

Justice and Climate Finance: Differentiating Responsibility in the Green Climate Fund

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Institutional mechanisms for administering international climate finance constitute key components of an effect global climate regime, and the Green Climate Fund represents what promises to become the most important such mechanism. As the Fund begins to serve its function of transferring economic resources from developed to developing countries to support mitigation and adaptation activities, it faces several obstacles. Since contributions to the Fund by states or private parties are voluntary, they are not necessarily based on the UN Framework Convention on Climate Change's "common but differentiated responsibilities" principle. Its governing instrument also departs from UNFCCC principles. In addition, the Fund faces a significant ambition gap in pledges to fund its operations. By instantiating several informal means of applying climate justice norms to assessments of national contributions to climate finance, some of this resistance might be overcome, increasing support for the Fund and, with this, increasing prospects for reaching consensus on a new climate treaty architecture at COP 21.

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When delegates to the 1992 United Nations (UN) Conference on Environment and Development (the Earth Summit) met in Rio de Janeiro to consider initiating a coordinated international response to anthropogenic climate change, they had to confront an historic distrust along with a perceived conflict of interests between developed states that were expected to "take the lead" in international mitigation actions and developing states that were not. Against this background of acrimony and suspicion, the resulting treaty framework represents a significant achievement through which stark differences between contending parties were at least set aside if not resolved. Declaring climate change to be a "common concern of mankind",

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the 192 signatory parties to the UN Framework Convention on Climate Change (UNFCCC) pledged to “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”.¹

The principles articulated in this oft-quoted phrase join older notions of differential state burdens based on variegated capacity (which featured in the 1972 Stockholm Convention) and that of “common heritage of mankind” (from treaties governing common resources, including the moon and oceans).² While also referring to equity as a guiding principle, the UNFCCC declares a commitment to the sharing of international remedial burdens among state parties to the Convention according to their “common but differentiated responsibilities” (hereafter CBDR), representing a compromise between the global North and South, but also developing a principled basis for future global cooperation. In addition to establishing a political process through which states could work together to protect the climate system, the Convention set the terms of cooperative international action by calling upon parties to assign the burdens associated with climate change mitigation and adaptation in a manner that reflects ideals of distributive justice. The CBDR principle has emerged as the normative basis for advancing climate justice, with its remit and application the focus of debates among scholars, activists and negotiators.

Interpretations of how to apply the CBDR principle to the context of climate change abound. Following the UNFCCC stipulation that developed countries should “take the lead” in responding to climate change, the 1997 Kyoto Protocol established the so-called ‘firewall’ between Annex I developed countries given binding carbon abatement targets under its terms, which includes the Annex II parties assigned financing commitments, and the non-Annex I developing countries that were not placed under binding carbon emission limits under the Protocol’s compliance period, which ended in 2012. Negotiations over a successor treaty framework have grappled over the question of whether the firewall should remain in place and, if so, whether rapidly industrialising countries like China should at some point acquire Annex I status. Activists and scholars debate the principle’s finer points, including whether CBDR should assign remedial responsibility in proportion to a country’s full historical emissions or only part of them, as well as how equity and differentiated national capacity can be combined with differentiated responsibility within international burden-sharing frameworks. However, the Convention’s basic commitment to assigning remedial international liability in terms of international

¹UN Framework Convention on Climate Change, Article 3, Principle 1, https://unfccc.int/essential_background/convention/background/items/1355.php.

²C. Epstein, “Common but Differentiated Responsibilities (CBDR)”, *Encyclopedia Britannica: Academic Edition*, <http://www.britannica.com/EBchecked/topic/1917951/common-but-differentiated-responsibilities-CBDR>.

justice, including the differentiation of remedial responsibilities according to relevant differences between states, is supported by a wide consensus.

In negotiations over the development of a post-Kyoto treaty framework, reference to CBDR remains controversial. Contending parties routinely call for more and less adherence to UNFCCC principles and processes as shorthand for favouring or opposing international burden-sharing assignments being made compulsory rather than voluntary and grounded somehow in responsibility, understood as a function of national greenhouse emissions. Perhaps the clearest instance of a burden-sharing issue for which CBDR offers a principled basis for the assignment of national remedial burdens can be seen in international climate finance, through which developed countries channel economic resources in support of mitigation and adaptation activities undertaken in developing countries.³ In this context, however, efforts to invoke or apply the CBDR principle in any official capacity have been rebuffed, with the development of climate finance instruments taking little note of differential responsibility or capacity in their mobilisation of funds from donor states other than invoking the firewall to differentiate Annex II donors from non-Annex I recipients, and then only as a recommendation rather than attached to any binding commitments.

