as an emergency in its own right.
[34] Lindsay, "The Power to React: Review and Discussion of Canada's Emergency Measures Legislation," 171; Important too is that EM legislation will have eligibility criteria for determining who can receive funding and for what purposes, and generally the payment is a one-time service that is provided in the least costly way possible to meet the need.

Alberta's EMA defines "emergency management" to include all hazards, and all activities and risk management measures related to prevention and mitigation, preparedness, response and recovery.[35] The four pillars are also included in defining 'business continuity plans,' 'consequence management plans', and 'hazard specific plans.' In each of these definitions, the enactment of an emergency plan, when deemed warranted by the designated Ministers (by the Premier or EM agency),[36] will trigger action on all four pillars. But some ambiguity attends to the significance attached to each pillar. Specific references to prevention and mitigation are notably limited. However, the limited prevention and mitigation language does not necessarily imply limited potential, for the powers' placement in the legislation suggest quite substantial impacts. For example, AB Ministers and local authorities may "acquire real or personal property to prevent, combat, or alleviate an emergency or disaster, and any damages to acquired property is to be compensated for."[37] In AB, the Lieutenant Governor in Council may also make regulations for reimbursing local authorities and individuals to reduce or mitigate potential flood hazards (an interestingly specific condition),[38] and the appropriate EM Minister may conduct public information programs on emergency preparedness.[39] Mitigation powers for AB will be discussed in more depth in Chapter 3.

Prevention and mitigation are noticeably more prominent in BC's *Emergency and Disaster Management Act* (EDMA). Regarding 'prevention', the EDMA first states (section 2) that effective emergency management in BC is, among things, "based on practicing emergency and disaster risk reduction, including proactive work to prevent the creation of new risks, to

[35] *Emergency Management Act*, S. 1.
[36] In different EM across Canada there are variances in how Minister's are assigned to certain hazards or are responsible for certain aspects of society that could be susceptible to emergency, but in all cases, there are Minister's who have the explicit authority to make judgement calls (often through collaborative contemplation with other public servants) on what appropriate action would be.
[37] *Emergency Management Act* 2000, S 19, S. 24.
[38] *Emergency Management Act* 2000, S. 1.
[39] *Emergency Management Act* 2000, S. 9.

reduce existing and future risks, and to increase resilience."[40] The EDMA's outline of emergency management phases define 'mitigation' as measures taken for "identifying and removing or reducing hazards to prevent emergencies, or reduce, to the extent reasonably practicable, their scale, scope and adverse effects."[41] Mitigation receives an entire section, outlining powers, responsibilities, and requirements for all provincial and local authorities. Each Minister with a role in BC's EM must make prescribed information available to the public in relation to potential emergencies that could affect all or part of BC, including information on hazards, risks and vulnerabilities.[42] Mitigation regulations are also given for public sector agencies and "critical infrastructure" owners who must prepare and maintain business continuity plans and risks assessments. Because of their relationship to energy supply, their economic impact, their place in industrial process chains, and their impact on and relationship to national security, "critical infrastructure" includes oil and gas, transportation, the mining industry, and any land used for operating or accessing any of these things. Perhaps most important, Section 56 details the criteria and power of directed mitigation and preparation measures. The minister may make orders to "mitigate a specific hazard that significantly risks giving rise to an emergency."[43] This includes requiring a regulated entity[44] to take emergency measures for mitigation or preparation.[45]

Finally, the specific mention of 'prevention' and 'mitigation' in AB and BC's EM legislation is not the *only* way through which powers in the acts may serve prevention or mitigation. Especially relevant for climate, an emergency may receive active response alongside

[40] *Emergency and Disaster Management Act* 2023, S 2.
[41] *Emergency and Disaster Management Act* 2023, S. 3.
[42] *Emergency and Disaster Management Act* 2023, S. 39.
[43] *Emergency and Disaster Management Act* 2023, S. 56 (1 (a)).
[44] Other than a government minister, the Nisga'a Nation or a treaty First Nation.
[45] Before making an order under subsection (3) (b) or (d) in the EDMA, the minister must (a)consult and cooperate, in accordance with the regulations, if any, with each Indigenous governing body that acts on behalf of Indigenous peoples whose traditional territory or treaty area includes an area or people in an area that will be affected by the order, and consider: (i)any comments received from an Indigenous governing body consulted in accordance with paragraph (a), and (ii)the rights of the Indigenous peoples referred to in paragraph (a).

efforts to mitigate its future potential. The third chapter addresses these matters further. The two most important points that concern the use of provincial EM for emergency climate governance are as follows. First, provincial EM legislation varies in how it defines and describes mitigative power. BC clearly and comprehensively describes mitigation power and its importance, AB does so substantially less. However, all EM provisions, including mitigation and prevention powers, have fundamental similarities across all provinces. Even provinces with less explicit power for mitigation and prevention can still enact serious change. Moreover, as discussed through the first chapter, provincial action can be creative in a locally specific context, conscious of differences that recommend different foci or implementation protocols. Such flexibility could help establish changes that federally led climate action commonly hampers. Climate change also intensifies many traditional EM emergencies, elevating the need to preventatively address factors contributing to these emergencies (emissions driving climate change), thereby encouraging the importance of EM being mobilized for climate, even if specifically mitigating a climate emergency has yet to make as strong of an emergence in EM as it should. The differences between AB and BC reflect 'leader' and 'laggard' provincial tendencies for climate action, but neither province lacks legislative opportunities to make necessary changes for climate action. This overview of provincial and territorial legislation has also shown the permissibility of provincial EM to engage in diverse types and descriptions of emergency, benefitting its opportunity to be engaged for climate even absent climate-specific emergency language.[46]

The second important point is that, as with all emergency power use, rights must be protected. EM legislation in BC and AB contain clear preconditions for their invocation, and have limits on the duration of exercising powers, subject to extension with approval of the

[46] Stacey, "Commissioned Paper: Governing Emergencies in an Interjurisdictional Context," 11.

legislature.[47] However, we have seen that provincial emergency acts lack the explicit safeguards of the federal *Emergencies Act*. Still, as expressed in the 'opportunities' section, these dangers may be avoided through deference to judicial power. Moreover, there is seemingly less reason to believe that various rights, including non-derogable rights, are at risk, given what emergency powers need to be exercised for climate change and emissions reduction, and how. The preeminent focus here is industry operations, not individual choices or opportunities. Examples of the strategic use of emergency power for climate emergency mitigation in line with this concept of respect to rights are presented in the third chapter.

Extending the argument of hypothetical applications for provincial emergency power, the following section addresses the divergence in political contexts between leader and laggard provinces, including AB and BC, and what these differences could mean for the likelihood of emergency powers being engaged for climate. This concept will be re-visited in chapter 4 with a progression of this political consideration leading to contemplation on the potential for emergency climate governance to happen at all, and how it may be the case that if it does occur, it will be asymmetric.

Political Contexts: Similar Opportunities, Divergent Interests

Political leaders pursuing election or avoiding political pitfalls have often been reticent to engage fiercely on climate, unless it is 'vote-winning' at the time. Yet even during periods of strong climate leadership in certain provinces, those initiatives were not diffused among other provinces.[48] Environmental policy analyst Stephen Hale has also noted increasingly widespread

[47] Aside from notable examples of BC's ability to prohibit entry into certain buildings or locations, and AB's ability to conscript citizens (both unlikely if not entirely improbable powers to be exercised for climate), the legislations are construed with similar allowances for provincial emergency power.
[48] Harrison, "Climate Governance and Federalism in Canada," 71-72.

hostility in mainstream politics to increased government intervention in individual behavior and business, and this feeling has grown on both the left and right.[49] This "reduces the willingness of governments to use their powers to drive change", including powers of regulation.[50] This is detrimental to climate change policy, where mitigatory action is consistently underplayed, while the contribution of emissions trading or carbon pricing is presented as enough. Even these have recently come under pressure. These are important market instruments, but they will not drive investment decisions or change behavior at the speed or magnitude needed to avoid more serious disaster.[51] Something more is needed.

The particulars of EM legislation across Canada vary; however, comparison of provincial legislation revealed broad similarities on most powers. Provincial interests in fossil fuel energy,[52] where the industry is a substantial part of the economy or social structure, or an apparent aversion to stronger climate action, influence policy direction and climate action.[53] These realities do not mean emergency governance (or more drastic climate policy) is unable to shift the narrative in any province. However, they certainly challenge the likelihood that emergency climate action would be engaged in all provinces. This section now turns to assess laggard and leader provinces in relation to the political forces currently affecting the prospects for provincial

[49] Stephen Hale, "The new politics of climate change: why we are failing and how we will succeed," *Environmental Politics* 19, no. 2 (2010): 258.
[50] Hale, "The new politics of climate change: why we are failing and how we will succeed," 258.
[51] For examples of this argument, Mark Jaccard makes a strong case, for example, in: "The death and life of a great Canadian climate policy," Canada's National Observer, accessed March 4, 2025, https://www.nationalobserver.com/2023/11/14/opinion/death-and-life-great-canadian-climate-policy.
[52] With those provincial interests often also reinforced by the political power of the fossil fuel industry.
[53] For example, many fossil fuel driven provinces have been seen to veto actions that would diminish the opportunity for rents generated through fossil fuel production. See also, Douglas Macdonald, *Carbon province, hydro province: The challenge of Canadian energy and climate federalism* (University of Toronto Press, 2020), 57.

EM climate solutions. It assesses the political forces that could be brought to bear on these issues, how they might do so, and what impact this might have on climate action.[54]

This analysis first considers the Alberta case as a representative of laggard provinces (others in the category are Saskatchewan, Newfoundland and Labrador). Alberta's modern economy has been built on oil and gas development, and these ties remain strong. Calgary and Edmonton represent more climate-conscious political perspectives, with each city having enacted climate-progressive policy, and both having declared climate emergencies. However, political discourse in the province assumes that the oil and gas industry is the lifeblood for the province, and the provincial electorate has generally opposed policies that appear to threaten this industry. The environment remains a weak point in successful political campaigns.[55] Connected to this ideology, conservative governments (Social Credit, Progressive Conservative, and United Conservative) have had a long history of leadership in Alberta,[56] often framing themselves as the party that will best defend Alberta's economy against (federal) climate policy that could hurt its economy, and championing the expansion of the oil and gas industry (through pipelines and increased exploration) as the most effective and beneficial path towards Alberta's future success.[57] With a large portion of the provinces' electorate working in the fossil fuel industry, and with strong popular tendencies to vote for conservative parties,[58] shifts seem unlikely. But certain

[54] For provinces falling into the more ambiguous middle category (Manitoba and Ontario), at least in relation to this project's delineation between climate leader and laggard provinces, their political dispositions share traits of both sub-types, naturally, and as such their likelihood of engaging in emergency climate action remains less clear. But the influence from ties to the fossil fuel industry is substantial for political interest, and in any province where these ties have not been clearly opposed, a shift to emergency climate governance seems likely to run into obstruction from them.
[55] "Why climate isn't a big issue on the Alberta campaign trail," CBC, last updated May 26, 2023, https://www.cbc.ca/news/canada/calgary/climate-alberta-danielle-smith-rachel-notley-ucp-ndp-1.6853225.
[56] Conservative parties have governed Alberta for the better part of the past half-century (since 1971), with exception of the 2015 NDP election.
[57] The AB public's dominant concerns are health care, inflation/affordability and ensuring quality public education, and many express pride and comfortability with their fossil fuel economy. ("Many Albertans still fine with an oil-and-gas future," Policy Options, accessed March 2, 2025, https://policyoptions.irpp.org/magazines/october-2021/many-albertans-still-fine-with-an-oil-and-gas-future/).
[58] Notwithstanding other platform issues, there remains a tie between conservative parties and aversion to strong climate action, and each vote contributes to these government's having power on all issues, including climate. Although at risk of oversimplifying, it does appear that so long as the conservative vote is preferred, and the party aligns itself with supporting fossil fuels, the specific reasons for why the electorate votes conservative are less important than its outcome relative to climate action.

factors could change political interests, both for provincial political parties and the electorate, and are worth considering.[59]

Forces that could alter AB's political trends (voter interest, and consequently political platforms) include economic pressure with global market trends and investment driving diversification away from fossil fuels, divestment from oil sands, and pursuit of lower-carbon and renewable energy alternatives. With arguments for fossil fuels in AB resting on its connection to economic strength, a forced change to maintain a strong economy, as fossil fuels decreasingly bear its former economic benefits,[60] could shift electoral interests away from fossil fuels to bring the province economic stability.

Another factor that could influence political change and shift electoral preferences and interests could be investment opportunities shifting to other provinces that shift to low-carbon energy development and reap the benefits. An "Alberta strong" ideology now rests on the prosperity that fossil fuels brought the province. It entails a firm conviction that AB has been built on hard work and fossil fuel allegiances, taking full advantage of an opportunity (natural fossil fuel deposits). Moreover, the industry has integrated itself into local community[61], and through media stories and propaganda, it has positioned itself as a core feature of AB success, now and in the future. If the province begins to fall behind others which do energy transitions, this ideology could shift to see low-carbon energy as the new (next) opportunity that Alberta can

[59] Alberta's energy sector is slowly diversifying with advancement in hydrogen and carbon capture projects, such as the Scotford Upgrader and its hydrogen-induction technology mitigation bitumen emissions, but no drastic action to quickly phase-out fossil fuels appears on the political radar.
[60] Estimated magnitudes and distribution of wealth losses from stranded assets for the upstream fossil fuel industry (i.e., firms and governments involved in fossil fuel extraction) under 1.8 °C, compared to profit margins of renewable energy firms, show that fossil fuel reserves will suffer a devaluation of 37%–50%, amounting to $13-$17 trillion. (T.A. Hansen,
"Stranded assets and reduced profits: Analyzing the economic underpinnings of the fossil fuel industry's resistance to climate stabilization," *Renewable and Sustainable Energy Reviews* 158 (2022): 1).
[61] "How Canada's Top 10 oil and gas producers are investing in local communities," Canadian Energy Centre, accessed March 15, 2025, https://www.canadianenergycentre.ca/how-canadas-top-10-oil-and-gas-producers-are-investing-in-local-communities/; "Community Investments," Canadian Natural, accessed March 15, 2025, https://www.cnrl.com/sustainability/communities/community-investments/.

capitalize on with hard work. It would prove again (if nothing else, to AB itself) that AB determination and self-sufficiency are unmatched, independent of any one particular industry.[62] This economically 'forced' shift scenario also relates to asymmetric emergency climate governance, as will be discussed below and in the fourth chapter.

The final factor most likely to influence political shifts regarding fossil fuels relates to consequences. Without greater climate action, increasingly severe disasters will impact all sectors and all people in AB.[63] Facing a GHG phase out could take on a new meaning when catastrophic damages become more severe, and a government must do something about it.

No political context is unchangeable, and often, in fact, emergencies and disasters can have quite a profound impact on shifting interests. However, other examples bear on the possibility of moments of climate-progressive governance in traditionally laggard provinces. We can look to Rachel Notley's surprising New Democratic Party (NDP) election in 2015. With promises of increased corporate tax rates, greater investment in public services, and reflecting the oil price crash in 2014, enough AB voters blamed the then-governing Progressive Conservative party for the consequent economic instability (an example of market forces influencing political change). The political right divided with no dominant right party taking the stage. The NDP party gained a majority for the first time in AB's history. Although it governed for only four years, with reunification bringing the United Conservative Party (UCP) back to power in 2019, the NDP government made unprecedented progress on climate action in AB. Notable changes included a $30/tonne provincial carbon tax, a plan to phase out coal power by 2030, and a cap on oil sands

[62] With Alberta ranking as one of the best locations in Canada for wind and solar energy development, and a boom in the industry from 2020-2023 had made AB Canada's leading province for renewable energy growth. (Canadian Climate Institute accessed November 3, 2024, https://climateinstitute.ca/news/albertas-renewable-energy-restrictions-will-throttle-a-booming-industry-and-drive-away-investment/).
[63] As was evidenced by the Fort McMurray wildfires, the oil and gas industry is by no means excused from climate-related disaster.

emissions at 100MT per year.[64] This was not a one-sided policy line. The NDP government still expressed interest in fossil fuel growth by pursuing pipeline expansion, which relates to the deep-seated interests in the electorate for fossil fuel strength, but this example of a break in traditionally conservative governance speaks to the political possibility of real change, even in the provinces least likely to act.

The UCP government following the NDP repealed the carbon tax and rolled back most of its other climate policies. Given this quick reversion, representative of trends in other laggard provinces, widespread and drastic change on climate policy, including the emergency level action proposed in this project, obviously seems less likely in laggard provinces. But these changes are not impossible. As this project argues, the value of the provincial emergency climate action option should not be discounted because of current political trends. As I have just outlined, political convictions can change. And even if laggard provinces never engage in emergency climate action, others still might, and any action on this international emergency will help.

Turning attention now to BC, with regard to its leader status, the same political features noted in the Alberta case take on a somewhat different complexion. In BC, Metro-Vancouver and Vancouver Island are leading regions favouring climate action in Canada. These regions have a large 'green' economy sector, and political interests in climate action are a key factor in local jurisdictions with strong support in the BC NDP and Green Party.[65] These areas represent approximately 29% of provincial seats. BC's interior has a more resource-based economy, which has influenced a more conservative-leaning electorate, with the BC United Party (formerly BC

[64] As has been noted, however, this cap has faced severe scrutiny for its ceiling being too high and its regulations being too flexible.
[65] "B.C. election: Party proposals on climate action point in opposite directions," Philippine Canadian Inquirer, accessed March 28, 2025, https://canadianinquirer.net/2024/10/17/b-c-election-party-proposals-on-climate-action-point-in-opposite-directions/.

