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**GLOBAL CLIMATE GOVERNANCE: A CRITICAL ANALYSIS
OF THE NEGOTIATION PROCESS AND DYNAMICS WITHIN
INTERNATIONAL CLIMATE CONVENTIONS, WITH A FOCUS
ON INDIA.**

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I hereby declare that this dissertation titled **“GLOBAL CLIMATE GOVERNANCE: A CRITICAL ANALYSIS OF THE NEGOTIATION PROCESS AND DYNAMICS WITHIN INTERNATIONAL CLIMATE CONVENTIONS, WITH A FOCUS ON INDIA.”** has been researched and submitted by me to the National University of Advanced Legal Studies, Kochi, in partial fulfillment of the requirement for the award of Degree of Master of Laws in International Trade Law, under the guidance and supervision of Assistant Professor Dr Nandita Narayan, is an original, bona fide, legitimate work. It has been pursued for academic interest. This work or any type thereof has not been submitted by me or anyone else for the award of another degree from either this University or any other University. I also confirm that all the material I borrowed from different sources and incorporated into this dissertation is duly acknowledged. If any material is not duly acknowledged and found incorporated in this thesis, it is entirely my responsibility. I am fully aware of the implications of any such act which might have been committed by me advertently or inadvertently.

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ABBREVIATIONS

1. UNFCCC - United Nations Framework Convention on Climate Change
2. IPCC - Intergovernmental Panel on Climate Change
3. UN - United Nations
4. CBDR - Common but Differentiated Responsibilities
5. GHG - Green House Gas
6. CDM - Clean Development Mechanism
7. JI - Joint Implementation
8. NDC - Nationally Determined Contributions
9. NGO - Non-Governmental Organisations
10. SBSTA - Subsidiary Body for Scientific and Technological Advice
11. SBI - Subsidiary Body for Implementation
12. GCF - Green Climate Fund
13. MoEFCC - Indian Ministry of Environment, Forest and Climate Change
14. SAPCC - Kerala's State Action Plan on Climate Change
15. COP – Conference of the Parties
16. CMA – Meeting of the Parties to the Paris Agreement
17. AC -Adaptation Committee
18. AFB – Adaptation Fund Board
19. CTCN - Climate Technology Centre and Network
20. SCF – Standing Committee on Finance
21. PCCB - Paris Committee on Capacity-building
22. TEC - Technology Executive Committee
23. CDM-EB - The Clean Development Mechanism Executive Board
24. CGE - Consultative Group of Experts
25. GEF - Global Environment Facility
26. JISC - Joint Implementation Supervisory Committee
27. LEG - Least Developed Countries Expert Group
28. LDC - Least Developed Country

29. WMO - World Meteorological Organisation
30. OECD - Organisation for Economic Co-operation and Development
31. EIT - Economies in Transition
32. BINGO - Business and Industry NGO
33. ENGO - Environmental NGO
34. IPO - Indigenous Peoples Organisations
35. RINGO - Research and Independent NGO
36. TUNGO - Trade Union NGO
37. WGC - Women and Gender Constituency
38. YOUNGO - Youth NGO
39. AOSIS - Alliance of Small Island States
40. ALBA- Alliance for the Peoples of Our America
41. AILAC - Independent Alliance of Latin America and the Caribbean
42. BATNA - Best Alternative to a Negotiated Agreement
43. SIDS – Small Island Developing States
44. AGBM - Ad hoc Group for the Berlin Mandate
45. REDD - Reducing Emissions from Deforestation and Forest Degradation
46. AGOA - African Growth and Opportunity Act
47. EPA - Economic Partnership Agreements
48. CfRN - Coalition of Countries with Rainforests
49. CBDR&RC - Common but Differentiated Responsibilities and Respective Capabilities
50. JUSCANZ - Japan, Canada, Australia and New Zealand
51. GDP – Gross Domestic Product
52. AR4 – Fourth Assessment Report
53. MEF – Major Economies Forum
54. NAPCC - National Action Plan on Climate Change
55. SAPCC - State Action Plans on Climate Change
56. PMCCC - Prime Ministers Council on Climate Change
57. NAMA - Nationally Appropriate Mitigation Actions

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CHAPTER 1: INTRODUCTION

Climate change is arguably the single largest threat to human existence and is one of the most complex global policy challenge facing the human civilisation. It is a global challenge that requires international cooperation since actions of all states, corporations and individuals having transboundary consequences when it comes to effects of climate change. Climate change poses risks to environment, economy and human health. The negotiation process within various climate conventions plays a central role in determining actions to help mitigate and adapt to impacts of climate change. The international community has unanimously agreed that climate change is real and have taken major steps since the latter part of 20th century. However multiple challenges still plague international climate conventions such as the negotiation dynamics between the developed and developing countries, with each player having their own interests and agendas. This study will critically assess the negotiation dynamics within these conventions with a particular focus on Indian negotiation strategies and policy.

Global climate governance refers to the multi-level and multi-dimensional approach to managing and mitigating the effects of climate change, encompassing international instruments such as treaties, national policies and local actions. These instruments are used with the objective of achieving sustainability and reducing emissions. Internationally institutions such as the United Nations Framework Convention on Climate Change (UNFCCC) and the Intergovernmental Panel on Climate Change (IPCC) acts as the primary organ of the UN in facilitating scientific research, policy formulation and conducting international negotiations. The UNFCCC established in 1992 1992 Earth Summit in Rio de Janeiro provides a platform for various international climate negotiations leading to the formulation of binding agreements such as Kyoto Protocol (1997) and the Paris Agreement (2015) incorporating the principles of Common but Differentiated Responsibilities (CBDR), which acknowledges the varying capabilities and responsibilities of countries in addressing climate change, especially between developed and developing nations. The Kyoto Protocol adopted in 1997 was the first binding international agreement to set GHG reduction targets mandating developed countries (Annex 1) countries to reduce

their emissions by an average of 5% below 1990 levels during its commitment period.¹ This protocol also introduced mechanisms such as emission trading, the Clean Development Mechanism (CDM), and Joint Implementation (JI) to facilitate compliance. The third major agreement that is assessed is the Paris Agreement adopted in 2015, which required member states and parties to submit Nationally Determined Contributions (NDCs) and aims to limit global warming to well below 2°C above pre-industrial levels. Unlike the Kyoto Protocol this treaty did not distinguish between the differentiated responsibilities of developed and developing countries.

The negotiation process during international conventions are complex processes involving multiple actors acting in their own best interest, requiring back and forth communication to reach agreements. These intricate interactions require back and forth communication, strategic planning and occasional compromises to reach an agreement. This process is also influenced by a variety of factors such as variable power dynamics, foreign policy considerations as well as unique negotiation style employed by states and agencies suited towards different scenarios. The various styles of negotiation include competing style, accommodating style, avoiding style, collaborating style and the compromising style, all based on Thomas Kilmann Conflict Management Model. Imbalance of power during negotiation process significantly influence the outcome of these conventions with, more often than not, tipping the scales in favour of the interests of developed countries due to their economic and technological advantages enabling them to have leverage during negotiations. A major example being the US who has consistently tried to undermine the principle of CBDR by arguing for equal environmental commitments from all nations regardless of their economic and developmental status.

This process brings together a diverse array of stakeholders, including national governments, international organisations, non-governmental organisations (NGOs), and private sector representatives with each actor having their own agendas and goals ranging from economic interests to environmental commitments and diplomatic objectives.

¹ Fact sheet: the Kyoto Protocol, (2011), https://unfccc.int/files/press/backgrounders/application/pdf/fact_sheet_the_kyoto_protocol.pdf, (last visited June 15, 2024)

India is one of those countries that are severely affected by climate change which experiences frequent natural disasters, rising temperature, irregular rainfall which are being common day by day. So, it would stand to reason that India become a key actor in global climate governance acting in a leadership role in the developing world. India is highly vulnerable to the effects of climate change attributable to its persistent poverty and a largely agrarian economy along with high greenhouse gas emissions (GHG) ranking fourth after China, US and Japan.²

India's approach towards various international conventions under UNFCCC has evolved through several phases reflecting its unique position as a developing country with significant economic growth as well as environmental challenges with an initial proactive stance, during the initial UNFCCC negotiations emphasising on the importance of Common but Differentiated Responsibilities(CBDR) and responsibilities of developed nations towards mitigation efforts owing to their historical emissions, to a much more unassertive position often influenced by its own domestic factors as well as its current foreign policy objectives.

In this study we will critically examine the negotiation dynamics within these conventions, with a particular focus on India by analysing India's negotiation strategy and climate policy during the negotiations of key climate agreements, such as the United Nations Framework Convention on Climate Change (UNFCCC), the Kyoto Protocol, and the Paris Agreement. India's unique position as a developing country as well as an emerging economy with growing emissions provides a unique perspective to understand the dynamics of global climate negotiations. It will explore the inherent power imbalances affecting developing countries, such as India, experience during international climate negotiations process, emphasising the role of key players and various coalitions and alliances within UNFCCC. Ultimately the objective of this dissertation is to shed light on to the intricate and multi-dimensional nature of global climate governance and critically assess the negotiation strategy and climate policy employed by India.

² Katharina Michaelowa & Axel Michaelowa, *India as an Emerging Power in International Climate Negotiations*, 12 CLIMATE POLICY 575 (2012).

1.1 RESEARCH OBJECTIVES

- 1 To trace the evolution of international conventions and climate treaties related to climate change mitigation so as to understand their development within the context of global climate governance.
- 2 To understand the negotiation processes and strategies within international agreements on sustainable energy trade and climate change.
- 3 To assess the extent to which international conventions and treaties may disproportionately favour the interests of developed nations over developing countries such as India.
- 4 To critically analyse and assess the effectiveness of India's negotiation strategies and climate policy objectives during the negotiation process of various international climate conventions.

1.2 STATEMENT OF PROBLEM

Despite the existence of a variety of international climate conventions and treaties there still remains a significant gap in achieving equitable and effective global climate governance, primarily attributable to the complex negotiation processes and the disproportionate influence of developed countries due to their economic and developmental advantages. India being a developing country suffers from said inequities in negotiations owing to its inconsistent climate policies influenced by both internal and external factors affecting its negotiation strategies during climate conventions. These complexities cause India to often find itself navigating these muddled waters effectively impacting its ability to assert itself during climate conventions and ends up agreeing to terms that are against its own economic and environmental developmental goals.

1.3 RESEARCH QUESTIONS

- 1 How have international climate conventions and treaties relating to climate governance evolved over time and what is their historical context in which these treaties were developed?

- 2 What are the major factors, key agreements and actors influencing and engaging in international climate negotiations?
- 3 What are the specific negotiation strategies and styles employed by states such as India in international climate conventions, and how have these evolved over time?
- 4 How do the power dynamics between developed and developing countries influence the outcomes of agreements in international climate conventions and do they reflect the interests of developing countries, incorporating the principles of Common but Differentiated Responsibilities and Respective Capabilities (CBDR-RC)
- 5 What are the internal and external factors influencing India's climate policy and how is it reflected during climate negotiations?

1.4 RESEARCH HYPOTHESIS

The negotiation power and climate policy of developing countries such as India are influenced by their economic as well as geopolitical dependencies on developed nations during negotiations of international climate conventions, resulting in agreements that disproportionately favour the interests of developed countries over equitable climate action.

1.5 RESEARCH METHODOLOGY

This study will exclusively employ purely doctrinal methodology of legal research. This study will rely on both primary and secondary sources of data such as International Agreements, International Conventions and Treaties, legislations, government press releases, books and journal articles. Primary sources includes several annual reports by the UNFCCC, UN reports, IPCC fourth and sixth assessment reports, The Kyoto Protocol, The Paris Agreement, reports and various press releases from Ministry of Environment, Forest and Climate Change. Secondary sources include selected books, articles, internet resources, news reports etc has been utilised for the research.

1.6 CHAPTERISATION

1. INTRODUCTION

1.1 Research Objectives

1.2 Statement of a Problem

- 1.3 Research Questions
- 1.4 Research Hypothesis
- 1.5 Research Methodology
- 1.6 Chapterisation
- 1.7 Literature Review

This chapter primarily deals with the introduction to this study giving a brief overview of the subject matter.

2. UNDERSTANDING GLOBAL CLIMATE GOVERNANCE

- 2.1 Introduction
- 2.2 National and Subnational Climate Governance
- 2.3 Key International Bodies Involved in Climate Governance and Treaty Negotiations
- 2.4 Participants in Climate Treaty Negotiations
- 2.5 Negotiation Groups
- 2.6 Forums for Advocacy and Negotiations
- 2.7 Conclusion

This chapter delves into the concept of global climate governance, reviewing the role of international organisations such as the UNFCCC and IPCC in shaping global climate policies as well as the various key actors and forums that engage in international climate negotiations. The chapter provides an overview of major international climate agreements, including the UNFCCC, Kyoto Protocol, and Paris Agreement, in order to provide a context for the broader landscape in which climate negotiations take place.

3. THE NEGOTIATION PROCESS IN INTERNATIONAL CLIMATE GOVERNANCE

- 3.1. Introduction
- 3.2. Understanding the Negotiation Process
- 3.3. Negotiations In Major Climate Governances Treaties
- 3.4. Dominating Effect of Developed Countries During Climate Negotiations
- 3.5. Conclusion

This chapter explores the intricacies of the negotiation process within international climate conventions tracing as well as critically analysing the historical evolution of climate

negotiations from the Rio Summit to the Paris Agreement. This chapter identifies the various negotiation styles and strategies used by key actors and stakeholders and how they ultimately affect the outcome of various climate agreements highlighting the influence of power dynamics and economic dependencies.