As parties prepare for the development and approval of a Kyoto successor treaty at the December 2015 21st Conference of the Parties to the UNFCCC (COP 21) in Paris, the role of CBDR in climate finance remains hotly contested, with the success of the Conference depending on whether the differences between contending parties can be adequately sorted out prior to the meeting. While not the only instrument for international climate finance, the Green Climate Fund (GCF) represents the promise of future international cooperation in both mitigating climate change and assisting the vulnerable in avoiding its worst impacts, but also captures the tensions between the global North and South over CBDR and the role of justice in international burden-sharing. Given its framework of mobilising voluntary contributions from public and private sources and the absence of stated criteria for national remedial liability, along with its governing structure that avoids putting the Fund directly under COP authority, critics view the GCF as moving away from the UNFCCC principles and processes, especially CBDR. Tensions over this development are likely to structure negotiations in the lead-up to COP 21, and the manner in which it is resolved will likely determine the fairness and efficacy of any future treaty.

In the sections to follow, the prospects of realising these CBDR objectives through the GCF and international climate finance shall be addressed, noting the voluntary nature of pledges and the ambition gap between the mitigation commitments promised by participating parties and those called for by climate justice

³In *Atmospheric Justice*, the author argues that domestic mitigation burdens are best assigned according to the principle of equity, while the finance of international adaptation should be grounded in CBDR.

imperatives. In order to narrow this gap and develop more robust contribution norms, several strategies for introducing external accountability mechanisms capable of motivating conformity with equity imperatives are proposed and discussed. Finally, the relationship between the development of greater consensus around CBDR contribution principles and prospects for a successor mitigation treaty are explored.

The Green Climate Fund and international climate finance

The GCF is a financial instrument within the UNFCCC that was created to transfer money from developed to developing countries for the purpose of funding mitigation and adaptation efforts in the latter. First proposed in 2009 at COP 15 in Copenhagen and established the following year at COP 16 in Cancun, the Fund was expected “to make a significant and ambitious contribution to the global efforts towards attaining the goals set by the international community to combat climate change”. The Fund is anticipated to complement, and perhaps eventually to replace, other multilateral climate change funds (e.g. the Global Environmental Facility, the Climate Investment Funds, the Adaptation Fund). It also has its own governing instrument, adopted at COP 17 in Durban, with an independent Secretariat and a 24-member Board staffed by representatives of developed and developing countries to oversee its operation, and will be “accountable to and function under the guidance of the COP”.

The latter represents one of several contested features of the GCF. Developing country negotiators sought to place the Fund under the “authority” of the COP, as is the Adaptation Fund Board, rather than merely being accountable to and guided by it, like the Global Environmental Facility, in order to reduce its perceived dominance by donor state interests. This position, taken by the G77+China in negotiations, would have allowed the full COP to control membership and set rules for the Fund, but was not incorporated into its charter. In a 2013 declaration, the Alliance of Small Island States (AOSIS) called for the GCF Board to “conclude its work on a transparent no-objection procedure conducted through national designated authorities”,⁴ which would follow the COP model of decentralised power through an open consensus-based decision procedure rather than consolidating power among donor states on the Board.

Its governing instrument claims that the Fund will channel “new, additional, adequate and predictable financial resources to developing countries” and in so

⁴AOSIS, *Draft Decision: Guidance to the Green Climate Fund*, [https://unfccc.int/files/cooperation_and_support/financial_mechanism/green_climate_fund/application/pdf/aosis_draft_decision_gcfv5_\(1\)_18_nov_1250am_\(track_accepted_changes\).pdf](https://unfccc.int/files/cooperation_and_support/financial_mechanism/green_climate_fund/application/pdf/aosis_draft_decision_gcfv5_(1)_18_nov_1250am_(track_accepted_changes).pdf).

doing will “catalyse climate finance, both public and private”.⁵ Along with developed country donors, financial inputs may come from “a variety of other sources, public and private, including alternative sources”.⁶ These other sources are expected to include “public finance, development bank instruments, carbon markets, and private capital”.⁷ References to private sources of climate finance constitute another area of contestation between the global North and South, with the latter emphasizing CBDR principles in expecting that developed countries provide capital for mitigation projects and assist in adaptation activities within developing countries as key aspects of their climate justice obligations. Although COP 15 endorsed targets of USD100 billion per year in contributions after 2020, an undefined but significant portion of which would be administered by the GCF, no mention is made in the Fund’s governing instrument to any criteria by which national remedial liability would be assigned, with voluntary contributions the expected short-term model by which post-2020 finance is to be mobilised.