Liberals) and more recently, BC Conservatives finding more support here.[66] Both these parties express interest in more rapid Liquefied Natural Gas (LNG) expansion, looser environmental regulations, and more broadly resource development.[67] Provincially, shifts in governing party are more frequent than in Alberta, with each shift also having brought an increase in environmental protection (and eventually climate) imperatives since the NDP's election in 1991 and their push for environmental regulations with focus on protecting areas and strengthening forestry laws. Taking over from the NDP in 2001, the BC Liberal party rolled back some environmental regulations to promote economic growth, but made progress on climate action by instating the first North American carbon tax in 2008, setting a model for carbon pricing worldwide.[68] The NDP/Green party alliance from 2017 to 2020 strengthened climate policies further, if not also (controversially) maintaining electoral interest from those advocating natural resources with the approval of the Coastal GasLink pipeline.[69] The NDP government governing since 2020 continues to balance LNG support with more stringent climate action; however, investments in renewable energy[70] and increasingly diversified and intense emissions regulations brought by this NDP government reflect a persisting trend in climate action advancement in BC,[71] and support in the electorate. More, the current NDP government led the modernization of BC's EM with the more climate-oriented EDMA.

[66] "B.C. election: Party proposals on climate action point in opposite directions," Philippine Canadian Inquirer, accessed March 28, 2025, https://canadianinquirer.net/2024/10/17/b-c-election-party-proposals-on-climate-action-point-in-opposite-directions/; "Parties' mining and energy policies scrutinized ahead of British Columbia election," Mining.com, accessed March 28, 2025, https://www.mining.com/parties-mining-and-energy-policies-scrutinized-ahead-of-british-columbia-election/.
[67] "Parties' mining and energy policies scrutinized ahead of British Columbia election," Mining.com, accessed March 28, 2025, https://www.mining.com/parties-mining-and-energy-policies-scrutinized-ahead-of-british-columbia-election/.
[68] Malcolm Fairbrother and Ekaterina Rhodes, "Climate policy in British Columbia: An unexpected journey," *Frontiers in Climate* 4 (2023): 4-6.
[69] "Your B.C. election guide to key climate and conservation issues," The Narwhal, accessed March 28, 2025, https://thenarwhal.ca/bc-election-2024-platforms-environment/.
[70] Over the year ending December 31, 2023, BCI's Infrastructure & Renewable Resources program deployed over $3.7 billion in direct and fund investments across a diverse range of assets. ("2024 Annual Report Highlights," BCI, accessed March 1, 2025, https://www.bci.ca/investments-performance/portfolio/infrastructure-renewable-resources/.)
[71] Strong carbon policy, CleanBC initiatives including net-zero building, infrastructure retrofitting, and EV mandates, plus the introduction of modernized EM legislation with the EDMA, which, as has been discussed, substantially enhanced recognition of climate change as an emergency.

Regarding shifts in BC's climate-oriented politics, the past 30 years of more environment and climate progressive governance suggest a substantial reversion is less likely should this political trend continue, both because the transition is so far along already, and because of other reasons that support still-stronger climate action. These reasons include economic benefits from growth in low-carbon industries including hydrogen power, battery development, and clean energy. This could continue increasing investment into these sectors, enhancing its growth and job creation. That in turn would continue encouraging electoral support in the benefits of a transition alongside its climate positive impacts. As was noted in the introduction, BC has a more diversified economy than AB, where oil and gas has long dominated. A diversified economic and industrial base, with potential for continued and substantial growth in renewables, along with the precedent of the 2008 carbon tax, the 2010 commitment to (and achievement of) carbon-neutral government operations, and the met goal of over 90% of BC's electricity coming from hydroelectric energy encourage confidence in a strong future for climate action progress in BC. As with AB, increases in climate-driven disaster, BC among some of the most at-risk locations in Canada, should further support climate action. Increasing devastation of the things electors value most can be a powerful motivator, and the climate emergency threatens (explicitly and implicitly by exacerbating climate-driven hazards) many of the things electors value. One other area that could increase BC's climate action would be if LNG opposition rises to force political parties to engage on the issue to win elections. Nevertheless, BC, representative of the leader-province type, appears more likely than laggard or even middle-ground provinces to engage with climate action at an emergency level, particularly with a trend of more climate-progressive political orientations in its provincial governments over the past 30 years.[72] But we should not overlook

[72] As well as its climate-forward progress in EM, reflecting an undeniable reality of needing to address worsening climate-driven disaster.

the potential for a shift in government interests or a change in government even in leader provinces. With recent promises by both the Liberal and Conservative parties to scrap the federal carbon tax, BC's current Premier David Eby has promised to do the same for BC's consumer carbon tax in the name of affordability.[73] Histories of climate progress are no guarantees for similar future action, just as past trends in electoral preference are no guarantee for future preferences. However, this development on the future of carbon tax also elevates the value of EM regulating emissions in key producing sectors; the carbon tax was never going to be enough on its own, but without it, targeting the supply-side of emissions becomes even more important as the demand-side becomes less regulated.

This project has made a case for why emergency powers can overcome traditional climate action obstacles, and avoid emergency power dangers. But political leaders and political contexts can become disinterested in more stringent climate action, no matter how clear the reason for it is, or the future value that it would bring is. Even in leader provinces, drastic climate action remains a prickly issue, as discussed in chapter 1. Climate action appears to be a political pitfall in the best of times in many provinces, as people seem nervous to commit to drastic climate action for fear of real discomforts (obstructions to regular life and norms, and the severing of fossil fuel ties). The implications of climate emergency power for political interests, although speculative, cannot be ignored. Even in the more climate-oriented BC, a broad-based economy and a conservative-leaning interior mean that emergency climate action would have to be approached in studied ways. Contextual awareness is a benefit of provincial power, yet this feature of emergency action remains crucial for such action to bring longstanding change.

[73] "B.C. scrapping provincial carbon tax after Carney kills it federally," CBC News, accessed March 14, 2025, https://www.cbc.ca/news/canada/british-columbia/carbon-tax-bc-killed-eby-carney-1.7484316.

This is all the more true in laggard provinces. Moreover, political climate aversion in laggard provinces, evidenced by the AB case, also suggest that asymmetric climate emergency action from province to province may be the most likely outcome of climate emergency action. But even this option offers no guarantees. With respect to the political contexts mentioned here, and integrating further insights from forthcoming sections on EM lessons and practical applications, the fourth chapter will reflect on the impacts of different provincial politics on the likelihood of emergency climate governance. Consequently, three different futures might emerge in this regard: 1) widespread climate emergency action; 2) asymmetric action; 3) no action at all.[74]

These first two sections of chapter two have clarified two key points. First, across all provinces, the tools for action are available. Second, the varied political contexts of different provinces imply different potential for emergency climate governance. If provincial EM is to be tapped for climate purposes, it may sometimes mean overriding political norms, and in other situations, citizens themselves may push their government to make these changes, or they will vote in a party that will.

Such changes could arise from market forces supporting a green transition, or from the increasing devastation of an unaddressed climate emergency. Based on the political complexions of leader and laggard provinces, however, asymmetric emergency climate governance in leader provinces seems more likely than widespread emergency climate action across provinces, if emergency action is pursued at all.

Relevant to note here, as mentioned in the introduction, the asymmetric enaction of EM still provides strong reason to be impactful and should not be discounted by the potential that

[74] These options have been noted here in most preferred to least preferred realities, from the perspective of the changes that this project advocates.

some provinces never (at least proactively) engage the opportunity. Even if some provinces remain opposed to greater climate action, a coalition of the willing could engage EM for climate in certain provinces, and beyond the impact this could have on influencing collaboration or national support, this action would be inherently beneficial to emergency abatement. The climate emergency is an international issue, and consequently, any action anywhere that relates to climate (GHG emissions) can impact its redressal or its exacerbation. For those who wish to see a catastrophe-ridden future avoided, all major action would help. EM legislation provides an almost unparalleled impactful tool for such action. Having all provinces on the same page may be unlikely, at least in any near future. And more, if federal powers were to somehow intervene and attempt to force greater change on viscerally reluctant provinces, we will probably not see the changes desired, and more, it could severely and perhaps permanently devastate the federation**.** With interest in seeing the climate emergency addressed, we should support needed action wherever it comes, and any provincial contributions, even if asymmetric, would help.

Before reflecting on the impact of these political contexts further in the fourth chapter, I will turn here to lessons from provinces leading responses to another uncharacteristic emergency. The COVID-19 case can further clarify the type of emergency action we need on climate, why, and what could happen in its absence. Although uncertainty surrounds new approaches to any climate action, the risks of not acting are greater. The following section seeks more insight into provincial leadership on an uncharacteristic emergency, and why proactive mitigation is so crucial in such instances.

Pandemic Lessons for Provincial EM

The COVID-19 pandemic case helps to illuminate how future provincial emergency power (and EM) might adapt to an uncharacteristic and indiscriminately evolving emergency

(one without a definitive 'enemy'), and what types of changes and influence provincial EM might offer to resolve a national climate crisis. After the federal government's 2019, largely symbolic climate emergency declaration, the pandemic muddied the waters on what emergency powers should (or should be able to) do. However, the pandemic also revealed important things about what provincial emergency powers can achieve, including the prevalence (and eventual effectiveness) of regulations and messaging to position pandemic remediation. The pandemic was also an interesting example of federal-provincial agreement that a (then-undoubted) emergency should best be handled at the provincial level rather than at the federal level. This also, however, drew attention to the importance of *how* provincial governments handle an emergency. As will be discussed more below, variance in emergency governance styles can mean serious differences for emergency resolution.

Pandemic shutdowns across all sectors, including high polluting and GHG-emitting industries, temporarily reduced pollution in the air, water, soil, and noise.[75] These shutdowns did fuel citizen protest against emergency powers (and in some extent fostered emergency power paranoia). This has arguably blocked access to those types of power that could be implemented for climate action, such as limits on mobility rights, or increased surveillance. These fears, though, as discussed in the previous section, should not concern the mitigative climate action that this project advocates. On the other hand, while the pandemic experience provides no model for permanently reduced carbon pollution, it did create a public, world-wide demonstration of some actions governments might aspire to, and that some positive results can happen quickly. More

[75] See Hong Chuan Loh, Irene Looi, Alan Swee Hock Ch'ng, Khang Wen Goh, Long Chiau Ming, and Kean Hua Ang, "Positive global environmental impacts of the COVID-19 pandemic lockdown: a review," *GeoJournal,* 87, no. 5 (2022): 4425-4437. It should also be noted, though, that targeted mitigation is the key emphasis on what can be learned here – related to climate change, pandemic shutdown when taken as is saw the earth actually warm through the period of pandemic lockdowns as along with GHGs, cooling aerosols and light blocking sulfates were also reduced.

concretely, though, provincial responses to the pandemic can inform the discussion about possible emergency power use for climate, and why provincial leadership on emergency governance is critically important.

When the pandemic first surged around March 2020 and became recognized as an emergency in Canada, provinces led the initial response. Although the federal government ultimately played a role, funding COVID-19 scientific research, regulating borders, handling vaccine procurement and distribution, and offering financial support to those in isolation and in need, studying provincial choices and action matter the most in this project. Provinces were also not the primary target of backlash and protest during the pandemic; the federal government was.[76]

This can further bolster already noted arguments for provincially led climate emergency governance in two ways. First, as discussed, and exemplified again in this case, provincially led action can avoid federal impositions and the accusation of perceived (if not real) federal infringement into provincial affairs. The pandemic case suggests that provincial leadership may be the popularly preferred option. And second, as argued earlier, provincially led action allows strategies and implementation to adjust to local contexts, the most in-touch and pragmatic invocation of emergency power. However, how provincial leaders handle their emergency affairs remains a crucial factor.

[76] This is not to say provincial protests were absent, but mounting displeasure led to the 'Freedom Convoy' congregating in Ottawa with anger directed predominantly towards the federal government. What began as protest against federal regulations on vaccine mandates for cross-border trucking mounted into widespread displeasure with the federal government and its imposition generally. See "Overview Report: Early Protest Activities and Legal Challenges Relating to Public Health Measures," Public Order Emergency Commission, 2022, https://publicorderemergencycommission.ca/files/overview-reports/COM.OR.00000003.pdf; "Canada's "Freedom Convoy": A Far Right Protest, Explained," Italian Institute for International Political Studies, accessed March 28, 2025, https://www.ispionline.it/en/publication/canadas-freedom-convoy-far-right-protest-explained-33192.

Political scientist Jörg Broschek has reported that the provinces responded mostly successfully to the first wave of the COVID-19 pandemic in the winter and spring of 2020, but the opposite is true for the second and third waves.[77] During the first wave, the four Atlantic provinces adopted a proactive containment strategy. This kept transmission rates low and avoided most province-wide lockdown measures.[78] As Broschek argues, this strategy kept infection rates and case numbers close to zero and remained locally concentrated to keep transmission chains under control.[79] The approach involved targeted and short restrictions, emphasis on containing local outbreaks, mobility restrictions, and test-trace and isolate strategies. In line with emerging research on the effectiveness of different public health measures, along with major stakeholders such as hospital organizations and the World Health Organization (WHO), the scientific community advocated for proactive measures more in line with 'containment', than with a 'reactive' approach.[80] The Atlantic second and third waves were not as long-lasting, but had short and focused peaks. Atlantic levels of public health restrictions were significantly lower than elsewhere in Canada.

By contrast, Quebec, Ontario, Manitoba, Saskatchewan, Alberta and British Columbia chose a more reactive mitigation strategy. Some proactive measures included mask mandates, capacity limits, and physical distancing, but it was predominantly oriented around avoiding lockdowns and other restrictions, and it relied on hospital and intensive care capacities as indicators for further restrictions. The second and third waves in these other six provinces saw steeply increasing case numbers, comparatively high mortality rates, and prolonged lockdowns. In several provinces, the health sectors became overwhelmed with catastrophic outcomes in Long-

[77] Broschek, "Federalism, Political Leadership and the Covid-19 Pandemic: Explaining Canada's Tale of Two Federations," 779.
[78] Nova Scotia was the only Atlantic province that enacted a province-wide lockdown, and they only had to do it once in the second wave.
[79] Broschek, "Federalism, Political Leadership and the Covid-19 Pandemic: Explaining Canada's Tale of Two Federations," 782.
[80] Broschek, "Federalism, Political Leadership and the Covid-19 Pandemic: Explaining Canada's Tale of Two Federations," 782.

Term Care homes.[81] Ironically, these provinces relied on lagging indicators, which forced them to pull the 'emergency brake' frequently, and to enact a "circuit breaker" or even prolonged lockdowns to regain control over case numbers.[82] Eerily paralleling many persisting issues with climate action uptake, the pandemic case points to serious problems when provincial governments ignored scientific advice and refused to follow recommended best practices in an emergency situation. This case also exemplifies the importance of provincial leadership on emergency governance. The pandemic case provides two key lessons about the policy toolboxes for provincially led emergency climate governance.

First, toleration of infection (high policy thresholds) and slow reaction, especially against guidance from empirical evidence, is a poor predictor of success. In disease transmission this is obvious. But the climate change case resembles the pandemic case in that high GHG emissions thresholds (regulations), or lengthy transition windows (distant target dates), for example, risk even more alarming and problematic consequences from climate-driven disaster. Keeping action at lower less-disruptive levels, however politically tempting, is not worth relying on when the consequences of missing the objective are severe, expensive, destructive, and even life or death.

Broschek observed that as case numbers surged and increasingly escaped control in the six provinces, experts and major stakeholders rang the alarm, but these governments refused to change their reactive strategy. While Atlantic leadership continued to contain any surge of cases rapidly within a public health unit, leaders elsewhere tolerated case growth. The differences in results reflected not only the type of policy tools adopted, but also the philosophies that informed strategic responses.[83] For example, after already disregarding their own public health agency,

[81] Broschek, "Federalism, Political Leadership and the Covid-19 Pandemic: Explaining Canada's Tale of Two Federations," 779, 783.
[82] Broschek, "Federalism, Political Leadership and the Covid-19 Pandemic: Explaining Canada's Tale of Two Federations," 782.
[83] Broschek, "Federalism, Political Leadership and the Covid-19 Pandemic: Explaining Canada's Tale of Two Federations," 787.

Ontario's case numbers rose steeply in October and early November 2021 while Premier Ford and health minister Elliott publicly claimed numbers were 'plateauing' or 'going down'.[84] Similarly, as Broschek notes, in Alberta, experts urged the government to introduce restrictions amidst rising case numbers and hospitalization rates, but the government refused to act until rates reached their threshold.[85] With every step on the trajectories that separated reactive from proactive action, it was more difficult for the six provinces to regain control of the situation. When the potential for worsening is known, with an opportunity to address it, strong and proactive-oriented action with stringent thresholds should arguably be taken as soon as possible. This is obvious for epidemics. Transposed on the climate case, with robust projections indicating the devastation to come if we continue on our current (or a slowly changed) emissions path, the importance of drastic emissions reduction to proactively combat a worsening climate emergency also seems fairly clear.

The second lesson concerns going 'half-in' on preventative or corrective measures, in a crisis that can worsen uncontrollably under specific conditions. This type of a crisis differs from traditional ones. In the case of the pandemic, a problematic 'half-in' strategy was a premature 'return to normal.' Province-wide lockdowns reversed the case number trends in January and February of 2021 in the six western provinces (a reactive response), but public health experts also warned about a highly infectious new variant of concern (Alpha).[86] The six provincial governments did not change their strategies, and prematurely launched reopening measures.[87] This rested on the untested promise of the vaccine rollout in December 2020, even though experts had warned governments not to rely primarily on this promise.[88] In April 2021, these

[84] Broschek, "Federalism, Political Leadership and the Covid-19 Pandemic: Explaining Canada's Tale of Two Federations," 788.
[85] Broschek, "Federalism, Political Leadership and the Covid-19 Pandemic: Explaining Canada's Tale of Two Federations," 788.
[86] Broschek, "Federalism, Political Leadership and the Covid-19 Pandemic: Explaining Canada's Tale of Two Federations," 789.
[87] Broschek, "Federalism, Political Leadership and the Covid-19 Pandemic: Explaining Canada's Tale of Two Federations," 791.
[88] Broschek, "Federalism, Political Leadership and the Covid-19 Pandemic: Explaining Canada's Tale of Two Federations," 791.

provinces had to impose more province-wide lockdowns as experts had predicted. This pattern recurred in waves two and three. The fatigue and frustration in repetitive alternations between full shutdown and gradual re-opening is something many of those who experienced it would likely not want to repeat. Key mitigative changes and regulations from the start can save a great deal of stress and disruption. And more, a parallel between vaccinations as the 'technological saviour' in the pandemic emergency, (which would be like carbon capture storage in the climate emergency) demonstrated that more was needed; behaviours and lifestyles had to shift to truly and most effectively contain and end the emergency.

