

The Power of Precision: Re-envisioning the UNFCCC through Institutional and Procedural Equity

A Report for the WRI Global Climate Change Team



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EXECUTIVE SUMMARY

As part of a larger project to re-envision the United Nations Framework Convention on Climate Change (UNFCCC), this report presents a review of uses of equity within the convention. After contextualizing our discussion of equity within a broad and ongoing conversation on the nature of equity, we present two particular definitions of equity: institutional equity and procedural equity. These two concepts are presented in terms of their use with the Kyoto Protocol and the Paris Agreement specifically. Looking more broadly at the components and actors of the UNFCCC, the report analyzes the distribution of power and the role of non-state actors. It also addresses challenges to equity, including barriers to multilateralism, differences in resources, compliance, and the emerging role of non-state actors, within the context of institutional and procedural equity. Finally, the report highlights the utility of a more specific definition of equity in order to achieve equity within the institution and processes of the UNFCCC. The aim of this report is to draw attention to ambiguity and seek paths for clarity in discussions of equity. Reaching a common ground on the meaning of equity and its application to the UNFCCC is critical to the realization of equity in the convention, its COPs, and its agreements.

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INTRODUCTION

Equity has been invoked in numerous contexts in discussions of the UNFCCC and its processes. The goal of this report is to address the overarching research question: *How has equity been a driving force in both the processes and outcomes of the UNFCCC* (i.e., the policies of the UNFCCC, and the creation and implementation of its policies)? This report seeks to address this question with the ultimate goal of presenting two more narrow frameworks of equity: institutional equity and procedural equity. These frameworks can be used to facilitate a more precise discussion of equity within these specified realms. Herein this report considers how the history of equity within the UNFCCC and how these particular frameworks can drive the UNFCCC, member states, non-state actors, and other entities' actions, and how they ultimately affect climate change action and policy. A focus on equity is critical to any assessment or reenvisioning process of the UNFCCC, and these frameworks and the following discussion are designed to be facilitative of that end.

The concept of equity speaks to fair distribution of responsibilities and outcomes across different entities. Key here is a distinction between equity and equality – our discussion of equity hinges upon a focus on “fairness” (rather than equal treatment) – where those involved in a collective interaction seek to distribute responsibilities in a way that acknowledges differences in histories and capacities. Equity is used in numerous and varied contexts in discussions of the UNFCCC (an overview of some of these cases is provided below). The UNFCCC has equity explicitly and implicitly ingrained in its foundations. The convention itself was founded in 1992 to plan collective strategies for mitigating climate change on the global level – in partnership with over 150 countries (known as Parties). From its earliest days the convention has embraced

and grappled with the reality that those producing emissions and those experiencing the most acute consequences of climate change are misaligned; those bearing the brunt of the consequences of climate change are those least responsible for producing emissions. To address this, the UNFCCC and its processes have sought to create models of responsibility that equitably distribute responsibilities and burden sharing.

Considering the role of the UNFCCC, this report seeks to define and explore two types of equity that impact its function and achievement of its goals: institutional and procedural equity. Part 1 of the definitions involves explicit discussion of equity. Part 2 contains both explicit and implicit elements.

Institutional Equity

Institutional equity pertains to fairness within the UNFCCC and its agreed upon practices. It has two key components. These involve looking at how equity is defined within the convention and how it is applied within the convention:

- 1) Institutional equity encompasses the conception of equity within the convention. The key question here is: how is equity defined or evoked within the official documents of the UNFCCC?
- 2) Institutional equity also encompasses distribution of power within the processes of the convention. The key questions here are: Who has power within the convention decision-making processes? When decisions are made, are the decisions made in a way that treats Parties fairly?

Procedural Equity

Procedural equity pertains to fairness within a decision-making process. It has two key components:

- 1) Procedural equity pertains to official decision-making mechanisms. The key questions here are: who is at the table for key decisions within the UNFCCC? Who is missing?
- 2) Procedural equity also describes distribution of power within decision making processes. The key questions here are: Who has power in making decisions? Which types of entities have power (e.g., countries, NGOs, etc.)? Among those groups with power, how is that power distributed? Do some countries or NGOs have more power than others?

Our findings and discussion are informed by a review of primary documents (i.e., official UNFCCC texts), secondary documents (i.e., related policy papers and peer-reviewed journal articles), and through observation as members of a workshop series convened by the World Resources Institute (WRI) in November 2020. The series, *Making UNFCCC and its COP More Resilient and Fit for Purpose*, was attended by about 50 policy experts representing all populated regions of the world. The purpose of this inquiry was to illuminate discourse on equity and equity in practice within the UNFCCC and support the WRI in their project of re-envisioning the UNFCCC.

