

Climate Justice in International Climate Change Negotiations

Major Research Paper

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## INTRODUCTION

Climate change is the defining challenge of our times. It is the only global problem whose long-term and possible irreversible consequences occur on a planetary scale, affecting and threatening the prosperity and security of all human communities.<sup>1</sup> Climate change is currently and will continue to affect different people and places unevenly in profound ways, as it already is, with exacerbated injustices and inequalities occurring across individuals, regions, nations, and between current and future generations.<sup>2</sup> The Office of the High Commissioner for Human Rights (OHCHR) on Human Rights and Climate Change stated that ‘the disproportionate impacts of climate change on persons in vulnerable situations raises concerns of climate justice, fairness, equality and access to remedy.’<sup>3</sup> The international community is faced with the challenge to respond to the growing threats and cataclysmic impacts of climate change.

### **The UNFCCC Challenge: Addressing Climate Justice**

In 1988, the United Nations General Assembly endorsed the establishment of the Intergovernmental Panel on Climate Change (IPCC) to report on human induced climate change and its potential environmental and socio-economic impacts.<sup>4</sup> The reports are to support the decision making of policy makers, governments, private sector and the public on climate change.

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<sup>1</sup> Radoslav Dimitrov, “Inside UN Climate Change Negotiations: The Copenhagen Conference,” *Review of Policy Research* 27,6. (2010): 797.

<sup>2</sup> Banks.N et al, Joseph Rowntree Foundation, <https://www.jrf.org.uk/report/climate-change-and-social-justice-evidence-review> (accessed January 22, 2019).

<sup>3</sup> United Nations Human Rights Council, Understanding Human Rights and Climate Change, <https://www.ohchr.org/Documents/Issues/ClimateChange/COP21.pdf> (accessed January 22, 2019).

<sup>4</sup> IPCC, History of IPCC <https://www.ipcc.ch/about/history/> (accessed January 22, 2019).

IPCC identifies climate change as, “a change of climate which is attributed directly or indirectly to human activity that alters the composition of the global atmosphere and which is in addition to natural climate variability observed over comparable time periods.”<sup>5</sup> In 2015, the IPCC published the Fifth Assessment Report readdressing that human activities such as burning fossil fuels, and deforestation is releasing greenhouse gas emissions (GHG) (e.g. carbon dioxide (CO<sub>2</sub>), nitrous oxide and methane) and is accumulating into the atmosphere causing a change in the climate system.<sup>6</sup>

The IPCC report mentioned that since the beginning of 1750’s, industrialization has pushed for the burning of huge amounts of fossil fuels (such as coal, oil, gas), bred huge amounts of methane-producing livestock and cut down vast swathes of forests, which would naturally absorb carbon dioxide from the air, changing the climate we know today.<sup>7</sup> Every single year since 1977 has been warmer than the 20th century average with 16 of the 17 warmest years on record occurring since 2001.<sup>8</sup> As a result, studies have shown that climate change is causing various disturbance to the Earth system such as the warming of ocean temperatures increasing its acidity and affecting marine ecosystem health; melting glaciers in the Arctic causing the sea

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<sup>5</sup> International Panel on Climate Change, “Climate Change 2014 Synthesis Report Summary for Policymakers,” (2015): 120.

<sup>6</sup> International Panel on Climate Change, “Climate Change 2014 Synthesis Report Summary for Policymakers,” 2.

<sup>7</sup> *Ibid*, 13.

<sup>8</sup> Tariq, Khokhar. “Chart: 16 of the 17 Warmest Years on Record occurred since 2001.” *The World Bank: Data Blog*, 2017. <https://blogs.worldbank.org/opendata/chart-16-17-warmest-years-record-occurred-2001>. (Accessed October 5, 2018).

levels to rise resulting to frequent flooding, extreme storms; and threatening to submergence nation islands underwater.<sup>9</sup>

According to IPCC in its Fourth Assessment report (2007), “the distribution of impacts and vulnerabilities is still considered to be uneven, and low-latitude, less-developed areas are generally at greatest risk due to both higher sensitivity and lower adaptive capacity.”<sup>10</sup> This implies, that while climate change affects all people, the world’s poorest people are on the front line and their progress of development is heavily reliant on the stability of the climate. IPCC have observed that the effects of climate change has become the ultimate ‘threat multiplier’, exacerbating current development challenges such as drinking water and food shortage, health insecurity from rising epidemic diseases, migration trends, unemployment, poverty reduction and resource scarcity.<sup>11</sup> For instance, by 2025, almost two-thirds of the world’s population is projected to experience some kind of water-related stress and, for 1 billion of them, the shortage will be severe and socially disruptive.<sup>12</sup> Between 2008 and 2015, an average of 26.4 million people per year were displaced by climate- or weather-related disasters and numbers are expected to increase.<sup>13</sup> World Bank reports estimated that climate change will cause 143 million climate migrants representing 2.8 percent of the populations mostly coming from Sub-Saharan

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<sup>9</sup> Secretariat of the Convention on Biological Diversity, “An Updated Synthesis of the Impacts of Ocean Acidification on Marine Biodiversity” *Montreal, Technical Series*, 79 (2014):23.

<sup>10</sup> IPCC, “Climate Change 2007: Impacts, Adaptation and Vulnerability. Contribution of Working Group II to the Fourth Assessment Report of the Intergovernmental Panel on Climate Change”. (2007): 781.

<sup>11</sup> *Ibid*, 19.

<sup>12</sup> Besada, Hany. “Climate Change in Africa: Adaptation, Mitigation and Governance Challenges.” *Center for International Governance Innovation*. (2009): 12.

<sup>13</sup> *Ibid*, 13.

Africa, South Asia, and Latin America.<sup>14</sup> The report calls the regions, the three “hot spots” that represent 55 percent of the developing world’s populations.<sup>15</sup> Climate change is making day-to-day living more difficult for many climate vulnerable people, communities, regions and countries and it has turned many lives into a desperate guessing game of life and death.<sup>16</sup>

The notions of justice and injustice within the context of climate change is used to argue against the unjust burden of climate change impacts and costs, as well as the increasing demand for action to address this issue. Climate injustice lies with developing countries experiencing the effects, burdens and costs of climate change, first and worst with the least capacity and resources to face the exacerbated challenges posed by climate change.<sup>17</sup> In comparison, developed countries played a significant role in spending years of industrialization contributing to the acceleration of climate change and its negative impacts, yet are less affected and are more technologically and financially equipped to tackle the effects of climate change. As the effects climate change have a multiplying effect to the challenges already being experienced by the developing countries as mentioned above, the notion of climate injustice signals the growing unchecked inequalities, as well as the need for a cooperative response to the climate vulnerable being the developing countries.<sup>18</sup>

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<sup>14</sup> Parker, Laura, National Geographic, <https://news.nationalgeographic.com/2018/03/climate-migrants-report-world-bank-sp/> (accessed April 5, 2019).

<sup>15</sup> *Ibid*

<sup>16</sup> *Ibid*, 13.

<sup>17</sup> Frank Jotzo, “Developing Countries and the Future of the Kyoto Protocol,” *Global Change, Peace & Security* 17,1 (2005): 77.

<sup>18</sup> *Ibid*, 77.

In turn, human rights and environmental activists coined the emerging term of ‘climate justice’ — a notion that captures a vision to secure global justice, by addressing and rectifying the injustices brought to light by the impacts of climate change.<sup>19</sup> This paper focuses on Mary Robinson’s definition of climate justice being, “a link between human rights and development to achieve a human-centred approach, safeguarding the rights of the most vulnerable, communities, regions and countries around the world and sharing the burdens as well as the benefits of climate change and its impacts equitably and fairly.”<sup>20</sup> Fellow scholars also depict climate justice along the same lines, indicating the importance of recognizing the inequalities specifically between developing and developed countries, and their disproportionate share of burdens, responsibilities, capacity and benefits to address the effects of climate change. This view of climate justice informs a considerably just climate change agreement; an agreement that recognizes the need for a fair distribution of resources to help secure the rights and needs of the climate vulnerable poor who have the most disproportionate share of burdens, the least responsible and capacity to address the impacts of climate change. In developing countries, as climate change exacerbates the challenges in all areas of society; economic, environmental and social problems such as increasing poverty, migration and food insecurity to name a few — a just climate change agreement puts a human-rights approach at the center of development, to ensure that these are simultaneously addressed in the efforts to tackle climate change.

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<sup>19</sup> *Ibid*, 77.

<sup>20</sup> Mary Robinson, “Climate Dialogue: Principles of Justice,” Mary Robinson Foundation Climate Justice. (2014):1.

Furthermore, governments of the most vulnerable nations, activists and organizations in both local and global civil society have provided various theories of justice, specifically relating to environmental, social and developmental justice to further explain what constitutes climate justice and a just climate agreement. As stated by Dr. Rowena Maguire and Bridget Lewis, both human rights and climate change activists states “No one justice theory has the ability to respond to the multifaceted justice issues arising as a result of climate change”.<sup>21</sup> Campbell frames climate justice as the convergence of environmental and social justice: 1) Environmental justice is the fair treatment and meaningful involvement on the development and implementation of environmental protection.<sup>22</sup> This recognizes an equal opportunity amongst communities, regions and countries to participate in decisions about activities that may affect their environment and/or health, that no group of people should bear a disproportionate share of the negative environmental consequences, and decision makers will seek out and facilitate the involvement of those potentially affected; and 2) Social justice is defined as the explicit recognition of structural inequalities in the world, a recognition of the inequalities between people, communities, regions, and countries and therefore the need for proactive, structural transformations to counteract these inequalities.<sup>23</sup> According to Robinson and Campbell, this involves working towards countering inequalities specifically between the developing and developed countries by allowing equal opportunity to be meaningfully involved in decision making process in relation to the environment and their well-being.

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<sup>21</sup> Nussbaum, Martha, “Climate Change: Why Theories of Justice Matter.” University of Chicago Law School Chicago Unbound. (2013): 469.

<sup>22</sup> Campbell, Scott, “Sustainable Development and Social Justice: Conflicting Urgencies and the Search for Common Ground in Urban and Regional Planning.” Michigan Journal of Sustainability. 1(2013): 76

<sup>23</sup> *Ibid*, 77.

In addition, climate justice relates to Rawls theory of justice that provides a different angle in understanding the meaning of climate justice by addressing both the economic development and intergenerational justice. Rawls famously quotes that “economic development is a means to an end and not an end in itself,” which asserts that an alternative to continual economic growth must be provided to permit sufficient growth to maintain that is more consistent with intergenerational environmental justice.<sup>24</sup> Rawls highlights that current generations have an obligation to ensure that rules and institutions will preserve opportunities for future generations to benefit from the environment and pursue their own conceptions of the good.<sup>25</sup> Rawl’s principles have also asserted that as part of its goal of achieving climate justice, the world needs a new way to grow, that will adequately reduce current emissions, transform economic system to ensure environmental protection, inclusive sustainable development and the reduction of global inequalities.

Due to the overlapping and extensive scope of the impacts of climate change, the international community not only addresses emission reduction targets but it has lead to incorporate efforts to achieve sustainable development as part of efforts to address climate justice. In June 1992, the Earth Summit in Rio de Janeiro, Brazil was highly influenced by the Brundtland Report (1987), “Our Common Future,” recognizing a societal transformation to a new era of economic growth – growth that is socially and environmentally sustainable.<sup>26</sup> The concept of sustainable development was defined as “development, which meets the needs of the

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<sup>24</sup> Henderson, Gail. “Rawls and Sustainable Development.” *McGill International Journal of Sustainable Development Law and Policy*. 7 (2011)1: 2.

<sup>25</sup> *Ibid*, 3.