Although in the climate case, things like carbon capture technology may prove to be useful, it will not be enough; the core issue of emission levels must be addressed. The 'all-in' strategy of proactive and efficient restrictions (in the appropriate sectors) may not feel 'easier' or more comfortable. But a pragmatic and 'big picture' evaluation of the situation suggests that an 'all-in' strategy has the greatest potential to save us from more severe consequences in the future.

In sum, the pandemic emergency was more appropriately treated like an emergency in the Atlantic provinces, and the lessons gained from comparing their responses of the Atlantic provinces with those of the other six provinces can provide valuable information for climate emergencies. Already in the midst of a long-ignored climate emergency, we are too late for some of these lessons. But the principles should be appreciated: it would seem wise to implement stiff action early on, where and however applicable. If nothing else, these lessons should reinforce fears we should all have for continuing suboptimal action. Sara Allin et al. have argued, like others, that the pandemic responses should have involved much greater federal intervention, particularly regarding coordinated action and communication, sharing information, and supports

for testing and tracing capacity in overwhelmed provinces.[89] However, the reason to turn to federal oversight may have less to do with an inherent need for federal authority and more to do with provinces making ineffective decisions. The pandemic case reveals that immediate and strong action accelerates the end of an emergency, but it can also substantially reduce the consequences of a more gradual response (Canada's current approach to climate action). The other main lesson was that proactive rather than reactive measures supremely facilitate emergency abatement and resolution. Mitigation of source emissions in climate action remains underutilized, and its advancement could help us avoid slipping into a quasi-permanent state of emergency where we grow accustomed to increasingly catastrophic and expensive disaster and recurring emergency level response.

In the argument for provincial emergency climate governance being both a possible and an effective option for mitigative climate action, the first chapter outlined the theoretical components involved in manifesting this opportunity, and the benefits it could bring. This second chapter has furthered this project's argument by clarifying the hypothetical application potential of provincial EM with focus on the powers provided in provincial EM legislation, the political contexts that might influence the likelihood of emergency climate action being pursued, and by surveying a similar case of uncharacteristic emergency that provincial governments lead response on, and what types of response brought more favourable outcomes. Ultimately, this project continues to hold that all exercising of emergency powers for climate must be done with caution, transparency, accountability and care, and that emergency action must also be strategically employed to align with liberal democratic values, but that this action should also

[89] Sara Allin, Tiffany Fitzpatrick, Gregory P. Marchildon, and Amélie Quesnel-Vallée, "The federal government and Canada's COVID-19 responses: from 'we're ready, we're prepared' to 'fires are burning'," *Health Economics, Policy and Law* 17, no. 1 (2022): 89.

happen as soon as possible. Guided by insight revealed through this project so far, the following chapter engages with specific options for how provincial leadership can practically spearhead crucial changes for climate emergency mitigation through EM. This third chapter presents the final part of the argument for provincial EM power by illuminating the practical implementation of leader and laggard provinces, legislatively, doing the things that the climate emergency demands.

Chapter 3: Emergency Management use for Climate Emergency Mitigation; Alberta and British Columbia Case Study Comparison

This chapter evaluates, through case study analysis, how provincial EM could impact mitigation in key GHG-emitting sectors with examples of such action in practice. It also engages with distinct provincial contexts for making these changes real. The chapter divides into two parts. The first explains four key emissions sectors chosen for EM suggestions. This sector selection derives from analysis of Environment and Climate Change Canada (ECCC) reports on sectoral GHG emissions,[1] Intergovernmental Panel on Climate Change (IPCC) sector assessments and emissions estimates,[2] and fuel consumption data from Statistics Canada's Report on Energy Supply and Demand.[3] This first part also scans AB and BC's EM legislation with interest in powers that could be applied for emissions reduction in these four sectors.

Part two provides practical recommendations for mitigation measures through provincial EM in AB and BC, exercising those powers identified in part one of this chapter. The EM focus for these opportunities are emissions-reducing regulations (restrictions or requirements) and emergency plans. This part of the chapter shows in practice what the thesis has argued in principle: that meaningful emergency changes can happen in leader and laggard provinces for high GHG emitting sectors.

Part One: Key Emissions Sectors and EM Climate Qualities

[1] Environment and Climate Change Canada, "National Inventory Report, 1990–2022: Greenhouse Gas Sources and Sinks in Canada: Part 1," (2024), https://publications.gc.ca/collections/collection_2024/eccc/En81-4-2022-1-eng.pdf; Environment and Climate Change Canada, "National Inventory Report, 1990–2022: Greenhouse Gas Sources and Sinks in Canada: Part 2," (2024), https://publications.gc.ca/collections/collection_2024/eccc/En81-4-2022-2-eng.pdf; Environment and Climate Change Canada, "National Inventory Report, 1990–2022: Greenhouse Gas Sources and Sinks in Canada: Part 3," (2024), https://publications.gc.ca/collections/collection_2024/eccc/En81-4-2022-3-eng.pdf.
[2] Environment and Climate Change Canada, "National Inventory Report, 1990–2022: Part 2," 3-4.
[3] Statistics Canada, "Report on Energy Supply and Demand in Canada: Explanatory Information," Catalogue No. 57-003-X, November 21, 2024, https://www150.statcan.gc.ca/n1/en/catalogue/57-003-X.

The selected emissions metric is GHG emissions.[4] I consider 'sectors' as defined by the IPCC and recognized in Canadian emissions reports.[5] I cover four emission contributors, "the four key sectors": oil and gas extraction, manufacturing industries, light-duty gasoline-powered trucks (as a marker of road transportation), and venting of fugitive emissions from oil and natural gas. These four contributors have substantial impacts in both AB and BC. Figure 1 presents GHG emissions in the four key sectors in their kt CO_2 eq in BC, relative to each other and to the 'energy' sector[6] within which they fall. Figure 2 provides the BC figures. The timeframe is 2015 - 2022, beginning with the Paris Agreement.

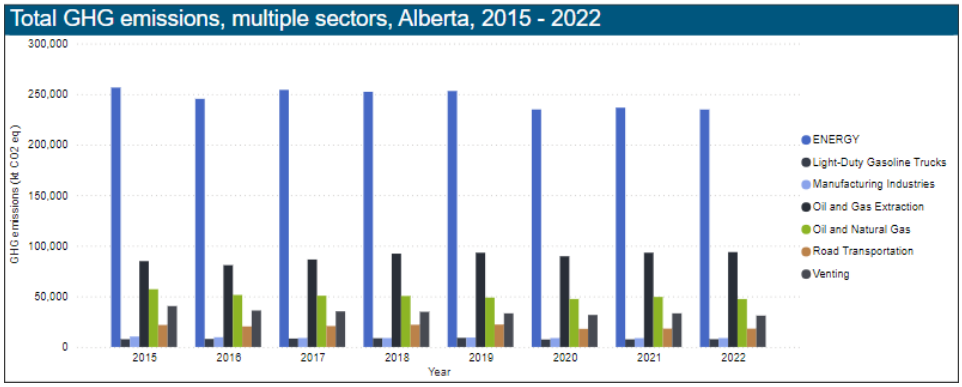

Figure 1. Total GHG emissions in kt CO_2 eq for key sectors of analysis in AB.

[4] The GHGs involved in analysis are CO_2 (carbon dioxide), CH_4 (methane), N_2O (nitrogen), and the fluorinated gases HFCs (hydrofluorocarbons) PFCs (perfluorocarbons), SF_6 (sulfur hexafluoride), and NF_3 (nitrogen trifluoride).

[5] Environment and Climate Change Canada has published reports on GHG emissions containing detailed analysis of past emissions, regional and national forecasts, and identification of top-emitting sectors in regional and national settings for activity sectors identified by the IPCC. For aggregated IPCC categories see: Environment and Climate Change Canada, "National Inventory Report, 1990–2022: Part 2," 3-4.

[6] By far the highest GHG emitting aggregate sector across all provincial sub-types (577, 147 kt CO_2 eq in 2022, with agriculture as the second highest at 55, 947 kt CO_2 eq). The energy sector is also the aggregate sector most connected to fossil fuels. ("Greenhouse gas emissions — National Inventory Report (NIR)," Canadian Centre for Energy information, https://energy-information.canada.ca/en/subjects/greenhouse-gas-emissions-national-inventory-report-nir").

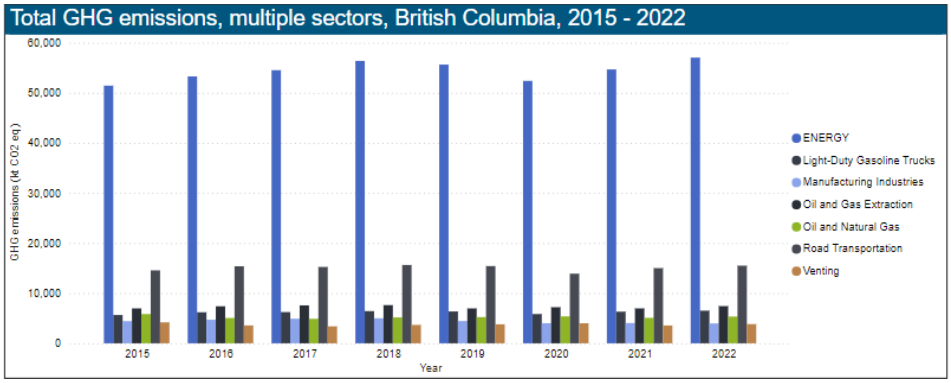

Figure 2. Total GHG emissions in kt CO_2 eq for key sectors of analysis in BC.

Oil and gas extraction is the highest emitting contributor of all stationary combustion sources in both provinces. The upstream oil and gas sector includes the extraction, production, and processing of both conventional and unconventional oil and gas. Based on ECCC 2024 analysis, oil sands production has increased by over 800% since 1990, and its emissions have increased by approximately 470%. Manufacturing is the second highest emitter of stationary combustion sources in BC and the third highest in AB.[7] The manufacturing sector in the context of this project includes the production of metals (especially iron and steel, and aluminum), refineries, pulp and paper, basic chemicals (like nitrogen fertilizers, petrochemicals, and chlorine), and non-metallic minerals (like cement). In both provinces, road transportation is a top emissions contributor (fifth highest in AB, highest in BC) with light-duty gasoline trucks leading all transportation sub-categories in both provinces. Most transportation emissions in Canada relate to road transportation, which includes personal transportation (light-duty vehicles and trucks) and heavy-duty vehicles. The general growth trend in road transportation emissions in Canada reflects an increase in driving: more cars and trucks using more fuel and therefore generating

[7] AB's second highest sector is public electricity and heat production, and BC's third highest is the residential sector. ("Greenhouse gas emissions — National Inventory Report (NIR)," Canadian Centre for Energy information, https://energy-information.canada.ca/en/subjects/greenhouse-gas-emissions-national-inventory-report-nir.").

greater emissions, and a shift away from sedans to the higher emitting SUVs and trucks.[8] Fugitive emissions include released gas that is combusted before disposal (e.g., methane that is not burned before release and flaring of natural gases at oil and gas production facilities).[9] In both provinces, fugitive emissions consistently surpass 10% of total energy emissions; and emissions from oil and natural gas, and specifically venting, contribute the most. These four described sectors are major GHG contributors that lead in AB and BC emissions and consequently play a substantial role in Canada's emissions. In all sectors, some measures to reduce emissions are working, but none are working significantly or quickly enough, given the emergency we face.

In all these sectors more needs to be done, as soon as possible. This includes meeting and ideally exceeding current emissions reduction targets and spearheading a transition in industry and lifestyle. I turn now to survey EM legislation in AB and BC to draw out its explicit and implicit relationships to 'climate' or 'environment' and powers available for emergency action (mitigation and response) in the four sectors in each province.

EM legislation and 'climate' or 'environment' in Alberta

'Climate' appears nowhere in Alberta's EMA. 'Environment' appears twice, in defining other key terms: first, 'disaster' "means an event that results in serious harm to the safety, health or welfare of people or in widespread damage to property *or the environment* [emphasis added]."[10] Second, 'emergency' "means an event that requires prompt co-ordination of action or special regulation of persons or property to protect the safety, health or welfare of people or to

[8] See Stephen Hickson, Madhav G. Badami, Kevin Manaugh, James DeWeese, and Ahmed El-Geneidy, "Who is buying SUVs and light trucks in Montreal? A factor and cluster analysis," *Transportation research record* 2677, no. 8 (2023): 541-552.
[9] "Fuel combustion emissions from facilities in the oil and gas industry (when used for energy) are included under the Petroleum Refining, Manufacture of Solid Fuels and Other Energy Industries, and Pipeline Transport subcategories." (Environment and Climate Change Canada, "National Inventory Report, 1990–2022: Part 1," 89.)
[10] *Emergency Management Act* 2000, S. 1(e).

limit damage to property *or the environment* [emphasis added]."[11] In both definitions, 'environment' is something that humans protect, rather than a source of an emergency. With the climate emergency, by contrast, the state of the environment converges with an emergency to (human) life, and doing better for the environment (climate) will soften many of the problems that have created the emergency for humans.

EM powers for four key sectors in Alberta: The EMA

Section 6 of the EMA outlines powers of the Lieutenant Governor in Council to make regulations to address an emergency. Section 19 outlines Ministerial emergency powers to be exercised during a state of emergency. These two sections hold direct powers for emissions reduction action to be enacted. The following list notes specific powers from both sections that will be connected to emissions reductions in the four key sectors in the final sections of this chapter.[12] These include power to:

- Procure or fix prices for "fuel, equipment… or other essential supplies… property, services, resources or equipment within any part of Alberta."[13]
- "(Acquire) or (use) any real[14] or personal property… necessary to prevent, combat or alleviate the effects of an emergency or disaster."[15]
- (Make) regulations "assigning responsibility to departments, boards, commissions or Crown agencies to (prepare) or (implement) plans or arrangements, (in whole or in part)… to deal with emergencies."[16]

[11] *Emergency Management Act* 2000, S. 1(f).
[12] AB's Emergency Management Regulation document extends from the EMA to further define powers and responsibilities for those entities and individuals involved in EM. In it, 'emergency management' (EM) is defined in relation to all hazards, including all activities and risk management measures related to prevention and mitigation, preparedness, response and recovery.
[13] *Emergency Management Act* 2000, S. 19 ss. 1(j).
[14] As it relates to the acquisition of property, subsection (1)(c) does not apply to property located within a national park or an Indian reserve.
[15] *Emergency Management Act* 2000, S. 19 ss. 1(c).
[16] *Emergency Management Act* 2000, S. 6 ss. (a).

- "Require anyone engaged in any operation… using any process or any property… or on whose real property there exists or may exist any condition that may be or may create a hazard… to develop plans and programs… to remedy or alleviate the hazard and to meet any emergency that might arise from the hazard."[17]
- Make regulations "concerning any other matter or thing necessary for the administration of (the EMA) for which no specific provision is made."[18]

Taken together, these powers allow orders and regulations to be made under the EMA that can imply essentially any persons, engaged with or involved in any industry or activity, located anywhere in the province, to take action to address an emergency. Under section 18, the Lieutenant Governor in Council may, at any time if satisfied that an emergency exists or may exist, declare a state of emergency and identify the nature of the emergency and where it exists (what parts of Alberta it impacts).[19] Climate change could be designated as that emergency, impacting all of Alberta. As discussed, emergency action involves any action deemed necessary to address an emergency, which is primarily to the discretion of the Lieutenant Governor in Council and the designated EM Minister.

Unlike in BC's EDMA, the EMA does not have its powers divided based on their relation to specific phases of EM, thus alleviating the conceptual need to differentiate practice in different phases of EM. Although as discussed in the previous section, this is not necessarily a definite barrier anyway. In the EDMA, mitigation and response actions, part of different sections (with response powers available *only* under a declared state of emergency), can occur at the same time. The EMA allows for a declaration on a state of emergency for either a potential or existing

[17] *Emergency Management Act* 2000, S. 6 ss. (e).
[18] *Emergency Management Act* 2000, S. 6 ss. (g).
[19] *Emergency Management Act* 2000, S. 18.

emergency. This does, however, heighten ambiguity about what could be done outside a declared state of emergency in Alberta, as these abovementioned powers are only applicable in such a case. This could complicate the prospect for the EMA to enact more longstanding climate mitigation measures. But this does not discredit the potential for this future entirely. Under the right political circumstances, and with an appropriate recognition of the level of emergency we face, industry-specific emergency regulations (for certain land and locations where the highest emissions activity occurs), could serve to be a less publicly invasive enacting of the powers, and accordingly, be more accepted as a necessarily more longstanding response (actively or in mitigation) for the climate emergency.

EM legislation and 'climate' or 'environment' in British Columbia

The references to climate and the environment in the EDMA are many. Section 2 outlines the act's principles of emergency management and bases it on six principles. The third of these relates a changing climate to EM, including the contribution of a changing climate to the increased occurrence and impact of some hazards and emergencies.[20]

The next major acknowledgement of 'climate' concerns risk assessments. [21] Risk assessments consider all available information pertaining to hazards and vulnerability (what will be impacted) and the potential for hazards and risk to produce emergencies. Per section 51, a risk assessment must be based on, among other things, "changes in local climate or extreme weather events resulting from a changing global climate."[22] All EM plans must also rest on available and

[20] *Emergency and Disaster Management Act* 2023, S. 2 ss. 2(c).
[21] Regarding risk assessments, an accompanying Hazard, Risk and Vulnerability (HRVA) analysis support document provides important "terminology, definitions, data sources, and subject matter expert guidance for each hazard." The HRVA acknowledges explicitly and comprehensively climate change and its impact on increasing the frequency, intensity, and severity of risks and hazard. It is also stated that "climate change adaptation (also referred to as climate risk management or disaster risk reduction) involves learning about the risks from a changing climate and taking proactive measures to address those risks." (Government of British Columbia, "Hazard, Risk and Vulnerability Analysis: Hazard Reference Guide for the HRVA Tool," 2.1 Edition, Winter 2021, 6-8).
[22] *Emergency and Disaster Management Act* 2023, S. 51 ss. 4(c).

applicable risk assessment. This connection implies an even stronger relationship with climate: if required by regulations, public sector agencies and critical infrastructure owners must "prepare and maintain a risk assessment with respect to prescribed types of hazard"[23] and "with respect to the types of hazards that may affect critical infrastructure."[24] Since risk assessments must include acknowledgment of a changing climate and its impact on hazards and infrastructure, and public and private agencies and industry must produce risk assessments, the EDMA has directly tied climate change to emergency planning. This planning can then turn into action via section 56. Section 56 enables the minister to make an order if risk assessments have indicated that action must be taken to mitigate or prepare for emergency.[25] In sum, the EDMA includes detailed attention to the legally binding meanings of 'climate' as related to EM.