BACKGROUND

The following background section will discuss equity in its various contexts throughout history, offering first a general history of equity, then discussing the history of equity more specifically in relation to climate change, and finally, examining equity within the UNFCCC (and other United Nations bodies).

The first definitions of equity can be drawn from the writings of Aristotle, and his originating discussions of equity through a philosophical lens. Aristotle viewed equity as involving moral attitude, which he called “epieikeia,” or a moral knowledge (and actions that follow) that is greater than even justice. This meaning of “equity was conceived by Aristotle as an attitude of a person aimed at realising the demands of justice in the ‘real’ world” (Lawrence & Reder, 2019, p. 518). Although the modern understanding of equity is much more concerned with outcome than attitude, the connection between equity, morality, and justice has not faded. In the 1600s, Hugo Grotius began relating equity to the law, and how the two entities should interact. Within the international legal system, Hugo Grotius stated that “... upon this principle [equity] all wills and treaties ought to be interpreted. For as all cases could neither be foreseen nor expressed by the lawgiver” (Babatunde, 2019, p. 6). Grotius introduces the complexity of equity, which demonstrates its dynamic nature and how understandings of equity evolve over time. He also addresses implications for what is ‘right’ or ‘wrong’, demonstrating that “it is, therefore, necessary to vest in the judiciary the power to make exceptions in the interpretation of the law in some instances” (Babatunde, 2019, p. 6). Grotius describes how what is “right” according to the law might not always be equitable, and sometimes decisions must be made outside of the rules. Although there are many important figures throughout history who affected

the most current conceptions of equity, Aristotle formed the basis of the moral obligations relating to the principle, and Grotius describes its complex involvement with the law.

Climate change is a relatively newly acknowledged social problem, so examining the application of the definitions of equity within the emerging context of climate change is important. There are a number of different references to equity with relevant climate change conversations, drawing on the term “equity” in a multitude of ways. For instance, Metz describes various ways that classes of equity have been identified in the areas pertaining to climate change: between different countries (i.e., international equity), different social groups (i.e., national/social equity), and equity between generations (i.e., intergenerational equity) (Metz, 2000, p. 111). Equity can be used in reference to any of these definitions, so while it is often ambiguous, noting that these different conceptions of equity can refer to many disparate and overlapping meanings is crucial.

Stemming from these historical definitions of equity, and those specifically related to climate change, examining how the UNFCCC specifically defines and utilizes equity is important. Equity was first mentioned in the UNFCCC in its 1992 treaty, but only once where it assigned responsibility to developed countries in leading efforts to combat climate change. Equity was not defined in the Kyoto Protocol, but was later addressed in the Paris Agreement, reinforcing the original 1992 treaty, “where all countries agreed to share global mitigation efforts following their ‘common but differentiated responsibilities and respective capabilities’ (CBDR-RC)” (Robieu du Pont, 2017, p. 17). CBDR-RC informed the agreement’s classification of countries: some wealthier countries were deemed leaders in both mitigation and providing financial support to other countries.

The UNFCCC also attempts to utilize equity in a broader sense, facilitating “the transparent and open system of participation by parties with provisions for decision making that are requiring a high degree of consensus. Combined with a strong coordination by the developing country Parties through the so-called ‘Group of 77 and China’ (covering about 130 developing countries) this [system] minimises the risk of dominance by the group of OECD countries” (Metz, 2000, p. 112). In this sense, the expressed attempt is to treat countries equally – by listening to each of their voices in decision making. The United Nations is therefore reshaping equity to drive equality of country participation in policy making. More specifically, the UNFCCC utilizes equity in terms that do not just relate to the Paris Agreement, but how other policies are implemented, through definitions of equity “(1) as an overarching principle relating to implementation; (2) in relation to the global stocktake; and (3) in relation to intergenerational equity.” (Lawrence & Reder, 2019, p. 516). Thus, the definition of equity that comes from the UNFCCC text is reinforced with the Paris Agreement, but has broadened overtime to encompass impacts in how influential policy making decisions are shaped.

The Intergovernmental Panel on Climate Change (IPCC) is another United Nations body that addresses and analyzes science on climate change. In 2018, the IPCC 1.5 Report addressed equity; here, it is defined: “Equity has procedural and distributive dimensions and requires fairness in burden sharing both between generations and between and within nations” (Allen et al., 2018, 1.1.1). This addresses both intergenerational equity and international equity, although not very specifically in terms of how to actually administer this burden sharing. Furthermore, regarding the Paris Agreement’s goal to keep warming below a 2°C increase from pre-industrial times, the IPCC 1.5 Report says, “the Paris Agreement associates the principle of equity with the broader goals of poverty eradication and sustainable development, recognising that effective

responses to climate change require a global collective effort that may be guided by the 2015 United Nations Sustainable Development Goals” (Allen et al., 2018, 1.1.1). The IPCC’s formal definition and acknowledgement of equity is somewhat vague, offering less detail on the realization of the principle and more stress on the interconnection of climate change, existing inequality, and global cooperation. In sum, both the UNFCCC and the IPCC identify the importance of equity, yet do not address it directly, nor provide any specific guidance as to how to achieve it.