4. INDIA IN INTERNATIONAL CLIMATE NEGOTIATIONS

4.1 Introduction

4.2 Evolution Of Indian Position in Climate Negotiations

4.3 Assessing The Effectiveness of India's Negotiation Strategy and Climate Policy in International Climate Negotiations.

4.4 The Way Forward and Conclusion

Focusing on India, this chapter of the study examines and critically evaluates the country's participation in international climate negotiations. It reviews India's national climate policies and frameworks and assesses its contributions and commitments under major climate agreements during negotiations. The negotiation strategies employed by India are analysed, along with the challenges it faces during these negotiations. This chapter also provides recommendations for strengthening its negotiation power in international climate conventions by restructuring its negotiations strategies and climate policy influenced by its own foreign policies.

5. CONCLUSION AND SUGGESTIONS

5.1 Critically Examining the Global Climate Governance Process

5.2 The Indian Negotiation Position: Roles and Challenges

5.3 Recommendation

5.4 Conclusion

This concluding chapter summarises the key findings of the study and discusses their implications for India in global climate governance.

1.7 LITERATURE REVIEW

1. Serge Silatsa Nanda, Omar Samba, Ahmad Sahide, Inequity in International Climate Change Negotiations, *Nation State: Journal of International Studies* Vol. 4 No. 2 (2021).

The study "Inequity in International Climate Change Negotiations" investigates the disparities between developed and developing countries in climate negotiations from the Rio Conference to the Paris Agreement. Using a qualitative approach, the research highlights that the principle of "common but differentiated responsibility" (CBDR) has been central, obliging developed countries to greater emission reductions. Despite forming coalitions, developing countries often adopt a negotiation style marked by compromise due to power imbalances, with developed nations leveraging their economic and technical resources. The Paris Agreement's requirement for all countries to submit Nationally Determined Contributions (NDCs) inadvertently places a heavier burden on developing countries. Furthermore, economic and military dependencies weaken the negotiation positions of developing nations, reinforcing global inequalities and emphasising the need for fairer representation and support in climate governance.

2. David Ciptet, Rethinking Cooperation: Inequality and Consent in International Climate Change Politics, *Global Governance*, Apr.–June 2015, Vol. 21, No. 2 (Apr.–June 2015), pp. 247-274.

The article "Rethinking Cooperation Inequality and Consent in International Climate Change Politics" explores the power dynamics and inequalities while obtaining consent in international climate politics, focusing on how developed countries use their economic and technological advantages to shape negotiation outcomes. Consent in international climate agreements is often achieved through unequal negotiations. Developing countries are frequently compelled to align with the preferences of more powerful nations due to promises of financial and technical assistance. This dynamic results in agreements that may not fully address the needs and interests of developing countries. The study suggests that addressing these inequalities requires reforms for equitable participation, increased transparency, and stronger negotiation capabilities for developing countries to ensure sustainable and just climate outcomes.

3. D. Raghunandan, *India in International Climate Negotiations Chequered Trajectory*, *INDIA IN A WARMING WORLD* 187 (Navroz K. Dubash ed., 1 ed. 2019). This book, particularly the chapter 11 by D. Raghunandan, deals with the analysis of India's stance and approach towards international climate negotiations under the United Nations Framework Convention on Climate Change (UNFCCC). The author highlights the evolution of India's position over time, from an early proactive and creative phase to a more quiescent and reactive posture. The author asserts that the Indian negotiation position during international climate conventions and treaty agreements have essentially contributed to the dilution of equity principle like CBDR-RC which is foundational for equitable climate agreements. The author underscores the importance of understanding the negotiation dynamics and the need for India to focus on its core concerns and press for enhanced actions by developed countries.

4. Sandeep Sengupta, *India's Engagement in Global Climate Negotiations from Rio to Paris*, in *INDIA IN A WARMING WORLD* 114 (Navroz K. Dubash ed., 1 ed. 2019). Sandeep Sengupta's work provides an in-depth examination of India's engagement in climate negotiations, emphasising the country's key motivations and the factors that contributed to the shaping of the climate regime. Sengupta highlights India's early articulation of its views on climate change, its formation of a Southern coalition, and its emphasis on the principles of equity and justice. These efforts ultimately led to the inclusion of key provisions in the UNFCCC, such as the recognition of CBDR and the commitment to technology transfer and financial support for developing countries. Sengupta's work also explores evolution of India's climate foreign policy behaviour over time. The author asserts that the factors that contributed to India's continued resistance to changes in the UNFCCC/Kyoto Protocol regime, including the country's desire to maintain its policy space and carbon space was influenced by India's growing bilateral relationships with developed countries, particularly the United States, which provided material and security benefits in exchange for India's cooperation on climate issues.

5. Nirupama A. K, India's Climate Policy: Past, Present and Future Strategies, 12 JOURNAL OF POLITY AND SOCIETY (2020).

The author of this article analyses the evolution of India's climate policy and its stance in global climate negotiations. One of the primary assertions by the author is that India's climate policy has evolved significantly over the years, from its early days of grouping with developing countries to combat carbon colonialism by developed countries to its current stance of advocating for a more balanced approach to climate action. This evolution is attributed to various factors, including domestic considerations, foreign policy orientation, and environmental practices. The studies also highlight the challenges and anomalies in India's climate policies, its economic and political weight, and its aspirations to play a larger strategic role in international affairs. The author suggests that India's stance in climate negotiations is shaped by a complex interplay of domestic and international factors, and that its climate policy is influenced by its socioeconomic developmental goals, foreign policy orientation, and environmental practices.

6. Antto Vihma, India and the Global Climate Governance: Between Principles and Pragmatism, 20 THE JOURNAL OF ENVIRONMENT & DEVELOPMENT 69 (2011).

The article "India and the Global Climate Governance: Between Principles and Pragmatism" by Antto Vihma (2011) critically examines India's evolving role in global climate negotiations, highlighting a shift from a traditional developing country stance to a more pragmatic and flexible approach. Vihma discusses the balance India maintains between principles of equity and historic responsibility, and the pursuit of national interests. Key factors influencing this shift include India's emissions profile, economic growth, domestic vulnerabilities, and its strategic relationship with the United States. The study emphasises the importance of international legalisation and cooperation, noting that India's increased involvement in shaping the climate agenda has solidified its position as a crucial player in global climate governance. The author

underscore the inadequacy of India's negotiating position and the ongoing need for developed and developing countries to collaboratively address global climate challenges.

7. AR4 Climate Change 2007: Impacts, Adaptation, and Vulnerability — IPCC.

The report, part of the Fourth Assessment Report, offers a detailed evaluation of climate change impacts on natural and human systems, adaptation strategies, and regional vulnerabilities. Based on over 29,000 data series, the report documents significant observed changes such as glacier shrinkage, permafrost melting, and shifts in river discharge, while projecting future impacts including continued warming, sea-level rise, and altered precipitation patterns. It emphasises the need for effective adaptation measures, highlighting water management, coastal protection, and agricultural practices as key strategies and identifies vulnerable regions like small-island states and low-lying coastal areas. The report underscores the urgent necessity for mitigation to limit global warming to 2°C above pre-industrial levels, alongside sustainable development that integrates climate considerations, calling for immediate and coordinated action from policymakers, scientists, and the public to address climate change challenges.

CHAPTER 2: UNDERSTANDING GLOBAL CLIMATE GOVERNANCE

2.1 INTRODUCTION

The topic of global climate governance is of utmost importance when it comes to the overall climate health of our planet. It serves as the central stage for a grand performance, where different efforts, beliefs, and ambitions are brought together to create a harmonious relationship between humanity and the Earth. To put it in a metaphorical context, imagine a magnificent symphony hall, filled with representatives from various nations, each playing their part by using their expertise in policymaking, diplomacy, or innovation to contribute to the greater goal of sustainability. Building climate solutions is a complex, global-scale process that involves and is relevant to all sections of society. Climate change governance is linked to countries' development, and the well-being of nature and people.

Climate change governance or climate governance simply put is an ongoing process of dialogue and negotiation that involves a wide range of stakeholders, including national and local governments, international organisations, the private sector, NGOs, and other social actors.³ The goal of this process is to identify and pursue opportunities for action to address climate change. It involves multilevel governance, which ensures coherence between local, national, and international plans and policies, promotes collaboration, innovation, and learning among actors and authorities at various levels, and integrates the knowledge, ideas, and perspectives of different sections of society.⁴ At its essence, global climate governance embodies a system of norms, rules, and practices that seek to govern the behaviour of state and non-state actors in the realm of climate change. This includes the formulation of legal instruments, the negotiation of international agreements, and the creation of institutional mechanisms to facilitate cooperation, coordination, and compliance with agreed-upon objectives and commitments.

³ VOLUME III: WHAT IS CLIMATE GOVERNANCE?,
<https://www.undp.org/sites/g/files/zskgke326/files/202209/Volume%20III%20What%20is%20climate%20governance.pdf>

⁴ *Id.*

The earth's the atmosphere is a common good and open to everyone's use. That is, no one can be denied the right to utilise it. Accordingly, individuals, private industry, and states alike have traditionally used the atmosphere to harbour their emissions.⁵ The industries backed by various governments and private players pumped out emissions into the atmosphere historically. The fact of the matter is that there doesn't exist a single government entity responsible for this catastrophic change in earth's atmosphere. We all share a collective responsibility. Which is not to say there cannot be anything done to change this current situation at an international level. It only means that globally there is no single government responsible for this action. Since the international system lacks such government, the concept of global governance has been suggested instead.⁶

There are several intergovernmental bodies and mechanisms established by the international community to address the ever-growing issue of climate change and sustainability. These organisations and bodies work together in collaboration with nation states to enact climate policies that is founded on the basis of credible scientific evidence through research conducted by these entities.

The Intergovernmental Panel on Climate Change (IPCC) is an independent scientific body that provides scientific information to countries to strengthen the global response to climate change.⁷ It is structured as three working groups focusing on the physical science of climate change, impacts, adaptation, and vulnerability, and mitigation of climate change, as well as a special team in charge of GHG inventories.⁸

The United Nations Framework Convention on Climate Change (UNFCCC) is a key institution in global climate governance, providing a platform for international negotiations and decision-making on climate change.⁹ The UNFCCC and its subsidiary bodies, such as

⁵ Sverker C. Jagers & Johannes Stripple, *Climate Governance Beyond the State*, 9 GLOBAL GOVERNANCE 385 (2003).

⁶ *Id.*

⁷ Wuppertal Institut, *Global Climate Governance - Wuppertal Institute for Climate, Environment and Energy*, <https://wupperinst.org/en/research/research-units/global-climate-governance> (last visited Apr 12, 2024).

⁸ VOLUME III: WHAT IS CLIMATE GOVERNANCE?, <https://www.undp.org/sites/g/files/zskgke326/files/2022-09/Volume%20III%20What%20is%20climate%20governance.pdf>

⁹ Institut, *supra* note 7.

the Subsidiary Body for Scientific and Technological Advice (SBSTA) and the Subsidiary Body for Implementation (SBI), support the implementation of the Convention and its related instruments, while the UNFCCC Secretariat provides technical and administrative support.¹⁰

2.2 NATIONAL AND SUBNATIONAL CLIMATE GOVERNANCE

In global climate governance the common misconception is that it exists only at an international level, with the involvement of various organisations such as the UNFCCC, IPCC, GCF (Green Climate Fund), the Global Environmental Facility etc. But in reality, numerous decision-making processes happen at national or subnational levels, particularly when it comes to creating programs, public policies, and regulations. Ideally, climate action should be implemented in these levels where actors from different areas and levels of authority participate in dialogue and negotiation processes. These decision-making spaces offer opportunities for public participation. There are various social actors involved in national and sub national climate governance occupying various spaces and performing myriads of functions to further the goal of sustainable living. For instance, public institutions, ministries, and other state entities are pivotal in shaping public policies and regulations, impacting citizens at national and subnational levels. Entities like India's Ministry of Environment, Forest and Climate Change (MoEFCC) ensure effective implementation of laws and policies for accessible, affordable, and high-quality public services.¹¹ The judiciary, legislature, and executive branches also play crucial roles with the judiciary interpreting laws and upholds constitutional consistency, the legislature creating laws, and the executive implementing them, all significantly influencing climate policy.¹² Local governments are responsible for making locally implementable decisions that align with climate action objectives, including those from international agreements like the Paris Agreement. For example, Kerala's State Action Plan on Climate Change

¹⁰ *Id.*

¹¹ Cabinet Minister, THE OFFICIAL WEBSITE OF MINISTRY OF ENVIRONMENT, FOREST AND CLIMATE CHANGE, GOVERNMENT OF INDIA, <https://moef.gov.in/en/about-the-ministry/cabinet-minister-2/> (last visited Apr 12, 2024).