Beyond the Fast Start period ending in 2013, for which the USD30 billion target first pledged at Copenhagen was met, efforts to mobilise public finance for the 2013-20 interim period or toward the post-2020 annual targets have been less successful. Contributions to the GCF Trust Fund have stalled, in part due to fiscal constraints in potential donor countries but often also as the result of disagreements over the governance principles and direction of the instrument. As of 31 March 2014, the Trust Fund contained USD54.89 million pledges and USD 36.68 million in contributions, of which nearly half of pledges and two-thirds of contributions came from one party (Germany). Since the Trust Fund is used to support operations of the GCF rather than to finance mitigation or adaptation activities themselves, these difficulties in mobilising relatively modest amounts in order to ensure the GCF’s viability as it builds capacity to engage in its mitigation and adaptation work should give pause to those expecting the Fund to fulfill its promise. Even if successful at mobilising USD100 billion annually, the Fund would struggle to support much of the adaptation activities that scientists expect to be necessary in the post-2020 period if it is also used to support the mitigation activities that could help bring developing countries into the next mitigation treaty framework. Current pledges suggest that raising USD100 billion each year could be too optimistic an expectation.

Both the shortfall in national contributions toward the Fund’s operation and the voluntary framework through which those contributions are mobilised suggest to critics the need for a more structured framework for guiding international climate finance, providing guidance not only for overall targets each year but also for

⁵Green Climate Fund, *Governing Instrument for the Green Climate Fund*, section I, principle 3, http://gcfund.net/fileadmin/00_customer/documents/pdf/GCF-governing_instrument-120521-block-LY.pdf.

⁶*Ibid.*, section IV, principle 30.

⁷Lattanzio, *International Climate Change Financing*, 9.

annual contributions by country or country type. While the voluntary contribution approach currently used by the Fund follows other non-binding measures in post-Kyoto international climate policy, and is designed to encourage greater levels of ambition by allowing the carrot of reputational competition among donor states to function as the primary incentive rather than utilising the stick of binding or structured commitments to guide national pledges, the result has thus far been a significant ambition gap between the level of resources that advocates of the Fund's mission envisage as needed and the pledges that have materialised from donor states or other organisations. Perhaps most troubling are the signs that objections to the GCF's design may be a source of reluctance on the part of potential donors. The European Commission, for example, has declined to contribute to the GCF, citing the fact that the EC was not offered a seat on the fund's management board, and both China and India have refused contributions due to objections concerning the Fund's plan to disburse funds through intermediaries like NGOs rather than directly to recipient countries.⁸

Voluntary contributions and the ambition gap

Following the expiration of the Kyoto Protocol's first compliance period in 2012, support for reliance upon binding commitments within a near-term climate treaty framework diminished significantly. The United States had opposed binding national emissions caps during negotiations over the Protocol, and cited them in the 1997 Byrd-Hagel Resolution opposing ratification of the treaty, as well as in the George W. Bush administration's justification for formally withdrawing from its terms. Other Annex I parties that had accepted binding caps under Kyoto, including Russia, Japan, Canada and New Zealand, refused to join the European Union in extending the Kyoto caps during the COP 18 meetings in Doha. Lingering suspicion over exclusions from the Protocol's binding mitigation targets, whether in the form of domestic mitigation targets or climate finance contributions, along with objections to governing processes for UNFCCC instruments and provisions fostered a general aversion to including binding targets within near-term instruments.