PURPOSE AND SCOPE

In the previous section, we presented a general history of equity and how it has been utilized within the UNFCCC and global climate policy. In this section, the report hones in on the two particular types of equity that have been identified. This entails examining institutional and procedural equity within the UNFCCC, specifically in the Kyoto Protocol and the Paris Agreement; and examining equity and its role in power distribution of countries and non-party stakeholders.

Institutional Equity in Agreements

This report defines institutional equity as fairness within the UNFCCC and its agreed upon practices. Institutional equity, in this sense, is grounded in the philosophical underpinnings of the establishment, from which follow the fairness of its customs. As utilized here, this refers to the fairness of practices *already in place*, and the implications of those practices. In this view, institutional equity applies only to concepts and customs as they are. The notion does not apply

to the processes that lead to such customs, as these are better understood through our conception of procedural equity.

Institutional equity has explicit and implicit elements. Explicit institutional equity, pertaining to directly expressed matters of equity, resides within formally codified structures and customs. This paper will trace explicit institutional equity in the UNFCCC through the convention's formal conception of equity, and also through the practices outlined in the proceeding accords: the Kyoto Protocol and the Paris Agreement. This explicit notion of equity is often much more easily traceable in official documents. Implicit institutional equity, on the other hand, is not as easily traced. This form of equity pertains to the non-codified distribution of power across all actors with a stake in the establishment. In this way, our discussion of implicit institutional equity in the UNFCCC applies to power dynamics reified by the repetition of unofficial customs within the institution. For example, the United States officially has the same power as any other country, but its implicit power is outsized. This is seen on the procedural level in its ability to sway outcomes.

As discussed earlier, the concept of equity is foundational in the UNFCCC. Equity is a guiding principle for the convention's normative language (Cazorla and Toman, 2001), as seen in Article 3.1 of the text: "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" (United Nations, 1992, Article 3.1). This language of "common but differentiated responsibilities" (CBDR) persists in both the Kyoto Protocol and in the Paris Agreement. While the words themselves remain similar, the translation of the CBDR principle into concrete rule and practice has been the subject of contentious debate (Cazorla and Toman, 2001; Friman, 2007; Scholtz, 2009). For this reason, the

principle of equity has evolved within the institution through changes in the proceeding agreements.

The Kyoto Protocol and the Paris Agreement allow for different expressions of CBDR (Robiou du Pont, 2017), and thus, institutional equity differs between the agreements. The Kyoto Protocol takes cues from the normative statement in the UNFCCC that “the developed country Parties should take the lead in combating climate change and the adverse effect thereof” (United Nations, 1992: Article 3.1). Under this logic, the Convention and the Protocol separate the Parties and their responsibilities by annexes: rich, high-emitting countries under Annex I, and all other countries under Annex II. Two factors offer justification for such a separation: historical accountability and ability to pay (Boran, 2017). Kyoto had a blunt approach to equity – lumping countries into Annex 1 and non-Annex 1 status. In this sense, the UNFCCC protocol created an institutionalized awareness of differences between countries and their requisite differences in responsibilities. However, this blunt approach made no further distinction between this bifurcated division of polluters and victims. Kyoto was thus more top-down in its mandates, dictating action based on a single, centralized understanding of equity. Unlike Paris where emission reductions are self-determined and voluntary, Kyoto requirements were determined externally by a UNFCCC review and were legally binding (Kyoto Protocol, 1997).

The Paris Agreement takes a different approach: while it does not expect all Parties to take on equal burdens (Boran, 2017), it allows each party to determine its own non-binding contributions, thus permitting them to interpret CBDR for themselves (Robiou du Pont, 2017). In this way, the evolution of institutional equity in the UNFCCC follows the arc of the convention from bifurcated to polycentric (Boran, 2017). The Paris Agreement does not dictate equality in treatment of the Parties. It recognizes that there are inequalities in historical and ongoing

emissions, resources to mitigate climate change, resources to adapt to climate change, and uneven consequences that necessitate adaptation. The Paris Agreement attempts to facilitate equity via an institutionalized respect of differences. However, the Nationally Determined Contributions (NDCs) format is an optimistic approach and relies heavily on either the commitment of each country to do their best (and not freeride) and/or the toll imposed by the international pressure to follow through. In contrast with Kyoto, Paris is more bottom-up in its mandates, allowing individual countries to act on their own understanding of an equitable contribution.