<sup>26</sup> United Nations. “Review of implementation of Agenda 21 and the Rio Principles.” *Sustainable Development in the 21st Century (SD21)*. (2012): 11.

present without compromising the ability of future generations to meet their own needs”.<sup>27</sup>

Therefore, integral to an equitable and ambitious international climate agreement, climate injustice is working toward, considers the specific needs of the most vulnerable populations, and catalyzes sustainable development in all areas of society. Ultimately, efforts in pursuit of climate justice involves development efforts towards a society that is sustainable and inclusive for all people, communities, regions and countries for current and future generations.

The increasingly influential global movement to tackle climate change and recognize climate injustices around the world, signals the importance for urgent actions towards global solutions to accountability, sustainability, environmental and social justice. A just climate agreement should aim to ensure countries are able to fulfill their full capacity to reach their development goals of improving the quality of life and their right to development. According to Sen’s capability theory, the impacts of climate change poses challenges and restraints on developing countries capabilities to address current challenges and to pursue future opportunities of development.<sup>28</sup> Central to the capabilities approach are two related concepts such as functioning and capability: The concept of functioning refers to the various things a person may value doing or being such as being healthy, employed and taking part in political life; and the concept of capability represents the substantive freedom to achieve alternative functioning or lifestyles, reflecting on the intrinsic freedom of choice.<sup>29</sup> The combination of these concepts respects the intrinsic freedom to make choice, in accordance with their comprehensive

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<sup>27</sup> *Ibid*, 11.

<sup>28</sup> Peeters, Wouter. “The capabilities approach and environmental sustainability: The case for functioning constraints.” Forthcoming in *Environmental Values*. (2015) 3.

<sup>29</sup> *Ibid*.

conception of a good life. The capabilities approach very much aligns with the right to development as described by UNFCCC as “the right to participate in, contribute to, and enjoy economic, social, cultural and political development, in which all human rights and fundamental freedoms can be fully realized, which will be further discussed in the paper”.<sup>30</sup> This arguably offers a demand for climate justice to ensure that the climate vulnerable being the developing countries are to be capacitated with the help of the international community in economic, environmental and social development efforts.

As a response to the growing awareness and studies on climate change, the United Nations Framework Convention on Climate Change (UNFCCC) was established in 1992 to set an overall framework for intergovernmental efforts to tackle the challenge posed by climate change and its associated challenges.<sup>31</sup> The UNFCCC Conference of the Parties (COP) was established as a platform to galvanize the international community made up of 197 (as of 2015) nations and territories to discuss the challenges surrounding the impacts of climate change around the world and generate solutions to adapt and mitigate its effects as part of pursuing efforts towards climate justice.<sup>32</sup> The COP negotiations are centered on to building a cooperative relationship and to generate a consensus on climate change responses; a coherent action to tackle the global problem of climate change by reducing GHG emissions while addressing climate injustices between countries caused by climate change.<sup>33</sup>

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<sup>30</sup> Marcos Orellana, “Realizing the Right to Development,” *United Nations Human Rights*. (2013): 322.

<sup>31</sup> United Nations, “A guide to the Climate Change Convention and the Kyoto Protocol,” *Uniting on Climate*. (2007): 12.

<sup>32</sup> Pachauri R. and Meyer L, eds, “Climate Change 2014 Synthesis Report: International Panel of Climate Change.” *International Panel of Climate Change*, (2015): 29. — The Paris Agreement in 2015 had 197 Signatories.

<sup>33</sup> *Ibid*, 29.

The UNFCCC negotiations has led to multiple successful and failed avenues to tackle climate change issues. In 2015, the adoption of the Paris Agreement and reinforced by the IPCC Special report (2018) has highlighted the need to reduce global GHG emissions to limit the temperature increase even further to 1.5 degrees Celsius and establish adaptation and mitigation strategies to face climate change impacts.<sup>34</sup> However, the 2015 Paris Agreement has faced multiple criticisms on its non-binding feature, undefined targets, and measurements and after three years, reports have indicated that certain countries (e.g. Brazil, Mexico and Saudi Arabia) are still far off-track from preventing severe global warming in the decades ahead.<sup>35</sup> This was a result from years of perilous negotiations and deliberations surrounding a key challenge to cooperation which was addressing climate justice among the developed and developing countries.

For 27 (1992 - 2019) years of COP negotiations, the international community have demonstrated their difficulty in cooperating with one another to generate a consensus on a cohesive approach to address climate justice and thus, climate change as a global issue. At the heart of the UNFCCC COP events is the contentious issue of climate justice whereby the question of what is 'just', 'equal' or 'fair' that underlines its foundation are contoured based on the differing understandings between the developing and developed countries. In particular, UNFCCC COP member countries debate on climate justice, equality and fairness is founded on the idea that climate change is a common problem that all countries have an obligation to

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<sup>34</sup> Raymond Clemencon, "The Two Sides of the Paris Climate Agreement: Dismal Failure or Historic Breakthrough?" *Journal of Environment & Development*, 25-1 (2016): 2.

<sup>35</sup> Michelden Elzen, Takeshi Kuramochi et al. "Are the G20 economies making enough progress to meet their NDC targets." *Energy Policy*. 126 (2019):247.

address, but each country's differences in the responsibility in causing climate change, the different levels of economic development and the depth of which climate change effects is experienced, should guide the distribution of climate change efforts, costs and responsibilities and the extent of such efforts.<sup>36</sup>

The UNFCCC COP events have faced long years of grueling negotiations to produce two international climate change treaties: 1997 Kyoto Protocol and the 2015 Paris Agreement. The UNFCCC COP events, specifically the Rio de Janeiro (1992), the Kyoto Protocol (1997), the Copenhagen Conference (2009) and the Paris Agreement (2015) have been criticized for its demonstration of a lack of state cooperation and solidarity resulting to stalemates, deadlocks and slow progress in establishing such climate change treaties. As the UNFCCC COP member countries work to address the threats and impacts of climate change around the world, it would also require the addressment of the injustices, inequality and unfairness to ensure the cooperation of all the countries, while pursuing a viable climate change treaty for the coming decades. There is a need for the international community to rise to this challenge.

### **Research Question and Argument**

Climate change and climate justice literatures have been rife with criticisms on the failure of state cooperation in the UNFCCC COP events leading to prolonged years of ineffective responses in the midst of the growing threat of climate change. In this research paper, I seek to

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<sup>36</sup> Klinsky, Waskow, Bevins et al., "Building Climate Equity: Creating a New Approach from the Ground Up." *World Resources Institute*. (2013):10.

explore the underlying issue of the UNFCCC COP events which is the lack of cooperation amongst the international community which has resulted to stalemates, deadlocks and slow progress on addressing climate justice and ultimately, a global solution to climate change<sup>37</sup>.

This problem raises the very question; why does addressing climate justice pose as a challenge for the international community to cooperate in UNFCCC COP negotiations? In this paper, it is argued that addressing climate justice in international climate change negotiations poses a challenge to international cooperation because it raises pluralistic and conflicting understandings of an ‘equal’ and ‘fair’ climate change treaty between developing and developed countries. As a result, these contrasting views on what is considered to be an equal and fair climate change treaty is causing non-cooperative, non-consensual and ineffective approach to addressing climate justice. In this paper, addressing climate justice focuses on its two specific dimensions: (1) Equality issues between countries based on their status and identity —who bares the historical responsibility of climate change, the capacity to mitigate and adapt to climate change, and the degree of impact from climate change; (2) Fairness issues among the international community in the distribution of costs and responsibilities to reduce GHG emissions, transfer technology and financial resources. This argument will be supported through a literature review on the differing perspectives of equality and fairness by the developed and developing countries, and how such opposing views affect state cooperation in 4 UNFCCC COP events: the Rio de Janeiro (1992), the Kyoto Protocol (1997), the Copenhagen Conference (2009) and the Paris Agreement (2015).

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<sup>37</sup> P.R. Shukla, Justice, *Equity and Efficiency in Climate Change: A Developing Country Perspective: Fairness in Climate Change*. (London: Earth Publications, 1999) 2.

Addressing climate justice in UNFCCC COP negotiations is important because it would mean that international climate change agreements (i.e. Kyoto Protocol and Paris Agreement) recognizes this reality— the human cost of climate change in the developing countries, specifically the most vulnerable and provides a remedy, a form of reparation— and ensures equality and fairness amongst the international community in tackling climate change.<sup>38</sup> Equality issues amongst the international community is understood in the lines of equality in the right to development; that equality issues must be resolved to ensure that the developing countries and the most vulnerable people are resilient and capacitated to mitigate the effects of climate change.<sup>39</sup> In addition, fairness amongst the international community is considered to be a focal point to be negotiated. Fairness is understood to be the negotiation on the distribution of costs and responsibilities in tackling climate change which most developing countries promote to reflect the differing capacity of the developing and developed countries.<sup>40</sup> This may seem simple but the dynamics of politics and the different understandings of what are meant by ‘equality’ and ‘fairness’ has led to the very challenge of addressing climate justice.

## **Research Structure**

In this paper, I will present and analyse the roles of the differing and often opposing views of equality and fairness between the developing and developed countries in UNFCCC COP events to demonstrate how it poses a challenge to cooperation. This paper is divided into 6 core sections;

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<sup>38</sup> Gabriel Loma-Osorio. “The 2030 Agenda for Sustainable Development: Bringing Climate Justice to Climate Action,” *Society for International Development*. 59, 3-4 (2016): 224.

<sup>39</sup> Jotzo, “Developing Countries and the Future of the Kyoto Protocol,” 77.

<sup>40</sup> William Street, *Climate Diplomacy from Rio to Paris: The Effort to Contain Global Warming: The effort to Contain Global Warming* (New Haven: Yale University Press, 2016) 26.

1) An introduction that encompasses the research problem, question, argument, purpose and the structure of the paper; 2) The context will provide a background to the driving influences to climate change and its impact on the developing countries causing climate injustices; 3) The theoretical framework will elaborate on key concepts guiding the UNFCCC COP negotiations to address climate justice: sustainable development, the common but differentiated responsibilities (CBDR) principle, equality and fairness; 4) The literature review will present key development theories and developing and developed countries differing perspectives of equality and fairness in 4 UNFCCC COP events, and how it affects state cooperation: the Rio de Janeiro (1992), the Kyoto Protocol (1997), the Copenhagen Conference (2009) and the Paris Agreement (2015); 5) A section will be dedicated to a critical analysis, specifically analyzing non-cooperative behaviours of the international community to address climate justice and; 6) The conclusion will summarize the overall research paper and reiterate the major points of the paper.

## CONTEXT

This paper focuses on climate justice literatures in the field of climate change. Climate justice is a growing concept in the UNFCCC COP events as a response to the injustices and inequalities experienced by the most vulnerable communities, regions and low-income nations who are the least responsible for climate change but experience its effects first and worst.<sup>41</sup> There is a responsibility for the UNFCCC COP member countries to respond to climate injustices. However, this would mean addressing key issues of equality and fairness, the key dimensions of climate justice. According to Page (2013) and Klinsky (2010) in addition to literatures on climate justice, issues with equality raises questions such as; which countries are

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<sup>41</sup> Jotzo, "Developing Countries and the Future of the Kyoto Protocol," 77.

responsible for climate change ?; Should responsibility be placed on countries that historically, currently or in the coming future, contribute to climate change ?<sup>42</sup> Subsequently, according to Tørstada and Sælen (2018) and Baatz (2013) the identification and categorization of member countries as developing or developed, could guide the distribution of climate change costs and responsibilities. Issues of fairness raises the following concerns; which countries will reduce GHG emissions more or less than the other or should it be equal among all countries? Which countries should transfer technological, financial resources and invest in adaptation and mitigation efforts to assist other countries? And which countries will be receiving this international support to strengthen societal resilience to climate change impacts?<sup>43</sup> Ultimately, based on the observed UNFCCC COP events, how countries perceive these questions are based on their differing views of equality and fairness resulting to prolonged debates and numerous attempts of compromise. These debates of equality and fairness has become an underlying issues that has dominated UNFCCC COP events in the process of addressing climate justice and climate change.<sup>44</sup>

### **UNFCCC Principles of Sustainable Development and the Common but Differentiated Responsibility (CBDR)**

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<sup>42</sup> Edward A. Page, "Distributing the burdens of climate change," *Department of Politics and International Studies* 17, 4. (2008): 556 and; Klinsky, Waskow, Bevens et al. "Building Climate Equity: Creating a New Approach from the Ground Up," 10.