The result has been increased reliance upon voluntary targets and contributions, sometimes bolstered through transparency and accountability provisions designed to nudge states toward making more ambitious pledges and later complying with them. With binding targets off the table and, with them, any kind of explicit reference to burden-sharing principles like CBDR, the post-Kyoto process has increasingly relied upon informal norms like "nationally determined" or "nationally appropriate" actions rather than formal principles that link targets to each party's recent or

⁸C. Barbère, "EU snubs Green Climate Fund, France pledges to contribute", *EU Politics Today*, 10 July 2014, http://eupolitics.einnews.com/article/213216170/-DPQHnQ9I5e1rE5_.

historical emissions, abatement capacity, or level of development. In this context, any insistence upon including binding targets or formal distributive criteria among climate policy instruments would be regarded as obstructionist, as its effect would be to prevent consensus on new policy provisions. This asymmetry in negotiating positions – that it has been relatively easy to include provisions for voluntary actions but very difficult to win support for binding targets under COP consensus rules – advantages those parties most opposed to compulsory and regulatory action, as is reflected in the decisions that have emerged during this period.

In the 2013 Durban Platform for Enhanced Action (ADP), for example, negotiators agreed that nations should “initiate or intensify domestic preparation for their nationally determined contributions”, with the reference to voluntary “contributions” rather than binding “commitments” seen as weakening the remit of the mitigation framework leading up to the initiation of binding targets in 2020. The “pledge and review” system adopted under the ADP for the period leading up to the start of the next legally binding mitigation instrument, through which national governments make declarative but voluntary mitigation pledges that are later reviewed in terms of compliance of actions or results with pledges rather than the match between pledges and UNFCCC principles, further reinforces the non-binding nature of national mitigation actions. Another noted ambition gap between national pledges and mitigation actions necessary for preventing global temperature increases in excess of 2°C has thus resulted, even with the unenforceability of non-binding contributions.

In late 2015, delegates to COP 21 in Paris are expected to finalise a successor treaty to the expired Kyoto Protocol, detailing post-2020 national commitments to climate change mitigation and adaptation. In the lead-up to Paris, negotiators will be working toward the building of consensus around many of the features of a new treaty framework, which includes agreement on the basic terms of international climate finance. Controversies over the pledge and review process for national mitigation actions, over the creation of a compensatory “loss and damage” mechanism as proposed at COP 19 in Warsaw, and over the lack of public contribution principles for the GCF all reflect growing unease by developing country representatives and advocates over what appears to be a retreat from the CBDR framework, through which climate justice imperatives were understood as requiring “differential responsibilities” as the basis of the defined remedial national burdens associated with mitigation and adaptation. Brandishing ideas and slogans that call for more aggressive and even punitive measures against developed countries, like references to the “climate debt” that is owed to developing countries because of the much larger per capita greenhouse emissions that resulted from the earlier industrialisation of developed ones, critics of the recent movement away from UNFCCC principles portend that consensus in Paris may be elusive. The gap between views on foundational contributory and procedural principles needs to be closed if

current North-South negotiating principles are to be narrowed and future agreements reached.

Contribution principles and international climate finance

While a return to binding mitigation targets or contribution formulae based on CBDR principles do not offer prospects for developing consensus around a post-2020 treaty framework, given oft-expressed and entrenched opposition by some powerful developed country parties, the role of UNFCCC principles in widening disagreements between the global North and South might be instructive for considering the way forward. Some observers take such disagreements to be intractable, and therefore seek to circumvent inclusive and consensus-based COP processes by shifting the venue for international mitigation frameworks from the UNFCCC to processes built around the G20 major economies' meetings,⁹ or other less inclusive multilateral or 'mini-lateral' fora through which major emitters might more readily reach agreement.¹⁰ But evasion of critics calling for more principled criteria being referred to through assignments of remedial national responsibility will not silence them, nor will it facilitate development of more inclusive treaty frameworks through which the participation of large and growing emitters like China and India might be achieved. The UNFCCC process, despite its current dysfunction, remains the most legitimate forum through which an inclusive agreement might be forged. Given the importance of securing agreement from both donor and recipient countries on the terms of international climate finance, the 'major emitters' approach being proposed for more exclusive mitigation frameworks would not be appropriate for the financing of mitigation or adaptation projects being undertaken in developing countries, which requires the assent of those recipient states.

With regard to the GCF, the disparate visions for the Fund's governance and mobilisation of capital suggest the need for reconciliation between developed and developing country parties over its basic guiding principles. Adherence to the sorts of contribution principles that are urged by climate justice scholars and activities would not offer a promising path to resolving current conflicts over the direction of climate finance, as the terms of many such proposals are more demanding (and hence objectionable) for developed country parties than are proposals floated by negotiators from many developing countries. Scholars, for example, take CBDR to require that remedial burdens for climate change be proportional to some combination of each nation's full or recent past emissions and their level of national development or affluence, which would impose considerably higher burdens upon big per capita emitters like the United States and Australia than are ever realistically considered within

⁹Garnaut, "The G20 has the muscle".