Procedural Equity in Agreements

Distinct from institutional equity is procedural equity. This report defines procedural equity as fairness within a decision-making process. Procedural equity is internal to a practice, but its realization has external implications. When an internal process is exclusive or biased, the outcome determined by that process may also be inequitable. In this way, a failure to attain procedural equity can result in a failure to achieve institutional equity, as well as other conceptions of fairness discussed earlier. Conversely, institutional notions of equity can affect procedural equity. If institutional equity is not secured, the procedures within that institution might be constructed in ways that reflect inequity. For instance, though each Party officially has the same power as any other, the implicit power of some countries is imbalanced, which is manifested on the procedural level in their ability to sway outcomes (Luterbacher & Sprinz, 2018). This cycle may be understood as a feedback loop where implicit or explicit inequity, in either institutional or procedural stages, causes unfair outcomes.

Procedural equity, in this paper, lies in the context of negotiations. Like institutional equity, there are explicit and implicit factors at play. In the UNFCCC, explicit procedural equity may be understood by looking at who is actually included in negotiations (Okereke, 2018). Implicit procedural equity might evaluate the accessibility of negotiations (Shue, 1992; Okereke, 2007; Okereke & Charlesworth, 2015), preparation required for negotiations (Okereke & Coventry, 2016), transparency of information, and participation in negotiations (Kuyper et al., 2018). Explicit and implicit procedural equity are both important to the fairness of the decision-making processes.

Distribution of Power

A discussion of procedural and institutional equity must be framed in terms of the power distribution between member states of the UNFCCC: which states have advantages in amplifying their voices, which states have a limited voice, and why? As mentioned previously, a distinction is made in the Convention on different countries and their ability to contribute to climate action: “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,” (United Nations, 1992; Article 3).

Although specific power differences, in terms of explicit institutional equity, are not codified in the language of the UNFCCC, differences in power can affect procedural equity through interactions, decision making, bargaining power, and concessions – ultimately affecting concrete climate action. For example, Parties like the USA or the European Union bloc have disproportionate procedural power in that they are some of the largest funders of the UNFCCC and multilateral mechanisms in general. This power can be significant as demonstrated by the

USA's withdrawal from the Kyoto protocol and subsequent challenges in financing for climate action.

Further distinction is made in regards to Annex I and Annex II countries, which divide countries according to economic means, with those more advantaged states placed in the Annex I category. However, these terms have fallen out of use in favor of the slightly more specific terms, developed countries and developing countries. Furthermore, these distinctions by Annex or otherwise do not codify any direct power over other parties.

Institutionally, the UNFCCC is equitable in that all Parties to the convention are equally permitted to: 1) participate in every COP; 2) participate in subsidiary bodies such as the ones for Implementation and Scientific and Technical Advice, and 3) propose amendments with each party having an equal say in the decision making (United Nations, 1992).. Implicitly and procedurally, this is rarely the case. This is further discussed in section five on challenges to equity.

Non-state Actors

Non-state actors are an integral part of the global climate process, but institutionally, under the UNFCCC, they are a different class of actor, known as observers. As laid out in the Framework, “Any body or agency, whether national or international, governmental or non-governmental, which is qualified in matters covered by the Convention, and which has informed the secretariat of its wish to be represented at a session of the Conference of the Parties as an observer, may be so admitted unless at least one third of the Parties present object” (United Nations, 1992, Article 7.6). These non-state actors can include NGOs, activist groups, intergovernmental organizations, city networks, oil companies, consultancy and legal firms,

carbon brokers, indigenous communities, trade unions, women's groups, youth organizations, and religious communities (Bäckstrand et al., 2017). As referenced by Bäckstrand et al. "Some NGOs seek insider status while others demand radical, systemic change" (Bäckstrand et al., 2017, p. 564). From the first COP to now, the number of accredited participants – both observers and party participants – has increased from less than 4,000 at the first two COPs to more than 28,000 at Paris in 2015 (UNFCCC, n.d.-a). Of the 28,000 at Paris, 8,000 were registered as non-state observers (UNFCCC, n.d.-a).

For other groups of non-state actors such as corporations and sub-national groups, climate commitments and action can support national and global efforts. During the 2018 Global Climate Action Summit in San Francisco, a number of reports highlighted these efforts including action by 9,149 cities and municipalities, as well as 245 states and regions (Hale, 2018, p. 2). According to Hale, "On the corporate side, climate action was recorded in 6,225 companies headquartered in 120 countries, representing US\$36.5 trillion in revenue, larger than the combined GDP [Gross Domestic Product] of the US and China" (Hale, 2018, p. 2).

Media and activist groups represent other types of observers with an important role. While their actions are not part of the implicit institutional equity in terms of making decisions on climate or determining impact, they do play a key role in shaping public opinion about what happens at climate discourse. A good example of this power is Greta Thunberg, the Swedish youth who exploded in popularity during the United Nations Climate Action summit on September 23, 2019 (Jung et al., 2020). Thunberg went on to be named TIME Magazine's 2019 person of the year and now has almost six times more Twitter followers than the UNFCCC. Reaching the public through activism and/or media can be a key tool for public perception of

climate change. More fully utilizing procedural equity to reach the global public could help to open the door for accelerated climate action.