<sup>43</sup> Vegard Tørstada and Håkon Sælen. "Fairness in the climate negotiations: what explains variation in parties' expressed conceptions?" *Climate Policy*, 2018. 18, 5 (2018): 644 and Christian Baatz, "Climate Change and Individual Duties to Reduce GHG Emissions," *Kiel University Ethics, Policy & Environmental* 17, 1 (2013): 11.

<sup>44</sup> Loma-Osorio, "The 2030 Agenda for Sustainable Development: Bringing Climate Justice to Climate Action," 223.

The UNFCCC COP member countries shares a common view that in order to address the serious challenges posed by climate change all countries must work together to ensure that the root causes of climate change and its negative impacts do not adversely affect the developmental aspirations and survival of any country, especially the most vulnerable.<sup>45</sup> To reinforce the growing global movement and demand to fight climate change, it requires a solidarity front of world leaders to lead in establishing a long-term, cohesive global climate policy and guide a global transformation that is sustainable and inclusive. This can be established through the underlying foundation of the UNFCCC which is of consensus, the general willingness of all Parties involved to ensure a mutual understanding of the issue, a common inclination to commit long-term and a shared effort in creating climate policies and its implementation.<sup>46</sup>

Article 2 of the UNFCCC specifies the ultimate objective of that convention and states:

“The ultimate objective of this Convention and any related legal instruments that the Conference of the Parties may adopt is to achieve, in accordance with the relevant provisions of the Convention, stabilization of greenhouse gas concentrations in the atmosphere at a level that would prevent dangerous anthropogenic interference with the climate system. Such a level should be achieved within a time frame sufficient to allow ecosystems to adapt naturally to climate change, to ensure that food production is not threatened and to enable economic development to proceed in a sustainable manner” (UNFCCC, 1992).<sup>47</sup>

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<sup>45</sup> Ariel, Macaspac P, *Climate Change Negotiations: A guide to resolving and facilitating multilateral cooperation* (New York, Routledge, 2013), 183.

<sup>46</sup> Clemencon, “The Two Sides of the Paris Climate Agreement: Dismal Failure or Historic Breakthrough?” 2.

<sup>47</sup> United Nations, “A guide to the Climate Change Convention and the Kyoto Protocol,” 12.

In order to pursue this objective, countries need to consider climate injustices and inequalities among the member countries. These decisions within the UNFCCC COP need to be made with respect to the guiding principles of sustainable development and the common but differentiated responsibility (CBDR).

In June 1992, at the Earth Summit in Rio de Janeiro, Brazil, was highly influenced by the Brundtland Report (1987), “Our Common Future,” recognizing a societal transformation to a new era of economic growth – growth that is socially and environmentally sustainable.<sup>48</sup> The concept of sustainable development was defined as “development, which meets the needs of the present without compromising the ability of future generations to meet their own needs”.<sup>49</sup> The UNFCCC goals of sustainable development to address climate change is a challenge to achieve as the international community struggles on the issues of equality and fairness. It is consequently necessary to decide who will reduce GHG emissions? who will invest in adaptation and mitigation efforts to climate change? and who needs international support to strengthen societal resilience to climate change impacts?.

The CBDR principle seeks to address issues of equality and fairness amongst the UNFCCC COP member countries. UNFCCC of which recognizes that climate change strategies

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<sup>48</sup> United Nations. “Review of implementation of Agenda 21 and the Rio Principles.” *Sustainable Development in the 21<sup>st</sup> Century (SD21)*. (2012): 11.

<sup>49</sup> *Ibid*, 11.

in pursuit of global sustainable development requires, addressing injustices and inequalities amongst developed and developing countries.<sup>50</sup>

Article 3 of the UNFCCC 1992 states:

“The Parties should protect the climate system for the benefit of present and future generations of humankind, on the basis of equity and in accordance with their common but differentiated responsibilities and respective capabilities. Accordingly, the developed country Parties should take the lead in combating climate change and the adverse effects thereof.”<sup>51</sup>

The CBDR principle states that every nation has a common responsibility to protect the environment but the level of states’ individual responsibilities may be differentiated according to their own national circumstances, along with their contributions to climate change.<sup>52</sup> That is, countries’ past and future contributions to the accumulation of GHGs in the atmosphere are different, and countries also face varying challenges and circumstances and have different capacities to address mitigation and adaptation.

### **Equality Issues in the UNFCCC: Annex and Non-Annex Countries**

The first dimension of climate justice is equality and the issue of equality was addressed in the CBDR principle. According to Pauw (2014), Page (2008) and Klinsky (2013) and

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<sup>50</sup> Pieter Pauw, “Different Perspectives on Differentiated Responsibilities” *German Development Institute* (2014):4.

<sup>51</sup> *Ibid.*

<sup>52</sup> *Ibid.*

additional literatures on climate change, the CBDR principle articulates the very issue of inequality between developing and developed countries: 1) The unequal historic responsibility that caused climate change; 2) The unequal impacts of climate change; and 3) The unequal status of development to have the capacity to mitigate and adapt to threats of climate change.<sup>53</sup> The CBDR principle in the UNFCCC recognizes that tackling climate change as a global and international objective has to be done with the understanding of such inequalities between countries.<sup>54</sup>

Moreover, Pauw recognizes the issues of inequality resonating in the dichotomous basis that distinguished the UNFCCC member countries.<sup>55</sup> Under the Kyoto Protocol, the UNFCCC established the dichotomous differentiation between Annex I and II countries parties (basically comprising developed and industrialised countries) and Non-Annex I parties (i.e. developing countries).<sup>56</sup> The Annex I and II countries are committed to provide funding and other resources to help developing countries both reduce their emissions and adapt to climate change.<sup>57</sup> Developed countries have been synonymous to ‘wealthy’ and ‘industrialized’ countries to reflect its advance status of development and position of power in global political economy. Developed countries share common features: 1) Represent the upper- middle income of the global economy; 2) A large influence in the global economic and political governance; and 3) Have high a capacity and capability to mitigate and adapt to climate change.<sup>58</sup> The North is comprised of the

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<sup>53</sup> Edward A. Page, “Distributing the burdens of climate change,” 556 and Klinsky, Waskow, Bevins et al., “Building Climate Equity: Creating a New Approach from the Ground Up,” 7.

<sup>54</sup> *Ibid*, 28.

<sup>55</sup> Pieter Pauw, “Different Perspectives on Differentiated Responsibilities,” 4.

<sup>56</sup> *Ibid*, 17.

<sup>57</sup> Klinsky, Waskow, Bevins et al., “Building Climate Equity: Creating a New Approach from the Ground Up,” 7.

<sup>58</sup> *Ibid*, 12.

Organisation for Economic Co-operation and Development (OECD) countries (e.g. United States (US), Australia and Finland) with higher incomes per capita and slower economic growth. This includes negotiating blocs such as the European Union (EU) and Umbrella group (Canada, Switzerland and etc.).

The Non-Annex 1 are comprised of 150 developing countries of which 130 are members of the G-77.<sup>59</sup> Developing countries share similar features but some are exempted in different criteria's. These countries are identified to have features including: 1) A shared colonial past (with the exception to some extent Thailand, Ethiopia and the former East and Central European countries); 2) Shared historical and current perception of their participation in the global political economy as peripheral to the core (the North) of global governance; 3) Generally, geographically clustered to the south of the 'North' - hence their recognition of the North and South divide; 4) Most have development challenges and have not met the basic needs of their population ( except Singapore); 5) Most does not have advance research facilities and advance technology, including insecurity in resources such as water and food; 6) Most of their GHG emissions are relatively low ( except for China, India and South Africa); and 7) High vulnerability and faces high risks to the adverse impacts of climate change due to the lack of capacity to respond.<sup>60</sup>

The Non-Annex II countries are identified as the developing countries with lower incomes per capita and more rapid economic growth. The South is comprised of the G-77 countries and specifically grouped into negotiating blocs: Oil and Petroleum Exporting Countries

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<sup>59</sup> Joyeeta Gupta, "Engaging developing countries in climate change negotiations. " *Policy Department Economic and Scientific Policy*. (2008).

<sup>60</sup> *Ibid*, 4.

(OPEC), Association of Small Island States (AOSIS), Countries with Economies in Transition (CEITs) and Small Island Developing States (SIDS), and Least Developed Countries (LDCs).<sup>61</sup> According to Gupta, the controversy in the international negotiations lies with the inclusion of emerging economies such as China, India and Brazil in the non-Annex I countries (further explained in section below).<sup>62</sup> The identities and the interests of the North and South influences how international negotiation operates, and is analyzed to highlight the different understandings of what constitutes a ‘fair treaty’ as guidance to achieve sustainable development.

### **Fairness Issues in the Distribution of Climate Change Responsibilities**

A large strand of the climate-policy-related fairness literature deals with the distributive fairness aspects involved in climate change mitigation policy. Negotiations have been centered on discussions around distributive fairness such as burden sharing. According to Vegard Tørstada and Håkon Sælen (2018) burden sharing schemes reflects state’s different understandings of fairness. They have identified 3 different understandings of fairness in the distribution of climate change actions and responsibilities (i.e. GHG reduction targets, international assistance on effective adaptation and mitigation strategies and transfer of resources) which have been central in the negotiation table.

The primary understanding of fairness is fairness as responsibility, which demands that a problem should be solved by the parties that caused it. This refers to the ‘polluters-pays’ principle whereby climate actions and its costs should be distributed proportionally amongst the

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<sup>61</sup> *Ibid*, 7.

<sup>62</sup> Pieter Pauw, “Different Perspectives on Differentiated Responsibilities,” 23.

developing countries that have the historical responsibility of causing climate change.<sup>63</sup> This implies dividing responsibility in proportion to cumulative or past emissions or in proportion to contributions to warming.<sup>64</sup> Secondly, the fairness as capability emphasizes those who have the capacity to solve the problem has an imperative to do so. Capability is a multifaceted indicator in taking initiatives and implementing climate change action. Capability can determine innovative capacity; transform energy systems and prospects for improving society even with the midst of climate change.<sup>65</sup> The most common and universal operationalization of capabilities is capacity to pay – the idea that burdens should be distributed in accordance with the parties’ financial capacities, usually measured in gross domestic product (GDP).<sup>66</sup>

In addition, this includes the capacity to afford emission cuts while ensuring the stability of continuous economic growth, mitigation and adaptation actions, and most importantly, the financial and technological capability to support fellow countries.<sup>67</sup> Thirdly, fairness as rights—‘right to development’, suggests that developing countries should be allowed to develop the same way as the industrialized ones have, with the implication that the mitigation burden would fall heavily or entirely on industrialized countries.<sup>68</sup> This argument is based on ‘ethical grounds’ that developing countries have the right to equal access to sustainable development and poverty eradication and must be supported in order to continue their development priorities while

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<sup>63</sup> Street, *Climate Diplomacy from Rio to Paris: The Effort to Contain Global Warming: The effort to Contain Global Warming*, 26.

<sup>64</sup> Vegard Tørstada and Håkon Sælen, “Fairness in the climate negotiations: what explains variation in parties’ expressed conceptions?” 644.