¹² Center for International Environmental Law, 'Promoting Public Participation in Climate Policies Public Participation in International Climate and Environmental Frameworks', CIEL, 2018, <www.ciel.org>, accessed 2 April 2024

(SAPCC) and the Meenangadi carbon-neutral project illustrate how local bodies can combat climate change at the grassroots level.¹³

The private sector being the most responsible for the most GHG emissions, holds significance in climate governance. Due to its emissions responsibility and potential to develop mitigation and adaptation technologies, the private sector is essential in climate action.¹⁴ Finally, the academia provides the research and knowledge needed for informed decision-making based on scientific data creating new opportunities, increasing capacity, enhances understanding, and improves education by offering essential resources and enhancing existing information pool.¹⁵

2.3 KEY INTERNATIONAL BODIES INVOLVED IN CLIMATE GOVERNANCE AND TREATY NEGOTIATIONS

The Conference of the Parties or COP convenes annually, bringing together all countries party to the Convention to evaluate progress on climate change and negotiate further actions.¹⁶ These meetings are pivotal for nations to discuss strategies, share experiences, and negotiate agreements aimed at mitigating greenhouse gas emissions and adapting to climate impacts. Among the most notable was COP21 in Paris in 2015, where the landmark Paris Agreement was adopted.¹⁷ The COP process involves intense negotiations among countries with diverse interests and responsibilities yet remains a crucial forum for international cooperation. The first COP meeting was held in Berlin, Germany in March 1995. The most recent COP28 was held at the end of 2023 in Dubai, United Arab Emirates.¹⁸ COP also serves as the serve as the meeting of the Parties to the Paris Agreement (CMA), gathering countries that are party to both the UNFCCC and the Paris

¹³ A. NIRUPAMA, *LOCAL SELF-GOVERNMENT INSTITUTIONS AND CLIMATE CHANGE: THE CASE OF MEENANGADI PANCHAYAT IN KERALA*, GLOCALISM: JOURNAL OF CULTURE, POLITICS AND INNOVATION (2024).

¹⁴ Center for International Environmental Law, 'Promoting Public Participation in Climate Policies Public Participation in International Climate and Environmental Frameworks', CIEL, 2018, <www.ciel.org>, accessed 2 April 2024

¹⁵ *Id.*

¹⁶ Conference of the Parties (COP) | UNFCCC, <https://unfccc.int/process/bodies/supreme-bodies/conference-of-the-parties-cop> (last visited Apr 14, 2024).

¹⁷ *Id.*

¹⁸ COP 28 | UNFCCC, <https://unfccc.int/event/cop-28> (last visited Jun 19, 2024).

Agreement where non-signatory countries can observe.¹⁹ During CMA nations assess climate commitments, negotiate actions, and work towards collective goals, highlighting the integrated nature of international climate efforts. Bureau of the COP and CMA offers guidance on initiatives, organises sessions, and oversees the Secretariat. It comprises 11 elected officers, including the President and representatives from UN regional groups and Small Island Developing States.²⁰

Another key international body that engages in global climate governance is The UNFCCC Secretariat, which supports and facilitates the implementation of the Convention and the Paris Agreement.²¹ Located in Bonn, Germany, the Secretariat provides technical, logistical, and organisational support to the COP, its subsidiary bodies, and other Convention-established bodies. Key tasks include organising COP meetings, facilitating negotiations among Parties, compiling and sharing information on climate change, and supporting capacity-building efforts in developing countries.²² Subsidiary Body for Scientific and Technological Advice (SBSTA) is one of the two permanent subsidiary bodies established by the UNFCCC.²³ SBSTA provides technical and scientific advice to the Conference of the Parties (COP) and other subsidiary bodies on matters related to the implementation of the Convention. This includes issues such as scientific assessments of climate change, technology transfer, capacity-building, and methodologies for greenhouse gas inventories.²⁴ It plays a key role in informing the decisions and actions taken by the COP and other bodies within the UNFCCC framework. The second permanent subsidiary body is the Subsidiary Body for Implementation (SBI) which aids in assessing the implementation of the Paris Agreement and the Convention.²⁵ It discusses biennial work

¹⁹ Conference of the Parties serving as the meeting of the Parties to the Paris Agreement (CMA) | UNFCCC, <https://unfccc.int/process/bodies/supreme-bodies/conference-of-the-parties-serving-as-the-meeting-of-the-parties-to-the-paris-agreement-cma> (last visited Apr 14, 2024).

²⁰ Bureau of the COP, CMP, and CMA | UNFCCC, <https://unfccc.int/process/bodies/supreme-bodies/bureau-of-the-cop-cmp-and-cma> (last visited Apr 14, 2024).

²¹ About the secretariat | UNFCCC, <https://unfccc.int/about-us/about-the-secretariat> (last visited Apr 14, 2024).

²² *Id.*

²³ Subsidiary Body for Scientific and Technological Advice (SBSTA) | UNFCCC, <https://unfccc.int/process/bodies/subsidiary-bodies/sbsta> (last visited Apr 14, 2024).

²⁴ *Id.*

²⁵ Subsidiary Body for Implementation (SBI) | UNFCCC, <https://unfccc.int/process/bodies/subsidiary-bodies/sbi> (last visited Apr 14, 2024).

programs for the Secretariat to align support with the objectives of the Paris Agreement, the Convention, and the Kyoto Protocol.

Then there are the constituted bodies formed under the framework of the UNFCCC, the Kyoto Protocol and the Paris Agreement. The constituted bodies under the United Nations Framework Convention on Climate Change (UNFCCC) are specialised entities established to support the implementation of the Convention and its related protocols. Key bodies include the Adaptation Committee (AC), which promotes enhanced action on adaptation, and the Adaptation Fund Board (AFB), which manages the Adaptation Fund for projects in vulnerable developing countries.²⁶ The Climate Technology Centre and Network (CTCN) hosted by the UNEP supports technology development and transfer for mitigation and adaptation, while the Standing Committee on Finance (SCF) enhances coherence and coordination in climate finance.²⁷ The Paris Committee on Capacity-building (PCCB) addresses capacity-building gaps in developing countries, and the Technology Executive Committee (TEC) advises on policies for technology transfer.²⁸ The Clean Development Mechanism Executive Board (CDM-EB) oversees the Kyoto Protocol's CDM projects whereas the Compliance Committee supports and ensures compliance with the Kyoto Protocol.²⁹ The Consultative Group of Experts (CGE) aids developing countries in reporting emissions and climate actions meanwhile the Global Environment Facility (GEF) provides financial support for climate projects in developing countries.³⁰ The Joint

²⁶ Adaptation Committee | UNFCCC, <https://unfccc.int/Adaptation-Committee> (last visited Apr 14, 2024); Adaptation Fund Board | UNFCCC, <https://unfccc.int/process/bodies/constituted-bodies/adaptation-fund-board-afb> (last visited Jun 19, 2024).

²⁷ U. N. Environment, *Climate Technology Centre and Network*, UNEP - UN ENVIRONMENT PROGRAMME (2017), <http://www.unep.org/explore-topics/climate-action/what-we-do/climate-technology-centre-and-network> (last visited Jun 19, 2024); Standing Committee on Finance (SCF), <https://www4.unfccc.int/sites/NWPStaging/Pages/Standing-Committee-on-Finance.aspx> (last visited Jun 19, 2024).

²⁸ Paris Committee on Capacity-building (PCCB), <https://www4.unfccc.int/sites/NWPStaging/Pages/Paris-Committee-on-Capacity-building.aspx> (last visited Jun 19, 2024); Technology Executive Committee (TEC), <https://www4.unfccc.int/sites/NWPStaging/Pages/Technology-Executive-Committee.aspx> (last visited Jun 19, 2024).

²⁹ CDM: Executive Board (EB), <https://cdm.unfccc.int/EB/index.html> (last visited Jun 19, 2024).

³⁰ Consultative Group of Experts (CGE), <https://www4.unfccc.int/sites/NWPStaging/Pages/Consultative-Group-of-Experts.aspx> (last visited Jun 19, 2024); Global Environment Facility | UNFCCC, <https://unfccc.int/topics/climate-finance/funds-entities-bodies/global-environment-facility> (last visited Jun 19, 2024).

Implementation Supervisory Committee (JISC) ensures emissions reductions meet Kyoto Protocol requirements.³¹ Another constituted body called The Least Developed Countries Expert Group (LEG) assists in developing adaptation strategies for LDCs.³²

The Intergovernmental Panel on Climate Change (IPCC) is a scientific organization established in 1988 by the World Meteorological Organisation (WMO) and the United Nations Environment Programme (UNEP) under the United Nations (UN).³³ The IPCC investigates the scientific foundations of climate change, its environmental impacts, and provides options for adaptation and mitigation. Its assessments offer policymakers regular scientific evaluations of climate change, its impacts, potential risks, and adaptation and mitigation measures. Although the IPCC doesn't conduct original research, it evaluates and summarises existing scientific literature, producing reports that are widely recognised as authoritative summaries of the current state of climate science and significantly influence global climate policy.³⁴ While not a part of the UNFCCC, the IPCC and the UNFCCC maintain a close relationship, with the IPCC's reports being integral to the UNFCCC's work. The IPCC is structured into three working groups: Group I focus on the physical science of climate change, Group II on impacts, adaptation, and vulnerability, and Group III on the mitigation of climate change.³⁵ Additionally, it has a special team responsible for greenhouse gas (GHG) inventories.

2.4 PARTICIPANTS IN CLIMATE TREATY NEGOTIATIONS

2.4.1 COUNTRIES

In climate treaty and convention negotiations different parties fulfil different roles. In the context of the United Nations Framework Convention on Climate Change (UNFCCC), a Party refers to a nation-state. All countries are eligible to participate in climate negotiations.

³¹ JI: JI Supervisory Committee (JISC), https://ji.unfccc.int/Sup_Committee/index.html (last visited Jun 19, 2024).

³² Least Developed Countries Expert Group (LEG), <https://www4.unfccc.int/sites/NWPStaging/Pages/Least-Developed-Countries-Expert-Group.aspx> (last visited Jun 19, 2024).

³³ About — IPCC, <https://www.ipcc.ch/about/> (last visited Jun 19, 2024).

³⁴ IPCC statement: Clarifying the role of the IPCC in the context of 1.5°C — IPCC, <https://www.ipcc.ch/2017/09/21/ipcc-statement-clarifying-the-role-of-the-ipcc-in-the-context-of-1-5oc/> (last visited Jun 19, 2024).

³⁵ About — IPCC, *supra* note 33.

However, only those countries that have signed and deposited the official UNFCCC document are allowed to actively participate in decisions or agreements after completing the ratification process. The member states meet through COP conducted annually and they are divided into several party grouping:³⁶ including Africa, Asia, Central and Eastern Europe, Latin America & the Caribbeans and Western Europe along with countries like Australia, Canada, Iceland, New Zealand, Norway, Switzerland and the United States.³⁷

These subgroups are also classified based on differing commitments into three main categories. Annex I Parties comprise industrialised nations that were part of the OECD (Organisation for Economic Co-operation and Development) in 1992, along with economies in transition (EIT Parties) like the Russian Federation, the Baltic States, and various Central and Eastern European States.³⁸ On the other hand, Annex II Parties consist of OECD members from Annex I, excluding the EIT Parties. They are obligated to furnish financial resources to support emissions reduction endeavours and climate change adaptation efforts in developing countries under the Convention. Moreover, they are tasked with taking feasible measures to facilitate the development and transfer of environmentally sustainable technologies to both EIT Parties and developing nations.³⁹ The financial aid from Annex II Parties is predominantly channelled through the Convention's financial mechanism.

Non-Annex I Parties, predominantly comprising developing nations, include groups particularly vulnerable to the adverse impacts of climate change, such as countries with low-lying coastal areas, desertification-prone regions, and those heavily dependent on fossil fuel economies.⁴⁰ The Convention prioritises addressing the distinct needs of these vulnerable nations, focusing on initiatives like investment, insurance, and technology transfer. Additionally, special consideration is given to the 49 least developed countries (LDCs) recognised by the United Nations, owing to their limited capacity to respond to

³⁶ Party Groupings | UNFCCC, <https://unfccc.int/process-and-meetings/parties-non-party-stakeholders/parties/party-groupings> (last visited Apr 15, 2024).

³⁷ Election and Membership | UNFCCC, <https://unfccc.int/process-and-meetings/bodies/election-and-membership#General-membership-information> (last visited Apr 15, 2024).

³⁸ Parties & Observers | UNFCCC, <https://unfccc.int/parties-observers> (last visited Apr 15, 2024).

³⁹ *Id.*

⁴⁰ *Id.*

climate change. Parties are urged to fully account for the unique circumstances of LDCs when implementing funding and technology-transfer activities.

2.4.2 OBSERVERS

Another group of parties are the observers. The observers attend the meetings and negotiations but cannot intervene by means of votes or objections. They include, people from the General Secretariat, United Nations organisations, Intergovernmental organisations and non-governmental organisations.⁴¹

NGOs are grouped into constituencies based on the modus operandi and mission. The constituencies includes business and industry NGOs (BINGO), environmental NGOs (ENGO), local government and municipal authorities (LGMA), indigenous peoples organisations (IPO), research and independent NGOs (RINGO), trade union NGOs (TUNGO), women and gender constituency (WGC) and finally, youth NGOs (YOUNGO).⁴² These NGO's can participate in following negotiation spaces such as in groups within negotiation bodies which contribute through the development of statements and interventions. This involvement occurs in various ways: such as during meetings where the terms of reference permit observer participation or by providing written input expressing their perspectives and sharing information on the issues under negotiation or through side events and exhibitions.⁴³

2.4.3 NON-STATE ACTORS

The participation of non-state actors has been recognised as a crucial aspect to strengthen the processes of UNFCCC. This participation can be achieved through various dialogue spaces, including civil society, private sector, financial institutions, subnational authorities, local communities, and indigenous peoples.⁴⁴ These actors can bring their unique perspectives, experiences, and expertise to the table, thereby contributing to the development of effective policies and strategies that can tackle the challenges of climate

⁴¹ *Id.*

⁴² NGO Constituencies | UNFCCC
https://unfccc.int/files/parties_and_observers/ngo/application/pdf/constituencies_and_you.pdf (last visited Apr 15, 2024).

⁴³ NGO Constituencies, *supra* note 30.