On paper, each formally recognized observer organization should have institutional equity in the UNFCCC, but the reality of inequitable practice contrasts with the equity built into the convention. There is not equity between observers. Issues of access, capacity, and finances can greatly impact an organization's power as an observer. More specifically, "the participation of non-state actors at the UNFCCC is dependent on states granting them formal access and the Secretariat providing a supportive structure in the forms of information, documents, office space, and meeting venues" (Kuyper et al., 2018, p. 353). The extent of access to information can be limited, based on relationships with the Secretariat (Anonymous, 2020). For new NGOs, NGOs with small budgets, or other non-state actors, challenges in establishing these connections to the Secretariat can mean that less information is available for those without connections. In terms of participation at COP negotiations, admitted observer organizations have to nominate their delegates, then based on a variety of factors – including safety, security, and the number of nominations received – the UNFCCC informs the organizations on the number of delegates permitted to attend (UNFCCC, n.d.-b). These factors present a challenge to equity in that there is inquiry in the participation between observers that have large budgets and delegations (often from the global north) and observers that lack funds or sophisticated knowledge of how to increase access. In addition, some members of NGOs and other non-state actors are able to participate at COPs with badges under country delegations, an arrangement typically informally decided on by personal relationships as opposed to official processes (Anonymous, 2020). Inconsistencies in equity for non-state actors can ultimately undermine climate efforts. The next section will more fully cover this and other challenges to equity.

CHALLENGES TO EQUITY AND PATHS TO PROGRESS

The previous section detailed the competing conceptions of equity throughout time, conceptions which pose challenges in and of themselves. This section will further discuss challenges to climate change equity and its implementation, such as difficulties associated with multilateralism, differences in resources, and the emerging role of non-state actors. Finally, this section will examine how the challenges influence procedural and institutional equity.

Multilateralism

Multilateralism, the participation of several countries in the achievement of a common goal, faces understandable challenges as reducing carbon dioxide emissions globally and impacting the future of climate change is an enormous goal. In particular, self-interest, timeframe of agreements, and ambiguity around the concept of equity make multilateralism difficult to realize, let alone make equitable.

First, states can act in self-interest, one of the most common examples being the United States. Scholtz states that it is unrealistic to assume states can act in a selfless manner, where “realist schools in general view the international system as an anarchic system which consists of sovereign states pursuing their own national interest” (Scholtz, 2009, pp. 175-177). This is especially prevalent when it comes to finance, where more developed and wealthy countries are supposed to provide financial assistance to developing and less wealthy countries, which is an important component of procedural equity. However, when countries submitted their NDCs, “while potential recipient countries describe their need for support in their NDCs, potential donor countries hardly document their intentions to provide support” (Pauw et al., 2019, p. 5). Wealthier countries do not want to provide financial support, as this hurts their own economies;

they are acting in self-interest. When developed countries fail to provide this support, this could lead to further consequences, where “a developing country failure to implement and achieve its conditional NDC may [lead to...] finger pointing between developed and developing countries; a situation that could be prevented by developed countries explicitly including support for NDC implementation in their own NDCs” (Pauw et al., 2019, p. 5). Furthermore, states are motivated to act in self-interest because of incentives for free riding, where the market fails to require contribution in order to receive the benefits. Because all emissions ultimately mix in the atmosphere, if other countries reduce their emissions, selfish countries who don’t contribute still benefit (this is a ‘public good’). Hovi and Underdal state that “states fail to comply when they expect the benefits of noncompliance to outweigh the costs of being detected and disciplined.” (Hovi & Underdal, 2018, p. 302). Due to weak accountability mechanisms, this can happen frequently. Furthermore, some negotiations may be hindered by trust deficits: cycles in which a state acts in self-interest and fails to hold up its end of an agreement, causing other countries to feel taken advantage of and remain skeptical in forming future agreements (WRI, 2020). States acting in self-interest poses one of the largest challenges to multilateralism. A more deployable definition of procedural equity could help in addressing this issue, as the power distribution between countries is unclear and thus leads to finger-pointing that could be avoided.

Second, country leaders may intend on contributing to positive climate change impacts, like reducing emissions, but fail to ratify agreements. In cases such as these, it is common for democracy to cause an issue. Hovi and Underdal list two possible limits in “Implementation, Compliance, and Effectiveness of Policies and Institutions”:

First, governments depend—to varying degrees—on some form of domestic approval of the international agreements they negotiate (Putnam 1988). In democratic political systems domestic ratification can be a major hurdle. For example, President Clinton’s

acknowledgement that the US Senate would not have ratified the Kyoto Protocol had it been asked to do so is a case in point. (Hovi & Underdal, 2018, p. 300)

Thus, as nationalism rises (especially in wealthy and developed countries), multilateralism is further weakened.