¹⁰Eckersley, "Moving Forward in Climate Negotiations". See also the article by Andresen in this issue, 15, <http://dx.doi.org/10.1080/03932729.2014.997992>.

climate negotiating sessions. Even a weak version of CBDR-based climate finance contribution criteria based on post-2000 or even more recent national emissions differences would be a non-starter in the current policy climate.

Costs associated with climate change adaptation are expected to be significant, requiring the mobilisation of economic and political resources in order to protect the world's vulnerable against anthropogenic harm. The World Bank estimates the costs for adapting to a 2°C increase in global temperatures between 2010 and 2050 to range between USD70 and 100 billion per year.¹¹ Such costs could amount to 5 to 10 percent of GDP in some affected countries,¹² with expected losses being even greater if no adaptation is undertaken. Many of the most vulnerable countries are also among the poorest, so the international finance of adaptation is needed if persons are to be spared serious climate-related harm. While the GCF's governing instrument did not initially specify how much of the Fund's resources are to be devoted to mitigation and how much toward adaptation, stipulating only a "balanced allocation" between the two, a 50:50 division between the two categories of remedial activities was adopted at the GCF board meetings in February 2014. Such an allocation would still result in a significant shortfall in adaptation finance even if the ambitious USD100 billion annual target were met. Meeting that target, in other words, would itself result in compromise, since it would allow for the finance of only part of the adaptation activities considered imperative.

Given the urgency of problems involving climate change, the "overriding interest" lies in identifying responsible parties that can be assigned remedial liability for mitigation and adaptation efforts.¹³ With international climate finance, the primary remedial burden is to be borne by developed countries, which provide finance for adaptation projects being undertaken by host countries in collaboration with NGOs, with this work supported through financial instruments like the GCF. In this context, the ambition gap with respect to the post-2020 USD100 billion contribution target is especially alarming. No donor states have agreed to specific shares of this remedial burden, and several have expressed reservations about taking on any such commitments. Despite making domestic climate policy a centrepiece of his second administration, US President Barack Obama's 2014 Climate Action Plan made no mention of financial commitments to the GCF, or to international climate finance more generally. The current approach to mobilising capital to meet the GCF's ambitious targets, through which national contributions are fully voluntary and not based on any formal criteria or answerable to formal criticism, does not appear to be likely to yield the "adequate and predictable" resources that the Fund's governing instrument describes.

¹¹World Bank, *Economics of Adaptation to Climate Change*.

¹²Niang-Diop and Bosch, "Formulating an Adaptation Strategy".

¹³Miller, "Distributing Responsibilities", 471.

The CBDR and climate finance contribution norms

Absent formal and binding criteria for assigning compulsory national contributions to the GCF as a matter of remedial responsibility for climate change, how can sufficient pressure be brought to bear upon potential donor states to fulfill their obligations of climate justice in supporting mitigation and adaptation activities in developing countries? The reference to climate justice in this question, or to norms as sources of pressure upon parties in international politics, concerns the normative potential of international regimes like the one operating under the auspices of the UNFCCC.¹⁴ However, in addition to international regimes, non-state actors can also put pressure on states to fund mitigation activities adequately through means other than those associated with governance institutions.¹⁵ Rather than attempting to attach binding targets and principles to mitigation or adaptation policy mechanisms, through which CBDR and other UNFCCC principles might be institutionally realised if the currently intractable opposition to their inclusion were overcome, those trying to close the ambition gap while also seeking greater adherence to such principles could turn to alternate strategies and sources of influence.

One such strategy involves a form of participation by NGOs in the pledge and review process that currently requires states to submit plans for national mitigation actions. As noted above, these are no longer informed by the UNFCCC principles by which those burdens were differentiated under the Kyoto Protocol. The creation and mobilisation of multisectoral networks could assist in providing informal measures of accountability to both the conformity of pledges with principles, and compliance with those pledges.¹⁶ Civil society actors could serve as informal reviewers for such pledges, building support for norms regarding fair contributions toward the cooperative enterprise and seeking to enhance the force or reputational accountability in praising or shaming actors for pledges that fall far outside of principled guidelines. Despite the current reliance upon transparency as a policy tool for encouraging ambition in national mitigation pledges, ways to enhance the normative potential of transparency efforts are available, including through the use of information systems to report on compliance and efficacy as well as on conformity between efforts and regime goals.¹⁷

A similar approach could be taken toward the mobilisation of climate finance from such pledges, including outcome assessment from funded projects in recipient states as well as fiduciary responsibilities of donor states,¹⁸ through institutions like the GCF or through the full range of finance mechanisms taken as a whole. So long as contributions remain voluntary, these could be informally reviewed by civil

¹⁴Nadelmann, "Global Prohibition Regimes".