<sup>65</sup> *Ibid*, 644.

<sup>66</sup> Mathias Risse, “Who Should Shoulder the Burden? Global Climate Change and Common Ownership of the Earth,” *Harvard Kennedy School*. (2008):38.

<sup>67</sup> *Ibid*, 40.

<sup>68</sup> Vegard Tørstada and Håkon Sælen, “Fairness in the climate negotiations: what explains variation in parties’ expressed conceptions?” 645.

managing the effects of climate change.<sup>69</sup> The dynamics of politics in UNFCCC COP events have demonstrated this very challenge of negotiating what a fair distribution should be based on in order for climate-related actions to be distributed accordingly.

IPCC identifies key climate-related actions that the international community seems to center negotiations on: 1) Targets to reduce GHG emissions; 2) International assistance to increase effective adaptation and mitigation strategies. Adaptation concerns the ways in which the social and economic domains are “ready” for change in the environmental domain, and includes resulting actions while mitigation focuses on one particular way society and the economy use natural resources and aims to make this use environmentally sustainable;<sup>70</sup> and 3) Transfer of financial and technological resources complementary to development needs and climate-resilient strategies.<sup>71</sup> The UNFCCC has established financial mechanisms (i.e. Global Environmental Facility (GEF) that can operate in assistance to transfer of financial and technological resources between countries in relation to climate-related reasons. This was followed by the Special Climate Change Fund (SCCF), the Least Developed Countries Fund (LDCF), the GCF and the Adaptation Fund (AF) under the Kyoto Protocol.<sup>72</sup>

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<sup>69</sup> *Ibid*, 645.

<sup>70</sup> IPCC. “Summary for Policymakers: Climate Change 2014: Impacts, Adaptation, and Vulnerability,” 5.

<sup>71</sup> IPCC. “Summary for Policymakers: Climate Change 2014: Impacts, Adaptation, and Vulnerability,” 8.

<sup>72</sup> IPCC. “Summary for Policymakers: Climate Change 2014: Impacts, Adaptation, and Vulnerability,” 6.

## **The Right to Development: A Justification to Address Equality and Fairness**

According to the UNHRC addressing climate justice shares a common justification to argue for equality and fairness, which is a nation's right to development.<sup>73</sup> The Declaration on the Right to Development places the human person at the centre of climate change.

Article 1.1 of the Declaration on the Right to Development:

“Everyone is “entitled to participate in, contribute to, and enjoy economic, social, cultural and political development, in which all human rights and fundamental freedoms can be fully realized,” the ground breaking UN Declaration on the Right to Development proclaimed in 1986 that development is a right that belongs to everyone.”<sup>74</sup>

Equality and fairness are complementary principles, because how countries understand ‘equality’ is how they will base their understandings of a ‘fair’ distribution of climate change responsibilities.<sup>75</sup> The recognition of these inequalities can provide guidance as to the distribution of costs and responsibilities of climate change. The UNHRC further argues that the right to development for every nation relies heavily on a fair distribution of climate change related costs and responsibilities to ensure that every country are equally capacitated to respond to climate change and are able to fulfill this right.<sup>76</sup>

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<sup>73</sup> Marcos Orellana, “Realizing the Right to Development,” *United Nations Human Rights*. (2013): 322.

<sup>74</sup> *Ibid*, 67

<sup>75</sup> *Ibid*, 112

<sup>76</sup> *Ibid*, 323

However, the dynamics of politics and the different understandings of what is meant by ‘equality’ and ‘fairness’ has led to the very challenge of addressing climate justice. The developing and developed countries have different understandings of ‘equality’ among the international community and ‘fairness’ in the distribution of climate change related responsibilities, leading to arguments and negotiations on their respective right to development without necessarily considering an inclusive and overarching promotion of every nations’ right to development.<sup>77</sup> How the developing and developed countries, separately argue for a fair distribution of climate change actions is simply based on their opposing views of one another in their contribution to climate change and their capacity to mitigate or adapt to climate change. The bottom line is, the complexity for the international community to cooperate to address climate justice, is specifically due to their different understandings and views on the ‘equality’ and ‘fairness’ principles of climate justice.

## **LITERATURE REVIEW**

### **Equality and Fairness Issues in UNFCCC COP**

The majority of climate change literatures has focused on the dynamics of politics in the UNFCCC COP events to assess the cooperative and non-cooperative behaviours of the international community. Addressing climate justice raises pluralistic and as often times,

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<sup>77</sup> 18.

opposing views on ‘equality’ amongst the international community and ‘fairness’ in the distribution of climate change actions. Since the first UNFCCC COP conferences and negotiations in 1992, this remains the very challenges to international cooperation. Throughout time, developing and developed countries have presented their differing views on what’s considered to be an inclusive and just climate change treaty that aims to tackle climate change and addresses climate justice.

This literature review presents developing and developed countries arguments following a timeline of the 23 years (1992 to 2015) of their political debate on climate justice in four key UNFCCC negotiations: Earth Summit at Rio de Janeiro (1992), the Kyoto Protocol (1997), the Copenhagen Accord (2009), and Paris Climate Change Conference (2015). The UNFCCC negotiations will present the challenges of the international community in addressing climate justice; 1) The developing and developed countries different views on equality and fairness in addressing climate justice; and 2) The difficulty of international cooperation which has resulted to stalemates, deadlocks and ultimately the slow progress in producing an inclusive and just climate change treaty.

### Development Theories

Efforts towards climate justice in UNFCCC negotiations is hampered by the lack of cooperation between the developing and developed countries. What most scholars call the division between the ‘North–South’ in climate negotiations can be understood through the two key issues of inequality and unfairness between countries. Several disparate theories, specifically the structuralism, world systems theory, and rational choice institutionalism seeks to explain why

inequality and fairness issues is an impediment to international efforts in climate change as well as inform the types of policy measures that may be necessary to address the core concerns of the global South. According to Timmons, the challenge to cooperation on addressing climate justice grew almost inevitably from the starkly unequal world, which has created and perpetuated highly divergent ways of thinking and promoting particularistic notions of equality and fairness.<sup>78</sup>

Firstly, rational choice institutionalism explains the reasons for voluntary international cooperation and also the challenges to cooperation. Scholars such as Keohane from this camp has the creation, maintenance and implementation of regimes, such as international laws, institutions and organizations are needed to facilitate multilateral cooperation from various, differing and sometimes parties with opposing interests.<sup>79</sup> According to Timmons, “By increasing transparency and providing reliable information, monitoring and verifying state behavior, assisting implementation, and sanctioning non-compliance, institutions help states to move away from pursuing relative gains – where ‘my gain is your loss’ – toward positive-sum outcomes”.<sup>80</sup> In short, institutions help states overcome collective action problems and promote their shared interests in a shifting and complex world. However, if a state’s willingness or ability to commit to an international environmental agreement is weak and under scrutinized, institutionalists argue that cooperation would be unlikely.<sup>81</sup>

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<sup>78</sup> Bradley, Parks and Timmons, Roberts. “Climate Change, Social Theory and Justice. Theory, Culture and Society. 27(2010) 2-3:(2010) 135-166.

<sup>79</sup> Anne, Herbert. “Cooperation in international relations: A Comparison of Keohane, Haas and Franck.” Berkeley Journal of International Law. 1(1996)14: 223.

<sup>80</sup> Bradley, Parks and Timmons, Roberts. “Climate Change, Social Theory and Justice.” 139.

<sup>81</sup> *Ibid*, 139.

For instance, structuralist ideas of international cooperation in relation to climate change issues is largely attributable to patterns of how developing countries views their position in the global hierarchy of economic and political power. Dependency theory provides lenses in understanding the reason for the very feature of inequality among countries which is undermining international cooperation.<sup>82</sup> Krasner argued that ideas about ‘dependency’ affected how many developing countries viewed the world, their identity in relation to other states, their goals and how such goals could be most effectively realized. As Najam added, the perspective of developing country leaders are along the lines that “The self-definition of the South . . . is a definition of exclusion: these countries believe that they have been bypassed and view themselves as existing on the periphery.”<sup>83</sup> Along the lines of the world-system theory, it explains the underlying factors that condition a state’s willingness and ability to participate in such arrangements. It explains the periphery being the developing countries are sources of exploitation for the core, who are the wealthy, industrialized countries. It views the system to be structured for the benefits of the core’s production and consumption, and systematically exploitative, providing challenges and limited opportunities for the developing countries to grow.<sup>84</sup>

Therefore, structuralist and worldview theories explains that norms of fairness are extremely elastic and subject to political manipulation. In many cases, countries hold genuinely different perceptions of fairness because of the highly disparate positions that countries occupy in the global hierarchy of economic and political power. For instance, some developing

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<sup>82</sup> *Ibid*, 137.

<sup>83</sup> *Ibid*, 146.

<sup>84</sup> Parks and Roberts, “Climate Change, Social Theory and Justice,” 146.

countries argues that they are unjustly suffering the consequences of the developed countries over consumption. They also suggest that they are entitled to pursue ‘cheap’ energy consumption and production that is environmentally damaging such as fossil fuel consumption for economic growth, since current-wealthy countries did the same at their early stages of development.<sup>85</sup> In contrast, developed countries argue that a climate agreement excluding developing countries is unfair and considerably pointless, since their emissions will increase exponentially over the next few decades.<sup>86</sup> Some developed countries have already argued in UNFCCC negotiations that if they continue to be the bearer of sustaining global economic growth and international financial support for the rest of the world, it would be considerably unrealistic to expect the necessary and immediate reductions of carbon emissions needed.<sup>87</sup>

### **Developing Countries Perspective on Equality and Fairness**

In 1992, the first United Nations Conference on Environment and Development, also known as the Rio de Janeiro Earth Summit brought together more than 178 countries including non-governmental organizations (NGO) to welcome international and global partnership to negotiate on how the world can transition to set the world on a path of sustainable development, while improving human lives and ensuring the protection of the environment for the coming generations.<sup>88</sup> The reference of the CBDR principle presents the international community’s

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<sup>85</sup> *Ibid*, 148.

<sup>86</sup> *Ibid*, 149.

<sup>87</sup> *Ibid*, 140.

<sup>88</sup> Sustainable Development Goals: Knowledge Platform, Agenda 21, <https://sustainabledevelopment.un.org/index.php?page=view&type=400&nr=23&menu=35> (accessed January 21, 2019).

understanding that there exist inequalities between the developing and developed countries. The principle reflects the core arguments of the developing countries in how they understand 'equality' and how they negotiate the distribution of responsibilities amongst the international community. For the developing countries, in order to generate a consensus on a climate change treaty that is just and inclusive, the international community must address the issues of inequalities between the developed and developing countries.<sup>89</sup>

As mentioned earlier, literatures by Pauw, Page and Klinsky have identified the issues of inequality between developing and developed countries along the lines of the countries historic responsibility that caused climate change; their unequal impacts of climate change; and their unequal status of development to have the capacity to mitigate and adapt to threats of climate change. To compliment this, Jotzo (2005) and Gupta (2008), provides the perspectives of the developing countries on the key inequalities that exist amongst the international community, of which a fair distribution of climate-related actions should be based on.<sup>90</sup> Jotzo and Gupta along with a number of collected literatures identifies 3 common issues of inequality; First and foremost, developing countries argues that the developed countries have a historic responsibility of causing the climate change the world is experiencing.<sup>91</sup> Developing countries are home to 5 out of the 6 billion people, but historically have contributed only around one-quarter of the greenhouse gases from energy consumption now accumulated in the atmosphere.<sup>92</sup> Based on the Center for Global Development, between 1850 and 2011 the developed countries are responsible

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<sup>89</sup> Edward A. Page, "Distributing the burdens of climate change," 566.