In the WRI workshops this issue was explored regarding the impact of national political parties on climate change policy decisions. One participant mentioned the example of the United States, where the stance behind climate change and thus policy decisions vastly changed from President George H.W. Bush to President Clinton, and then back to President George W. Bush. In the USA in particular, leadership can change vastly every four years, which makes it more difficult to develop and maintain international climate agreements, and thus difficult to live up to equity between states in forming these agreements. One solution is to lessen the rigidity of the timelines for creating policy and international climate agreements. When deadlines are pushed too fast, failures are more likely to occur, or even the fear of failure prohibits more ambitious change. Therefore, more flexibility should be given in agendas and revision to agreements (WRI, 2020).

Third and finally, ambiguity provides hurdles to equity in the UNFCCC when it comes to principles of equity and how they apply to climate change contribution, adaptation, and mitigation. Most broadly, “neither history nor philosophy provides a definitive guide to what would constitute a fair distribution of burden” (Cazorla & Toman, 2001). When there is disagreement on what is ‘fair’ or ‘equitable,’ it is difficult to assign responsibility, which indicates the importance of our definitions of equity. Currently, the definition of equity in the convention is ambiguous, which often limits the discussion of equity to vague mentions. Experts expressed frustration with this ambiguity, suggesting that COPs should be more specific regarding equitable decisions and their implementation (WRI, 2020). This is especially important

when there are “changed social and economic circumstances between when states make commitments and when they must implement them” (Hovi & Underdal, 2018, p. 302). The difficulties of assigning the burden and then following through on implementation both pose challenges to international climate change policy creation. If procedural equity and institutional equity were more clearly defined, and commonly accepted, this problem could be solved, although the political feasibility of this poses an additional challenge. Challenges to equity occur within the confines of multilateralism as states act in self-interest, domestic political opinions might not match international ones, and equity itself is ambiguous.

Differences in Resources

Institutionally the UNFCCC is set up to aspire for equity. However, in reality, the differences in resources – primarily financial and technical – between countries causes a real challenge in terms of both institutional and procedural equity. These differences are most apparent between developed and least developed countries, with the least developed countries lacking or lagging behind in resources to participate in the process, and to mitigate and adapt to climate change. When discussing differences in resources, it is important to not overgeneralize on the distinction between developed and developing nations. Within these groupings, resources vary significantly and context needs to be taken into account: “It is not realistic to approach developing states as a single entity for purposes of emission reductions. It is ludicrous to compare China with Zimbabwe or Lesotho” (Scholtz, 2009). Particularly in the last decade, Brazil, South Africa, India, China and (BASIC) – all emerging economies with regional influence – have begun meeting annually as a political and economic bloc: “Beginning with the Copenhagen climate summit of 2009, BASIC has played a major role in shaping the negotiations

which were meant, but have failed to, reach an agreement on cooperative climate actions and obligations on the part of different countries and country-groups to limit and reduce greenhouse gas emissions” (Bidwai 2014, p. 2). These countries bridge the gap between developing and developed countries and have seen increased roles in negotiating under the UNFCCC.

With an understanding of differences between and within broad groupings of nations, this report will now discuss the differences in technical resources and their implications on equity. Many developing countries are at a disadvantage in that they lack the scientific and technological resources of developed countries (Friman et al., 2007). One of the major implications of this technical disadvantage is that prominent research is often led by the global North, leaning towards the biophysical aspects as opposed to the political-economic reality faced by the South (Friman et al., 2007). By shaping the research agenda, the Governments of the global North are effectively able to shape the negotiating agenda. This has been apparent since the first UNFCCC expert meeting in Bonn where, “... it was clear that historical responsibility was to be dressed in technical garb; following this the next UNFCCC meeting saw a dramatic drop-off in Southern participation” (Friman et al., 2007).

As mentioned previously, there is also a large difference between financial resources of developing and developed nations. Developing nations, particularly the least developed countries, are the poorest in the world, with many already receiving foreign aid for food security and other development initiatives. Article 4 of the UNFCCC 1992 Framework document specifies that these differences in financial resources mean different responsibilities:

The developed country Parties and other developed Parties included in Annex II shall provide new and additional financial resources to meet the agreed full costs incurred by 14 developing country Parties in complying with their obligations under Article 12, paragraph 1. They shall also provide such financial resources, including for the transfer of technology, needed by the developing country Parties to meet the agreed full incremental costs of implementing measures that are covered by paragraph 1 of this

Article and that are agreed between a developing country Party and the international entity or entities referred to in Article 11, in accordance with that Article. (United Nations, 1992, Article 4.3).