¹⁵Okereke *et al.*, "Conceptualizing Climate Governance".

¹⁶Benner *et al.*, "Multisectoral Networks in Global Governance".

¹⁷Mitchell, "Sources of Transparency".

¹⁸Van Kerkoff *et al.*, "Designing the Green Climate Fund".

society actors, and compared against principled criteria like CBDR or other formulae for determining each nation's fair share of contributions. While such external accountability would necessarily be oppositional to some state parties, and realising that accountability to such normative criteria remains a point of contention for some powerful members of the GCF Board, the development and application of external sources of normative criticism offer the potential to maintain principles like CBDR as informal norms that state negotiators or governments ignore only at their reputational peril. Given that a multiplicity of climate justice frameworks are likely to call for a wide range of formulae as to what constitutes a fair national contribution, a vigorous and challenging civil society dialogue around the review of national pledges to the Fund could lead to calls by state parties to consolidate such diverse critical review positions into a smaller set of evaluative frameworks for assessing fairness in climate finance, readmitting a role for such principles in a process that has successfully marginalised them.

Another strategy involves the accounting of private sources of capital for the GCF, which has thus far been another divisive issue between the global North and South, as the latter consider the idea of counting private finance toward developed country funding obligations anathema to principles like CBDR, which in the UNFCCC is applied only to states. Resistance to allowing private sources of finance within the GCF stems from concerns that state parties are shirking their contributory obligations in delegating mitigation and adaptation responsibilities to firms or NGOs and worries about “carbon colonialism” or “accumulation by decarbonization”¹⁹ occurring through the use of market instruments like REDD or the private capitalisation of carbon sequestration, as well as from general scepticism that resources originating from non-governmental sources will not allow recipient countries the measure of control over sponsored projects that they prefer. This resistance manifests itself as a generalised opposition to allowing private finance within the GCF's contributory scheme, thus introducing unnecessary obstacles to the realisation of the ambitious targets set out. By using accounting schemes that demonstrate the national origins of private finance within the GCF, especially when these are driven by carbon abatement policies in the context of carbon markets, some of the resistance to counting such contributions toward national climate finance obligations might be overcome, and the current wedge between the global North and South on the structure of the Fund minimised.

A further option for reconciling demands for climate justice with the resistance toward binding climate finance instruments involves the quantification of contributions across a range of international climate finance programmes. The Fund's governing instrument requires that national contributions be new and additional so as not to allow the mere diversion of current development aid into climate finance.

¹⁹Bumpus and Liverman, “Accumulation by Decarbonization”.

Tracking national contributions to international adaptation efforts is complicated, however, by the fact that the GCF and two other funds (the Global Environmental Facility and Adaptation Fund) support mitigation and adaptation projects with no stated division between the two. Insofar as climate justice imperatives require states to finance a share of international adaptation in accordance with CBDR principles,²⁰ with remedial national responsibilities for mitigation based upon other principles, an accounting system is needed that enables GCF contributions toward mitigation activities to be distinguished from those supporting adaptation, in combination with contributions channelled through other funds. Furthermore, for external review processes to be able to accurately assess conformity of national contributions with climate justice imperatives, a more transparent and cumulative accounting system is needed.