The EDMA recognizes the 'environment' more generally, beginning with the definition section. There, 'emergency' means a state that could arise from various circumstances, including "the presence, suspected presence or imminent spread of… an environmental toxin" or a "force of nature."[26] The definition of 'local knowledge'[27] also turns on understandings and skills developed over time with respect to local environment, and risk assessments must also be based on available Indigenous knowledge.[28] Finally, the act's 'principles of EM' rests on, among other principles, "investment in measures to reduce the risk of an emergency and to enhance the economic, social, health and cultural resilience of society and *the resilience of the environment* to

[23] *Emergency and Disaster Management Act* 2023, S. 46 ss. 1(a).
[24] *Emergency and Disaster Management Act* 2023, S. 50
[25] *Emergency and Disaster Management Act* 2023, S. 56 ss.1.
[26] *Emergency and Disaster Management Act* 2023, S. 1.
[27] Local knowledge and the relationship between the EDMA and First Nations and Indigenous EM and knowledges are a display of positive growth for the decolonization of EM legislation in Canada.
[28] *Emergency and Disaster Management Act* 2023, S. 51 ss. 4(b).

emergencies and any related adverse effects."[29] As such, the environment is intrinsically connected to EM in BC.

EM powers for four key sectors in British Columbia: The EDMA

Section 3 of the EDMA outlines the four EM phases, beginning with mitigation. As with any mitigation phase, the focus is to prevent future emergencies from occurring and reduce the "scale, scope and adverse effects of an emergency that may occur."[30] The EDMA also defines the response phase in such terms. This phase also appears to align with climate action, as the climate emergency involves both mitigating and preventing a worsening future and responding to the crisis already underway. A complex emergency with the potential to exponentially worsen, climate change is implicitly tied to more traditional EM hazards as mitigatory action for climate change importantly would benefit the reduction of the frequency, severity, and duration (and the potential of emergency) for those hazards that a changing climate impacts.[31] Preventing the worsening of the climate emergency (including hereto unexperienced hazards, disasters, and risks) is crucial for sustainability, and will also inherently contribute to an emergency response.[32] The EDMA also states, with reference to the four EM phases, that "measures relevant to one phase may be taken at the same time as measures taken in relation to any other phase."[33] In effect, this means that actions to prevent future emergency conditions can be done alongside

[29] *Emergency and Disaster Management* Act 2023, S. 1.
[30] *Emergency and Disaster Management* Act 2023, S. 1
[31] This includes hazards related to extreme heat, drought, wildfire, flooding, and extreme weather events.
[32] From the World Resource Institute: "An example of immediate returns on mitigative climate action can be found in the benefits to be had by reducing short-lived climate pollutants (SLCPs) such as methane… and tropospheric ozone (which gasoline vehicles heavily pollute). Reducing SLCPs can help prevent millions of premature deaths annually (respiratory and heat-related), improve food security by avoiding tens-of-millions of tonnes of annual staple crop losses (tropospheric ozone reduction), and protect vital ecosystems and ecosystem services (reducing burdens on basic plant functions such as photosynthesis)." ("Short-lived Climate Pollutants," Center for Climate and Energy Solutions, accessed January 15, 2025, https://www.c2es.org/content/short-lived-climate-pollutants/; "3 Reasons Why Countries Must Take Faster Action to Reduce Short-lived Climate Pollutants," World Resources Institute, accessed January 15, 2025, https://www.wri.org/insights/short-lived-climate-pollutant-reductions; "Why we need to act now," Climate and Clean Air Coalition," accessed January 15, 2025, https://www.ccacoalition.org/content/why-we-need-act-now; "Short-lived climate pollutants," Government of Canada, accessed January 15, 2025, https://www.canada.ca/en/services/environment/weather/climatechange/climate-action/short-lived-climate-pollutants.html).
[33] *Emergency and Disaster Management* Act 2023, S. 3(2).

actions to combat an active emergency. For floods, for example, requiring sandbag dikes to mitigate the damages from anticipated water level rise can be mandated alongside evacuation measures further up the same river. This point may seem obvious, but it sets a standard in law that excuses can not justify lack of mitigation action while an emergency response is already happening. Both can happen, and both must happen. For climate, this substantially benefits the opportunity for EM to enact longstanding changes on climate action (reducing risk to future hazard-related emergencies) without the complication of exclusively requiring an extended state of emergency. This also bears on the reality that an indefinite state of emergency would be politically unacceptable.

We turn now to specific language and powers for the minister (who is designated by the Lieutenant Governor in Council) in the EDMA that will be connected to emissions reductions in the four key sectors.[34] The sections of interest include sections 7 (procurement powers for the minister), 56 (mitigation and preparation measures), 76 (land and property) and 78 (general restrictions). As was done for the EMA, the following list recognizes key language from these EDMA sections that will be applied for proposed emissions mitigation through the final sections of this chapter. The powers allow the minister to:

- "Acquire, hold, distribute and dispose of emergency resources."[35]

[34] Before making an order under subsection (3) (b) or (d) in the EDMA, the minister must "(a) consult and cooperate, in accordance with the regulations, if any, with each Indigenous governing body that acts on behalf of Indigenous peoples whose traditional territory or treaty area includes an area or people in an area that will be affected by the order, and (b)consider any comments received from an Indigenous governing body consulted in accordance with paragraph (a), and the rights of the Indigenous peoples referred to in paragraph (a)." (*Emergency and Disaster Management* Act 2023, S. 56 ss. 4).

[35] *Emergency and Disaster Management* Act 2023, S. 7. Emergency resources "include any personnel, supplies, services, personal property, equipment and facilities necessary or advisable for taking emergency measures." (*Emergency and Disaster Management* Act 2023, S. 1.)

- "Control or prohibit a business or a type of business… require a person to stop doing an activity… and/or put limits or conditions on doing an activity, including limits or conditions that… modifying a licence, permit or other authorization."[36]
- "Appropriate, use or control use of personal property; use or control the use of any land; and authorize or require the construction, alteration, removal or demolition of works."[37]
- "Make an order… based on one or more risk assessments… to mitigate or to prepare for a specific type of hazard that presents a significant risk of (becoming) an emergency."[38]
- Require a regulated entity[39] to "take particular emergency measures for the purposes of the mitigation or preparation phases."[40]
- Require a regulated entity to "obtain or upgrade infrastructure, facilities, equipment and related components, whether physical or virtual."[41]
- Require a regulated entity to "take a prescribed type of action."[42]

Not all powers here fall under "mitigatory" powers in the EDMA, with section 78 (control business and activity) falling under the 'response' power. But as described, each of these powers relate to mitigation when considering their use to address the climate emergency, and both mitigation and response powers (as designated in the EDMA) can be enacted concomitantly. Under section 59, the Lieutenant Governor in Council or the minister may, at any time if satisfied that an emergency exists, declare a state of emergency and identify the nature of the emergency and where it exists (what parts of BC it impacts).[43] Climate change could be designated as that emergency, impacting all of BC. As discussed, emergency action

[36] *Emergency and Disaster Management* Act 2023, S. 78.
[37] *Emergency and Disaster Management* Act 2023, S. 76.
[38] *Emergency and Disaster Management* Act 2023, S. 56 ss. 1.
[39] Other than a government minister, the Nisga'a Nation or a treaty First Nation.
[40] *Emergency and Disaster Management* Act 2023, S. 56 ss. 3(b).
[41] *Emergency and Disaster Management* Act 2023, S. 56 ss. 3(d).
[42] *Emergency and Disaster Management* Act 2023, S. 56 ss. 3(e).
[43] *Emergency and Disaster Management* Act 2023, S. 59.

involves any action deemed necessary to address an emergency, which is primarily to the discretion of the designated EM Minister. An interesting distinction between the EDMA and the EMA, seemingly having to do with the EDMA identifying EM mitigation action as applicable outside of a declared state of emergency, is that the EDMA only allows a state of emergency declaration be made for an already occurring emergency, not for a potential emergency. The EMA allows for both.

This section has clarified four key sectors where emissions reduction is most needed, why it would be effective in these sections, and how EM legislation in BC and AB connects to these four key sectors and in relation to climate action. The next part of the chapter uses the identified powers to provide practical applications to mitigation opportunities within the four key sectors in AB and BC.

Part Two: Provincial EM Mitigation in Practice

The sub-sections of this chapter part represent effective and efficient options through which enhanced mitigatory EM could have an impact. The first option is regulation-making, including on land use, on industry accountability, on infrastructure and operations, and on transportation. The second option is emergency management plans. I show the two options are not mutually exclusive, and in some ways convergence seems crucial. While these are not the only possible options for EM in emissions mitigation, they do demonstrate the arguments in the present thesis clearly and meaningfully.

The following sections provide only baseline and rudimentary proposals aligned with AB and BC's EM legislation. If actually enacted, each suggestion, or similarly constructed regulation or emergency plan, would have to be developed with thresholds and parameters consistent with

net-zero emissions by 2050, and an interim 2030 target of a 40–45% reduction below 2005 levels, the current national goal. In Alberta, there is no formally identified goal for provincial emissions reduction for 2030, but there is a goal of carbon neutrality by 2050, with this announcement being the first formal announcement of Alberta's interest in meeting this national target.[44] However, the goal lacks interim emissions reduction targets or any other tangible roadmap or stakeholder engagement to achieve this aspiration.[45] In BC, by contrast, the goal is 40% emissions reduction from 2007 levels by 2030, and net-zero by 2050.[46] BC's 'CleanBC Roadmap to 2030' (2021) set goals to meet these targets, with an interim target of 16% reductions by 2025, and targets for all sectors.[47]

Regulation-Making

For mitigative climate action, regulation-making through EM offers three main benefits. First, all regulations are flexible. Regulations can be created and adjusted more easily than laws to respond to changes in circumstance, such as emerging climate risks, shifting national or international practice or standards, or new scientific data on climate change. The flexibility of regulations is also beneficial given that the climate emergency and its local impacts are constantly evolving. Regulations made under EM legislation are also punishable if contravened. Sections 145 and 146 of the EDMA allow the minister to make administrative or cost (payment) penalties for contravening any measures ordered under the EDMA. The EDMA allows for

[44] Table A.35 lists the emissions reductions targets announced by each province or territory from "Greenhouse gas and air pollutant emissions projections – 2023," accessed February 10, 2025, https://www.canada.ca/en/environment-climate-change/services/climate-change/greenhouse-gas-emissions/projections/2023-report.html#toc10). Government of Alberta, *Alberta emissions reduction and energy development plan* (2023). https://open.alberta. ca/dataset/7483e660-cd1a-4ded-a09d-82112c2fc6e7/ resource/75eec73f-8ba9-40cc-b7f4-cdf335a1bd30/download/ epa-emissions-reduction-and-energy-development-plan.pdf.
[45] Sarah McBain, Thomas Gunton, Chelsea Mathieson, Martha Kilian, Matt Dreis, Simon Dyer, "All Together Now: A provincial scorecard on shared responsibility to reduce greenhouse gas emissions in Canada," *Pembina Institute*, Calgary, Alberta, (2024), 22
[46] "Greenhouse gas and air pollutant emissions projections – 2023," accessed February 10, 2025, https://www.canada.ca/en/environment-climate-change/services/climate-change/greenhouse-gas-emissions/projections/2023-report.html#toc10.
[47] Government of British Columbia, *CleanBC Roadmap to 2030* (2021). https://www2.gov.bc.ca/assets/gov/environment/ climate-change/action/cleanbc/cleanbc_roadmap_2030.pdf.

substantial discretion by the minister based on damages cause from lack of action or the extent of an emergency caused from the omission of action.[48] The EMA only allows penalties for contravening the Act to be "imprisonment for a term of not more than one year or…a fine of not more than $10 000 or… both imprisonment and a fine."[49] Compared to the EDMA, as will be discussed below, these penalties are more limited in their variability and their potential to impact industry and critical infrastructure owners rather than individuals. Accordingly, an update to EM legislation more in line with the EDMA on this matter would be useful for enforcement, and in relation to Emergency power for climate action that does not threaten individuals so much as industry. Of course, the ultimate hope is that regulations will be adhered to, and no punishment is required.

The second strength is the comprehensive and immediate implementation of the regulations. As discussed through this project, EM can instate multi-sector regulations and enforcement mechanisms without delays and complications of a traditional policy cycle that is often infused with fossil-fuel interests. A third strength, common to regulation generally but benefitting EM regulation for both contextual sensitivity and the potential for achievable impacts to be met, is their specificity without complete restriction on the ingenuity of organizations or infrastructure owners to meet regulatory standards. EM regulations can allow for the development of very specific measures that are often directed towards specific sectors with particular ends in mind, addressing the complexities of multi-sectoral legislation, and helping bring accountability, clarity, and focus to the objective at hand. But at the same time, those regulations (like those proposed below) do not necessarily constrict the methods pursued to meet regulatory requirements. Allowing flexibility in the technology chosen to meet standards, or the

[48] *Emergency and Disaster Management Act* 2023, S. 143, S. 144.
[49] *Emergency Management Act* 2000, S. 17.

organizations chosen to partner with to see certain methods implemented (like an oil and gas company employing low-carbon infrastructure or technology), benefits the broadening of avenues available for individual infrastructure owners, or local authorities to decide how precisely they will pursue their changes and meet regulatory standards. Another example can be drawn from the federal Clean Fuel Standard, which is designed to be technologically neutral – oil and gas companies are not told *how* to meet their targets.[50]

Alongside these general remarks about regulation, it is also important to clarify what these proposed regulations (below) are not. The regulations proposed here, though flexible in some respects for how standards are met, do not allow compromise on supply-side emissions reduction when a fossil fuel producing sector (or adjacent sector, like venting) is concerned. As Angela Carter and Truzaar Dordi have stated, "Canada's predominantly demand-side climate policies focused on carbon pricing have not resulted in the scale of emissions reductions required to avert deepening climate crisis."[51] Accordingly, increasing research is now being dedicated to limiting fossil fuel production.[52] For Carter and Dordi, the aim is to "cut with both sides of the scissors,"[53] targeting emissions from demand and supply. And just as Carter and Dordi have encouraged, the regulations proposed in this chapter aim to "wind down existing fossil fuel extraction and refuse further fossil fuel exploration to meet global emission reduction goals."[54] "Carbon offsets" cannot substitute for supply-side compliance in a regulated sector, nor can investments, such as "market development investments." These shifts can contribute to emergency reduction and foster more sustained action, benefitting from flexibility, but they will

[50] "Canada's Clean Fuel Standard," Pembina Institute, accessed March 17, 2025, https://www.pembina.org/pub/canadas-clean-fuel-standard-setting-the-record-straight.
[51] Angela V. Carter and Truzaar Dordi, "Correcting Canada's "one eye shut" climate policy," *Cascade Institute* 1, no. 1 (2021): 14.
[52] Carter and Dordi, "Correcting Canada's "one eye shut" climate policy," 14.
[53] Carter and Dordi, "Correcting Canada's "one eye shut" climate policy," 14.
[54] Carter and Dordi, "Correcting Canada's "one eye shut" climate policy," 14.

not bring the urgent changes that are needed. Moreover, like the technological salvation argument, they could be leveraged as loopholes that industry pursues in lieu of drastic changes in practice (the changes that will most effectively address the emergency) if much more stringent supply-side regulations are not in place. The regulations proposed in this project target activities within each key sector that substantially perpetuate high emissions activity and climate emergency conditions.

I now turn to sector-specific regulatory concepts, with examples of their application in AB and BC relative to powers noted in their respective EM legislation. These concepts are presented for consideration separately, not as an overall package, but where practical, many of these suggestions could function together. Each section contains discussion on AB and BC.

Oil and Gas

Concept:

Require upstream oil and gas operators to use low-carbon technology.

Under section 19 of the EMA, the minister can procure emergency resources, including equipment that would be required to procure the necessary mitigation. As such, the minister could impose regulatory control over operations in order to align the practice of those operations with those necessary to alleviate or address an emergency (climate change). Section 6 of the EMA also allows for the imposition of any action required to address an emergency where no formal provision is otherwise noted in the Act. This could include a mandated regulation of technology use to meet a certain emissions reduction threshold or target with climate-driven disaster, and its impacts on various hazards, as the point of the regulation. Although ambiguous,

this power does allow certain leeway for the potential to impose infrastructure-related regulations on operations contributing to an emergency, and those that could alleviate it.