Despite this language in the convention, the exact valuation of the financial responsibility has never multilaterally been agreed upon. Support, instead, comes in the form of self-determined commitments from developed countries. However, action has not been the same as rhetoric, and support for climate agenda funds have been slow to materialize (Hochrainer-Stigler et al. 2014, p. 88).

Even in the Paris Agreement, commitments are required for transparency and reporting on planned and actual contributions, without commitments to how much will be contributed by any one nation (Huang, 2019). Differences in resources go beyond issues of institutional equity with real impact on procedural equity. While there is equality for countries to participate at negotiations, there are limits on the number of delegates from developing countries that the UNFCCC can support to participate at meetings. In real terms, this means that developed countries can finance large teams at each negotiation, whereas developing countries may only be able to send a few delegates to participate in UNFCCC meetings. Furthermore, during negotiations more inherent weight can be given to the proposals from developed country blocs (e.g., the European Union) than developing countries, (e.g., the African Group) despite the developing country bloc having more members. This can occur because there is almost always more financial weight behind the proposals of the developed countries: these richer nations often provide the support for mitigation and adaptation projects in developing countries (Anonymous, 2020).

Several strategies have been used by developing countries to overcome some of these challenges of equity. Developing countries have formed negotiating and voting blocs, the largest

of which is the G-77 which currently consists of 134 developing and emerging countries. With approximately 68 percent of total Parties, the G-77 has procedural power. At the first COP, the G-77 succeeded in promoting the Berlin Mandate which agreed that: 1) the largest share of historical and current global emissions of greenhouse gases originated in developed countries; and 2) the per capita emissions in developing countries are still relatively low and that the share of global emissions originating in developing countries will grow to meet their social and development needs (Liverman, 2009). It is important for developing countries to band together, as many of the most dramatic effects of climate change are expected to disproportionately affect the poorest and most vulnerable populations. This also includes the Alliance of Small Island States (AOSIS), a bloc consisting of more than 40 small island and low-lying coastal developing states, which are united by their particular vulnerability to sea level rise. Given their position, AOSIS countries were also the first to propose a draft text during the Kyoto Protocol negotiations calling for cuts in carbon dioxide emissions of 20 percent from 1990 levels (UNFCCC, n.d. -c) and was successful in negotiations to include financial support for loss and damages as part of the Paris Agreement. In addition to their organization into blocs, developing countries have advocated for procedural equity in negotiations. Some cited the formation of the Paris Agreement as a strong example of equitable decision-making, noting the inclusive leadership of COP21. Inclusivity in practice, according to certain experts from developing nations, means considering those nations seriously in negotiations and agreements, asking them for their positions and needs first, rather than just taking advantage of their lack of resources and money in order to further the agenda of certain developed nations (WRI, 2020).

Emerging Role of Non-state Actors

Although compliance to climate mitigation and adaptation lacks in terms of Party participation, the emergence of non-state actors provides some reasons for optimism. However, in terms of institutional equity for compliance to climate mitigation and adaptation, there is still a lot of work to be done. Compliance enforcement has been limited within the UNFCCC, which poses a challenge to institutional equity. While the Kyoto Protocol offered a more robust compliance system, the mechanisms for compliance were weakened – by nations leaving the agreement – before being effectively utilized. Later, in the Paris Agreement, the Committee to Facilitate Implementation and Promote Compliance was given very weak enforcement or punitive powers, leaving the door open for nations to backslide on their agreement. However, progress has been made in non-state actors making their own commitments to reduce carbon emissions while others help monitor national commitments.

To further iterate the point, this section will dive deeper into the effects of polycentric governance, including non-state actors, and their ultimate effect on climate action. The previous section discussed equity in relation to other non-state actors. However, this report has yet to discuss the question of equity in terms of non-state actors and states party to the convention. Non-state actors play a critical role in moving decisions forward, they are politically diverse, and bring different perspectives to the table (WRI, 2020). However, non-state actors do not have a decision making role in negotiations as Party members, but rather participate as *observers* during the Conference of Parties and negotiations. These non-state actors have increased their influence over the years in terms of implicit procedural equity:

For Hoffmann (2011), the Copenhagen conference marked a turning point in global climate governance when cities, NGOs and corporations began to take climate change into their own hands, with the rise of urban engagement and transnational city networks in climate governance (Johnson and Gordon 2017). (Bäckstrand et al., 2017, p. 568)

Non-state actors are able to indicate their position, but lack equitable treatment in negotiations.