<sup>90</sup> Jotzo, "Developing Countries and the Future of the Kyoto Protocol," and Gupta, "Engaging developing countries in climate change negotiations".

<sup>91</sup> Gupta, "Engaging developing countries in climate change negotiations." 25.

<sup>92</sup> Jotzo, "Developing Countries and the Future of the Kyoto Protocol," 77.

for 79 percent of the historical carbon emissions.<sup>93</sup> Between 1850 to 2011, developed countries emitted large amounts of GHG, the largest being the EU (40%), followed by the US (22%), Russia (6%) and Japan (3%). The developing countries are led by China (9%), India (2%), Latin America (3%) and Sub-Saharan Africa (1%).<sup>94</sup> On average, energy use and emissions per person in developing countries are still only around one-quarter of those in industrialized countries.<sup>95</sup>

This data presented, reinforces the second issue of inequality – developing countries that do not have a history of large GHG emissions are unjustly experiencing the devastation of climate change first and worst.<sup>96</sup> IPC has compiled evidences of the impacts of climate change in stressing environmental health and exacerbating the development challenges countries are already struggling to achieve. The third issue of inequality is that developing countries does not have the capacity to mitigate and adapt to the growing threat of climate change. As Jotzo articulates, developed countries spent years emitting GHG emissions in order to develop their societies at its current advantageous, capacitated and resilient state to climate change.<sup>97</sup> In relation to the periphery-core theory, this was at the expense of the developing countries, which remains and is arguably kept at a status of vulnerability, for the developed countries to maintain or improve livelihoods in the midst of climate changes impacts.<sup>98</sup> Resources for economic restructuring are far more limited in developing countries, with average per capita incomes being less than one-quarter of those in the industrialized world.<sup>99</sup>

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<sup>93</sup> Jonah Busch, *Center for Global Development*, <https://www.cgdev.org/blog/climate-change-and-development-three-charts> (accessed October 18, 2018).

<sup>94</sup> *Ibid.*

<sup>95</sup> Jotzo, “Developing Countries and the Future of the Kyoto Protocol,” 77.

<sup>96</sup> *Ibid.*, 77

<sup>97</sup> Jotzo, “Developing Countries and the Future of the Kyoto Protocol,” 77.

<sup>98</sup> Gupta. ”Engaging developing countries in climate change negotiations.“ 4.

<sup>99</sup> *Ibid.*, 76

Therefore, recognizing the issues of inequality between the developing and developed countries is paramount to understanding for a 'fair' allocation of climate-related responsibilities. Earlier, Vegard Tørstada and Håkon Sælen (2018) have described that fairness in the distribution of climate-related actions should be based on a countries responsibility for contributions to climate change, the capability to address climate change and the equal opportunity to fulfill their right to development.<sup>100</sup> Wiegandt (2001) and Vegard Tørstad and Håkon Sælen (2018), further elaborates the developing country's perspective on these fairness: Firstly, Wiegandt argues that it's paramount that developed countries pay their 'climate debt' and lead in reducing their GHG emissions based on the fairness of responsibility.<sup>101</sup> The principle of responsibility argues that a problem should be solved by the party that caused it. Secondly, fairness in the distribution should also be based on the countries capabilities to take on climate-change related actions.<sup>102</sup> As developed countries have built their wealth through energy-intensive industrialization, they have the capacity in resources, specifically in financial capacity to address climate justice and tackle climate change.<sup>103</sup> This includes the capacity to fund international transfer of technological and financial resources to capacitate the developing countries in order for them to be able to mitigate and adapt to climate change and achieve sustainable development. Thirdly, developing countries have equal rights to development, and greenhouse gas constraints (along with other environmental policies) are often seen as obstacles to their development.<sup>104</sup> Based on Wiegandt

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<sup>100</sup> Vegard Tørstada and Håkon Sælen, "Fairness in the climate negotiations: what explains variation in parties' expressed conceptions?"

<sup>101</sup> Wiegandt Ellen, Climate Change, Equity and International Negotiations, *International Relations and Global Climate Change* (Cambridge, Mass, 2001), 145.

<sup>102</sup> *Ibid*, 146.

<sup>103</sup> Jotzo, "Developing Countries and the Future of the Kyoto Protocol," 77.

<sup>104</sup> Vegard Tørstada and Håkon Sælen, "Fairness in the climate negotiations: what explains variation in parties' expressed conceptions?" 644.

and, Vegard and Sælen, developing countries puts forward a compelling ethical case that poorer countries should be free to develop economically without greenhouse gas constraints as did the currently developed countries in the past. Given these reasons, developing countries persistently will not assume any binding targets unless the developed countries have actually taken initiatives.

### Shortcomings to 1992 Rio Conference Agenda 21 and 1997 Kyoto Protocol

The arguments and demands of the developing countries in addressing issues of inequality and unfairness were reflected in the adaptation of Agenda 21 and the 1997 Kyoto Protocol in the third Conference of the UNFCCC (COP 3). Agenda 21 is a non-binding climate action plan that outlines the need for the developing countries to receive international assistance in tackling climate change challenges and to pursuit efforts of sustainable development. This involves the developed countries to commit to donating towards the UN target of 0.7 percent of their annual GNP and transferring technologies. However, commitments by the developed countries fell short.<sup>105</sup> In 2003, Agenda 21, records shows that only five countries met or surpassed the 0.7 percent target: Denmark, Luxembourg, Netherlands, Norway and Sweden.<sup>106</sup> In 2005, the total aid from the 22 wealthiest countries did not meet their 0.7 percent target of 119 billion but only donated \$106 billion.<sup>107</sup> The funding arrangements and transfers of technology have not been delivered as promised. In fact, the Official Development Aid (ODA) reports that financial donation in 1992 fell from \$62.4 billion to \$48.7 billion in 1997.<sup>108</sup>

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<sup>105</sup> United Nations, “Review of implementation of Agenda 21 and the Rio Principles,”13.

<sup>106</sup> *Ibid*, 3.

<sup>107</sup> *Ibid*, 13.

<sup>108</sup> *Ibid*, 13.

In 1997, the international community adopted the Kyoto Protocol which placed a great responsibility of reducing GHG emissions by setting binding GHG reduction targets on industrialized countries, while the developing countries did not receive any. The grandfathering system of the Kyoto Protocol subjects Annex I countries consisting of the US, Japan and the EU to binding commitments of making an average of 5.2 percent cut in their GHG emissions from a 1990 baseline by 2012.<sup>109</sup> This included the burden-sharing of the reduction targets among the Annex 1 countries: the EU's target was (8%), the US was assigned (7%) and Japan (6%).<sup>110</sup> The emission trading system provided flexibility for states to achieve their targets by buying and selling permits to emit GHG. The Protocol needed 55 countries to ratify, accounting for 55 percent of the GHG emissions in 1990.<sup>111</sup> The Kyoto Protocol wasn't able to come into effect until 2005 followed by the ratification by Russia totaling to 192 states but the refusal of the US under the Bush administration, followed by President Obama in 2009, placed the treaty in jeopardy<sup>112</sup>. China with developing countries remains strict that they will not assume binding obligations until industrialized countries have actually achieved initial targets and increase the form of aid and technology.<sup>113</sup> On behalf of the developing countries, India's Minister for Environment states, "the moral principle of historic responsibility cannot be washed away."<sup>114</sup>

### **Developed Countries Perspective on Equality and Fairness**

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<sup>109</sup> Eija –Riitta Korhola, "The Rise and Fall of the Kyoto Protocol: Climate Change as Political Process." *Faculty of Biological and Environmental Sciences*. (2014):50.

<sup>110</sup> *Ibid*, 50

<sup>111</sup> *Ibid*, 50

<sup>112</sup> Jotzo, "Developing Countries and the Future of the Kyoto Protocol," 78.

<sup>113</sup> Rafael, Leal-Acras. "The BRICS and climate change." *International Affairs Forum*. 10,2 (2013): 1.

<sup>114</sup> Street, *Climate Diplomacy from Rio to Paris: The Effort to Contain Global Warming: The effort to Contain Global Warming*, 89.

According to Rafael, Leal-Acras (2013), Korhola (2014) and Oliver (2012) resistances to the Kyoto Protocol was derived from US opposing views on the arguments and demands of the developing countries.<sup>115</sup> Based on the principles of equality and fairness, the US argues that a global effort should include the developing countries, more specifically, countries that account for major historical, current and future contributions to GHG emissions (i.e. China and India) as effective participants in addressing the global issue of climate change and climate justice<sup>116</sup>. In the perspective of the US, this pertains to climate change costs and responsibilities being fairly distributed as volunteer efforts by individual countries in respect of their capacity.

The US questioned in the language of equality and fairness why should they take on binding targets when large emitters mainly China and India are exempted.<sup>117</sup> The issues of inequality may have been based on the argument that wealthy countries are historically responsible for three-quarters of global emissions but this was two decades ago and as of 2011, they have been responsible for less than half.<sup>118</sup> In 2011, CO<sub>2</sub> emissions from OECD countries accounted for only one third of global emissions.<sup>119</sup> The BRICS (Brazil, Russia, India, China and South Africa) countries are currently accounting for nearly half of global emissions.<sup>120</sup> Latest statistics released by the International Energy Agency (IEA) shows that emissions from Annex I countries consisting of US, the EU and Japan increased by 3.3 percent in 2010, whereas emissions in non-Annex countries that includes China and India increased, very rapidly at 5.0 per

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<sup>115</sup> Olivier, "Trends in global CO<sub>2</sub> emissions 2012 Report," Leal-Acras, "The BRICS and climate change," and Korhola, "The Rise and Fall of the Kyoto Protocol: Climate Change as Political Process,"

<sup>116</sup> *Ibid*, 78.

<sup>117</sup> Leal-Acras, "The BRICS and climate change," 23.

<sup>118</sup> Olivier, "Trends in global CO<sub>2</sub> emissions 2012 Report," 10.

<sup>119</sup> Olivier, "Trends in global CO<sub>2</sub> emissions 2012 Report," 10.

<sup>120</sup> *Ibid* 10.

cent with a sharp rise in 2009 after the 2008 financial crisis.<sup>121</sup> The statistics shows that the BRICS are increasingly becoming large emitters of GHG. From 2008 to 2009 reports on GHG emission, China has increased by 13.3 per cent followed by India with 8.7 percent and the US decreased with a -7 percent.<sup>122</sup> Therefore, the US argues that the Kyoto Protocol's embodiment of climate justice of punishing those historically responsible does not reflect the reality and statistics today that few emerging economies mainly China and India's GHG emissions are rising.<sup>123</sup> It would be unfair that climate- related actions such as reducing GHG emissions, transferring financial and technological resources are placed solely on the developed countries.

According to the literatures, the US argues that the distribution of climate-related actions should be fairly allocated to the developing and developed countries based on their capacity. The US promotes a fair distribution of climate change costs and responsibilities based on voluntary national targets.<sup>124</sup> This would accommodate the developing countries status of development and capacity in which they can contribute to the global cause. A fair quantitative commitments for developing countries would accommodate their capability to deliver or to commit to targets. In particular, fairness by responsibility in absorbing the costs of reducing GHG emissions should not be limited to those with historic responsibility but should be extended to countries that are contributing to climate change today and who will be potentially responsible in the future.<sup>125</sup> The developing countries may argue based on the principle of fairness on right to development, but

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<sup>121</sup> Leal-Acras, "The BRICS and climate change." 22.

<sup>122</sup> *Ibid*, 22.

<sup>123</sup> Jotzo, "Developing Countries and the Future of the Kyoto Protocol," 76.

<sup>124</sup> Korhola, "The Rise and Fall of the Kyoto Protocol: Climate Change as Political Process," 53.

<sup>125</sup> Edward A. Page, "Distributing the burdens of climate change," 558.

the US suggests that the developed countries can't be accountable and fully responsible to the rests of the world's development.