In BC, under section 56 of the EDMA, the minister may make any order for industry or critical infrastructure owners to mitigate specific hazards that could create an emergency. Section 56 also specifies that these orders can include infrastructure upgrades and retrofitting. In a climate emergency scenario, this could include enforcing low-carbon technology upgrades and transitions for emissions reduction, with numerous hazards being worsened by a changing climate, and GHG emissions being a cause of the climate emergency. This concept would be particularly effective in BC's growing LNG development. As the Pembina Institute has reported, "extensive electrification buildout would be required to meet stated emissions targets (in BC) if further growth is seen in this industry."[55]

Ordinarily, as described in the previous section, changes to low-carbon technology have not been efficient or effective enough. Changes towards lower carbon technology are happening, but if we are to take seriously the imperative of addressing the climate emergency urgently to mitigate its worsening, and the consequences this worsening would have on impacted hazards, great efficiency and drastic change is required now. It is a principle of EM to reduce the potential for worsening hazards and emergencies, and the standard "traditional" approach to climate policy development that should be enforcing climate emergency reducing changes in the fossil fuel industry does not happen at the level needed, unsurprisingly reflecting fossil fuel disinterest in changes that could impact their business. Without emergency action it is unlikely that the enforcement of low-carbon initiatives will happen as quickly as they should. Indeed, this concept

[55]McBain, Gunton, Mathieson, Kilian, Dreis, Dyer, "All Together Now: A provincial scorecard on shared responsibility to reduce greenhouse gas emissions in Canada," 20.

does not necessarily phase out fossil fuels, but it will contribute to substantially lessening their emissions contributions as the phase-out process proceeds. This could also make this option more politically palatable. However, an argument could also arise questioning why effort should go to transitioning operations that are being phased out anyways. In this case, the response would be that climate change is an emergency and immediate shifts in emissions reduction is part of addressing that emergency. An abrupt and full abandonment of fossil fuels will not happen. The transition process should be as efficient as possible, but it will be a process. Changes to fossil fuel operations during that process would be beneficial to emergency mitigation, not having to wait for the complete phase-out for fossil fuel emissions to continue being seriously reduced. Changes implemented through those EM powers discussed above could include optimizing operations (energy-efficiency optimization) and sustainable design (grid-based electrification, zero-carbon energy sources).[56] Operational optimization could involve retrofitting and upgrades to limit inefficiencies in old or worn equipment, and sustainable design could include using zero-carbon energy supply from renewables-based localized power (which would also benefit the development of provincial renewable energy industry).[57]

Concept:

Regulate allowable upstream emissions with an emergency-level emissions cap. This is by no means a revolutionary concept, but time and again provincial and federal oil and gas emissions caps have come with emissions ceilings that allow from an increase in production still, and that do not align with concepts of drastic and urgent emissions reduction, as the climate emergency demands. Traditionally developed through normal policy cycles, emissions caps have been

[56] Paul Gargett, Stephen Hall, and Jayanti Kar, "Toward a net-zero future: Decarbonizing upstream oil and gas operations," *McKinsey & Company, December* (2019), accessed March 1, 2025, https://www.mckinsey.com/industries/oil-and-gas/our-insights/toward-a-net-zero-future-decarbonizing-upstream-oil-and-gas-operations#/.
[57] Gargett, Hall, Kar, "Toward a net-zero future: Decarbonizing upstream oil and gas operations."

influenced by fossil fuel interests and compromised for the sake of political appeasement – even the most recently drafted federal emissions cap (exemplifying again the issues of stringency in national climate policy) would allow for an increase in production by 15% above 2022 levels.[58] This emergency emissions cap, reflecting contextual realities of real emissions in different operations in different provinces, must be oriented towards seeing current production levels be as high as ever allowable and force their substantial reduction. We already have more oil and gas extracted and in reserve (by an estimated 40%) than should be needed to meet a net-zero future.[59] Increasing production is not the problem. Compliance on emissions reduction has been benefitted by alternative compliance mechanisms such as carbon credits, but as discussed, this has also implicitly perpetuated exploration and development opportunities. This project considers emergency level changes to the direct issue of emissions production, and as such, this concept is proposed with a hard cap that is met by emissions reduction, not by credits.

Section 6 of the EMA allows for the enforcement of plans or arrangements to deal with emergencies, providing a window for regulations to be applied within the context of prevention. Section 6 also allows for the implementation of any plan or program required to reduce a hazard, for anyone, anywhere, involved in any operation. The program, of course, would be an emissions reduction cap. Per section 6, the Lieutenant Governor may also make regulations concerning anything not explicitly described in the EMA, but necessary for adhering to its purpose of addressing emergency. Any combination of these three powers outlined in the authority of section 6 could seemingly impose emissions regulations on fossil fuel operations.

[58] "Oil and gas production can meet 'historical highs' under emissions cap: PBO," CBC, last updated March 12, 2025, https://www.cbc.ca/news/politics/oil-gas-emissions-cap-production-1.7481866.
[59] Kelly Trout, Greg Muttitt, Dimitri Lafleur, Thijs Van de Graaf, Roman Mendelevitch, Lan Mei, and Malte Meinshausen, "Existing fossil fuel extraction would warm the world beyond 1.5 C," *Environmental Research Letters* 17, no. 6 (2022): 1-12.

In BC, related to operations and practice, section 78 identifies general restrictions including the limiting or putting conditions on any activity anyone is involved in, even if they have a licence permit, and any other authorization. Although a power defined in the response phase, this power could clearly enact an emissions regulation that is punishable if contravened in the name of addressing the climate emergency. It is also valuable, however, given the potential complications of extended states of emergency, that the powers of section 56 (requiring regulated entities to take mitigation measures) also be recognized as a more longstanding option to engage emergency action through a mitigation-specific power.

Manufacturing

Concept:

Require industry operators to use low-carbon technology to cut their emission, including requirements for renewable energy sources. For example, regulatory measures could mandate the integration of solar panels or set requirements for buildings to be net-zero energy. This would reduce dependence on fossil fuels while also contributing to energy security (and affordability). Moreover, there could be an emphasis on calculating embodied carbon as part of an assessment for the GHG contributions of a new building (regulated by interests in hazard and emergency mitigation). This could encourage the use of low-carbon technology to reduce the overall embodied carbon that the construction and operation of any building, new or operational, would have. Standards for embodied carbon could be set as a component of mandated risk assessments. Standards like this also would allow for companies to be recognized as contributing to a sustainable transition, which could invite investment. Emergency action would benefit this issue through an enforcement of necessary adherence to meeting standards, enforcing the requirement with punishment for non-compliance predicated on necessary emergency prevention power (such

as forced shutdown (procurement) or heavy fines until standards are met), and enacting the changes swiftly and with needed thresholds, unburdened and unsullied by traditional climate policy development.

Section 6 of AB's EMA allows requirements to enforce the addressal through action of any operations or processes that could contribute to hazardous conditions. This could include a mandated regulation of technology use intended to meet a certain emissions reduction threshold or target. The flexibility of regulations would also benefit this power, as a threshold could be set, such as for embodied carbon or for calculated emission produced in operational energy requirements, but the specific methods for meeting these requirements will not be confined to one particular solution. Different areas of AB could be more conducive to different fixes (wind versus solar, for instance). Emergency powers here would be produce the immediate implementation of this regulation without the delays and weakening of climate policy moving through the normal policy cycle. And once the changes are made, the benefits felt from energy efficiency and lower energy price (and reluctance to put in effort to revert) could swiftly establish this transition as a new operational normal. The EMA's section 19 powers concerning the co-ordination and implementation of plans or programs could also be applied here. For instance, a manufacturer could be made responsible to make changes subject to penalties based on a plan for risk reduction and hazard avoidance. Targeting high-emitting industry first would be pragmatic, and consistent with provisions for business sustainability when forcing change. Federal funding could supplement clean energy infrastructure development and implementation.

In the EDMA, under section 56 regulations on regulated entities (including critical infrastructure owners) to upgrading infrastructure, facilities, or equipment to mitigate a hazard or reduce an emergency could include low-carbon technological requirements. The connections

between these changes and the reduction of the climate emergency and its impact on other hazards is clear and could be explicitly stated as part of the regulations. In BC, recently introduced programs supporting low-emissions retrofits for buildings could combine with these low-carbon regulations to ease a green transition for infrastructure and building owners. The clean buildings tax credit is refundable, for qualifying retrofits for energy efficiency of eligible commercial and residential buildings with four or more units.[60] Eligible buildings include many that relate to manufacturing.[61] Like the AB case, flexibility in particular strategies used to meet these mitigation standards could allow for ingenuity on the part of the industry and critical infrastructure owners. This could boost the potential for (and ease of) adherence and also reflect a healthy market-style response with competition in opportunities for provisions of low-carbon technology.

As has been discussed, and continues to be relevant here, without emergency action these changes will seem unlikely to be expedited. Indeed, decarbonizing manufacturing industries are growing in regularity, but with the sector still contributing a substantial amount to provincial and national emissions, emergency action would make the choice that some owners or organizations might not make or might not make quickly enough. The climate emergency literally worsens with each day that emissions are not reduced; we need changes to happen now, and changes that traditional policy has not made, and likely, with complications of public involvement in private practice, would not make to the emergency level of a widespread mandate, as proposed here.

Transportation

[60] "Clean buildings tax credit," Government of British Columbia, last updated July 4, 2024, https://www2.gov.bc.ca/gov/content/taxes/income-taxes/corporate/credits/clean-buildings.
[61] "Clean buildings tax credit," Government of British Columbia, last updated July 4, 2024, https://www2.gov.bc.ca/gov/content/taxes/income-taxes/corporate/credits/clean-buildings.

Concept:

Use regulatory power to pursue a major new infrastructure development for electrified or low-emissions alternatives to road and combustion vehicle transportation, such as bus, light rail and high-speed (rail) networks. Sustainable mobility and transport decarbonization are essential for climate mitigation; however, sustainable mobility requires the replacement of a fossil-fuel infrastructure with low-emission infrastructure and also making people change their travel behavior. This entails better coordination across policy fields and longer-term planning. While low-emission technologies are slowly phasing in, alongside infrastructure, it is more difficult to change mass travel behavior and take responsibility for their personal transport-related carbon footprints, independent of deep infrastructural change.[62] The change to a sustainable-mobility paradigm requires a long-term policy to support low-emission travel behavior.[63] Without dramatic policy and behavioral change, the world is likely to continue the traffic growth of the past two centuries.

Transportation is not formally recognized in Alberta's EMA, which could leave regulation to the promising but also ambiguous section 6, which provides for in-council regulations that are needed but not provided for elsewhere in the Act. Under section 19, the Minister can procure or regulate prices for fuel, which could also prove useful in extending carbon tax-style regulation, applied as emergency mitigation. A limiting factor here is that power to enforce the development of major new works seems limited. Accordingly, the AB case is ambiguously tied to this concept, but not necessarily without options.

[62] Helene Dyrhauge, "Transport and infrastructure: Toward sustainable mobility," In *Routledge Handbook of Global Environmental Politics* (Routledge, 2022): 459.
[63] Kazimierz Górka and Paulina Szyja, "Cooperation of local governments and enterprises to support the provision of sustainable transport infrastructure," *Management of Environmental Quality: An International Journal* 26, no. 5 (2015): 739.

Transportation is also not formally recognized in BC's EDMA, which could leave regulation in this domain subject to power through section 56, and its requirement of regulated entities to obtain or upgrade infrastructure or equipment. Section 76 could also be connected, allowing the minister wide-ranging powers to control the use of land and require the construction or alteration of works. This has obvious applications in infrastructure development such as electrified or low-emissions transportation. The provincial budget could support such action, provincial government could guide it, and municipalities, under provincial jurisdiction, could assist in tailoring designs to their locality. Additionally, with section 76 being a response power, a state of emergency declaration would be needed, but in this case, the construction of a work could more reasonably align with a timeframe of a state of emergency that would permissibly and clearly outline the urgent action being taken and a concluding point, when a work has been constructed in order that an emergency be addressed (though, of course, not resolved). The resolution of an emergency, however, is not a required criteria for a legislative state of emergency to be cancelled, and thus this reasoning could benefit the implementation of this concept should a more definitive state of emergency timeline be politically (and legally) useful.

Fugitive emissions

Concept:

Implement regulations to meet or exceed 75% reduction in methane emissions (from 2012 levels) by 2030.[64] Methane emissions are severely undercounted, and methane has a heat-trapping potential more than 80 times greater over a 20-year span than carbon-dioxide. However,

[64] An idea inspired by Sarah McBain, Thomas Gunton, Chelsea Mathieson, Martha Kilian, Matt Dreis, Simon Dyer, "All Together Now: A provincial scorecard on shared responsibility to reduce greenhouse gas emissions in Canada," 11.

fugitive methane emissions are some of the lowest cost emissions reductions.[65] Increased stringency here would keep pace with legislation like the United States' Inflation Reduction Act (if such an initiative were continued under the current Trump administration).[66] Lowering fugitive emissions in key areas, such as methane, will also make Canada more competitive in a transition to a net-zero world. In the case of methane venting, leak detection requires a range of equipment, with optical imaging cameras the most comprehensive. Beyond detection, maintenance or replacement of equipment can be necessary.[67] This concept is related to an emergency acceleration of such action (perhaps within a certain timeframe, such as 6 months), and that it be funded by the company exclusively (if not subsidized) by the government. The concept is tied to mitigation and repair and restoration values of EM.

Alberta claims that it has already met its target of reducing fugitive methane emissions from upstream oil and gas production by 45% below 2014 levels by 2025.[68] Its climate plan stated that the province will assess pathways to a 75–80% methane reduction target by 2030 (from 2014 levels).[69] However, according to McBain et al., Alberta's February 2024 submission on proposed federal methane regulations indicated their opposition to federal calculations of a 75% reduction from 2012 levels by 2030.[70] In AB, regulations requiring more effective leakage detection (such as optical imaging), reporting, and mandates to address the issue (subject to penalties should future reports show limited reductions) could come under section 6, where the cabinet may

[65] "Why Canada's oil and gas sector needs a cap on its emissions," Canadian Climate Institute, accessed December 14, 2024, https://climateinstitute.ca/canada-needs-a-cap-on-oil-and-gas-sector-greenhouse-gas-emissions/.
[66] "Why Canada's oil and gas sector needs a cap on its emissions," Canadian Climate Institute, accessed December 14, 2024, https://climateinstitute.ca/canada-needs-a-cap-on-oil-and-gas-sector-greenhouse-gas-emissions/.
[67] Gustavo Castro Ribeiro, Eduardo G. Pereira, Alicia Elias-Roberts, Alberto José Fossa, Hirdan Katarina de Medeiros Costa, Thaiz da Silva Vescovi, et al., "Regulatory and Technical Opportunities for Reducing Flaring and Venting Operations in Oil and Gas Fields in Brazil," in *The Palgrave Handbook of Natural Gas and Global Energy Transitions,* eds. D.S. Olawuyi and E.G. Pereira (Palgrave Macmillan, Cham: Springer International Publishing, 2022), 434.
[68] McBain, Gunton, Mathieson, Kilian, Dreis, Dyer, "All Together Now: A provincial scorecard on shared responsibility to reduce greenhouse gas emissions in Canada," 22.
[69] McBain, Gunton, Mathieson, Kilian, Dreis, Dyer, "All Together Now: A provincial scorecard on shared responsibility to reduce greenhouse gas emissions in Canada," 22.
[70] McBain, Gunton, Mathieson, Kilian, Dreis, Dyer, "All Together Now: A provincial scorecard on shared responsibility to reduce greenhouse gas emissions in Canada," 22.

assign responsibilities to departments, boards, commissions or Crown agencies for emergency planning. This could include plans for fugitive emissions reductions, directed at upstream oil and gas emitters. The plans could then be further helped into practice by the open-ended provision of regulation making power for anything not formally prescribed in the EMA, per section 6 (f).

In BC, regulations requiring more effective leakage detection (such as optical imaging), reporting, and upgrade mandates to address the issue (subject to penalties) could be brought through section 56. In this section the minister has power to require a regulated entity to take emergency measures for mitigation, including upgrading infrastructure, facilities and equipment. Section 76's ability to prohibit certain business operations in order to respond to an emergency could also enable a restriction on operational allowance based on meeting fugitive emissions reduction thresholds. It should also be noted that the concept of 75% reductions sets a baseline, but emergency management brings the potential for contextual awareness to provincial operations and the flexibility to cater regulations for the most circumstantially aware outcome: regulations can be imposed with relative emissions reductions thresholds that could see an aggregate goal be met. Some already low-emitting practices may not require a 75% reduction in their own facilities operations to contribute to a relative level of provincially reducing fugitive emissions, just as the highest contributing polluters may require a higher level of reduction.

Also important, as evidenced by an industry-based focus, the concepts discussed in this section would be designed and applied, as discussed through this project, without substantial threats of individual rights and freedoms being abused. These concepts would bring emergency-level change into practice with the immediacy and stringency that the emergency demands, benefitting transition processes underway but that are moving too slow, and mandating

compliance for those sectors who continue to oppose or avoid necessary emissions mitigation action.

Emergency Plans

Emergency plans are important in preparing for an emergency or disaster, but also in mitigating the chances of such an emergency or disaster. Regular reviews and updates ensure that optimal strategy is in place to address future emergencies and disasters. States of emergency can be extended by certain means, but ultimately those extensions will be short lived relative to the climate emergency, so the shifts that might be necessary outside of a state of emergency are crucial. Mitigatory regulations could contribute to these longstanding shifts, and so too could emergency plans.[71] Moreover, emergency plans can be modified freely by the bureaucracy's interactions with industry and the public without further reference to the legislature. In the EDMA and the EMA, emergency plans can be forced into creation and implementation across all industry and practice.

The following concepts could be integrated through provincial emergency plans to advance mitigation by drawing attention to incentivizing action, explicitly supporting emissions reduction through connections with emergency plans and regulation (such as requiring reporting subject to punishment or reward), and by making plans that normalize lower emissions practice. These forthcoming concepts are relevant to all four key sectors unless otherwise specified. In some, related regulations (and emergency powers) could be beneficial to their implementation.

First, inspired by Carter and Dordi, emergency plans could require carbon budgets (rather than emission reduction targets) specific to each sector, with regular progress reports (annually)

[71] See Arnell, Nigel W., "The implications of climate change for emergency planning," *International Journal of Disaster Risk Reduction* 83 (2022): 1-10.

to the legislature or the Auditor General, and operational restrictions or financial punishment for non-compliance.[72] For transportation, for example, this could apply to municipal vehicle fleets transitioning to zero-emissions vehicles. Or this could mean businesses prioritizing low-carbon or renewable energy integration. Such action would further encourage the shift towards a different relationship between basic activities and industry, encouraging a transition away from emergency-causing practices.