The Paris Agreement acknowledges non-state actors as indispensable in efforts towards NDCs (Bäckstrand et al., 2017, p. 575). Observer groups are now invited to support the monitoring of national action through a watchdog function – for example, WRI’s independent assessments of NDCs. Practitioners have suggested that non-party actors be included in procedural accountability with one pointing to another UN branch that did this successfully, noting “in the human rights regime, NGOs have the opportunity to submit parallel reports and be at the table when government reports are discussed” (WRI, 2020). The UNFCCC also allows formal submissions by Parties and observers, and this process could be utilized to a greater extent, or more weight be given to the consideration of submissions. More than 12,000 commitments were submitted by businesses and other non-state actors under the Paris Agreement (Bäckstrand et al., 2017, p. 570). These commitments become especially important in an era in which populist movements across key carbon emitting states cast doubt on progress in achieving global climate targets. Participation or lack thereof is not dictated at the national level.

In addition to direct impacts on mitigation, resilience, and resource mobilization for climate change, non-state actors can play an important role within national politics (Hale, 2018, p. 4). In his analysis of the role of sub-state (e.g., local and regional governments) and other non-state actors, Hale provides six examples of how these groups can boost the confidence, resources, and political will of governments. According to Hale, sub-state/non-state actions: 1) contribute to national NDCs; 2) provide a demonstration effect; 3) allow for experimentation before scaling; 4) provide critical cover in the case of divided constituency; 5) build new political and economic constituencies; and, 6) build political resilience in the face of national backsliding (Hale, 2018, pp. 4-5). With shifting political and economic landscapes at the national

level, non-state actors can provide consistency and continued momentum that politics can delay. Media, activists, and individuals can then be used to further build this political will and consistency by communicating directly to constituents. In this way, the presence of non-state actors could offer procedural equity for citizens without formal roles in the negotiation process, allowing them a platform in front of decision-makers.

While these growing roles for non-state actors do not yet constitute institutional equity, they do mark an understanding of the importance of non-state actors in achieving climate goals. This includes an awareness of the need for a plurality in which all actors are more cognizant of their carbon footprint. By shifting procedural equity to provide more access and opportunities for these groups – with emphasis on those taking positive action to reduce emissions – the UNFCCC could support bottom-up climate action and results. For example, youth, women, and indigenous groups can be more integrated during the COPs. These groups should not be relegated as sideshows or tokenized gestures, but rather promoted both as leaders of environmental stewardship, and as some of the groups most vulnerable to climate impacts. While some constituency groups are able to make statements, a shift in procedural equity toward more influence could provide room for these groups to have a more active role in setting the tone of negotiations while not disrupting the foundation of the climate negotiation process (WRI, 2020).

CONCLUSIONS AND RECOMMENDATIONS

As mentioned earlier, the UNFCCC agreements rarely tackle equity directly, and formal discussions of the principle have been limited. Throughout the history of the UNFCCC, text around equity is vague and not sufficient for equitable action. Discussing equity without a definition or the scope of its use, the UNFCCC fails to clearly address what is a pillar of the convention itself and how this connects to the fight against climate change. One way to address

equity is through the terms throughout this report: procedural equity and institutional equity. This is one way to eliminate equity's ambiguity. Future work could utilize these definitions or this sort of approach to refine equity so it can be achieved.

The ambiguity behind equity poses barriers to implementing new policies that could curb climate change and keep warming below 2°C, which is critical for the health of our planet and future generations. This is largely due to the politicization of equity, as complex geopolitical dimensions and unequal distributions of power influence the implementation (or lack thereof) of equity. If equity is more explicitly defined, then all parties (policy-makers, scientists, politicians, etc.) can use this term in tandem. In order to re-envision the UNFCCC, the definition of equity needs to be deployable and operationalizable.

Deployable definitions of equity are key to unlocking reforms in climate negotiations and action. Based on the discussed conceptions of equity, this paper offers two possible reforms. First, institutions and procedures should not assume that states will act in the best interest of others, nor should they assume that they will be compelled by self-interest alone. Some states may be motivated by their own needs, while others could be motivated by certain values and traditions. Procedures need to embrace the reality of different motivations, and solutions should be reframed in ways that offer a suitable buffet of carrots and sticks. This could entail appealing to self-interested actors by presenting climate action in terms of risk avoidance or economic benefit (e.g. green economy) in addition to more socially-centered options. Second, novel ideas must be formally considered in order to foster collaboration and implementation within UNFCCC preparatory meetings and COPs— and ensure that the ideas of the most powerful Parties do not limit broad, equitable participation. For example, one participant in the WRI workshops suggested improving on past strategies of conversation and negotiation such as the

Talanoa dialogue or Structured Expert Dialogue (WRI, 2020). Further experimentation in the format and style of negotiation processes may ensure inclusive, procedural equity.

A mixture of creativity and precision are critical to achieve climate equity. Explicit definitions facilitate creativity without the inevitable confusion of people ambiguously talking about equity without understanding each others' meaning. Equity expressed only as an ideal is not a useful tool to achieve that ideal of equity.

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