### Deadlock in Copenhagen

“Time is up – the deadline is Copenhagen. There are moments in history where the world can choose to go down different paths. The COP15 Climate Conference in Copenhagen is one of those defining moments: We can choose to go down the road towards green prosperity and a more sustainable future. Or we can choose a pathway to stalemate and do nothing about climate change leaving an enormous bill for our kids and grand-kids to pay. It really isn't that hard a choice,” Connie Hedegaard, EU Climate Commissioner and President of the Copenhagen Climate Conference articulated on 7 December 2009 during the UN Climate Change Conference in Copenhagen (Copenhagen Conference).<sup>126</sup> The conference was eagerly awaited and described as the most important political conference in world history, hence its nickname ‘Hopenhagen’.<sup>127</sup>

However, Copenhagen Conference became the stage of political debate of climate justice. The Conference demonstrated that any solutions to negotiations must involve the large emitters first such as the BRICS lead by China and the US before any talks on addressing climate justice. A number of literatures have been rife with the conference being a total debacle, a deadlock between the COP parties with no legally binding or politically unanimous agreement.<sup>128</sup> The US and other developed countries urged the developing countries, specifically the BRICS to be active participants in the allocations of climate related responsibilities of reducing greenhouse

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<sup>126</sup> Korhola, “The Rise and Fall of the Kyoto Protocol: Climate Change as Political Process,” 71.

<sup>127</sup> *Ibid*, 71.

<sup>128</sup> *Ibid* 71.

gases GHG emissions.<sup>129</sup> The developed countries, with the exception of the United States and Canada, made considerable contributions to a strong global agreement. They laid the ground for a treaty by offering ambitious national emissions reductions and providing considerable amounts of money for climate policy in developing countries. However, China, India, and Brazil did not agree to the ‘greenwashing’ the absence of a substantive agreement, blocking substantive policy proposals and refused to reciprocate with proposals of their own.<sup>130</sup>

In 2012, reports of the six largest emitting countries placed China first with 29 percent topping the United States with 15 percent, followed by the EU with 11 percent India with 6 percent, Russian Federation with 5 percent and lastly, Japan with 4 percent of GHG emission in the world share.<sup>131</sup> China is the world’s leading consumer of coal with 66 percent of its total energy use and leading producers accounting for about 47.4 percent of the world’s coal output.<sup>132</sup> In 2012, China was reported to be the world's top coal producer, consumer, and importer and accounts for almost half of global coal consumption. China’s domestic coal consumption grew by 9.7 percent and coal import increased by 10 percent, making China the world’s largest coal importer. Recently, controversies have also surrounded the US oil and gas drilling rush along with shale gas fracking, becoming the largest natural gas producer in the world.<sup>133</sup> India's GHG emissions rose by 58 percent between 1994 and 2007 with the energy sector contributing over half of the emissions. The process of economic development namely for China and India has

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<sup>129</sup> *ibid*, 71.

<sup>130</sup> Radoslav Dimitrov, “Inside UN Climate Change Negotiations: The Copenhagen Conference,” *Review of Policy Research* 27(6). (2010):796.

<sup>131</sup> Olivier, “Trends in global CO2 emissions 2012 Report,” 6.

<sup>132</sup> Energy Information Administration, *Energy Information Administration*.

[https://www.energy.gov/sites/prod/files/2016/04/f30/China\\_International\\_Analysis\\_US.pdf](https://www.energy.gov/sites/prod/files/2016/04/f30/China_International_Analysis_US.pdf) (accessed on September 2018). 2.

<sup>133</sup> *Ibid*, 6.

flourished in the last decade with growing industries such as cement production, coal, electricity and transport which are main contributors to the GHG emission.<sup>134</sup> As these emerging economies expand, their rise in GHG makes the US argument seem reasonable.

The non-binding accord called for individual states to pledge the actions they will take in reducing GHG emission; except for the 99 parties from the Annex I (developed) countries who must meet emission targets for 2020. In the case of non-Annex I (developing) countries, it calls for parties to have ‘nationally appropriate mitigation actions’ and the least developed and small island countries which consists of 46 countries will have to undertake actions voluntarily with support from developed countries.<sup>135</sup> The provisions were non-binding and had bracketed texts, meaning there were many disagreements mainly derived from the US and the BRICS who negotiated the end of the Copenhagen behind closed doors.

### **The Compromise in the 2015 Paris Agreement**

On December 2015, 196 Parties to the UNFCCC adopted the Paris Agreement, a new legally-binding framework for an internationally coordinated effort to tackle climate change. The agreement was signed under the auspices of the UNFCCC, and was reached under intense international pressure to avoid a repeated failure of the Copenhagen climate conference in 2009. The adoption was a milestone in international climate politics and brings years of near deadlock negotiations to a conclusion.<sup>136</sup> The international community agreed to the Paris

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<sup>134</sup>Olivier, “Trends in global CO<sub>2</sub> emissions 2012 Report,” 6.

<sup>135</sup> Center for Climate and Energy Solutions, *Policy Hub International*. <https://www.c2es.org/content/cop-15-copenhagen/> (accessed on October 3, 2018).

<sup>136</sup> Clemenson, “The Two Sides of the Paris Climate Agreement: Dismal Failure or Historic Breakthrough?” 2.

Agreement in setting the world on a path towards an environmentally friendly, resilient and prosperous future. Limiting global warming to avoid the worst of the potential negative impacts will require a drastic change in the emissions trajectories in both rich and poor countries, thus developing countries must be included in the global effort.<sup>137</sup>

This agreement demonstrated a negotiation where instead of seeking an agreement in the fair allocation of a carbon budget based on equality issues based on the CBDR principle, every country will lead in their own nationally set targets. One of the major objectives of the Paris Agreement is to limit global temperatures below 1.5 degrees Celsius to avoid the worst of the potential negative impacts.<sup>138</sup> A drastic change in the emissions trajectories must be a global effort for effective transformative change, thus both rich and poor countries must be included in the global effort. The agreement asks all countries, whether developed or developing, to communicate their own mitigation targets. Surprisingly this agreement acknowledges that international cooperation and climate change efforts would result from national targets from all countries, a bottom-up approach and it also asserts the need for future political dynamics to reduce the division between developing and developed countries. The Convention has been ratified by all major countries, including the US, yet there is no global consensus about who should do how much to address the causes and impacts of climate change, and who should pay for it.<sup>139</sup>

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<sup>137</sup> Jotzo, “Developing Countries and the Future of the Kyoto Protocol,” 78.

<sup>138</sup> Clemencon, “The Two Sides of the Paris Climate Agreement: Dismal Failure or Historic Breakthrough?” 2.

<sup>139</sup> *Ibid*, 15.

Therefore, the Paris Agreement signifies that a bottom-up approach based on each countries' voluntary pledge may indeed be the only realistic way to establish international cooperation to move forward for now, but addressing climate justice still awaits. Though, the Paris agreement is celebrated for generating a consensus, national targets doesn't necessarily address issues of equality and fairness amongst the international community which is at the heart of addressing climate justice. The Paris Agreement demonstrated that the international community could not find a common ground to their differentiating views on an 'equal' and 'fair' treaty to establish a unified global action plan to deliver climate justice which involves responding to the most vulnerable. In the end, developing countries had no place else to go but to resign to the fact that any agreement was better than no agreement at all.<sup>140</sup> This also resulted to an agreement that defines no specific emissions reduction timeline, and no concrete plans to phase out of fossil fuel subsidies, to stop construction of new coal-fired power plants, and to substantially and transparently increase financial support to developing countries.<sup>141</sup> Addressing climate justice still awaits, as years of the UNFCCC negotiations have demonstrated the international community's challenges to cooperate with one another.

## ANALYSIS

### **Challenges to UNFCCC COP Cooperation: National Interests**

Based on the review of the four major UNFCCC COP negotiations, it is strongly argued that the UNFCCC's difficulty to strike a balance between their different perspectives of equality

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<sup>140</sup> *Ibid*, 7

<sup>141</sup> *Ibid*, 16.

and fairness in the discussions of addressing climate justice, contributes to the unsuccessful negotiations. The debates emphasized that climate justice, is elastic and is subject to political interpretation which can be derived from their national interest.<sup>142</sup> In particular, the developing and developed countries different interpretations of equality and fairness in the UNFCCC negotiations is shaped based on how their national (self-) interests and motives can be promoted in the climate treaty.<sup>143</sup> The UNFCCC negotiations demonstrates this dynamics of power politics in their positional bargaining in cooperating and also avoiding climate-related. Instead of cooperation, the developed and developing countries were competing with one another for the adoption of their notion of equity and fairness in the climate change treaty.

#### Developed Countries Positional Bargaining

The emergence of the BRICS caused a major shift in the structure of the global political economy, influencing a change in how ‘equality’ and ‘fairness’ is perceived, complicating the recognition of climate injustice and how to address it. As demonstrated in the negotiations of the Kyoto Protocol and the Copenhagen Accord, the American’s reluctance to take on GHG commitments is because of China’s emerging status of power in the economic and political arena, backed by the growing influence of the BRICS.<sup>144</sup> The US would want to ensure their competitiveness in the midst of rising countries such as China and India. The developed countries’ concerns were further articulated by the US and Australia in resistance to the Kyoto Protocol. The US was adamant that they would not sign an agreement that includes GHG

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<sup>142</sup> Figueres. “Climate Change: National Interests of a Global Regime?” 14.

<sup>143</sup> *Ibid*, 14.

<sup>144</sup> Jotzo, “Developing Countries and the Future of the Kyoto Protocol,” 78.

commitments unless developing countries also face such commitments in the same commitment period. In 2001, President Bush wrote a letter to his Senators, “As you know, I oppose the Kyoto Protocol because it exempts 80 percent of the world, including major population centers such as China and India, from compliance, and would cause serious harm to the U.S. economy. The Kyoto Protocol is an unfair and ineffective means of addressing global climate change concerns.”<sup>145</sup> This influenced the decision of the Howard government in Australia who decided against ratifying the Kyoto Protocol arguing with similar justifications, “the chorus of critics ... which joined the Kyoto conga line before it had the facts at its disposal, would do better to stop pretending that the Protocol will solve the global greenhouse problem. Kyoto will deliver at best around 1 percent of abatement; fails to cover 75 percent of global greenhouse emissions and does not involve developing countries, who will soon emit over half the world’s greenhouse gases ... This government’s policies ... will not sacrifice Australian jobs and investment for the sake of looking green rather than delivering real results.”<sup>146</sup> As developing countries are free from GHG commitments they would gain a competitive advantage which would be running against the developed countries, specifically the US and Australia’s national interest. This statement was influenced by the energy-intensive industries in industrialized countries who have lobbied against the Kyoto Protocol<sup>147</sup>.

Allowing developing countries and as China categorizes itself as, to continue emitting large percentages of the global GHG emissions would be unfair for the US and developed countries who would have to curtail their economic growth giving China and the developing

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<sup>145</sup> *Ibid*, 78.

<sup>146</sup> *Ibid*, 79.

<sup>147</sup> *Ibid*, 79.

countries a competitive advantage. This would also lead to ineffective climate change responses in maintaining global temperature, since the developed countries are the only one cutting back GHG emissions while 80 percent of the world isn't. Following the bilateral meeting between top emitters, China and the US, the Copenhagen Conference marked a new face of climate justice talk whereby national (self-) interests and back-room dealing have forced justice concerns off the table, to be replaced by political expediency and power politics between competing nations.<sup>148</sup>

### Developing Countries Positional Bargaining

As shown in negotiations, developing countries seeks to advance the commitments to the CBDR approach in the climate change treaty because it plays very well in their favour. In the case of developing countries, altering current methods of industrialization is a challenge, requiring long-term transformations and financial resources.<sup>149</sup> The developing countries already lack the economic momentum to provide financial resource for their development priorities of poverty reduction, water and food security, providing quality employment, education and health, On the basis of climate injustice, the least developed and developing countries simply can't afford it on their own and they will negotiate to have international assistance to help them tackle climate change and pursuit sustainable development goals. Developing countries also argues that developed countries didn't get to where they are now without using unsustainable and unclean energy production and consumption as well as having GHG commitments. It would be unfair to have the developing countries change directions to one of technological advancements,

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<sup>148</sup> Leal-Acras, "The BRICS and climate change." 23.