Finally, climate justice norms based on UNFCCC principles could have informal force in encouraging more ambitious state contributions toward international climate finance, even in the absence of binding quotas or formal contribution criteria, through processes that allow for third-party certification of national contributions as meeting or falling short of climate justice imperatives. At present, there are few inducements for nations to make ambitious pledges, particularly given the uncertainties regarding the Fund's future and a kind of contributor's dilemma surrounding the collective scheme by which nations are asked to contribute to it in the absence of assurances that others also will or that overall contributions will be sufficient to fulfil the Fund's remit. This and the fact that benefits accrue to others regardless of any one party's contributions toward the cooperative effort are strong incentives for state parties to free ride upon the contributions of others.²¹ While enforceable contribution quotas offer the most common solution to collective action problems like this, the use of third-party certification could provide a measure of accountability to assessments of various levels of national effort and return reputational benefits to states meeting their obligations under leading formulations of CBDR or other climate justice principles. As with the other proposals noted above, these may help to narrow the expectation gap for instruments like the Fund between those expecting it to be institutionalised around UNFCCC principles and those seeking to maintain its voluntary nature. Narrowing the gap can both increase the Fund's perceived legitimacy among those sceptical about its grounding in CBDR principles that define climate justice imperatives and encourage more ambitious contributions on the part of developed states without making fundamental changes to the Fund's structure.

²⁰Vanderheiden, *Atmospheric Justice*.

²¹Vanderheiden, "Climate Change and Free Riding".

Conclusions

The Green Climate Fund, like the other instruments of international climate policy developed in this period of scepticism toward binding targets and formal commitments, relies upon a voluntary contributions structure that has invited criticism about its disjuncture from UNFCCC principles as well as regarding the insufficient financial support it has thus far received. Critics point to the Fund's governing instrument departing from the more inclusive and consensus-based procedures associated with the COP, as well as to the absence of formal criteria by which contributions may be based on CBDR or other climate justice principles. Disagreement over the Fund's basic structure threaten to undermine the support it needs from both donor and recipient states if it is to successfully serve as the ambitious climate finance instrument that supporters intend. Internal divergence among EU member states in GCF financing, combined with the EC's reticence to commit Commission funds, may compromise the Fund's ambition as well as its solvency.²² With lingering antipathy toward either the GFC or the larger international climate policy effort of which it is a key part, the prospects for agreement on a post-Kyoto climate policy for the period starting in 2020 are dimmed. Resistance toward binding commitments or formal references to climate justice principles within GCF contribution guidelines need not fracture support for the Fund's operation, however, if informal means of evaluating national contributions and creating and reinforcing climate justice norms can be strengthened. Several suggestions for incorporating such norms within GCF or the larger international climate finance system are offered above, but the primary challenge for going forward lies in building consensus around the Fund's operation within a framework that appeals to UNFCCC principles without being hindered by them. To this end, several short-term policy recommendations follow.

First, while explicit reference to the CBDR principles of the UNFCCC within the GCF governing instrument may not be politically feasible, those principles are indirectly reflected in provisions that the Fund "be guided by the principles and provisions of the Convention". Further implicit reference to the abstract objectives of the Convention could be adopted within the Fund, reassuring those parties that suspect the Fund to be serving only the interests of donor state parties. The reference could be to protecting the climate system or to ensuring the right to develop, both of which avoid invoking contribution principles based on national responsibility but signal a greater willingness to engage the concerns of recipient states. Second, support for the Fund within developing states could be improved by following through on promises to allocate half of GCF funds toward adaptation efforts which, unlike mitigation activities financed through the Fund, would bring tangible benefits to recipient states. Third, more explicit guarantees of recipient

²²Oberthür, "Global Climate Governance after Cancun".

state participation in the development of projects financed within developing countries would also help to reduce the unease associated with viewing the Fund as accountable primarily to donors, again improving its legitimacy within the global South.

Finally, the current reservations among potential donor states over how developed country remedial liability will be assigned in a Kyoto successor treaty may be responsible for some of the reticence in post-2020 pledges. The creation of a working group charged with developing a set of criteria by which country parties are assessed as meeting, falling short of, or exceeding their principled commitments might help to introduce some certainty about how current pledges might count toward the fulfillment of future obligations. While external to the GCF structure itself, such an effort could better connect the Fund and its efforts to UNFCCC principles and objectives, and in so doing serve a shared interest in stabilising expectations.

Together, these policy recommendations and strategic proposals are designed to overcome existing objections to the Fund's design or governing structure, and respond to current deficiencies in its operations or reception. As with other elements of current climate policy negotiations, however, support for any one instrument or mechanism depends upon its role within a larger regime or institutional structure, which must be regarded by all affected parties as legitimate. Given that the climate regime is still tainted by suspicions about bad faith exhibited by some parties within the UNFCCC process, of paramount importance in the development of new elements will be a fair and inclusive process through which all parties negotiate and act in good faith, and with an eye toward the common objective that animated the Convention and its various policy objectives in the first place.

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