⁴⁴ Jonathan Kuyper, Karin Bäckstrand & Heike Schroeder, *Institutional Accountability of Nonstate Actors in the UNFCCC: Exit, Voice, and Loyalty*, 34 REVIEW OF POLICY RESEARCH 88 (2017).

change. By engaging with diverse stakeholders, the UNFCCC can ensure that the voices of all relevant actors are heard, and their needs are addressed, leading to a more inclusive and sustainable future.⁴⁵

2.5 NEGOTIATION GROUPS

In the context of international negotiations, countries have historically formed coalitions or negotiating blocs to align their positions and enhance the viability of the process. The attainment of consensus among all nations is an essential prerequisite for successful agreements. These blocs, which are organised based on geographic areas, issue positions, power dynamics, or institutional affiliations, play a pivotal role in United Nations Framework Convention on Climate Change (UNFCCC) climate change negotiations. They represent common regional, political, or economic interests, providing a platform for countries to coordinate strategies and amplify their influence in the negotiation process. Moreover, negotiation blocs facilitate the exchange of information and resources among member countries, enabling them to navigate complex negotiations effectively. By pooling their expertise and capacities, bloc members can collectively address shared challenges and advance their common goals. Additionally, negotiation blocs often serve as forums for fostering dialogue and building trust among countries with diverse interests and priorities.

Overall, negotiation blocs play a multifaceted role in shaping the outcomes of climate change negotiations. Beyond simply advocating for their interests, they contribute to the overall effectiveness and inclusivity of the negotiation process, thereby supporting the global effort to address the challenges of climate change. Major blocs include the Umbrella group, Arab States, LMDC Group, Alliance of Small Island States (AOSIS), Bolivarian Alliance for the Peoples of Our America (ALBA), Independent Alliance of Latin America and the Caribbean (AILAC), G77 and China, African Group, BASIC Group, the CACAM Group, Cartagena Dialogue, LDC Group and Environmental Integrity Group.⁴⁶

⁴⁵ *Id.*

⁴⁶ Explained: The negotiating blocs that will steer COP26, DIALOGUE EARTH (Nov. 1, 2021), <https://dialogue.earth/en/climate/explained-the-negotiating-blocs-that-will-steer-cop26/> (last visited Jun 19, 2024).

2.6 FORUM FOR ADVOCACY AND NEGOTIATIONS

Climate negotiations and advocacy within the UNFCCC framework unfold across various formal and informal spaces. These forums serve as platforms for dialogue, negotiation, and decision-making on global climate action. Formal spaces include sessions of the Conference of the Parties (COP) and its subsidiary bodies, where delegates from member countries convene to discuss and negotiate agreements on climate change mitigation, adaptation, finance, and technology transfer.⁴⁷ Informal spaces, such as contact groups, informal consultations, and side events, provide opportunities for more flexible and in-depth discussions on specific issues.⁴⁸ Additionally, other related spaces, such as multilateral forums, civil society gatherings, and industry conferences, also influence decision-making by fostering collaboration, sharing knowledge, and mobilising action beyond the formal UNFCCC process. Together, these diverse spaces contribute to the dynamic and complex landscape of international climate governance.

2.6.1 PLENARIES

The plenary meetings of the COP, CMP, and subsidiary bodies serve as the formal forums for discussion and decision-making among Parties to the Convention and the Kyoto Protocol.⁴⁹ These sessions are open to all parties, observer States, organisations, media, and registered participants. Formal negotiations occur during these plenaries, as well as in the Agreements of the UNFCCC, such as the CMA, and in subsidiary body meetings.⁵⁰ Negotiations involve consolidating previously negotiated positions, with simultaneous interpretation services provided for accessibility. All countries and representations can partake, and accredited observers and the press may also participate at the discretion of the COP Chair.

⁴⁷ Conference of the Parties (COP) | UNFCCC, *supra* note 16.

⁴⁸ Guide for Presiding Officers | UNFCCC, pg 14, https://unfccc.int/resource/docs/publications/guide_presiding_officers.pdf, (last visited Apr 15, 2024).

⁴⁹ *Id.*

⁵⁰ *Id.*

2.6.2 INFORMAL GROUPS

Informal Groups are formed to achieve agreement on various issues before formal sessions. These sessions usually have fewer observers and take place in smaller venues. Though observers are generally allowed, the host or moderator may request them to leave. The sessions are typically conducted in English and coincide with similar meetings, enabling delegations to attend multiple gatherings. However, absent parties risk exclusion from decisions made during these sessions. There are a variety of informal groups that participate during climate negotiations such as contact groups, joint contact groups, drafting groups, friends of the chair and high level segments. Contact groups are those established by the COP or its supporting subsidiary bodies with the aim of facilitating communication and coordination among delegates.⁵¹ Joint contact groups are formed by combining multiple contact groups to address common issues or challenges whereas drafting groups consists of volunteers or convened delegates who assist in drafting texts for discussion.⁵²

2.7 CONCLUSION

When analysing the negotiation dynamics and multiple factors at play in international climate negotiations it is imperative to understand the fundamentals of the structures and processes of various international institutions and bodies that participate in said negotiations. In this chapter, I have examined various aspects, mechanisms, actors and processes that engages in global climate governance.

International climate negotiations involved the participation of a variety of stakeholders each with their own interests and objectives but finds commonality in participation of efforts to mitigate climate change. These stakeholders include national and subnational governments, intergovernmental organisations, non-governmental organisations (NGOs), as well as non-state actors. This diversity, at least in theory, ensures that negotiations are inclusive, and representative of the varied interests and perspectives involved. The role of these participants extends beyond mere attendance; they actively shape the discourse,

⁵¹ *Id at 15.*

⁵² *Id at 17.*

influence decision-making, and contribute to the formulation of climate policies and agreements.

The structure of the international climate regime is governed by the United Nations Framework Convention on Climate Change (UNFCCC) and other related bodies. The UNFCCC serves as the primary international treaty for addressing climate change. The IPCC which was founded in 1988 is a scientific body under the United Nations occupying the role of assessing the scientific basis of climate change, its impacts, and future risks, and to present adaptation and mitigation options. The reports by the IPCC provide the scientific basis for taking informed policy decisions, offering data and projections that guide the negotiations and help in setting realistic and achievable targets for emission reductions.

One of the major takeaways from this chapter is understanding that entire procedural structure and framework underlying global climate governance is multilevel, as effective climate governance requires cohesion and coordination across local, national and international levels.⁵³ National and regional levels of climate governance are essential in implementing climate action plans as they are effective at a grassroots level as evidenced by initiatives such as the Kerala State Action Plan on Climate Change (SAPCC). There also exist interactions between formal and informal negotiation spaces such as plenary meetings of the COP and its subsidiary bodies as well as informal groups providing consultation and support, facilitating dialogue.

As far as negotiations with regards to climate action are concerned, at an international level, during COP we can see various blocs and coalitions being formed as means to secure the negotiation position by various nation states. These negotiation blocs and coalitions such as the G77/China, the Umbrella group, AOSIS etc. engages negotiations as a unified group enabling countries to pool their resources and leverage collective bargaining power, influencing the outcomes of these negotiations. On one hand these coalitions help countries with limited resources to have their interest represented on the global stage on the other,

⁵³ Martin Jänicke, *The Multi-Level System of Global Climate Governance – the Model and Its Current State*, 27 ENVIRONMENTAL POLICY AND GOVERNANCE 108 (2017).

larger developed countries forming groups could effectively steamroll through the negotiations by the use of their collective power.

Throughout this chapter we can observe that the urgency of the climate crisis necessitates a shift from short-term national interests to long-term global sustainability. This requires a concerted effort between developed and developing countries ensuring that climate actions are equitable and the developing countries receive financial and technological support they would need to adapt and mitigate effects of climate change.

The negotiation dynamics in global climate governance is not only about reaching agreements but also about fostering a collective sense of responsibility and commitment to addressing climate change. The separation of Annex and non-Annex countries by the Kyoto protocol, though it may seem unequal, is based on the principles of equity, fairness and equal responsibility taking into consideration the historical emissions and contribution that developed countries have effected through their own exploitation of natural resources, in the pursuit of development.

In summary, the negotiations in international climate negotiations are complex and integral towards addressing climate crisis that we face today. The effectiveness of negotiations depends upon the active participation of a variety of actors interacting with the framework provided by international institutions. The strategic use of the negotiation spaces fosters cooperation and dialogue that is much need in the international community as a collaborative effort is required if we are to combat climate crisis. This chapter outline the existing framework of climate negotiations across international conventions and treaties, examining negotiation groups and the actors that participate in said conventions. This provides the overall picture as to how climate treaties and agreements are formed in the pursuit of global climate governance. The next chapter deals with the negotiation process and the factors influencing climate treaty outcomes and subsequently, this study will critically analyse the Indian position, through the perspective of developing country, during various climate conventions and agreements.

CHAPTER 3: THE NEGOTIATION PROCESS IN INTERNATIONAL CLIMATE GOVERNANCE

3.1 INTRODUCTION

Process is as important as content in international climate governance negotiations. They are a machine consisting of several independent mechanisms working together towards a single goal. This complexity reflects a wider international balance of power, especially the persistent inequalities between developed & developing countries. International climate negotiations developed through a series of conventions & treaties since the early 1990s, with the UNFCCC negotiated, ratified, & activated, followed by the Kyoto Protocol, then the Paris Agreement. These treaties have all been further evidence of the world community attempting to tackle climate change in an equitable manner.

International climate governance has its foundation at the Rio Earth Summit in 1992, with the adoption of the UNFCCC. The convention laid the foundations for future, legally binding protocols that would establish limits on greenhouse gases emissions. Common but Differentiated Responsibilities (CBDR) was a fundamental principle of the UNFCCC in which all countries were obliged to combat climate change, but the richer nations had to bear a larger share of the burden because of their past emissions & stronger financial & technical abilities.⁵⁴ This principle was one upon which a compromise could potentially have been struck, to ensure international climate action was both fair & ambitious, though not without highlighting the deeper divides among developed & developing nations. Developed countries were to reduce their greenhouse gas emissions to an average of 5% below 1990 levels, as set forth in the Kyoto Protocol, adopted in 1997. Yet the protocol included several so-called "flexibility mechanisms" such as emissions trading, the Clean Development Mechanism (CDM) & Joint Implementation (JI) in order to bring down the overall cost of achieving emission reductions.⁵⁵ In other words, while these mechanisms made compliance simpler for developed nations, they also pointed out and, in some cases,

⁵⁴ David Cipler, *Rethinking Cooperation: Inequality and Consent in International Climate Change Politics*, 21 GG 247 (2015).

⁵⁵ Serge Silatsa Nanda, Omar Samba & Ahmad Sahide, *Inequity in International Climate Change Negotiations*, 4 NSJIS 153 (2021).

increased inequalities that already existed. For instance, the CDM provided an opportunity for developed countries to invest into emission reduction projects in the developing world with a mutual benefit, in theory. But CDM project distribution was unequal with many more financially secure developing countries tended to get most projects, whereas the least developed got marginalised.⁵⁶ The Copenhagen Conference in 2009 (COP15) was a pivotal moment that exposed the deep divisions & challenges within international climate negotiations. Despite high expectations, the conference ended in disappointment, with no legally binding agreement & a non-binding accord that lacked specificity & ambition.⁵⁷ The outcome reflected the difficulty of reconciling the diverse interests of nearly 200 nations & highlighted the limitations of the existing negotiation frameworks in achieving meaningful consensus.

The Paris Agreement of 2015 represented a significant shift in international climate governance, moving towards a more inclusive & bottom-up approach.⁵⁸ Unlike the Kyoto Protocol, the Paris Agreement requires all parties, irrespective of their development status, to submit nationally determined contributions (NDCs). This inclusivity aimed to foster a sense of shared responsibility & collective action. However, it also raised concerns about equity, as developing countries with historically low emissions were now expected to contribute to mitigation efforts despite their limited capacities. The Paris Agreement's emphasis on NDCs has led to a more decentralised & flexible approach to climate action, allowing countries to set their own targets based on national circumstances. While this approach has the potential to enhance participation & ambition, it also risks perpetuating inequities. Developed countries, with their greater resources & technological capabilities,

⁵⁶ Sue Kyoung Lee et al., *Exploring the Impact of Environmental, Social, and Governance on Clean Development Mechanism Implementation through an Institutional Approach*, 13 FRONT PSYCHOL 890524 (2022).

⁵⁷ John Vidal, Allegra Stratton & Suzanne Goldenberg, *Low Targets, Goals Dropped: Copenhagen Ends in Failure*, THE GUARDIAN, Dec. 19, 2009, <https://www.theguardian.com/environment/2009/dec/18/copenhagen-deal> (last visited Jun 20, 2024).

⁵⁸ D. Raghunandan, *India in International Climate Negotiations: Chequered Trajectory*, in INDIA IN A WARMING WORLD 187 (Navroz K. Dubash ed., 1 ed. 2019), <https://academic.oup.com/book/35227/chapter/299751807> (last visited Mar 23, 2024).

are better positioned to meet their NDCs, whereas many developing countries struggle to mobilise the necessary support & financing.

The persistent inequities in international climate negotiations are not merely byproducts of historical emissions but are also reinforced by contemporary political & economic power structures. Developed countries often wield significant influence in the negotiation process, shaping the outcomes in ways that reflect their interests. This influence is evident in the structuring of financial mechanisms, technology transfer provisions, & capacity-building initiatives, which are critical for enabling developing countries to meet their climate commitments. In this chapter, we will attempt to understand these inequities in the negotiation process of climate conventions, the negotiation techniques involved in such processes & how it might affect the economic & developmental interests of developing countries.