Second, also inspired by Carter and Dordi, emergency plans could require that each critical infrastructure owner (in the language of the EDMA) track and publicly report on the health and social costs of carbon emissions from fossil fuel exploration, extraction, and transportation.[73] This would include reporting on environmental degradation from direct physical interference and from indirect things such as GHG emissions. This should also include an analysis on what the emissions or environmental degradation means to human health in reduced air or water quality, contributing to ecosystem destruction, and what both upstream and downstream processes are involved in energy use. The latter is particularly important for non-energy sectors. Ideally a government software platform could ease the calculations and reduce reasons for non-compliance due to lack of technical ability or capacity. For an example of such a platform, ClimateReadyBC[74] provides a risk assessment development tool for citizens, businesses, and critical infrastructure owners for climate emergency planning.

Third, inspired by McBain et al., emergency plans could require all new buildings to be zero-carbon by 2030,[75] and mandate that in a project's proposal phase, there is a requirement in the

[72] Carter and Dordi, "Correcting Canada's "one eye shut" climate policy," 15-18.
[73] Carter and Dordi, "Correcting Canada's "one eye shut" climate policy," 17.
[74] See "How B.C. is rising to the challenge of disaster and climate risk," Government of British Columbia, https://climatereadybc.gov.bc.ca/.
[75] McBain, Gunton, Mathieson, Kilian, Dreis, Dyer, "All Together Now: A provincial scorecard on shared responsibility to reduce greenhouse gas emissions in Canada," 11.

name of mitigation to include "embodied carbon" in the projected emissions. Embodied carbon represents the emissions released during the whole lifecycle of building materials, from extraction to final disposal.[76] Embodied carbon is seldom required in development proposals, and its inclusion in proposal calculations would support lowering emissions in new development projects and for encouraging manufacturing to shift towards low-embodied carbon materials.

Fourth, inspired also by McBain et al., emergency plans could establish a plan with targets to retrofit buildings to be zero-carbon ready by a certain timeline, perhaps in line with a provinces' most immediate emissions reduction target.[77] The ingenuity of particular business could benefit how this goal is met, including relatively crucial updates to operational priorities, such as heat pumps, cooling systems, or connection to renewable energy.[78]

This chapter has laid out the practical application potential for emergency climate governance lead by provinces, rounding out the third component of this project's argument for the benefit and opportunities that provincially lead emergency climate governance provides to Canadian climate action. This chapter has so far drawn on lessons learned from the previous chapters with practical examples of mitigative emergency action for key emitting sections in both leader and laggard provinces. The next chapter reflects on what this project has shown overall for the option of emergency climate governance, and what the lessons and tensions in the argument for emergency powers might suggest about their real application.

[76] "Embodied Carbon 101: Building Materials," RMI, accessed December 16, 2024, https://rmi.org/embodied-carbon-101/?utm_source=google&utm_campaign=18654046274&utm_content=146779927374&utm_term=what%20are%20embodied%20emissions&utm_medium=655400321995&gad_source=1&gclid=EAIaIQobChMIkdao88itigMVmwCtBh2Gtg5EEAAYAiAAEgKEAvD_BwE.
[77] McBain, Gunton, Mathieson, Kilian, Dreis, Dyer, "All Together Now: A provincial scorecard on shared responsibility to reduce greenhouse gas emissions in Canada," 11.
[78] McBain, Gunton, Mathieson, Kilian, Dreis, Dyer, "All Together Now: A provincial scorecard on shared responsibility to reduce greenhouse gas emissions in Canada," 11.

Chapter 4: Summative Analysis and Final Reflections

This project has endeavoured to sketch the parameters of the current climate emergency, alongside the failure to address it as an emergency. It has also recognized some little-explored avenues for action could prove dramatically valuable. Provincial emergency management legislation offers opportunities for enacting mitigation and prevention action at an emergency pace, while also advancing climate change mitigation measures that remain sorely underutilized. This chapter provides a final reflection on the lessons learned through this whole project, evaluated against the major tensions that underly this project's arguments, such as political contexts, and considers the variance in what these lessons and tensions appear to ultimately mean for provincially led emergency climate governance becoming a reality. A brief reflection now consolidates the argument made in this project for climate action through provincial EM.

As the introduction explained, we are in an emergency, and we ought to be acting accordingly. Formal declarations of a climate emergency have helped to politicize the need for action. Naming the emergency is now less important than taking the severely needed action. It is particularly true that more work should be done in the mitigation of fossil-fuel and high GHG emitting behaviour.

Yet federal emergency power seems ill-suited to act on the complexities in scope, scale, and temporality, as well as the political sensitivities, that would be necessary. This project argues that provincial emergency power appears able to circumnavigate those federal limitations. Provinces still must initiate those changes needed, which of course seems less likely in fossil fuel dependant provinces. However, the main point of this project is that the tools needed for changes are available through these emergency powers, even in climate laggard provinces, and opening the discussion on these opportunities could facilitate a movement to treat climate change as the

emergency that all provinces face. Provincial leaders can do something about that emergency and swiftly; citizens can see these tools available and pressure their political leaders to act; and acting sooner could prevent worse from happening, including being left with constant and severe emergency response and recovery from increasingly devastating climate-driven disasters as the only remaining option.

Chapter one built the case for emergency climate governance, noting key obstacles to normal climate policy that have contributed to climate inaction, and that emergency powers could overcome. It recognized real dangers that emergency governance presents, as well as means by which such dangers could be avoided. The first danger involved disengagement with climate action. To avoid framing the situation as so dire that no action is worth the effort and discomfort, emergency power must be presented with the utmost honesty, clarity, and transparency, as empowering human resilience and ingenuity against a crisis; climate action serves all things, and is not that which would cause the most suffering. Indeed, it would help us to avoid an insufferable future.

The second danger had to do with tensions over using emergency power during ‘peacetime’. The climate emergency is complex and differs from the emergencies for which most of our emergency legislation was designed. However, in this project, the emergency powers needed would not be targeting individuals directly and per se, as much as sectors and industry. Of course, emergency action would impact people, but the mission would be to shift the direction of those things contributing most to the emergency, not in a way that shuts down society, but rather in a way that can accelerate the adaptation and evolution of society. It would allow us not only to continue enjoying what brings us comfort, security, and peace, but in more sustainable and

enjoyable ways, especially by avoiding the increasing disasters of an increasing climate emergency.

Changing course from a fossil fuel-based economy is practically unfortunate, for non-renewables still abound. However, we have sabotaged our opportunity to continue down this path; to avoid catastrophe, we must change our ways. These changes are not only available but could bring with them an improved version of our current lives, just as various other shifts in industry and economic drivers have done. Fossil-fuel companies' posture that this transition would be devastating rests more on a concern for their profits than on the facts. Consider the fossil fuel phase out required to meet a 1.8°C increase in global temperature beyond pre-industrial levels (a figure that is already is not the ideal 1.5°C), T. A. Hansen shows that estimated magnitudes and distribution of wealth losses from stranded assets for the upstream fossil fuel industry, compared to profit margins of renewable energy firms, show fossil fuel reserves suffering a devaluation of 37%–50% ($13-$17 trillion).[1] More, over half of these losses are attributed to already extracted fossil fuels (whose prices decrease), indicating that even low-cost producers will suffer.[2] Projections like these make it easy to understand why fossil fuel producers are disinterested in advocating for a low-carbon transition.[3] They also reveal the projected benefits to be had for low-carbon energy firms. There is an economically vibrant future to be had through fossil-fuel phase out, and fossil fuel disinterest in climate stabilization should not cloud recognition of this reality.

The third danger had to do with fears over who decides what an emergency is, what powers are necessary to handle it, and whose rights could be affected. Rights violations and severe abuse

[1] Hansen, "Stranded assets and reduced profits," 1.
[2] Hansen, "Stranded assets and reduced profits," 1.
[3] Hansen, "Stranded assets and reduced profits," 1.

have happened with emergency power in Canada's past. And indeed, there are benefits of provincial climate EM that can help avoid these issues. The target of the powers need not be individuals directly; industry practice is where many serious changes should occur. This feature of actions needed in emissions reduction, with interest in reducing supply-side problems, suggests that provincial EM need not threaten individual rights in the same way as past emergency power use did (with vaccinations or anti-Japanese legislation). The restructuring of industry, infrastructure and policy may need to overcome organizational and political resistance, but it could be achieved while keeping with liberal democratic principles and with important individual rights appearing relatively unscathed. Ideally, its results may free up liberal democracy in a more sustainable context. The judiciary, increasingly attuned to past emergency power rights violations in Canada as outlined in chapter one, and with demonstrably meaningful power for upholding rights in the face of provincial emergency declarations, could also be a defendant of citizen rights should the need arise, however unlikely. Moreover, as discussed, many human rights lawyers strongly advocate that human rights protection urgently requires fossil fuel phase out and are increasingly worse off without it. However, notwithstanding these reasons for rights and freedoms being less threatened under provincial EM, provincial EM lacks safeguards present in the *Emergencies Act*. The problems of this lack of explicit protection should not be overlooked. Although this project makes a case for effective and safe EM power now, it has also revealed several areas for advancement in explicit rights protection and language in provincial legislation that would benefit emergency climate action and strengthen the prospect for future EM use. Three suggested amendments will be noted now.

First, leaders should be more explicitly held accountable. The *Emergencies Act's* preamble states that the Governor in Council is subject to the *Canadian Charter of Rights and*

Freedoms, the *Canadian Bill of Rights*, and must have regard to those rights in the *International Covenant on Civil and Political Rights*, with none of these rights to be limited even in a national emergency.[4] As Jocelyn Stacey has noted, provincial and territorial legislatures do not involve a significant oversight role.[5] Parliamentary review committees and commissions of inquiry, requirements in the *Emergencies Act*, are not legislative requirements of any provincial or territorial EM laws. Although immediate public reporting of an emergency declaration and its reasons are requirements of provincial EM legislation, explicitly adopting these abovementioned requirements for alignment with explicit rights protection, as the *Emergencies Act* has, would concretize the protection and defence of rights in a valuable way for provincial EM.

Second, although judicial safeguards were outlined in the first chapter, they offer no guarantee. Stacey has noted that in principle, provincial declarations of emergency are subject to judicial review on ordinary constitutional and administrative law grounds.[6] But she also acknowledged that the successful Sechelt, BC nuisance claim, as discussed in the first chapter, was one of few ever successful challenges (judicial review) to provincial EM. Perhaps this is due to there being little reason for past provincial EM to be challenged in court, but its rarity could also speak to the difficulties involved in developing a successful prosecution. Factors contributing to the difficulties in challenging provincial EM come both from the private government negotiations that occur when deciding on the presence of emergency[7], and the open-endedness of provincial emergency language.[8] Now, the climate emergency, as discussed, is apparent, and it can get worse; whether we are in a climate emergency should not be a long

[4] Emergencies Act, RSC 1985, c 22 (4th Supp).
[5] Stacey, "Commissioned Paper: Governing Emergencies in an Interjurisdictional Context," 10.
[6] Stacey, "Commissioned Paper: Governing Emergencies in an Interjurisdictional Context," 6.
[7] Stacey has explained that public interest immunity often protects Cabinet confidentiality, meaning that the deliberations about whether to declare an emergency are not accessible to those seeking to challenge the decision as unlawful. ("Commissioned Paper: Governing Emergencies in an Interjurisdictional Context," 8).
[8] "The Minister or Lieutenant Governor in Council need only 'believe' (NB, NS, PEI) or 'be satisfied' (AB, BC, NWT, SK) that an emergency exists." (Stacey, "Commissioned Paper: Governing Emergencies in an Interjurisdictional Context," 8).

debate. Nevertheless, this reality it is yet to be a universally accepted position, at least not to the extent that emergency level action has been undertaken. Language explicitly connecting emergencies and disaster to climate, especially in regard to high GHG emissions sectors (acknowledging the connection between emissions and climate change as a driver of the frequency, severity, and duration of other traditional hazards and disasters), and particular thresholds designating a climate emergency reality[9], would strengthen the opportunity for EM to be engaged with climate as an emergency, and for citizens to clearly understand why, as advocated in this project.[10] This clarity would also benefit relieving concerns of clarity in what parameters might be considered in judicial challenges against emergency powers for climate, strengthening accountability safeguards.

Finally, specific delineation between phases (pillars) of EM in legislation and the corresponding powers allocated for each phase would strengthen the capability of EM to act proactively (mitigation) on climate without needing a state of emergency to be declared. This point has been raised as a benefit of the EDMA, as BC can instate longstanding mitigatory changes that do not explicitly require a perpetuation of a formal state of emergency declaration. The EMA, conversely, leaves the capability of mitigatory powers more ambiguous in AB as the current legislation defaults most EM powers as those to be exercised only during a declared state of emergency. Notwithstanding the value these three changes would bring to enhancing the legal safety of provincial EM, however, this project's arguments still provide reason for EM to be a practical and effective option without abusing rights; the tools are available, and their value should not be dismissed.

[9] Perhaps based on emissions levels, temperature trends, unseasonable variability in weather patterns, or exacerbated climate-driven hazards.
[10] BC's EDMA encourages direction with a relatively strong starting point for how this could be done.

An overarching thrust of the opportunities provided in the first chapter was also that provincial governments can advance emergency action with attuned appreciation for local contexts. This locally aware leadership can inform the specifics of regulation flexibility and the emphasis on regulations styles and parameters in key sectors. Not all provinces have the same industries or activities having the same relative impact on emissions production, and not all industries within provinces would be most benefitted by the same type of regulation; although the four key sectors identified in chapter three are primary contributors in both leader and laggard provinces, and should be addressed nation-wide, best regulating fossil fuel production in AB will require different measures in comprehensiveness and stringency than in BC. The ability to have provinces reflect on their own circumstances and engage EM power with awareness of specific activities, industries, and emissions issues in their provincial context allows for a specialization of what the powers can do and how, which is more efficient and effective than what any federal power might impose with regard to seeing any province make its most relatively important emissions reductions.

Chapter two explored the development of provincial emergency powers and highlighted the connections to climate. AB and BC handle various emergencies on their own, building local administrative confidence, including a belief that they can adapt in the face of dynamic crises, and that the federal government does not have to drive action to overcome a serious disaster. As emergency powers developed through Canada's history, legislation adapted to emergencies that did not fit the traditional mould of external or militarized threat. The category evolved to handle uncharacteristic emergencies, such as the climate emergency, and similar powers are seen across all provinces. In some provinces, environment became a clearly recognized facet of EM. I then turned to the divergence in interests and fossil fuel allegiances in AB and BC. This clarified

factors influencing these political trends, factors that might shift political interest, and the consequent likelihood of the provincial sub-types that they represent pursuing climate emergency governance. BC and other leader provinces were recognized as far more likely to engage emergency climate politics, yet even in BC this action is no guarantee. Emergency powers offer options for the willing, and Overton windows can open where those who might have been initially reluctant could still engage in emergency climate action, capitalizing on a more politically favorable context. But the political landscape in any province is not a certainty. A future with no emergency climate action is considered below. The second chapter concluded with an acknowledgement that provincial emergency governance during the COVID-19 pandemic could guide provincial climate emergency action. First, waiting to act or only going 'half-in' can worsen consequences and extend frustration, creating oscillations between extreme action and misguided calm. Immediate and strong action accelerates the end of an emergency, but it can also substantially reduce the consequences of a more gradual response (Canada's current approach to climate action). The other main lesson was that proactive measures supremely facilitate emergency abatement and resolution. We should get ahead of the emergency wherever possible and not wait for it to be too far out of reach for anything effective to be done. Supply-side mitigation in climate action remains underutilized, and its advancement could help us avoid slipping into a quasi-permanent state of emergency where we grow accustomed to increasingly catastrophic and expensive disaster and constant response.

The third chapter explored the opportunities for EM for climate emergency action through mitigation in Alberta representing climate laggard provinces and British Columbia representing climate leader provinces. Four chosen emitting sectors showed where mitigative action could be effectively pursued through emergency management regulations and plans. The

benefits for the action the climate emergency demands are threefold. First, action is fast. Provincial EM can thrust us into emergency action; done thoughtfully, it can foster a beneficial transition. Second, mitigation sustains. The transition we need must be longstanding, and regulations supplemented by emergency plans, serve not only to set a new direction, but to also cement this direction in shifting into a new reality. Shifting our practices will be just as important as shifting our mentality, and government involvement that is clear, transparent, and conscious of maintaining liberal democratic values can directly advance climate action while also supporting the perspective that it is an issue they are willing to engage in sincerely. This can inspire citizens to put their political hopes and interest in the movement. Successful law reform has to persuade; as Karl Coplan has described, "it must have a social component as well as a political and legal component, thus the prospects for successful reform cannot be considered without reference to the larger social movement of which that law reform is a part."[11] Social movements must convince the hearts and minds of a substantial portion of the population, just as fossil fuel companies have manifest allegiance with their operations. A movement for climate action requires that individuals are motivated to participate and identify with the justness of the cause.[12] Issue framing plays an important role in this process, and as Coplan has recognized, social and legal reform movements depend heavily on identifying victims of injustice and the forces causing that injustice to encourage allegiance with a retributing movement.[13] Political contexts are divergent in their alignment with climate action, as demonstrated through this project, and there is not necessarily a clear cut dichotomy between victims and victimizing as based on our current social structures most of us regularly engage in GHG emitting activity. However, we are

[11] Coplan, "Fossil fuel abolition: Legal and social issues," 278.
[12] Coplan, "Fossil fuel abolition: Legal and social issues," 278.
[13] Coplan, "Fossil fuel abolition: Legal and social issues," 278.

all victims of climate disaster (with disproportionately negative impacts on more vulnerable and marginalized populations), and it is clear that GHG emissions are the driving factor of the climate emergency with fossil fuel industry as the predominant perpetrating force.[14] It is also clear that the extent of our victimization will increase in the kind of future we are heading towards without drastic action. Provincial EM could be a tool for enacting this action; government holds the power to bring about the changes that would protect society and enhance sustainability. Third, provincial regulations and emergency plans maintain a level of democratic flexibility, at least as expressed in this project, that provide for autonomy and individual preferences to still have an input on the particulars of the transition. Government can set the course, contextually aware of their provincial circumstances, and individuals and organizations can still maintain autonomy in how precisely they get to where they need to go.