<sup>149</sup> *Ibid*, 14.

especially when they are already lacking resources of their own and must negotiate with developed countries to receive assistance in forms of climate debt.

#### A Rift in the CBDR Principle

However, developing countries concerns over the CBDR approach in the climate change treaty to address climate justice are seen as a method or strategy in which the developing countries can gain development resources from the developed instead of focusing on environmental objectives. For instance, the ‘right to develop’ is employed to justify that ‘developing’ countries should be allowed to develop the same way as the industrialized ones have, with the implication that the mitigation burden would fall heavily or entirely on industrialized countries.<sup>150</sup> On ethical grounds, the right to development is arguably the most persuasive but, it scores low on political feasibility because it entails large redistributions relative to the status quo.

Therefore, putting forward justice claims does not improve the chances of cooperation, but adds a new potential cause of failure since, justice requires reparation and compensation measures that the other party may not be willing to commit. This fault, leads to treaties misinterpreting solidarity – as tantamount to “charity” in the sense where rich states must support the poorer ones by granting development aid, but rather focusing on an intra-state cooperation – with mutual respect and acting in concert to achieve community’s aim.<sup>151</sup> As expressed in General Assembly 1974 – the will to establish a new cooperative international order of economic

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<sup>150</sup> Jotzo, “Developing Countries and the Future of the Kyoto Protocol,” 78.

<sup>151</sup> Ulrich Beyerlin, “Bridging the North-South Divide in International Environmental Law,” *Max-Planck-Institut*, (2006): 269.

relations informed by the principle of solidarity - by definition solidarity cannot impose a one-sided obligation.<sup>152</sup>

### **Climate Justice A Global Effort**

Based on UNFCCC COP, the negotiations for the past years was unsuccessful because it did not produce outcomes that strike a sound balance between the competing interests of the developing and developed countries. Climate justice refers to the disproportional impact of climate change on poor and marginalized populations. Again, this is what the international community attempts to address and doing so, would require a common understanding of the inequalities between countries and the fair distribution of climate change responsibilities. This is to ensure that tackling climate change also simultaneously addresses climate justice. The UNFCCC negotiations have demonstrated the stubbornness of the international community to address climate justice in galvanizing resources to ensure that all states are equal in resilience and capacity to combat climate change.

In addressing climate justice in the UNFCCC negotiations, there is always a distinction to be made between those parties that are considered eligible to receive special treatment and those that are not, or even those that are obliged to assist the former group with onerous obligations. This very categorization of countries recognized the inequalities of those that are in vulnerable and in need of assistance compared to those that are capable to assist and already stands resilient to the growing threats of climate change. Though the developing countries place a strong

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<sup>152</sup> *Ibid*, 268.

argument, emission cuts cannot occur in rich nations alone, since meaningful reductions require the participation of all major emitters, including those in the developing countries. It is however, of a global responsibility in accordance to what is of ethical and moral principle, to assist the most vulnerable people who reside mostly in the developing nations, including major emitters.

As climate change is a global issue, a global effort is required in response but fairness in the distribution of climate change duties amongst the international community should answer to their own inequalities. Addressing climate justice, in considering equality and fairness means that island nations currently threatened to be under water should not be obliged to commit to climate-related actions but rather should be provided international assistance for their very survival. These developed countries with historical responsibility to climate change are currently resilient and capacitated because years of industrialization at the expense of the resources and development of the developing countries.<sup>153</sup> At the same time, the BRICS today are amongst the largest GHG polluters in the world and without their efforts, climate change mitigation will be very difficult in the near future.

However, positive steps are already being taken. For instance, China may be the largest GHG emitter, but China has also become the leading producer of wind turbines and solar panels. This aggressive move into renewable energy markets represents China's commitment to contribute to climate change mitigation.<sup>154</sup> Such efforts from the BRICS will continue with the help of the developed countries. The real climate justice challenge is ethical, and ethical

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<sup>153</sup> Gupta. "Engaging developing countries in climate change negotiations." 4.

<sup>154</sup> Leal-Acras, "The BRICS and climate change."25.

considerations of justice, equality, fairness, rights, welfare, virtue, community and humanity's relationship to nature are at the heart of the policy decisions to be made to address climate justice.

## **CONCLUSION**

### **Climate Justice Left Unaddressed**

These UNFCCC COP events have become the platform of analysis in demonstrating that addressing climate justice is a key challenge for the to cooperate in solidarity The UNFCCC negotiations on climate change from the Rio conference (1992), the Kyoto Protocol (1997), the Copenhagen Accord (2009) and the Paris Agreement (2015) demonstrates the challenge of negotiating issues of inequality among the international community and issues of fairness in the distribution of climate-change responsibilities. Throughout the UNFCCC negotiations the political debate of climate justice has resulted to the stalemates and deadlocks which are slowing the progress of addressing climate justice. This represents a challenge for the international community to cooperate in finding a common ground, to recognizing and addressing inequalities and negotiating the fair allocation of responsibilities accordingly.

In the Rio Conference (1992), the developing countries demanded that any global solutions to climate change must entrench the CBDR principle and force the wealthy states who are historically responsible to pay their climate debt to respond to climate justice. The resistance by the US in the Kyoto Protocol and the tensions in the Copenhagen Accord demonstrated a disagreement among the developed countries in absorbing climate related responsibilities.

Industrialized countries generally favor the idea of placing more responsibility on developing countries who are currently and are projected to be top GHG emitters in the future, such as China and India. The developed countries' reluctance to commit because of its unfair decisions was demonstrated in the missed targets of Agenda 21 and the late adaptation of the Kyoto Protocol. The developed countries were reluctant in committing to their responsibilities which includes reducing GHG emission, transferring technologies and financial aid. These countries resist the notion of historic responsibility calling for large emitters such as China and India to be subject as well, redefining climate justice to focus on the capacity of current and future contributors to climate change. Though the Paris Agreement is worth the celebration for generating a consensus, the Nationally Determined Contributions (NDCs) represent the very challenge of negotiating inequality and fairness issues in addressing climate justice. That is, countries made sure that there will be no winners or losers, but this does not reflect that there are already winners and losers from the impacts of climate change.

This is a global issue that is continuously becoming a subject of analysis as the growing and cataclysmic threats of climate change is increasingly exacerbating the inequalities between states. According to UNESCO, the triple injustices are still not fully addressed today; the developing countries are still experiencing climate change first and worst, the most vulnerable countries and people are powerless to the adverse effects of climate change and the polluters are still not paying for their climate debt.<sup>155</sup> The reason being is that negotiations on addressing climate justice are being driven by national interest and of power politics, avoiding

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<sup>155</sup> UNESCO, *Teaching and Learning For A Sustainable Future*, [http://www.unesco.org/education/tlsf/mods/theme\\_c/popups/mod19t04s01.html](http://www.unesco.org/education/tlsf/mods/theme_c/popups/mod19t04s01.html) (accessed September 12, 2018).

responsibilities and competing for the benefits. It's not within the interests of any nation to reduce their GHG emissions, to curtail their economic growth and spend on technological advances when other countries are not doing the same. The developing and developed countries will negotiate on the basis of 'inequality' and 'fairness' to avoid climate related responsibilities and to gain benefits from the climate change treaty. This back and forth has results to further divisions, stalemates and deadlocks in negotiations as parties interchangeably act as a "veto" because they regard particular arrangements unequal or unfair.

After many years of UNFCCC international negotiations, global solution to climate change will remain condemned as a fragmented world continues, where power politics comes first and blinds the world leaders from the cataclysm of climate change. Climate change is global, its effects crosses borders, multiplies and prolongs development challenges threatens current and future human well-being. As more years pass, in the dim sight of international cooperation on addressing climate justice, we risk current and future potential to mitigate the growing and possibly irreversible threats of climate change. The international community are taking the modest benefits for themselves now, while passing on potentially catastrophic costs to later generations. Later is coming close, by doing too little too late, climate change will haunt future generations and leave a despoiled earth as our legacy.

## Annex 1: Four UNFCCC COP

### COP1 - 1992 Rio de Janeiro Earth Summit

Date and Location	Major Outcomes:
June 1992 in Brazil, Rio De Janeiro	<ul style="list-style-type: none"> <li>• The first United Nations Conference on Environment and Development, also known as the Rio de Janeiro Earth Summit brought together more than 178 countries including non-governmental organizations around the world. The international conference was centered on global environment and the growing threats and impact of climate change. It established a platform for international and global partnership to negotiate on how the world can transition to set the world on a path of sustainable development, while in improving human lives and while ensuring the protection of the environment for the coming generations.<sup>156</sup></li> <li>• The conference introduced The Rio Declaration on Environment and Development which states that “human beings are at the center of concerns for sustainable development and that they are entitled to a healthy and productive life in harmony with nature.”<sup>157</sup></li> <li>• Established the UNFCCC which seeks to stabilize greenhouse gas emissions in the earth’s atmosphere. Article indicates its objective: “The Parties should protect the climate system for the benefit of present and future generations of humankind, on the basis of equity and in accordance with their common but differentiated responsibilities and respective capabilities. Accordingly, the developed country Parties should take the lead in combating climate change and the adverse effects thereof.”<sup>158</sup></li> <li>• UNFCCC introduced Objective and Principles: Sustainable Development and Common But Differentiated Responsibility (CBDR).</li> <li>• The Agenda 21 was adopted as a blueprint to rethink global economic growth, social equity and environmental protection to achieve sustainable development.<sup>159</sup></li> </ul>

<sup>156</sup> Sustainable Development Goals: Knowledge Platform, Agenda 21, <https://sustainabledevelopment.un.org/index.php?page=view&type=400&nr=23&menu=35> (accessed January 21, 2019).

<sup>157</sup> *Ibid*

<sup>158</sup> Pieter Pauw, “Different Perspectives on Differentiated Responsibilities” *German Development Institute* (2014):4.

<sup>159</sup> United Nations. “Review of implementation of Agenda 21 and the Rio Principles.” 23.

### COP3 - 1997 Kyoto Protocol

Location	Major Outcomes:
December 1997 in Japan, Kyoto	<ul style="list-style-type: none"> <li>• The Kyoto Protocol was established as the grandfathering system. It commits its Annex I and Annex II countries by setting internationally binding emission reduction targets.<sup>160</sup></li> <li>• Under the Kyoto Protocol, the UNFCCC Parties were categorized between “Annex I and II countries” parties (basically comprising “developed, synonymous to industrialised countries”) and “Non-Annex I” parties (i.e. developing countries).<sup>161</sup> The Annex I and II countries are committed to provide funding and other resources to help developing countries both reduce their emissions and adapt to climate change.</li> <li>• The Kyoto Protocol subjects Annex I countries consisting of the US, Japan and the EU to binding commitments of making an average of 5.2% cut in their GHG emissions from a 1990 baseline.<sup>162</sup> The Protocol provided flexibility for states to achieve their targets such as emission trading system by buying and selling permits to emit GHG and through the Clean Development Mechanism (CDM), which encouraged developed countries to invest in technology and infrastructure in less-developed countries, to reduce emission.<sup>163</sup></li> <li>• The Protocol needed 55 countries to ratify, accounting for 55 percent of the GHG emissions in 1990 (Wicke 2005, 31). The Kyoto Protocol wasn’t able to come into until 2005 followed by the ratification by Russia. To date, the treaty has been signed by 192 states.</li> <li>• The challenge with Kyoto Protocol is its non-binding agreement on top emitters. China, the world’s leading GHG emitter and the US the world’s second largest emitter, were not bound by the protocol. China was not bound because of its status as a developing country and the US had not ratified the protocol.</li> </ul>

### COP15 - 2007 Copenhagen Agreement

<sup>160</sup> Roberts Timmons, “Multipolarity and the new world (dis) order: US hegemonic decline and the fragmentation of the global climate regime,” *Global Environmental Change* 21 (2011): 776.