3.2 UNDERSTANDING THE NEGOTIATION PROCESS

3.2.1 DEFINING NEGOTIATION

Understanding the negotiation process is crucial in an international setting especially in the context of climate governance, as it is an interpersonal decision-making procedure essential for achieving objectives that cannot be accomplished single-handedly.⁵⁹ Negotiation involves back-and-forth communication to reach an agreement when parties have shared & opposing interests.⁶⁰ This complexity necessitates understanding how parties' interests, opinions, & attitudes shape the negotiation process & outcomes. Negotiation scenarios range from one-on-one business meetings to multiparty; multimillion-dollar deals all the way into international treaties & conventions made between states.⁶¹ Negotiation occurs when parties need to make a joint decision but have different preferences, emphasising the interplay of interests & behaviours. External factors like personal goals, timetables, the

⁵⁹ Jeanne Brett & Leigh Thompson, *Negotiation*, 136 ORGANIZATIONAL BEHAVIOR AND HUMAN DECISION PROCESSES 68 (2016).

⁶⁰ R. Fisher, William Ury & Bruce Patton, *Getting to Yes: Negotiating Agreement Without Giving In* (1981), <https://www.semanticscholar.org/paper/Getting-to-Yes%3A-Negotiating-Agreement-Without-in-Fisher-Ury/e560720c679d8685c9ce27deb497019af94534e1> (last visited Jun 7, 2024).

⁶¹ Rajesh Kumar & Anne Marie Bülow, *Culture and Negotiation*, 16 INT NEGOT 349 (2011).

political & business environment, & national as well as cultural characteristics influence negotiation strategies. Time pressure & negotiation stages are other critical components dictating urgency & approach.⁶² The internal factors can include a negotiator's culture gender, culture, religious beliefs, personality, education, & intelligence where these elements essentially shape various strategies & tactics employed during negotiations.⁶³ To negotiate effectively requires navigation through these layers, aiming for resolutions that are mutually satisfactory while maintaining positive relationship between parties. The negotiation strategy, therefore, is a comprehensive approach influenced by both objective & subjective factors, & it must be adaptable to the nature of the negotiation setting regardless of the scale it is operating on.

3.2.2 NEGOTIATION STYLES

Negotiations are an important part of climate conventions, so it is important to understand the very-many different styles of negotiation employed by parties to further their own interests. This enables us to understand the tools used by developed states with strong economic & political foundations to essentially allow themselves to control & dominate climate negotiation proceedings to further their own interests at the expense of the developing nations. One of the fundamental aspect of a successful negotiation is finding the right method suited for the negotiating party. The negotiator should be able to identify and understand their own strengths and weaknesses as well as their opponents.⁶⁴ The 'Thomas-Kilmann Conflict Mode Instrument' has identified five key negotiation style, them being competing; accommodating; avoiding; collaborating and compromising each serving a unique function depending upon the needs of the negotiating party.⁶⁵

⁶² Alice Stuhlmacher & Matthew Champagne, *The Impact of Time Pressure and Information on Negotiation Process and Decisions*, 9 GROUP DECISION AND NEGOTIATION 471 (2000).

⁶³ Laura Kray, Adam Galinsky & Leigh Thompson, *Reversing the Gender Gap in Negotiations: An Exploration of Stereotype Regeneration*, 87 ORGANIZATIONAL BEHAVIOR AND HUMAN DECISION PROCESSES 386 (2002).

⁶⁴ Ofir Miller, *The Negotiation Style: A Comparative Study between the Stated and in- Practice Negotiation Style*, 124 PROCEDIA - SOCIAL AND BEHAVIORAL SCIENCES 200 (2014).

⁶⁵ Kenneth Thomas & Ralph Kilmann, *Thomas-Kilmann Conflict MODE Instrument* (1976).

The Competing style:⁶⁶ Distinguished by the used of assertiveness and non-cooperation of the negotiating individual where he prioritises his own interest at the expense of the opposition. This approach is a more power-centric approach, where the rule of strength plays a dominant role. It advocates for the use of appropriate means to ascertain one's position, where the negotiator believes his own position to be correct or simply trying to win by any means necessary. Usually employed by developed countries to advance their interests during climate convention negotiations.

The Accommodating style:⁶⁷ This style is unassertive and more cooperative, the complete opposite the competing style. Here the negotiating party often ignores their own concerns in the benefit of the other party, often compromising their own goals and interests for the sake of cooperation. This is a more diplomatic style where maintaining relationship is more important than achieving specific goals.

The Avoiding style:⁶⁸ Avoidance style is more passive aggressive in the sense that it is both unassertive and non-cooperative, where the negotiating party neither pursues their concerns nor those of the other party. It could be used a method of diplomatic side-stepping where postponing an issue for a later time might seem like the best course of action. This approach can be beneficial in situations where the costs of confrontation outweigh the benefits.

The Collaborating style:⁶⁹ This style is more assertive as well as cooperative to both the negotiating parties and is seen as a more diplomatic approach to negotiation where both parties' interests are addressed. This method involved identifying the root cause of the concerns of both parties and finding diplomatic solutions to address both the concerns. This style is effective is situations where collaboration of insights and perspectives can lead to innovative solutions.

⁶⁶*Id.*

⁶⁷*Id.*

⁶⁸*Id.*

⁶⁹*Id.*

The Compromising style:⁷⁰ A more balanced approach to negotiations where both assertiveness and cooperation of the both the parties are required, seeking a mutually acceptable solution that partially satisfies the interests of both parties as compromises are requires from both parties.

Each of these aforementioned styles is dependent on the type of negotiation involved and has its own use case scenario. The competing style maybe effective in situations where, requiring quick, decisive actions, whereas the accommodation style is useful in situations where diplomatic relations should be maintained. The understanding of these styles are fundamental for understanding the negotiation dynamics that exists within many international climate conventions.

3.2.3 UNDERSTANDING THE INTERACTION BETWEEN POWER DYNAMICS AND NEGOTIATIONS

There is a significant relationship between various power dynamics and equity when it comes to negotiations especially in the case of climate change negotiations. It is because it involves recognising how one negotiating party communicates and which kind of negotiating style they employ in a situation. A good negotiator would be able to assess the strengths as well as the weaknesses of the other party as it is fundamental in developing effective strategies. There is definitely a strong impact of power in negotiations, as we can see from various treaties and conventions the causal relationship between a negotiators foundations strength often defined by how attractive their Best Alternative to a Negotiated Agreement (BATNA) and the ability to claim resources effectively.⁷¹ BATNA is effectively the best alternative that a negotiator can propose to a negotiated agreement or the “best outside option, independent of the other side”. The parties with a stronger BATNA typically employ the competing style of negotiation, often making the first offer.⁷²

⁷⁰*Id.*

⁷¹ Brett and Thompson, *supra* note 59 at 74.

⁷² Joe Magee, Adam Galinsky & Deborah Gruenfeld, *Power, Propensity to Negotiate, and Moving First in Competitive Interactions*, 33 PERSONALITY & SOCIAL PSYCHOLOGY BULLETIN 200 (2007).

Aside from structural aspects negotiations could also be influenced by personal power as well manifesting in a myriad of ways such as making the first offer in a negotiation or by establishing a favourable initial position.⁷³ So power whether structural or personal, takes centre stage in any negotiations. This power can be categorised in to four major components, them being; potential power, where it refers to the inherent power within negotiators to obtain benefits for their own interests; perceived power involving the negotiators assessing the potential of the other party; power tactics, focussing on the strategies employed by the negotiator to utilise or manipulate negotiations and; realised power, is the extent to which negotiator is able to achieve their goals from the negotiation.⁷⁴ The interaction between these power dynamics leads to a larger categorisation of power structure that is largely episodic in nature which treats targets within a quadrant of influence, which means that power dynamics in negotiations are not strictly restricted to that particular negotiation but also future negotiation dynamics.⁷⁵

This influence of both structural and personal power highlights how, during a climate convention or treaty negotiation, a state with a stronger political and economic foundation is more likely to dominate the process and secure more favourable outcomes, where less powerful parties such as developing or underdeveloped countries have to make significant concessions or accept suboptimal terms. This can negatively affect the interests of the developing countries who are essentially strong armed into signing climate change agreement that are against their best interests in terms of balancing between development and environmental conservation.

3.3 NEGOTIATIONS IN MAJOR CLIMATE GOVERNANCE TREATIES

There is zero doubt that climate change exists and the plethora of peer review scientific literature on this subject is proof of that. It stands to reason that that it has taken on an unprecedented scale in international politics and conventions. This has been the case since

⁷³ Peter H. Kim, Robin L. Pinkley & Alison R. Fragale, *Power Dynamics In Negotiation*, 30 AMR 799 (2005).

⁷⁴ *Id.*

⁷⁵ Nanda, Samba, and Sahide, *supra* note 55.

the agreement of Rio Conference on Development and the Environment in June 1992, where UNFCCC was established. The major agreements that is analysed for understanding the negotiation dynamics during climate conventions are the UNFCCC (1992), the Kyoto Protocol (1997) and the Paris Agreement (2015). These agreements have been chosen primarily because they involve majority of the states in our planet.

3.3.1 THE RIO CONFERENCE AND THE UNITED NATIONS FRAMEWORK CONVENTION ON CLIMATE CHANGE (UNFCCC)

The UNFCCC was adopted during the 1992 Earth Summit in Rio de Janeiro, with an aim to stabilise the GHG emissions at levels in order to mitigate man-made climate change. Article 2 of the convention forms a framework based on the principles of; the precautionary principle; the principle of common but differentiated responsibilities (CBDR) and the right to economic development.⁷⁶

The precautionary principle acknowledges that even when there are scientific uncertainties regarding climate change, due to the global nature of this phenomenon, proactive action must be taken without delay.⁷⁷ This principle was fundamental in the mobilisation of early international efforts to tackle climate change. The CBDR principle, acknowledges that even though emissions affect every country equally, developed countries should bear greater responsibilities as they have historically greatly benefitted from the exploitation of their own natural resources due to their longer industrialisation periods.⁷⁸ This principle also exerts pressure on developed countries to lead climate change mitigation measures. Additionally, the right to economic development meant that measure to tackle climate change should not come at the expense of poverty eradication or economic growth of developing countries.

The UNFCCC was ratified by 198 countries leading to the establishment of the COP essentially serving as a platform for discussing strategies to limit global temperature rise

⁷⁶ United Nations Framework Convention on Climate Change, <https://unfccc.int/resource/ccsites/zimbab/conven/text/art02.htm> (last visited Jun 7, 2024).

⁷⁷ Joyeeta Gupta, *A History of International Climate Change Policy*, 1 WIREs CLIMATE CHANGE 636 (2010).

⁷⁸ Nanda, Samba, and Sahide, *supra* note 55.

and to assess climate action.⁷⁹ At the time of the formation of UNFCCC the climate negotiation efforts were primarily led by Annex I countries comprising of developing nations, which led to formation of various coalition between groups with shared interests such as G-77/China group and Alliance of Small Island Developing States (AOSIS) representing Small Island Developing States (SIDS).⁸⁰ The CBDR principle led Annex I countries to be subjected to more stringent requirements compared to non-Annex I countries essentially contributed to the weak mobilisation of some nations.

3.3.3 THE KYOTO PROTOCOL

The first COP held in April 1995 in Berlin acknowledged that the existing measure for Annex I countries arising out of the UNFCCC were inadequate in stabilising greenhouse gas (GHG) concentrations in the long term. This along with the reports from the IPCC led to the establishment of the Ad hoc Group for the Berlin Mandate (AGBM) for a protocol for reducing emissions beyond the 2000's resulting in the signing of the Kyoto Protocol in 1997 at the COP3 in Kyoto, Japan.⁸¹ This involved intense negotiations between the US and Europe. Initially, the United States resisted binding numerical targets proposed by Europe, but eventually agreed on the condition that an international carbon emissions trading market be established.⁸² The Kyoto Protocol committed Annex B countries (38 of the most developed nations) to reduce their GHG emissions by at least 5% also introduced mechanisms such as Joint Implementation, the Clean Development Mechanism (CDM), and emissions trading to facilitate emission reductions and cooperation with developing countries with CDM played a significant role in financing sustainable projects in developing countries, allowing companies from Annex B countries to invest in emissions reduction projects without impacting public budgets.⁸³

⁷⁹ Status of Ratification of the Convention | UNFCCC, <https://unfccc.int/process-and-meetings/the-convention/status-of-ratification-of-the-convention> (last visited Jun 7, 2024).

⁸⁰ Why is AOSIS Important? – AOSIS, <https://www.aosis.org/with-caribbean-island-life-under-threat-un-chief-pushes-to-face-headwinds-together/> (last visited Jun 7, 2024).

⁸¹ Gupta, *supra* note 77.

⁸² *Id.*

⁸³ *Id.*

The negotiations also highlighted the power dynamics between developed and developing countries. Developing nations often found themselves at a disadvantage due to their limited power compared to developed countries even when they were being more assertive during negotiations. This was evident in the strong pressure exerted by developing countries during the Kyoto Protocol negotiations which sought more commitments from developed countries, to be accountable towards the treaty obligations set forth during the Rio conference underpinned by the principles of CBDR.⁸⁴ The negotiations also further implicated the need for a balanced approach between development and climate action which is critical for attaining long term sustainability and fairness in global climate governance. The differentiation of responsibilities between the Annex I and non-Annex I countries was a manifestation of this principle taking into account historical emissions and current capabilities.