Final Reflections and Future Realities

Some final words are needed on some of the most pressing tensions that surround this whole work, including political dispositions. What could these tensions mean, in relation to the lessons learned here, for the practical reality of provincial emergency action. These reflections will unfold through three hypothetical futures, from most preferred to least. The first future is widespread emergency climate governance, where GHG mitigation is pursued aggressively across leader and laggard provinces. The arguments for this reflect the main benefits shown above in provincial climate action in GHG mitigation, its advantages over federal emergency power, and how it can overcome traditional obstacles to climate policy and avoid emergency power dangers. No matter how clearly this work has identified the practical opportunities for

[14] To be clear, this characterization is with respect to the dichotomy of this metaphor, and in regard to the culture and interests of fossil fuel extraction – this is not in specific reference to particular individuals.

emergency powers being readily available and effectively applicable across provincial sub-types, however, the political contexts remain important. Although all provinces have good reason to act, history suggests that not all provinces will be likely to do so. Reflection then shifts to the second future.

The second future is marked by asymmetric climate emergency governance: only some provinces engage with climate change as a true emergency, and most likely, these will be the leader provinces. This asymmetric future could still benefit climate action directly and could also influence reluctant provinces to join. Accordingly, this option is by no means a failure: the benefits of emergency climate action outlined in the 'first future' would similarly support partial action.

The third future, and least desired reality, is that no province uses emergency power for climate. No matter how limited the dangers to climate emergency powers might be, or how convincing the case that emergency climate action could overcome obstacles to traditional climate policy, benefit lifestyle and job opportunities, and serve multiple provincial sub-types, precedent in Canadian climate action and tensions in all political contexts suggests emergency climate action would be surprising. However, this project still bears great meaning, even in this final future of no climate EM. This work has further clarified the climate action issues we face, the dangerous path we are heading down absent more drastic climate action, the benefits that greater climate action could have beyond disaster-avoidance, a major opportunity available for greater climate action in the provincial context, and perhaps most importantly, this project has brought insight to understanding the substantial connection that provinces have to emergency and the consequences of the climate emergency. The three futures will now be considered.

Future One – Widespread Climate Emergency Governance

This project's learnings help inform the widespread application of emergency climate action to the substantial benefit of climate abatement and of sustainable shifts in lifestyles and norms, without abusing rights. Alternatives to mitigating emissions, such as advancements in carbon capture and sequestration technology will be crucial to Canada meeting or exceeding climate action targets. However, these transition features can fail to reflect the gravity and urgency of the climate crisis, brought about by inadequate strategy on fossil fuel regulations.[15] International climate targets cannot be met using current mitigation strategies, and Canada is on track to miss its national targets again.[16] Beyond alternative energy options and climate cooling, emissions themselves need to be reduced as fast as possible. As climate activist Graeme Taylor et al. have argued, it is high time for politicians to recognize that current strategies have not succeeded.[17] Now we need to develop a new, realistic mitigation strategy.[18] Emergency powers do indeed require a political leader to act, but used, they offer a path to swift and transformative action within constitutional bounds. They can encourage positive change in other provinces as well. EM could make changes that would be extremely complicated and drawn out to occur through the traditional policy cycle.

The key factor in an effective solution is to develop a framework for how a new and better future might emerge. This can be done and facilitated through EM regulation and emergency planning. They touch key sectors related to emissions and can shift the narrative about 'normal' practice, which is essential for longstanding change. The climate emergency is not soon over, yet

[15] Graeme Taylor, Peter Wadhams, Daniele Visioni, Tom Goreau, Leslie Field, and Heri Kuswanto, "Bad science and good intentions prevent effective climate action," *EarthArXiv Preprint,* (2023): 6.
[16] Taylor et al.,"Bad science and good intentions prevent effective climate action," 11.
[17] Taylor et al., "Bad science and good intentions prevent effective climate action," 13.
[18] Taylor et al., "Bad science and good intentions prevent effective climate action," 13.

rather than slipping into perpetual and increasingly drastic waves of emergency response and recovery, adjustments to practice can alter the social patterns that intensify the emergency, stabilizing the emergency, and contributing to its eventual remediation. The power and breadth of emergency power and EM legislation have been shown to allow much needed regulations and action. They are also means that help in sustaining their objectives (not being struck down or deemed unconstitutional). The third chapter considers actions that should be well within constitutional parameters.

Politically, emergency action could arise under a variety of circumstances. In some cases, activating emergency climate powers may mean a government overriding political norms, although this is least likely to sustain a long-term transition. In other cases, citizens might push their government to make these changes or vote in a party that will. This type of shift could arise from market forces necessitating a change to fossil fuel operations for economic stability (especially in laggard provinces), or from mounting climate-driven disaster. In AB, the election of the NDP to government, though a brief break from conservative party politics, showed that a more climate-progressive government can come into power even in the most laggard provinces. This example also reveals the potential for political interests to shift as a consequence of a fossil fuel based economy becoming less stable with the 2014 oil price crash, inciting an Overton window. Alternatively, in the case of leader provinces, changes could manifest with continued recognition of economic and sustainability benefits from low-carbon alternatives, and that an even better future could emerge if those goals were pursued to even greater extent. If indeed we are in an emergency, we cannot afford to write off particular provincial sub-types as potential sites for action.

International market trends suggest that a low-carbon future is likely and is developing with increased speed.[19] This could mean economic benefits along with job growth from a shift to low-carbon energy and infrastructure, both from capitalization on investment opportunities and increased clean energy export potential. A low-carbon future also indicates the risk of continuing to expand interest and commitments in fossil fuel industry.[20] Proven connections between accelerating climate change and increasingly severe, frequent, and long climate-related disasters heighten the value of drastic climate action for a stable, safe, and sustainable future.[21] These factors are realities regardless of ideology; engaging greater climate action could capitalize on opportunities for a more vibrant low-carbon economy while making changes to prevent disaster and protect citizens, decisions for societal sustainability and safety that are primary purposes of any government. It is not an objective truth that fossil fuel energy is the 'way it has always been', or 'the way it has to (or should) be'. As shown in this project, change, development, and progress through transition better reflects producer-provinces' histories. People across all provinces have mobilized and shifted interests in industry and practice to pursue opportunity and a better future, economically and socially, all throughout Canada's past, and especially in the face of disaster. As Seth Klein has discussed in *A Good War*, as seen in the Second World War (and more recently too, the pandemic), Canada mobilized in common across society to confront an existential threat, and in doing so took unprecedented political measures and retooled our economy in the space of a few short years.[22] Not certain of the outcome, Canadians were rallied into action, and politically-driven change helped manufacture extraordinary and important

[19] "Decarbonization is the biggest transformation of the global economy of this century. But we risk entrenching a two-speed global transition," United Nations Climate Change, last updated September 24, 2024, https://unfccc.int/news/decarbonization-is-the-biggest-transformation-of-the-global-economy-of-this-century-but-we-risk.
[20] "Sink or Swim: Transforming Canada's economy for a global low-carbon future," Canadian Climate Institute, October 2021, https://climatechoices.ca/wp-content/uploads/2021/10/CICC-Sink-or-Swim-English-Final-High-Res.pdf.
[21] IPCC, 2023: *Climate Change 2023: Synthesis Report,* Contribution of Working Groups I, II and III to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change, [Core Writing Team, H. Lee and J. Romero (eds.)].
[22] Seth Klein, *A Good War: Mobilizing Canada for the Climate Emergency* (ecw Press, 2020), XXIII.

outcomes. Although climate change is not a perfect parallel to war or the pandemic, we are once again in a situation where governments taking actual emergency action to protect and benefit their citizens would do extraordinarily important things to avert serious disaster, and as has been shown throughout this project, provinces have the tools available to lead this charge and do so without succumbing to dangers inherent to traditional emergency power use.

Collaboration between federal and provincial EM planning, with regulatory action coming from provinces, and only amplified or supplemented in national action, have been shown in the case of the COVID-19 pandemic to be capable of addressing disasters. This could also be a unifying connection for objectives and climate emergency action in Canada. However, in this case, with lessons learned from the tendency for federally led collaboration to sink climate action stringency in the name of federal unity, provinces set the standard. Federal climate policy can then reflect these changes without even needing to rely on emergency power. Provinces launching their own drastic climate action can also remove fears about what a federal government could impose, or, for more climate conscious provinces, fail to impose. In provinces, changes could target the highest polluting sectors within their borders, which can differ in specifics and intricacies across Canada. New regulations could be more flexible in how regulatory goals are met, responsible to capacities and interests of local industry, markets, and citizens. It would not be a blanket that the federal government imposes over all of Canada, complicated by the politics of federalism in a way that could ultimately lead to breakdown. These benefits would overcome policy gridlock, better align with the urgency the emergency demands, and with clear framing on the future that climate action pursues (and that it intends to avoid), emergency reduction dialogue could help encourage widespread interest in the net benefit

of fossil fuel phase out. EM power could be a 'rip off the Band-Aid" moment to set greater change in motion.

Engaging provincial EM legislation for climate mitigation is conceptually and practically possible, and even potential political obstructions are not unchangeable: they can be overcome. This first scenario is the strongly preferred one on substantive grounds. However, the likelihood of this future emerging and overcoming the dangers, disinterest, and political opposition appears low, mainly in laggard and moderate provinces. We must reckon with the differences in how 'groundbreaking' and drastic many of the concepts proposed in this project would be, relative to provinces' current climate action practices. In AB, many concepts proposed in this project would be unprecedented and (currently) unpopular. By contrast, BC already has various programs and policy directed towards proposed mitigation regulations and plans in this project. Of course, room for more progress is still needed in BC.

The AB sub-type demonstrates that these initiatives would be dramatically effective and initiate actions only weakly pursued in the province, if not actively combatted with fossil fuel subsidization and clean energy restrictions. The general political trend there favours GHG-emitting industry and contempt for emissions-limiting regulation. These findings support the notion the emergency powers (though ultimately contingent on a leader choosing to exercise them) could be one of the most impactful ways to see necessary climate action be taken in all provinces, but especially in those where actions in some of the key GHG emitting sectors leave much to be desired in terms of planning and actualizing serious change.

But based on the political realities in laggard provinces, the movement for climate action through emergency power is more likely to be asymmetric in leader provinces before (if ever) it is widespread. Indeed, just as the federal government appears to come up against some serious

barriers to treating climate change as an emergency, laggard provinces with governments like the current (and common) AB government seem a long shot for emergency climate action to take place. In these provinces, it may be more likely that emergency action would have to await the opening of an Overton window, like the 2015 NDP election in AB. Leader provinces seem better equipped to have an impact on emissions mitigation through EM as their disposition for climate action. This is reflected in historical trends in BC.[23] The comprehensiveness and climate-awareness of their EM legislation encourages action, based both on the potential of leaders to act through legislation like EM, and because such legislation (like the EDMA) is explicitly providing broader avenues for climate action (such as emission mitigation). This leads to the second potential future.

Future Two: Asymmetric Climate Emergency Governance

This second future takes all the benefits of climate action outlined in the first future but engages more seriously the likelihood of emergency action being in only some provincial sub-types. As discussed in the second chapter, drastic climate action presents political pitfalls in the best of times. In many provinces, people seem nervous to commit to major climate policy for risks of its undesirable discomforts (shifts to regular life and norms, as were discussed in the 'obstacles' section). Moreover, the fossil fuel industry maintains a strong influence on encouraging climate action-averse politics, especially in laggard provinces. This project has made a strong case that emergency powers can overcome such obstacles, but the approach, no matter how thoroughly constructed, comes up against the issue of political leaders and political contexts disinterested in more climate action, no matter how clear the reason for it or the value it

[23] BC showing it is a 'leader' in a different way as well with updated EM legislation that explicitly and comprehensively details powers and the importance of mitigation in EM. The imperative shift, of course, if this opportunity is to be fully seized is seeing these powers put into practice in unprecedented (yet quite plausible) ways.

would bring. Because of this political tension, and appreciating the political reality that emergency climate governance may not practically be an option for all provinces, care should be given to exploring its viability as a reasonable option in other provinces all the same, and what impact this asymmetric engagement could have on Canadian climate action.

The asymmetric approach to climate emergency governance may be the most likely, given Canada's climate-federalism tendencies: leader provinces spearhead change and laggard provinces resist. Of course, the desired future is that all provinces pursue the mission with the emergency disposition that the climate emergency demands. Yet even if it is only in some provinces the change towards emergency climate governance occurs, this would still be effective for emissions reduction (obviously). This is superior to no emergency action at all and would still contribute to national (and international) emissions reduction, benefitting this global emergency.

But asymmetrical action could also apply a pressure that influences other initially reluctant provinces to join the movement. Directly, provincial EM can instate changes in practice, regulating what is allowable and penalizing what does not comply with set standards, and by shifting the criteria for how people come to interact (and expect to interact) with GHG emitting sectors. When industry practice begins to shift in one province, important ripple effects could impact business and economies beyond it. Supply lines shift, and interest in keeping pace with market forces can have a huge impact on the up-take of greater climate action in reluctant provinces.

The 2020's are a good time to take up this challenge. Renewables are now the cheapest form of new electricity generation; EVs are achieving sales price parity with internal combustion engine vehicles (and are already cheaper on total cost of ownership). Industrial decarbonization connects with industrial efficiency and waste reduction, and more people and organizations are

realizing that decarbonization is a massive economic opportunity.[24] In provinces who initiate climate emergency action, and make those changes that are conducive to a low carbon technology, renewable and low carbon industry investment can become increasingly attractive, positively impacting that provinces' economy from increased job opportunities as well, which would also benefit employment transition as those provinces phase-out fossil fuel intensive operations. This would contrast provinces who do not engage in the emergency climate action proposed in this project. Those provinces would be at risk of economies that did not diversify, and consequently they would weaken, losing investment from industry and owners responding to the international market trend towards 'cleaner' energy growth (Alberta is already facing certain issues like this now). Relatedly, a shrinking fossil-fuel industry during a broader fossil-fuel phase out would join with the foregone opportunities of renewable energy job growth in more climate-friendly competitor provinces.[25]

Aware of the economic benefits of a transition to low-carbon economies, and already reaping these benefits, leader provinces have begun to build a practical base for climate action support. Major moments of climate action through BC's political history have proven that a substantial change can build momentum for progress, even if the changes face some initial resistance. Examples include the 2008 carbon tax; the 2010 commitment to (and achievement of) carbon-neutral government operations; the goal of over 90% of BC's electricity from hydroelectric energy; the CleanBC climate action plan with its comprehensive policies for zero-emissions vehicle standards, building retrofits with low-carbon technology, and low-carbon fuel standards; and the recent modernization of the EDMA incorporating climate in all emergency planning.

[24]Including increased profitability, improved efficiency, greater innovation potential, and improved access to capital with greater visibility and assurance of company goals.
[25] *Clean energy is boosting economic growth*, IEA, Paris, 2024, https://www.iea.org/commentaries/clean-energy-is-boosting-economic-growth.

Engaging EM powers for climate mitigation is another major change to build on compounding climate action developments in leader provinces. It could be another step towards a green transition with benefits across economic and environmental sectors while continuing to reinforce the importance of climate action for maximizing sustainable living. Safety, stability, and profit influence electoral interests. Leader provinces, like BC, have proven climate-action to add value to each of these, and this project has shown how emergency climate action could do that as well.

The key takeaways from this project regarding the potential of asymmetric climate action are two-fold. First, the provincial options are there: tools are available, and it would be both unnecessarily limiting and disappointingly pessimistic to believe that provinces could not address the mounting emergency with the urgency and passion it deserves. But assuming only some provinces engage, leader provinces could see their political momentum already favouring climate policy benefit the acceptance and facilitation of more drastic action. In alignment with international market trends, and capitalizing on practical opportunities for renewable energy development, these provinces should push for greater climate action to continue setting reassuring precedent, and to continue benefitting the safety and prosperity of their citizens. If there are provinces with the political interest for greater climate action (a coalition of the willing), there is good reason why EM could be an effective power for immediate and longstanding change, as outlined in this thesis.

Second, regulatory action under provincial EM could directly impact emissions reduction, and though asymmetric at first, this action could catalyze greater change. As has been discussed throughout this project, the notion of some provinces never engaging EM for climate should not discredit the opportunity of others who could. This is especially valid in the climate federalism context of a country where nationally unified climate action has rarely occurred or produced

needed effects, succumbing to a joint decision trap dynamic. Provincial EM is not reliant on widespread unification, and it even benefits from the ability to be enacted with contextual awareness for local situations and needs. Even if some provinces remain staunchly against greater climate action, a coalition of the willing could engage EM for climate, and when facing an emergency, every effort and all drastic action will benefit the abatement of the emergency.