<sup>161</sup> Pieter Pauw, “Different Perspectives on Differentiated Responsibilities,” 17.

<sup>162</sup> Roberts Timmons, “Multipolarity and the new world (dis) order: US hegemonic decline and the fragmentation of the global climate regime,” *Global Environmental Change* 21 (2011): 778.

<sup>163</sup> *Ibid*, 777.

Location	Major Outcomes:
December 2009, Denmark, Copenhagen	<ul style="list-style-type: none"> <li>• As of May 24, 2010, the non-binding accord called for individual states to pledge the actions they will take in reducing GHG emission, except for the 99 parties from the Annex I (developed) countries who must meet emission targets for 2020.</li> <li>• In the case of non-Annex I (developing) countries, it calls for 37 parties to have ‘nationally appropriate mitigation actions’ and the least developed and small island countries which consists of 46 countries will have to undertake actions voluntarily with support from developed countries.<sup>164</sup></li> <li>• The Accord provides that wealthier countries are subject to non-binding short- and long-term financial support to developing countries efforts to deal with climate change. The target is a pledge of US\$10 billion per year (2010-2012) with the promise to increase to US\$100 billion per year starting in 2020.<sup>165</sup></li> </ul>

### COP21 - 2015 Paris Agreement

Location	Major Outcomes:
December 2009, Denmark, Copenhagen	<ul style="list-style-type: none"> <li>• Countries that sign on to the agreement agreed to limit the century’s global average temperature increase to no more than 2 degrees Celsius (3.6 degrees Fahrenheit) above the levels from the years 1850-1900 (the pre-industrial era).<sup>166</sup></li> <li>• Under the agreement, every country will determine their individual NDCs to tackle its GHG emissions. The overall agreement asks developed countries to provide \$100 billion to the fund. This allows states to opt out, as well as take on more responsibility.<sup>167</sup></li> <li>• It was recognized as a hybrid of binding and non-binding provisions but, there’s no clear indications on penalties or consequences for countries that fall short in reaching their pledged targets.<sup>168</sup></li> <li>• The agreement promoted a ‘collective action’ by subjecting the developing and developed countries to submit NDCs and abide by</li> </ul>

<sup>164</sup> *Ibid*, 76.

<sup>165</sup> Heinrich Stiftung, “Where’s the Money? The Status of Climate Finance Post-Copenhagen,” *Climate Finance Policy Brief No.1* (2010): 1.

<sup>166</sup> Charlotte Streck, Paul Keelyside and Moritz Unger, “The Paris Agreement: A New Beginning,” *Journal For European Environmental & Planning Law* 13.(2016):4.

<sup>167</sup> *Ibid*, 6.

<sup>168</sup> *Ibid*, 13.

	similar standards of reporting, review processes and compliance. <sup>169</sup>
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<sup>169</sup> *Ibid.*

## Bibliography

Banks N. et al, "Climate change and social justice: an evidence review," England and Wales, February 18, 2014, <https://www.jrf.org.uk/report/climate-change-and-social-justice-evidence-review>.

Besada, Hany. "Climate Change in Africa: Adaptation, Mitigation and Governance Challenges." *Center for International Governance Innovation*. (2009): 1-52.

Busch, Jonah. "Climate Change and Development in Three Charts." *Center for Global Development*, November, 2015. <https://www.cgdev.org/blog/climate-change-and-development-three-charts>. (accessed on October 18, 2018).

Center for Climate and Energy Solutions. "The 15th Session of the Conference of the Parties the United Nations Framework Convention on Climate Change" *Policy Hub International*, November, 2009. <https://www.c2es.org/content/cop-15-copenhagen/>. (accessed on October 3, 2018).

Charlotte Streck, Paul Keelyside and Moritz Unger. "The Paris Agreement: A New Beginning." *Journal For European Environmental & Planning Law* 13.(2016):4-29

Christian Baatz. "Climate Change and Individual Duties to Reduce GHG Emissions." *Kiel University Ethics, Policy & Environmental* 17,1. (2013): 1-33.

Clemencon, Raymond. "The Two Sides of the Paris Climate Agreement: Dismal Failure or Historic Breakthrough?" *Journal of Environment & Development*, 25(1). (2016):3-24.

Dimitrov, Radoslav "Inside UN Climate Change Negotiations" The Copenhagen Conference." *Review of Policy Research* 27(6). (2010):795-821.

Dong, Feng. "Peak Carbon Emissions in China: Status, Key Factors and Countermeasures —A literature Review." *School of Management, China University of Mining and Technology, Xuzhou*, 10(8). (2018): 2-34.

Edward, Page, "Distributing the burdens of climate change." *Department of Politics and International Studies* 17(4). (2008): 556-575.

Energy Information Administration. "China-International." *Energy Information Administration*, May, 2015.

[https://www.energy.gov/sites/prod/files/2016/04/f30/China\\_International\\_Analysis\\_US.pdf](https://www.energy.gov/sites/prod/files/2016/04/f30/China_International_Analysis_US.pdf). (accessed on September 2018).

Figueres, Christiana. "Climate Change: National Interests Of a Global Regime?" *Global Environmental Governance*. (2002):1-21.

Gupta, Joyeeta. "Engaging developing countries in climate change negotiations." *Policy Department Economic and Scientific Policy*. (2008): 1-43.

Heinrich Stiftung. "Where's the Money? The Status of Climate Finance Post-Copenhagen." *Climate Finance Policy Brief No.1* (2010): 1- 10.

Human Development Report Office. "Human Development Report 2007/2008." *United Nations Development Program*, (2008): 1-360.

International Panel on Climate Change. "Climate Change 2007: Impacts, Adaptation and Vulnerability." *Contribution of Working Group II to the Fourth Assessment Report of the Intergovernmental Panel on Climate Change*. (2007): 1-987.

International Panel on Climate Change, "Climate Change 2014 Synthesis Report Summary for Policymakers," (2015): 1- 167.

International Panel on Climate Change. "Climate Change 2014 Synthesis Report." Headline statement from the summary for policymakers. (2014):1- 2

International Panel on Climate Change. "Summary for Policymakers: Climate Change 2014: Impacts, Adaptation, and Vulnerability." *Contribution of Working group II to the fifth assessment report of the IPCC*, (2014): 1-34.

International Panel on Climate Change. "Working Group II: Impacts, Adaptation and Vulnerability." *Assessments report*, 2017.  
<http://www.ipcc.ch/ipccreports/tar/wg2/index.php?idp=29>. (accessed November 2, 2018).

Jotzo, Frank. "Developing Countries and the Future of the Kyoto Protocol." *Global Change, Peace & Security*. 17,1 (2005): 77-86.

Khokhar, Tariq. "Chart: 16 of the 17 Warmest Years on Record occurred since 2001." *The World Bank: Data Blog*, 2017. <https://blogs.worldbank.org/opendata/chart-16-17-warmest-years-record-occurred-2001>. (accessed October 5, 2018).

Korhola, Eija –Riitta. "The Rise and Fall of the Kyoto Protocol: Climate Change as Political Process." *Faculty of Biological and Environmental Sciences*. (2014):1-79.

Klinsky, Waskow, Bevins et al. "Building Climate Equity: Creating a New Approach from the Ground Up." *World Resources Institute*, (2013): 1-120.

Leal-Acras, Rafael. "The Brics and climate change." *International Affairs Forum*. 10,2 (2013): 22-26.

Loma-Osorio, Gabriel. "The 2030 Agenda for Sustainable Development: Bringing Climate Justice to Climate Action." *Society for International Development*. 59, 3-4 (2016): 223-228.

Macaspac P, Ariel. *Climate Change Negotiations: A guide to resolving and facilitating multilateral cooperation* (New York, NY: Routledge, 2013), 1-183.

Mathias Risse, “Who Should Shoulder the Burden? Global Climate Change and Common Ownership of the Earth.” *Harvard Kennedy School*. (2008):1-23.

Olivier, Jos GJ. “Trends in global CO2 emissions 2012 Report.” *PBL Netherlands Environmental Assessment Agency*, (2012): 1-40.

Orellana, Marcos. “Realizing the Right to Development.” *United Nations Human Rights*. (2013): 1- 535.

Pachauri R. and Meyer L, eds. “Climate Change 2014 Synthesis Report: International Panel of Climate Change.” *International Panel of Climate Change*, (2015): 1 -167.

Pauw, Pieter. “Different Perspectives on Differentiated Responsibilities.” *German Development Institute*. (2014): 1-65.

Robinson M. “Climate Dialogue: Principles of Justice.” *Mary Robinson Foundation on Climate Justice*, (2014): 1-3.

Running K. “Towards climate justice: How do the most vulnerable weigh environment economy trade-offs?.” *Social Science Research*. 50 (2015): 217-228.

Secretariat of the Convention on Biological Diversity, “An Updated Synthesis of the Impacts of Ocean Acidification on Marine Biodiversity.” *Montreal, Technical Series*, 79 (2014):1-99.

Street, William. *Climate Diplomacy from Rio to Paris: The Effort to Contain Global Warming: The effort to Contain Global Warming*. New Haven: Yale University Press, 2016. 26.

Sustainable Development Goals: Knowledge Platform, Agenda 21,  
<https://sustainabledevelopment.un.org/index.php?page=view&type=400&nr=23&menu=35>  
(accessed January 21, 2019).

Timmons, Robert. "Multipolarity and the New World (Dis)Order: US Hegemonic decline and the fragmentation of the global climate regime." *Global Environmental Change*, 21,3 (2011): 776 -784.

Tørstada, Vegard and Sælen, Håkon. "Fairness in the climate negotiations: what explains variation in parties' expressed conceptions?." *Climate Policy*, 2018. 18,5 (2018): 641-654.

Ulrich, Beyerlin."Bridging the North-South Divide in International Environmental Law." *Max-Planck-Institut*, (2006): 259-296.

UNESCO. "Triple Injustices of Climate Change." *Teaching and Learning For A Sustainable Future*. 2009.  
[http://www.unesco.org/education/tlsf/mods/theme\\_c/popups/mod19t04s01.html](http://www.unesco.org/education/tlsf/mods/theme_c/popups/mod19t04s01.html). (accessed September 12, 2018).

United Nations, "A guide to the Climate Change Convention and the Kyoto Protocol." *Uniting on Climate*. (2007): 1- 39.

United Nations. "Review of implementation of Agenda 21 and the Rio Principles." *Sustainable Development in the 21<sup>st</sup> Century (SD21)*. (2012): 1-60.

Understanding Human Rights and Climate Change, "Submission of the Office of the High Commissioner for Human Rights to the 21st Conference of the Parties to the United

Nations Framework Convention on Climate Change.”

<https://www.ohchr.org/Documents/Issues/ClimateChange/COP21.pdf>

Wiegandt Ellen, *Climate Change, Equity and International Negotiations*. Cambridge: Mass, 2001.

Zhang, Zhong Xiang. “Meeting the Kyoto Targets: the importance of developing countries participation.” *University of Groningen, Faculty of Law and Faculty of Economics*. (2000): 1-14.