3.3.4 THE PARIS AGREEMENT

The Paris Agreement was adopted in December 2015 during COP 21 was the culmination of four years of negotiations following the Durban conference in 2011.⁸⁵ It is the first universal climate accord, legally binding in the sphere of international environmental law. Its objective was to set global average temperature limits below 2°C above preindustrial levels, while pursuing efforts to restrict the increase to 1.5°C with an additional aim of net zero emissions worldwide by the second half of the century.⁸⁶ The major mandate of this agreement was to obligate, by way of treaty ratification, each country to develop and implement its own national strategy for climate change mitigation and adaptation primarily involving Nationally Determined Contributions (NDC) from every member state.⁸⁷ Unlike the binary classification of Annex and non-Annex countries in the Kyoto Protocol, Paris agreement essentially dissolved this class separation. The Agreement remains somewhat vague regarding the specific contributions of African countries, which accounted for only

⁸⁴ *Id.*

⁸⁵ Nanda, Samba, and Sahide, *supra* note 55.

⁸⁶ The Paris Agreement | UNFCCC, <https://unfccc.int/process-and-meetings/the-paris-agreement> (last visited Jun 7, 2024).

⁸⁷ Nationally Determined Contributions (NDCs) | UNFCCC, <https://unfccc.int/process-and-meetings/the-paris-agreement/nationally-determined-contributions-ndcs> (last visited Jun 7, 2024).

3.7% of global emissions in 2018 raising concerns about the equitable distribution of responsibilities and the capacity of these countries to meet their targets.

A key aspect of this agreement is the financial and technological aid from developed to developing countries. The Agreement set a target of mobilising \$100 billion annually by 2020 to assist developing nations in their climate efforts.⁸⁸ The temporary withdrawal of the US from the agreement under the Trump regime created uncertainties about the feasibility of meeting the financial commitments despite continued support from other developed countries.⁸⁹ Developing countries are projected to bear the brunt of climate change as they lack the financial and technological resources needed to effectively respond to climate threats limiting their active participation in global mitigation efforts. They are represented primarily through G77/China coalition.⁹⁰ These countries have argued for ecological space and historical reparations in international negotiations in which the ecological space argument exemplifies the need for equitable access to atmospheric space, allowing developing countries room for infrastructural development without undue restrictions with the downside being this approach conflicting with the global north's capacity approach, which focuses on current capabilities rather than historical emissions.

The reliance on the G77 as the primary negotiation vehicle for developing countries and the focus on monetary and technology transfer demands have been identified as problematic by the global north caucus often criticised for undermining climate action proposal put forth by them. The reliance on these coalition such as G77 by the underdeveloped countries such as the sub-Saharan African states, it could be argued that in such a large coalition this approach weakens their negotiation power as they lack a strong BATNA since different countries have different objectives during negotiations leading to

⁸⁸ Julie Bos, Lorena Gonzalez & Joe Thwaites, *Are Countries Providing Enough to the \$100 Billion Climate Finance Goal?* (2021), <https://www.wri.org/insights/developed-countries-contributions-climate-finance-goal> (last visited Jun 7, 2024).

⁸⁹ Climate change: US formally withdraws from Paris agreement, Nov. 4, 2020, <https://www.bbc.com/news/science-environment-54797743> (last visited Jun 7, 2024).

⁹⁰ Gupta, *supra* note 77.

a scattered front and are often compelled to accept terms dictated by more powerful countries.

3.3.5 DEVELOPMENT OF REDD+ MECHANISM

REDD or Reducing Emissions from Deforestation and Forest Degradation was first introduced at the COP11 in Montreal in 2005 with an aim to promote compensation payments to developing countries for reducing their deforestation rates, a major source of emissions worldwide later expanded to include forest degradation, its impact on forest ecosystems and biodiversity, particularly in regions like the Congo Basin.⁹¹ By COP 13 it had evolved into a more comprehensive framework including efforts to increase carbon uptake potential through various forest management practices. The subsequent COP 14 in Poznan in 2008 further refined this approach, leading to the development of REDD+, the ‘+’ sign showing the inclusion of activities such as conservation, sustainable management of forests, and enhancement of forest carbon stocks through reforestation and afforestation efforts.⁹²

The implementation of REDD+ and its relative success can be attributed to the creation of more singular objective focused coalitions such as Coalition of Countries with Rainforests, which formed in 2005 at the initiative of Papua New Guinea which sought recognition for the efforts of developing nations to curb emissions from deforestation⁹³ or the BASIC group (Brazil, India, China, and South Africa) in 2009 to create a unified position for the COP 15 negotiations.⁹⁴ It has since emerged as a key player in international climate negotiations, advocating for the interests of major emerging economies and significant emitters. At the conclusion of COP 15, the BASIC group pushed a series of non-negotiable positions, including the demand for a second commitment period for developed countries under the Kyoto Protocol and increased financial support for mitigation and adaptation

⁹¹ What is REDD+? | UNFCCC, <https://unfccc.int/topics/land-use/workstreams/redd/what-is-redd> (last visited Jun 7, 2024).

⁹² Arild Angelsen & Thomas Rudel, *Designing and Implementing Effective REDD + Policies: A Forest Transition Approach*, 7 REVIEW OF ENVIRONMENTAL ECONOMICS AND POLICY 91 (2013).

⁹³ *Id.*

⁹⁴ Karl Hallding et al., *Together Alone: Brazil, South Africa, India, China (BASIC) and the Climate Change Conundrum*.

efforts in developing countries which was negotiated in the subsequent Paris Agreement.⁹⁵ This signifies how focused and smaller coalition group with similar adjacent goals and interest would have more negotiation power leading to more successful negotiations in international climate negotiations.

3.4 DOMINATING EFFECT OF DEVELOPED COUNTRIES DURING CLIMATE NEGOTIATIONS

Developing countries often find themselves trapped in a concept called complex interdependence which posits that in an increasingly interconnected global system, nations are compelled to temper their actions in one arena due to cooperative dependencies in others which for developing countries means they must navigate a delicate balance as challenging developed nations on climate policies risks repercussions in economic, commercial, or even military aspects.⁹⁶ There are various factors affecting this power imbalances.

3.4.1 COMPLEX INTERDEPENDENCE AND ITS IMPLICATIONS

The complex interdependence theory suggests that hat nations are increasingly interconnected in ways that discourage overt conflicts because of mutual dependencies which creates a difficult situation for developing countries as they often rely on developed nations for economic aid, access to markets, military support etc.⁹⁷ Their capacity to assert themselves in climate negotiations is also significantly constrained by the fear of potential reprisals in other areas of cooperation thereby limiting their negotiating power causing them to resorts to compromising or accommodating negotiation styles.

3.4.2 VETO POWER AND FINANCIAL INFLUENCE

A factor amplifying the domination of dominance of developed countries in international climate agreements is the possession of veto power which allows certain developed nations such as United States, China, France, Russia, and the United Kingdom to block any climate

⁹⁵ Nanda, Samba, and Sahide, *supra* note 55.

⁹⁶ Cipler, *supra* note 54.

⁹⁷ ROBERT O. KEOHANE & JOSEPH S. NYE, POWER AND INTERDEPENDENCE (4th ed ed. 2012).

agreement unfavourable to their interests, a privilege not afforded to any non-Annex I (developing) countries.⁹⁸ Additionally, developed countries wield significant influence over the terms and outcomes of climate negotiations where the USA, China, and the EU, which account for 55% of the world's GDP often ends up setting the agenda and terms for international climate policies where they are able to use this financial power to dominate climate negotiations through their substantial financial contributions to global climate efforts through mechanisms such as REDD+.⁹⁹ This financial leverage gives them considerable sway over how and where resources are allocated.

3.4.3 SCIENTIFIC AND TECHNICAL KNOWLEDGE

There exists a significant disparity between the developments in scientific and technological advancements between the developed and developing states. Developed countries possess the advanced technical skills required to adhere to various climate change parameters and treaty obligations as well as quantify and simulate climate change parameters accurately. Whereas many developing countries lack the data and technological infrastructure to fully grasp and deal with climate impacts. This schism often forces developing nations to make compromised and agree to the frameworks and terms proposed by developed countries, who dominate negotiations by making the first offers.¹⁰⁰

This technical superiority allows developed countries to frame the discussions and set the benchmarks for climate action where they are in a position to present compelling data, forecast scenarios, and propose scientifically sound solutions. This can lead to a dominance greater influence over the negotiation process, often marginalising the contributions and concerns of less technologically advanced nations.

⁹⁸ Nanda, Samba, and Sahide, *supra* note 55.

⁹⁹ Eduardo Viola, Matías Franchini & Thaís Ribeiro, *Climate Governance in an International System Under Conservative Hegemony: The Role of Major Powers*, 55 REVISTA BRASILEIRA DE POLÍTICA INTERNACIONAL 9 (2012).

¹⁰⁰ Magee, Galinsky, and Gruenfeld, *supra* note 72.

3.4.4 FINANCIAL DEPENDENCIES

Economic dependence further complicates the position of developing countries in climate negotiations. Developing states often receive economic and technological assistance from developed countries and rely on access to developed markets for their exports. The African Growth and Opportunity Act (AGOA) provides sub-Saharan African countries with duty-free access to the US market¹⁰¹. Similarly Economic Partnership Agreements (EPAs) signed between the European Union and many developing countries offer trade benefits but also create such dependencies.¹⁰²

3.4.5 LACK OF A UNIFIED FRONT AMONG DEVELOPING COUNTRIES

As discussed, before the most significant coalition of developing countries in climate negotiations is the G77/China which acts as the representative coalition group. A major criticism is that internal divisions within this group often weaken their collective bargaining power where different interests among developing nations, such as the conflicting positions between oil-exporting countries and small island states on the negotiation mitigation policies, create opportunities for developed countries to exploit these divides and dominate the negotiations.¹⁰³ For instance, the OPEC countries (Organization of the Petroleum Exporting Countries) within G77/China representing the interests of the oil and gas exporting countries would oppose stringent emission reduction targets that threaten their economic interests, while Association of Small-Island States (AOSIS) advocate for aggressive mitigation measures to protect their very survival against rising sea levels.¹⁰⁴ This lack of unification or focus with G77/China undermines the very purpose of this coalition making it easier for developed countries to negotiate more favourable terms for themselves by playing these interests against each other.

¹⁰¹ African Growth and Opportunity Act (AGOA), UNITED STATES TRADE REPRESENTATIVE, <https://ustr.gov/issue-areas/trade-development/preference-programs/african-growth-and-opportunity-act-agoa> (last visited Jun 7, 2024).

¹⁰² Economic Partnerships, (2024), https://policy.trade.ec.europa.eu/development-and-sustainability/economic-partnerships_en (last visited Jun 7, 2024).

¹⁰³ Sheila Page, *Developing Countries in International Negotiations: How They Influence Trade and Climate Change Negotiations*, 35 IDS BULLETIN 71 (2004).

¹⁰⁴ *Id.* at 77.

3.4.6 MILITARY DEPENDENCIES

Many developing countries require military assistance from powerful nations to manage internal conflicts and external threats where poorer countries are more prone to civil unrest and require external military support to maintain stability. In regions such as the Sahel in Africa which engages in military cooperation with superpowers like the United States, France, and Russia to fight against terrorists of Boko Haram and other jihadist groups.¹⁰⁵ Similar dependencies are observed in Asia, where military alliances are formed to address civil conflicts in Syria or to fight against Islamic State group in the continent.¹⁰⁶ These military dependencies make developing countries more susceptible to external pressure and less able to assert their positions.

3.4.7 THE NEGOTIATION STYLE OF DEVELOPING COUNTRIES

Developing countries typically adopt negotiation strategies that involve compromise or accommodation, largely because they lack the leverage of more powerful states where the influence of developing countries at global climate talks is contingent on the moral authority granted by developed countries.¹⁰⁷ The influence of developing countries at global climate talks is contingent on the moral authority granted by developed countries. This aligns with the broader theory of weak and strong states, where weak states, heavily reliant on external support, are contrasted with strong states, which are insulated from external influence.¹⁰⁸ Economic dependence further complicates the position of developing countries in climate negotiations. These so-called weak states receive significant economic assistance from developed countries and rely on access to developed markets for their exports. The vulnerability of developing countries to climatic impacts necessitates support from developed nations for adaptation and mitigation efforts. They are more existentially vulnerable to climate change. This dependence of developing countries on rich states across economic, military, and technological arenas diminishes their negotiation power during climate talks. Trade relationships also play a crucial role in shaping the negotiation

¹⁰⁵ Nanda, Samba, and Sahide, *supra* note 55.

¹⁰⁶ *Id.*

¹⁰⁷ FEDERICA GENOVESE, WEAK STATES AT GLOBAL CLIMATE NEGOTIATIONS (2020).

¹⁰⁸ *Id.*

strategies of developing countries. Many of these countries depend on access to developed markets to export their goods, which are often primary commodities like agricultural products or raw materials. Any disruption in these trade relationships can have severe economic consequences for developing countries. This dependency on trade can pressure them to adopt more accommodating stances in climate negotiations to avoid jeopardizing their economic ties with developed nations. This situation mirrors broader global inequalities, where the interests and priorities of developed nations often prevail, shaping climate policies and agreements to their advantage.

Because of this vulnerability, developing countries often find themselves in a weaker negotiating position. Developed nations, with their greater economic and political power, can shape the agenda and outcomes of climate negotiations to their advantage. This power imbalance is evident in the way climate agreements are formulated and implemented. Developed countries can exert significant influence over the terms and conditions of these agreements, often prioritizing their own interests over those of developing nations.

During COP 15 in Copenhagen, the inability to secure a binding agreement exemplified the limitations faced by developing countries. The conference, which was intended to produce a binding international agreement on climate change, ultimately failed to achieve this goal. The inability to secure a binding agreement underscored the challenges developing countries face in asserting their interests in the face of opposition from more powerful nations. The reality of the climate change negotiations mirrors the inequalities between developed and developing nations.