Directly, provincial EM can instate changes in practice, both in terms of what is allowable and in terms of penalties for non-compliance; it can also shift the energy landscape. When industry practice begins to shift in a province consequent of EM, this could have ripple effects that necessarily impact business and economies outside of the province. Supply lines shift, and as different investment (renewables) becomes attracted to the province, emerging job opportunities and economic strengthening in that province could incentivise population growth. Conversely, provinces who do not engage in these changes could experience adverse effects of weaking economies consequence of low diversification, leading to loss of investment from industry owners and organizations who are responding to the trend of 'cleaner' energy growth and practice[26] (Alberta is facing issues like this now). While other provinces see economies and employment opportunities expand, fossil fuel driven economies (comparatively, in reflection of international trends in fossil fuel phase out, and as consequence of climate policies and regulations constricting fossil fuel industry growth) would see employment opportunities shrink while their economy becomes stressed.[27]

It is important to acknowledge that these prospects of energy transition exist in a world of incredible uncertainty and upheaval: the war in Ukraine has led to a rethinking of energy policy

[26] See "Net Zero Opportunities: a province by province comparison," Canadian Climate Institute, May 2022, 4, https://climateinstitute.ca/wp-content/uploads/2022/05/Provincial-summary-EN.pdf.
[27] See Jessica Kelly, "How Fossil Fuels Drive Inflation and Make Life Less Affordable for Canadians," IISD, 2024, https://www.iisd.org/system/files/2024-07/fossil-fuels-drive-inflation-canada.pdf.

in Europe and the United States, with important implications for Canada.[28] Although somewhat uncertain, it appears the near term could see increases in oil and gas demand from non-Russian sources, but an accelerated transition to clean energy sources in the medium to long term.[29] From the Canadian Climate Institute, regardless of near-term fluctuations and uncertainty, the long term outlook - with countries representing 90 per cent of global GDP having committed to net zero emissions - includes declining demand for fossil fuels and emissions-intensive products and growing demand for clean energy and technology.[30] With comprehensive analysis, the Canadian Climate Institute holds that provinces who do not align with global market shifts will "face an uphill battle to achieve clean growth - especially if these shifts come faster than expected."[31]

It cannot be understated that certain provincial sub-types seem more predisposed or politically prepared to enact climate emergency action. But it can also not be understated that politics can change, and Overton windows can open. Yet even in the worst case, powerful action in some provinces is better than mediocre action across all, and it could invoke interest in initially reluctant provinces to eventually pursue similar action. Stronger climate action would be a representation of governments pursuing the safety and sustainability of their citizens and their provinces, which beyond good political ethics is an appreciable pursuit for general wellbeing. Additionally, with the climate emergency being a global crisis, provincial contributions would enhance Canada's reputation for effective climate action. It would also not be the first time that only select provinces engaged in international problem-solving. As discussed, provincial leadership on proactive and calculated pandemic containment in certain provinces also benefitted containment of the general spread of the virus. In this case, as would be especially the case with

[28] "Net Zero Opportunities: a province by province comparison," Canadian Climate Institute, May 2022, 4.
[29] "Net Zero Opportunities: a province by province comparison," Canadian Climate Institute, May 2022, 4.
[30] "Net Zero Opportunities: a province by province comparison," Canadian Climate Institute, May 2022, 4.
[31] "Net Zero Opportunities: a province by province comparison," Canadian Climate Institute, May 2022, 4.

climate, any provincial action dedicated to addressing the issue brings local and global benefits, and the engagement of such action should be encouraged by those of us who are sincerely concerned with the future we approach absent more drastic action. Provincial EM provides an opportunity for substantial climate action to contribute to crucial decarbonization and sustainability, and the value of this power for the willing should not be taken off the table, even if it never actualizes as a widespread reality. However, this project must consider all possible futures, including one where emergency climate action is not engaged through provincial EM anywhere, which leads the discussion to the third future.

Future Three: A Climate Emergency, with or without Emergency Action

This project has attempted to demonstrate the opportunity for provincial EM to take action that could disrupt and change many background conditions that perpetuate climate risk. But this might not happen at all. As elucidated throughout this project, climate averse political contexts, dangers traditionally associated with emergency power and the fears they provoke, psychological aversion to big and uncertain changes in lifestyle and societal structure, the power of the fossil fuel industry in shaping ideologies and political interests, and the notion that, as some believe, the emergency is not so bad that emergency level changes need be made, all challenge the idea that emergency climate action would be enacted. As Coplan holds, with self-government evolving as a global norm, "legislative response to social and welfare problems is increasingly dependent on achieving political consensus that action is required."[32] Although climate-driven disasters are becoming increasingly evident and severe, major legislative initiatives in Canada, as elsewhere, have all been taken in response to visible crises that were already under way.[33] No

[32] Coplan, "Fossil fuel abolition: Legal and social issues," 244.
[33] Coplan, "Fossil fuel abolition: Legal and social issues," 244.

such legislative initiatives resulted from predictions of future harm in the absence of recent exemplars.[34] The climate emergency faces political opposition in public rhetoric with beliefs that the situation is not yet so bad as to require emergency action or drastic fossil fuel abatement, especially in fossil fuel dependant provinces, as has been discussed. Moreover, general challenges to regulatory action for both leader and laggard provinces include how much hope we can put in enforcement, because effective regulation depends on adequate enforcement. If enforcement is weak or inconsistent, regulations may not have the desired impact. Further, coordination with other provincial legislation, climate action plans, and policy poses a problem. A contradictive policy mix can not only cloud social understandings of what is important to pursue, but it can also create inefficiencies, both issues that are all too common already in climate policy development. Both leader and laggard provinces could experience challenges to the impact of emergency planning for emissions reduction. In almost every mitigatory component of emergency plans, local authorities would have to document emissions and independently regulate them to meet targets under emergency directives. However, as has been seen in Canada and even internationally, an accurate baseline for current GHG emissions and the impact of mitigation measures can be challenging for local governments and municipalities, who are often restricted by capacity and technology. In some instances, for example, recorded and retained information relating to carbon emissions and sustainability management can be taken and documented in a variety of different ways to varying degrees of accuracy. That can lead to considerable difficulties in forming an accurate current picture. As discussed in the emergency plans section, a provincially designed tool would be supremely useful, and such platforms are by all means possible and available to be created for local authorities and industries to use. But the

[34] Coplan, "Fossil fuel abolition: Legal and social issues," 245.

likelihood of at least some of these many challenges compounding to prevent emergency level action happening preventatively, with mitigative intentions, cannot be easily dismissed.

The complications that EM might come up against should not necessarily dismiss the opportunities it holds, as has been thoroughly discussed. But they could severely compromise the social and political likelihood of its acceptance and employment. However, even if EM is not exercised for climate emergency governance, this project still brings value to more thoroughly understanding the relationship provinces do and should have with the climate emergency and climate action, the imperative of more substantial GHG mitigation, and the benefits that more drastic climate action would have on new economic opportunities, the preservation and amplification of freedoms, and a sustainable transition for future stability.

Capturing transition opportunities is important for Canada, and essential for provinces reliant on fossil fuels and fossil fuel product exports. Transition opportunities act in tandem with risks: as demand for fossil fuels and traditional fossil fuel exports decline, demand for clean energy and technologies simultaneously rise.[35] Economies positioned to capture the upside of transition will be more resilient to the downsides of global market change, and capturing opportunities is also critical to a just transition.[36] Canada has over 800,000 workers in transition-vulnerable sectors and dozens of transition-vulnerable communities, depending on businesses and governments to limit job loss and accelerate job creation as a global market shift towards renewables with a phase out of fossil fuels continues.[37] Small, rural, and remote communities are particularly exposed, along with Indigenous Peoples and visible minorities. Provinces are intimately (and constitutionally) connected to these issues. Real impacts of disaster and success

[35] "Net Zero Opportunities: a province by province comparison," Canadian Climate Institute, 4.
[36] "Net Zero Opportunities: a province by province comparison," Canadian Climate Institute, 4.
[37] "Net Zero Opportunities: a province by province comparison," Canadian Climate Institute, 5.

for a country are experienced locally, and for most people, within the provincial context. Provinces deal with emergencies first, citizens in these provinces face the catastrophes of emergencies directly. Provinces hold the power, awareness of local realities, and the opportunity to take action that benefits and protects citizens in the province directly, and accordingly, should have the impetus to do so. For the climate emergency, provincial governments are also our first line of defence, they are the first responders, and they have the opportunity and power to mitigate emergency to protect their citizens. Indeed, more drastic climate interventions will have risks, but the risks of not intervening are not only much greater, but existential. This project and its results are not saying that its proposed regulatory or mitigatory measures, or any like measures should be undertaken without recourse for other coevally important factors involved in low-carbon transitions. Things such as improvements in energy alternatives and supporting infrastructure, compensatory relief and opportunities for those who will be steered towards a shift in labor (away from fossil fuels), and support for economic transitions for market diversification will also be crucial to cultivating the least disruptive changes, especially in terms of social and economic stability. But it is undeniable that acting on the climate emergency in stronger ways will bring more benefit than loss for the future of all provinces.

This project has attempted to contribute to the discussion and investigation of opportunities for advancing emissions reduction in unprecedented ways, which is one of the key features that must be included in the more drastic climate action we need to see taken. The future that the climate emergency demands is one with drastic, urgent, and multi-sectoral changes to fossil fuel reliance and emissions reduction, we need serious GHG mitigation efforts to stop the primary contributing factor of this emergency. The sooner that this emergency level action is taken, the better, and this cannot be overstated. Moreover, governments that do not take immediate action

to reduce emissions are not only doing a disservice to the future competitiveness of their jurisdictions and their industries in the global marketplace, but they are neglecting their duty as protectors of people, leaving their populations vulnerable to the increasingly devastating impacts of climate change.

Research and contemplations such as those in this project are becoming even more pertinent as the political context in Canada continues to shift, with climate action initiatives such as the national carbon tax being at threat of being taken out entirely with a federal Conservative government, while certain provincial political leaders continue to promise growth in commitment to fossil fuels. As of March 2025, the Liberal government has made promises to cut the federal consumer-based carbon tax if re-elected, citing the issue as too divisive. Canada's fight against the climate emergency could be left with less policy support than it already had and could make the prospect of certain provinces engaging in asymmetric emergency action even more valuable (if not ambiguous). Indeed, many of the changes needing to be made, such as those described throughout this project, would be uncomfortable and would likely cause turmoil no matter what. And indeed, there is uncertainty involved in a direction of more radical climate action - it can be hard to wrap our minds around what this future, where we treat climate like an emergency, looks like.

As Karl Coplan noted, "it is hard to recall an example where a government took action to prevent a predicted future emergency for which there was no past example."[38] Coplan recounted, "Cassandra's warnings to King Priam of Troy were absolutely correct but were ignored, and her name has ironically become synonymous with undue alarmism,"[39] while major legislative

[38] Coplan, "Fossil fuel abolition: Legal and social issues," 244.
[39] Coplan, "Fossil fuel abolition: Legal and social issues," 245.

changes in Canada, as elsewhere, have been taken in response to visible crises with egregious harm already done, such as the adoption of the Charter. Stronger systems of environmental regulation and disaster prevention in Canada have also often been adopted in the wake of visible environmental destruction, as discussed in the evolution of EM in BC and AB. Coplan holds that "no such legislative initiatives resulted from predictions of future harm in the absence of recent exemplars."[40] Indeed, we do not truly know what a future in a worse climate emergency would look like precisely, but the predictions of such future are confident and concerning. More, it is increasingly apparent that climate driven disasters are wreaking havoc around the world; but disinterest in substantial climate action remains. Coplan laments that this reactive nature of legislative response, unfortunately, "could suggest that any major climate action will be deferred until the effects of climate change reach undeniably visible, unambiguous, (catastrophic) proportions."[41] Of course, this project proposes we see initiatives that can preclude this outcome, and has attempted to draw attention the capabilities and connections provinces have for engaging on the issue.

Even in the most climate progressive provinces, seeing the alignment between cultural, social and economic shifts involved in fossil fuel phase out will be no easy task. But what is known with relatively strong certainty is that if we do not start treating climate like an emergency, making these changes, the consequences we will face as a result will also bring us a new and hard to imagine future. But instead of being a reality where we mobilized to address an emergency, it will be one where we suffer increasingly frequent, severe, and long-lasting climate-driven disasters that will impact every facet of our lives from our economy to our politics, to our security, to our health, to our access to basic needs like food and water. Attempts

[40] Coplan, "Fossil fuel abolition: Legal and social issues," 245.
[41] Coplan, "Fossil fuel abolition: Legal and social issues," 245.

to reduce the GHG emissions - both domestically and globally - continue to be focused most on gradual reductions to achieve a sustainable (net-zero) rate by 2050, and scientific projections indicate that the path we are currently on will see us be above tolerable levels by the time 2050 arrives.[42] To address the emergency for a sustainable future fossil fuels must be phased out, and the more immediate that regulatory action comes, the better. Emissions reducing regulation must work in tandem with low-carbon alternatives, and government plays a key role in both. But the crucial point is that where there is political will, with tools available to act, and with strong projections encouraging the benefits to be had through transitions and the disasters that could be avoided, it appears dire that something radical occur.

This project has also prioritized focus on demand-side changes, and the value of reducing GHG emissions for the direct benefit of addressing the climate emergency, preventing its future worsening, and also implicitly for its role as a crucial component in a sustainable transition for energy, practice, and behaviour. As explained by Sovacool et al., Karoline Rogge, and Phil Johnstone, system change does not just come by fostering emerging innovations, but also by putting pressure on those things perpetuating the issues, and the established socio-economic configuration.[43] An example these researchers point to is Germany's energy transition with its nuclear phase-out policy being the strongest driver for market expansion of renewables, acting "alongside other demand pull, technology push and systemic instruments supporting this low-carbon transition."[44] Indeed, the coordination of policy in conjunction with more drastic climate

[42]Coplan, "Fossil fuel abolition: Legal and social issues," 225; "Climate Action," United Nations, accessed March 17, 2025, https://www.un.org/en/climatechange/net-zero-coalition#:~:text=Are%20we%20on%20track%20to,2030%2C%20compared%20to%202019%20levels.
[43] Sovacool, Geels, Andersen, Grubb, Jordan, Kern, Kivimaa et al., "The acceleration of low-carbon transitions: Insights, concepts, challenges, and new directions for research," 13; Karoline S. Rogge and Phil Johnstone, "Exploring the role of phase-out policies for low-carbon energy transitions: The case of the German Energiewende," *Energy research & social science* 33 (2017): 128-137.
[44] Sovacool, Geels, Andersen, Grubb, Jordan, Kern, Kivimaa et al., "The acceleration of low-carbon transitions: Insights, concepts, challenges, and new directions for research," 13; Karoline S. Rogge and Phil Johnstone, "Exploring the role of phase-out policies for low-carbon energy transitions: The case of the German Energiewende," *Energy research & social science* 33 (2017): 128-137.

action will be essential. As discussed through this project, the provisions of alternative labour markets and the importance of complementary technology and low-carbon infrastructure are essential to a successful transition, and government involvement in these factors will be crucial. These features are ultimately outside of the scope of this project, as this EM concept is oriented around the value and imperative for more drastic emissions reductions in this transition, but they deserve greater research attention. Additionally, this project is not ignorant to the differences between deep change and quick change. The shifts that could be brought about through emergency climate governance, as championed by this work, hold the potential to quickly invoke regulations that could come to impact deep and longstanding changes to general operational structures, but this project does not take for granted that some important aspects of major system changes, like the cultivation of widespread political will for radical climate action (and uptake of fossil fuel reducing behaviours), are dependent on individual choices in the electorate. Emergency power could not enforce these changes without risking severe rights abuse. Framing the message for climate action with honesty and transparency, and amplifying its importance, as this project has attempted to do, provides rational justification for the importance of taking urgent and drastic climate action. But the cultivation of widespread political support can only be encouraged by the emergency climate action proposed in this work, it cannot be guaranteed. More, this project is aware to criticisms that it might appear to succumb to wishful thinking, or that it overly simplifies the position that change by some provinces can inspire changes in others. Attempts have been made throughout the project to thoroughly address these arguments, but it would be imprudent to suggest that this project has overcome all aspects of those uncertainties involved in emergency climate governance. The changes proposed in this thesis have not happened on climate before, and as discussed, major changes to prevent catastrophe have seldom

ever happened without previous precedent. Emergency climate governance would be enacted with some serious uncertainty and risk, but the risks of not acting appear to be much greater. With the extreme degree of destabilization that an increasing climate emergency looks set to bring absent radical intervention, it seems rational and just, and in alignment with the value of governments doing whatever they can to protect their citizens, that all options be considered for action, including the tools available through EM for emergency climate governance.

Even though the extent of engaging emergency powers for climate action will ultimately depend on the choices of political leaders, and a choice in any province for emergency climate action is no guarantee, this project remains important outright in its contribution to more clearly identifying *why* and *how* provincial emergency power through EM could be a viable and desirable option for more immediate and substantial climate action, and how even absent emergency action, provinces are deeply connected to the issues and consequences of the climate emergency. There remains a common emphasis on national and international climate action in climate activism, but at both levels the actions taken are regularly underwhelming and without stringent enforcement. Often the decision-making processes at these levels are bogged down in complexity and diplomacy such that the changes truly desired (and needed) rarely ever come to fruition, nor do they appear likely to. The most substantial, immediate, and impactful changes for climate action happen at lower levels; the provincial level (and implicitly local jurisdictions) deserve far more emphasis in discussions on climate action than it still receives. As evidenced by the comprehensive discussions on EM capabilities in this thesis, it is also in the provincial realm that citizens directly face climate-driven emergency, and it is in the provincial realm that changes to address the issue will be most directly connected to provincial needs, with powers that have been developed already sensitive to those needs. More, although an addition of explicit rights

protections in provincial EM would be beneficial for safeguarding rights, avoiding climate action arguably puts basic rights at greater risk. The destruction and disproportionate complications that an increasing climate emergency would bring is projected to seriously disrupt access to food and water, habitable locations, and increase the frequency and severity of destructive weather events. More, if we are interested in serious climate action, the supply-side focus on GHG emissions mitigation and prevention requires a greater emphasis. We need to stop what is happening at the source, not just adjust to dealing with it better after it happens. Provinces have a substantial physical and constitutional connection to the sectors that produce GHG's, and the capacity to do something about it.

With respect to the insights and experiences provincial governments have had with emergencies, this project holds the potential to be a fruitful and critical continuation of explorations on the capacity for provincial governments to lead on climate change governance and mitigate emissions in a nationally impactful way, notwithstanding challenges in doing so within an emergency context. This project can also serve in some capacity to be a call to action, or at the very least a reason for optimism in that if people care deeply enough, and that group of people is widespread or impassioned enough, political voices (and votes) could bring a leader or party to power (or encourage a party in power) to make these changes in ways, especially in that fossil fuel industry, corporate ties, and traditional political institutions, who contribute to the continued delaying, weakening, obfuscating, hindering, and impeding of climate policy, could not obstruct. The future that we are heading towards will be different whether we act on climate or not. The important factor that must be acknowledged is that radical action on climate can seriously help avoid impending future catastrophe from climate-driven disaster, while also offering great potential to benefit the sustainability, stability, and opportunities we have. Failure

to act, continuing down our current path of incremental action and sustained fossil fuel involvement, will bring us towards a future of instability, insecurity, and more expensive and destructive crisis and disaster. Canada needs to start taking better care of its own business for its own citizens, and in doing so it will also have positive impacts on the global scale. Canada needs to see action start being taken on the climate emergency that equates to the urgency, severity, and widespread impact that the emergency is having (and absent action, will increasingly have) on all Canadians. This project has attempted to make a case for how this emergency level action could be taken by provinces, and the benefits that in could bring, in hopes of generating further interest in and action for addressing the climate emergency, and to elevate awareness of the important role provinces have in remediating this crisis.

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