3.5 CONCLUSION

International climate negotiations have long been characterised by significant interplay of negotiation dynamics between the developed and developing countries evident from the inception of the UNFCCC in 1992 through to the recent Paris Agreement of 2015. There are definitely negotiation imbalances that exists between the developed and developing countries rooted in historical, economic, military and technological disparities. Developed countries with significant contribution to global emissions possess substantial scientific knowledge, technological prowess, and economic and military power, which afford them significant advantages in both adaptation to climate change and negotiation leverage coupled with a strong BATNA enabling them to drive the negotiation process and secure favourable outcomes.¹⁰⁹

Whereas developing countries bear the brunt of climate change impacts often lacking the financial resources, scientific expertise, and technological capabilities necessary for effective adaptation where they face substantial challenges in balancing economic development with climate mitigation and adaptation efforts. However, they have rainforests that are capable of storing CO₂ but are facing the challenges of sustainable development.

The CBDR mechanism incorporated by the UNFCCC attempts to make this class divide between the global north and the south by dividing between member states as Annex I and non-Annex I states. Subsequent agreements such as the Kyoto protocol and the Paris agreement tried to take away this separation to varying degree of success. But the success of REDD+ is particularly significant for the Coalition of Countries with Rainforests (CfRN), which have been able to leverage this mechanism to gain international recognition and support for their forest conservation efforts showing that focused coalition group would strengthen negotiation power of developing countries during climate negotiations.

¹⁰⁹ Nanda, Samba, and Sahide, *supra* note 55.

The negotiation process remains heavily dominated by developed countries. Their veto power, along with advanced knowledge and understanding of the climate change phenomenon, enables them to drive the negotiations and shape the outcomes to suit their own interests. The economic and military dependencies of developing countries further exacerbate this imbalance. Many developing nations rely on developed countries for economic aid, access to markets, and military support, which constrains their ability to assert themselves independently in climate negotiations. This mirrors the broader patterns of international cooperation, where less powerful states must align with the interests of more powerful ones to secure necessary support and resources. As a result, the negotiation strategies of developing countries are often limited to compromise and accommodation.

The dominance of developed countries in climate negotiations can be attributed to several factors. First, their historical contributions to greenhouse gas emissions have given them a significant head start towards developing their own economies and infrastructure, thereby allowing them to direct the global response to climate change.¹¹⁰ This historical responsibility, combined with their economic and technological capabilities, positions them as key players in the negotiation process. Second, developed countries have invested heavily in scientific research and technological innovation, providing them with a deeper understanding of the climate change phenomenon and potential solutions. This knowledge advantage allows them to propose and advocate for policies that align with their interests. Third, the economic and military power of developed countries gives them significant leverage in negotiations. Their ability to provide financial aid, access to markets, and military support to developing countries creates a dependency that can influence the negotiation positions of the latter. Developing countries, often facing urgent development needs and external pressures, may find it challenging to assert their interests independently and must resort to compromise and accommodation.

To address these imbalances, regional and global alliances among developing countries being made could enhance their collective bargaining power. By forming coalitions and advocating for shared interests, developing countries can amplify their voices and negotiate

¹¹⁰ Raghunandan, *supra* note 58.

more effectively. For instance, the CfRN has successfully advocated for the recognition and support of REDD+ initiatives, demonstrating the potential of coalition-building in international climate negotiations.

This chapter reveals the dynamics of international climate negotiations as a stark contrast between developed and developing countries, underscoring significant disparities in power and resources. Developed countries often have the upper hand, enabling them to steer negotiations and secure favourable outcomes. Meanwhile, developing countries grapple with various challenges in making their voices heard. To create fairer and more effective climate agreements, we need to address these imbalances. This can be achieved through capacity-building, financial support, technology transfer, coalition-building, and inclusive negotiation processes. By empowering developing countries and ensuring their meaningful participation, the global community can strive for a more just and sustainable response to climate change.

CHAPTER 4: INDIA IN INTERNATIONAL CLIMATE NEGOTIATIONS

4.1 INTRODUCTION

Global climate change has been one of the most pressing issues of our time with a global call for action at an international level. The last couple of decades have seen the emergence of scientific literature and opinions that the GHG emissions exacerbates climate change accelerating environmental phenomena such as global warming and loss of biodiversity at an unprecedented scale. In response to this crisis global community have come forward to tackle the effects of climate change through various legislative frameworks by way of treaties and conventions. UNFCCC established in 1992 started the process of mitigating climate change at an international level in an effort to implement the most effective policy recommendations, followed by the Kyoto Protocol in 1997 and subsequently Paris Agreement in 2015.

India has always been at the forefront of the dialogue for mitigating climate change. India's position towards climate commitments under the UN evolved through various phases. During the nascent stages of the UNFCCC negotiations, India played a crucial role in advocating for the cause of developing nations as India itself has always been vulnerable to the effects of climate change owing to this large population and infrastructure ill-equipped to adapt to changing climate conditions, long coastlines and a rainfed agrarian economy.¹¹¹ Even if India cannot be considered as a the most critically affected like small island nations it is one among the most affected regions like other South Asian Nations.¹¹² India's vulnerability to climate change has not always been the primary driver of its climate policy but often have been viewed through the lens of foreign relations and international diplomacy. The country's approach to climate negotiations has gone through various phases marked by shifts and inconsistencies caused by external influences exerted by external players in the climate negotiation arena. While early Indian contributions to

¹¹¹ Lily Pandeya & Aditi Madan, *Climate Change Negotiations and India: Exploring Co-Benefits Approach To Climate Policy Action*, SCRIBD, <https://www.scribd.com/document/702221250/c663833f-e010-11eb-8823-4a7da8707e2f> (last visited Jun 9, 2024).

¹¹² Yasuaki Hijioka et al., *Climate Change 2014 Impacts, Adaptation, and Vulnerability. Part B Regional Aspects. Contribution of Working Group II to the Fifth Assessment Report of the IPCC*1327 (2014).

climate governance was substantial and influential, its later defensive and reactive stance in order to align with the interests of developed countries, particularly US, often came at the cost of traditional alliances with other developing nations.¹¹³

This changing Indian stance towards climate negotiations is indicative of the state's commitment towards climate obligations. This chapter aims to provide an overview of India's role in international climate negotiations, track the trajectory of its strategic shifts in negotiation strategies, shifting alliances and the implications of its actions as a major player in the environmental front. First, the evolution of India's climate policy should be traced, then analyse the underlying factors which caused this shift and how it has affected global climate governance. By examining these aspects, this chapter will offer a comprehensive understanding of the effectiveness of India's current strategy during climate change negotiations.

4.2 EVOLUTION OF INDIAN POSITION IN CLIMATE NEGOTIATIONS

The Indian position toward international negotiations under UNFCCC have evolved through several phases where the official Indian position is of guarding its own national interest, resisting the unfair enforcement of emission control obligations by developed countries in favour of developing nations.¹¹⁴ But this official portrayal is not all it seems. A more critical look into the Indian position reveals a muddled picture not aligning with official rhetoric.

4.2.1 EARLY PHASE (1990 – 1992)

As the UNFCC was taking shape in the early 90's, India emerged at the forefront of climate talks on behalf of developing nations who were always at a disadvantage due to their comparative lack of advanced scientific data compared to that of developed countries at the Rio Conference. These developed countries particularly United States were intent on shifting the blame of major emissions onto developing nations.¹¹⁵ This was the beginning

¹¹³ Raghunandan, *supra* note 58.

¹¹⁴ *Id.*

¹¹⁵ Sandeep Sengupta, *India's Engagement in Global Climate Negotiations from Rio to Paris*, in *INDIA IN A WARMING WORLD* 114 (Navroz K. Dubash ed., 1 ed. 2019), <https://academic.oup.com/book/35227/chapter/299750865> (last visited Mar 23, 2024).

of climate negotiation at an international level with India playing a pivotal role in advocating for equitable treatment of developing countries. This was a time when India took a proactive collaborative approach to negotiation.

A major challenge faced by India and other developing countries was the argument put forth by developed countries that the methane emissions from agricultural and farming practices such as rice cultivation, cattle rearing which was common in developing countries such as India, Vietnam, China and other regions in Asia were the major contributors to climate change.¹¹⁶ This argument was to divert attention away from the fact that industrialised nations were the primary contributors of CO₂ emissions which was the fundamental cause of climate change. India was able to prove during the negotiation citing studies showing that the methane emissions from agriculture was not the major cause of global warming.¹¹⁷ Another contention from developed countries was that larger population would lead to higher GHG emission which was also countered by India with the help of Centre for Science and Environment, that per capita emission and historical responsibility of developed nations should be the criteria that should be taken into account since emission from the industrial era which developed countries exploited their resources to bolster their own economic and social development.¹¹⁸ This was fundamental in shaping key international climate law principles of ‘Common but Differentiated Responsibilities and Respective Capabilities’ (CBDR&RC) where it is acknowledged that different responsibilities should be attributed according to the capabilities of developed and developing countries in addressing climate change.¹¹⁹ The Indian position also advocated for equitable burden sharing in emission reduction was reflected during negotiations which effectively provided for the foundation of subsequent Kyoto Protocol. Through a strong coalition of the global South and differing interests within developed countries, India was largely successful in securing its core position in convention negotiations.¹²⁰

¹¹⁶ Raghunandan, *supra* note 58.

¹¹⁷ D. C. Parashar et al., *Methane Budget from Paddy Fields in India*, 33 CHEMOSPHERE 737 (1996).

¹¹⁸ Anil Agarwal & Sunita Narain, *Global Warming in an Unequal World: A Case of Environmental Colonialism* *A Case of Environmental Colonialism* 81 (2019).

¹¹⁹ What Is India Negotiating for in International Climate Politics?, SPRF, <https://sprf.in/sprf-shorts/what-is-india-negotiating-for-in-international-climate-politics/> (last visited Jun 10, 2024).

¹²⁰ Sengupta, *supra* note 115.

After the initial battles were effectively won, India's enthusiasm toward climate science and policy formulation died down. This period saw a significant reduction in research and academic efforts in the realm of climate sciences towards mitigation efforts within India. This was effectively because of weaknesses in institutional infrastructure relating the climate science and policy making and a perspective that international climate negotiations were primarily an extension of India's broader diplomatic and foreign policy objectives.

Essentially India's early engagement in the climate negotiations was of protecting the interests of the developing countries against disproportionate mitigation responsibilities and scientifically unfounded claims by that of the US and its allies. India played a key role in establishing the principles of equity and historical responsibilities through CBDR implementation in the international climate framework by means of effective scientific research and strategic advocacy. But the coming years would see a weakening of India's position at climate discourse at an international level.

4.2.2 KYOTO PROTOCOL: FROM ACTIVISM TO DORMANCY (1992 – 1997)

Following the creation of the UNFCCC, the international emission control framework and the responsibilities of the developed and developing world were created as a binary with the Kyoto Protocol negotiations during this period. Interestingly, India transitioned from its earlier activist role to one much more dormant. This marked a shift in India stance in climate negotiations from a collaborative negotiation model to a much more uncooperative avoidance approach. India's official position was characterised by a defensive posture where it essentially blockaded efforts by developing countries to bridge the developed-developing separation in negotiation proceedings citing concerns about funding and transfer of technology from developed countries.¹²¹ This fixation on technology transfer, coupled with lack of preparation and engagement in evidence-based campaigned like the previous serious of negotiations meant that it wasn't able to frame and advance their arguments in the international forum.

¹²¹ Antto Vihma, *India and the Global Climate Governance: Between Principles and Pragmatism*, 20 THE JOURNAL OF ENVIRONMENT & DEVELOPMENT 69 (2011).

This passive approach to negotiation meant that the developed countries such as the US and its coalition that included Japan, Canada, Australia and New Zealand (JUSCANZ) and members of the Organization of Petroleum Exporting Countries (OPEC), to set the agenda in climate negotiations.¹²² This over time allowed such countries to build alliances with other developing countries eroding the unified front of the developing nations in global climate policy making.

In summary the period from 1992 to 1997 saw a transition in India's role in international climate negotiations from that of active advocacy to a more defensive stance. Even though the concerns about funding and technology transfer was valid and important, the undue focus on these issues at the expense of a proactive engagement on broader climate issues diminished India's influence. This shift essentially allowed developed countries to dominate the negotiation process.

4.2.3 PERIOD OF INCONSISTENCY (1997-2005)

This period between the agreement and ratification of Kyoto Protocol by member countries India's climate diplomacy could be described as erratic and inconsistent.¹²³ Compared to the proactive stance India took during the 1990's, the state appeared to be directionless regarding what its objective was, primarily focusing on protecting itself from pressures to reduce emissions, an agenda pushed by developed countries, a position that seem to deviate from the overarching goal of limiting global warming.

During this period India was often perceived as being evasive of key climate issues. This period marked a level of willingness by Indian policy makers to form alliances with developed countries such as the US starkly contrasting with their initial position of aligning themselves with that of developing nations. This was seen as opportunistic in nature and came at the expense of conceding to various condition set forth by the agenda of the global North like supporting the emission reduction commitment and was widely seen as contradictory and lacking in consistency.¹²⁴ One example of this inconsistency was its involvement in undermining the integrity of the Kyoto Protocol. India among other

¹²² Sengupta, *supra* note 115.

¹²³ Raghunandan, *supra* note 58.

¹²⁴ *Id.*

developing countries indirectly supported US led initiatives by introducing mechanisms for case-specific treatments and special provisions for emissions accounting which included for the advocacy of offset measure allowing developed countries to meet their emission reduction obligations through mitigation measures like afforestation in developing countries which in every sense of the world allowed developed countries cheaper alternative to comply with their emission obligations.¹²⁵

Similarly, the introduction of CDM was another contentious issue as CDM was designed to facilitate the transfer of energy efficient technologies from developed to developing nations allowing the contributing country to earn carbon credits which could be used to offset their own emissions.¹²⁶ India initially took a defensive position where they went as far as delaying negotiations citing concerns about the commodification of atmosphere, a sentiment shared among G77 countries.¹²⁷ But this position changed after COP8 in 2002 where India changed its position on CDM where they eventually established National CDM authority.¹²⁸ The rhetoric was that this was a result of lobbying by Indian corporate bodies as they saw a new opportunities in the carbon credit market.¹²⁹ The critics argued that CDM essentially allowed developed countries to avoid making substantial policy changes to their domestic emission where they will be allowed to offset emission targets through cheaper alternatives undermining the spirit of Kyoto Protocol.¹³⁰

During COP8 in Delhi, the US was the major disruptor during these years along with other EU countries led by Denmark, consistently working to weaken the protocol where they maintained that they would not join any global agreements that exempted major developing countries like India, China and Brazil from similar emission reduction obligations, where the CBDR principle allowed these developing nations with lenient obligations.¹³¹ This

¹²⁵ Detlef Sprinz, *Summary Notes of the 7th Conference of the Parties of the UN Framework Convention on Climate Change*, Potsdam Institute for Climate Impact Research (2001), https://www.pik-potsdam.de/members/dsprinz/publications/UNFCCC_COP_7.Summary.27Nov2001.pdf (last visited Jun 10, 2024).

¹²⁶ Sengupta, *supra* note 115.

¹²⁷ What Is India Negotiating for in International Climate Politics?, *supra* note 119.

¹²⁸ *Id.*

¹²⁹ *Id.*

¹³⁰ Flop-8: Climate Conference In Delhi – Delhi Science Forum, <https://delhiscienceforum.net/flop-8-climate-conference-in-delhi-by-raghu/> (last visited Jun 10, 2024).

¹³¹ *Id.*

stance culminated in the US withdrawing and refusing to sign the agreement after George W Bush became president in 2001.¹³² The European Union (EU) criticised the US withdrawing from the agreement but simultaneously pushed for developing countries to begin defining their obligations prematurely increasing the North-South divide. Additionally Saudi Arabia leading OPEC countries polarised the conference by defending developing countries which further complicated the negotiations.¹³³ The lack of support from an emission giant such as the US and EU was seen among the many factors that contributed to the eventual failure of the Kyoto Protocol even though 164 countries decided to sign the agreement.

India's role in the negotiations was further criticised during the same COP8 where they held the COP presidency, it was expected to lead the discussion of the implementation of the protocol and addressing its gaps, with the Indian prime minister's inaugural address focusing heavily on developed-developing divide despite expectation that the conference would concentrate on issues pertaining to its implementation.¹³⁴ As the host and COP president, India was expected to lead substantive discussions on Kyoto Protocol implementation. Major criticism came from India's draft declaration as it was perceived as lacking substantive content as the draft did not even mention the protocol or the term 'mitigation' aligning with US interest for emphasising adaptation over emission reduction. This inconsistency and failure to provide clear leadership in their objectives allowed developed countries like the US and its allies to dominate the agenda.¹³⁵

The aftermath of COP8 highlighted issues with Indian climate diplomacy and negotiation tactics during this period. Its failure to provide a clear leadership and contributions allowed other countries like the US to hijack the agenda to suit their interest. Even though the US interruption was more or less ineffective, with 164 countries signing onto the Kyoto

¹³² Jon Hovi, Detlef F. Sprinz & Guri Bang, *Why the United States Did Not Become a Party to the Kyoto Protocol: German, Norwegian, and US Perspectives*, 18 EUROPEAN JOURNAL OF INTERNATIONAL RELATIONS 129 (2012).

¹³³ Raghunandan, *supra* note 58.

¹³⁴ Flop-8, *supra* note 130.

¹³⁵ *Id.*

Protocol, its eventual refusal to sign the document and India's negotiation policy aligning with US interests effectively diluted the effectiveness of the Kyoto Protocol.

4.2.4 INDIA'S CLIMATE NEGOTIATIONS AND DIPLOMACY DURING THE EARLY STAGES OF THE NEW MILLENIUM (2005-2015)

India alongside other large developing countries like China experienced significant gross domestic product growth (GDP) during the turn of the new century.¹³⁶ This period of economic expansion along with the political events such as the collapse of the Soviet Union and the Eastern European bloc, signified the arrival of new powerful players in the global arena. China's unprecedented growth and rising international influence worried US policy makers who along with other developed countries sought to make unconventional alliances with developing countries to integrate these growing economies into their sphere of influence on critical geopolitical and economic issues including climate change.¹³⁷

India in the process of reformulating its foreign policy in the post-Soviet era pursued a strategic alliance with the US as they were the biggest player in the global market. This India-US relationship materialised in various forms of defence agreements, nuclear deals and market integration following the India's opening of markets to western interests through liberalisation of its domestic economies.¹³⁸ The US strategy in particular, as explicitly stated by its Secretary of State Hillary Clinton was of continuing the position of Bush administration advocating for a singular framework involving all major economies including India and China.¹³⁹ This strategic alliance with the US at various international forums including those of climate change was proving to be beneficial to India but also consequently led to a neglect of traditional alliances with developing countries and their concerns. With the growing economy meant more consumption and expansion of industries leading to greater emissions within India although its per capita emissions remained

¹³⁶ The History of Economic Development in India since Independence, ASSOCIATION FOR ASIAN STUDIES, <https://www.asianstudies.org/publications/aaa/archives/the-history-of-economic-development-in-india-since-independence/> (last visited Jun 12, 2024).

¹³⁷ Raghunandan, *supra* note 58.

¹³⁸ Jagadish Thaker & Anthony Leiserowitz, *Shifting Discourses of Climate Change in India*, 123 CLIMATIC CHANGE 107 (2014).

¹³⁹ Hillary Rodham Clinton, *Opinion | The U.S. Is on Board*, THE NEW YORK TIMES, Dec. 14, 2009, <https://www.nytimes.com/2009/12/15/opinion/15iht-edclinton.html> (last visited Jun 12, 2024).

relatively low during this period.¹⁴⁰ This economic growth and increased emissions meant India could not maintain its earlier positions of championing the interests of developing countries despite its continued poverty and developmental challenges especially as other developing countries such as China, Brazil, South Africa and Indonesia signalled their willingness to reduce emission.

Domestic public opinion in India also began to shift after the release of the Intergovernmental Panel on Climate Change (IPCC) fourth assessment report (AR4) in 2007 which increased internal pressure to committing to reducing emission growth rate.¹⁴¹ This was not because of historical responsibility of emission but because it wanted to be part of the solution. This report (AR4) emphasised that even with significant emission cuts by developed countries, developing countries would also need to ensure that their future emissions are curbed below projected baseline.¹⁴²

India's role in international climate negotiations was further influenced by its participation in in G8+5 summits from 2007, which later evolved into the Major Economies Forum (MEF) and eventually G20.¹⁴³ These narrative and agenda in these platforms were effectively dominated by developed countries fundamentally altering the international emission control architecture where the shift from CBDR to a more inclusive framework for both developed and developing countries essentially diluted the India's negotiation leverage in climate negotiations.¹⁴⁴

This internal and external pressure led to a dimensional shift in the Indian negotiation position by Copenhagen Summit in 2009. India who has historically been against the imposition of emission reduction commitments on developing nations, committed to

¹⁴⁰ Raghunandan, *supra* note 58.

¹⁴¹ AR4 Climate Change 2007: Impacts, Adaptation, and Vulnerability — IPCC, <https://www.ipcc.ch/report/ar4/wg2/> (last visited Jun 12, 2024).

¹⁴² CLIMATE CHANGE 2007: MITIGATION OF CLIMATE CHANGE: CONTRIBUTION OF WORKING GROUP III TO THE FOURTH ASSESSMENT REPORT OF THE INTERGOVERNMENTAL PANEL ON CLIMATE CHANGE, (Bert Metz & Intergovernmental Panel on Climate Change eds., 2007).

¹⁴³ John Kirton, *The G20, the G8, the G5 and the Role of Ascending Powers*, REVISTA MEXICANA DE POLITICA EXTERIO (2010).

¹⁴⁴ Raghunandan, *supra* note 58.

reducing its emission intensity by 25% by 2025.¹⁴⁵ But this shift in negotiation position did not give India the intended leverage to secure deeper emission cuts by developed countries. The Copenhagen summit marked a juncture where US and its allies succeeded in introducing the concept of a single framework for both developed and developing countries incorporating a ‘pledge and review system’ of voluntary emissions reduction commitments which allowed for different scale for emission reading and emission timing giving much more leeway to developed countries in their commitments.¹⁴⁶ This allowed for omission of historic emissions as a basis for determining equitable national actions which was contentious as it undermined the recognition of historical responsibility of developed countries with regards to climate change.

India’s position in the climate negotiations during this period was also affected by the lack of appreciation of the evolving positions of many developing countries namely Least Developed Countries (LDCs), Small Island Developing States (SIDS), and African countries who viewed climate change as an existential threat and pushed for urgent action.¹⁴⁷ Indian position drew criticism from these nations as they saw large developing countries like India as part of the problem, a sentiment exploited by the US and EU to push for larger commitments from these nations.¹⁴⁸ During the Durban COP meetings in 2013 India faced significant pressure from both developed and developing countries for its refusal to accept language calling for legally binding commitments.¹⁴⁹ The perception that India prioritised its own economic development at the expense of climate commitments further strained its diplomatic standing with developing countries.

During the Paris Agreement negotiations India’s climate policy was heavily influenced by its foreign relations strategy. While India and other developing countries made concessions

¹⁴⁵ India-Second-Biennial-Update-Report-to-the-United-Nations-Framework-Convention-on-Climate-Change.pdf, <https://moef.gov.in/wp-content/uploads/2019/04/India-Second-Biennial-Update-Report-to-the-United-Nations-Framework-Convention-on-Climate-Change.pdf> (last visited Jun 12, 2024).

¹⁴⁶ Brian Spak, *The Success of the Copenhagen Accord and The Failure of the Copenhagen Conference*, <https://www.american.edu/sis/gep/upload/brian-spak-srp-copenhagen-success-and-failure.pdf> (last visited Jun 12, 2024)

¹⁴⁷ Raghunandan, *supra* note 58.

¹⁴⁸ *Id.*

¹⁴⁹ D.Raghunandan, *Durban Climate Agreement: The Morning After*, NEWSCLICK (2011), <https://www.newsclick.in/durban-climate-agreement-morning-after> (last visited Jun 12, 2024).

and compromises during the Paris Agreement, the omission of strict commitments by developed countries and their continued occupation of atmospheric space by these nations remained a point of contention leaving limited atmospheric space for developing countries for their future needs.¹⁵⁰ Further India's Nationally Determined Contributions (INDC) under the Agreement reflects this tension between low per capita emissions, development deficit and growing economic emissions.¹⁵¹

This period in climate negotiations, particularly for India, was focusing on climate diplomacy, opportunistic alliances, significant economic growth and growing domestic and international pressures. India's alignment with developed countries such as US led to deterioration of relations with other developing countries. The need to reconcile its historical emphasis on equity with the realities of its economic growth and the global push for emissions reductions is evident in its climate diplomacy along with balancing traditional alliances with developing countries and its aspirations of global prominence continues to influence India's negotiations stance.

4.2.5 THE AFTERMATH OF THE PARIS AGREEMENT

The Paris Agreement is considered as the quintessential international climate change mitigation instrument but in the context of historical emission responsibility and the principles of international equity one could say it fell short of both these criteria.¹⁵² The agreement which aimed to limit global warming to well below 2°C above pre-industrial levels, with efforts to limit the temperature increase to 1.5°C did not distribute the emission reduction burden equitable between the North and the South mainly due to the lack of accounting of the historical emissions by developed nations with developing countries like India shouldering more of the mitigation burden undermining the fundamental principles of CBDR. Indian negotiation strategy being influenced by its foreign policy considerations and its alignment with US interest came at the expense of Indian diplomatic relations with other developing nations sharing similar developmental and climate challenges.

¹⁵⁰ Tejal Kanitkar et al., *Carbon Budgets for Climate Change Mitigation – a GAMS-Based Emissions Model*, 104 CURRENT SCIENCE 1200 (2013).

¹⁵¹ D. Raghunandan, India's INDC for Paris Climate Summit – Delhi Science Forum, <https://delhiscienceforum.net/indias-indc-for-paris-climate-summit/> (last visited Jun 12, 2024).

¹⁵² Raghunandan, *supra* note 58.

With India's active participation in the initial stages of climate negotiations and its subsequent indecisions, misaligned alliances and failure to capitalise on a unified developing nation front weakened its position at the global negotiations. India's emphasis on maintaining the distinction between the developed and developing nations during the Kyoto Protocol was not adequately represented during the Paris Agreement negotiations as India was dealing with its own rapid economic growth and increased emission at the turn of the century resulting in a negotiating position that neither fully protected India's developmental interests nor contributed effectively to a fair and ambitious global climate regime.

The Paris Agreement for all its qualities ultimately is a low-ambition emission control regime allowing developed countries to defer significant emission reduction commitments bypassing their own historical responsibilities.¹⁵³ Agreement's structure favoured developed nations with its distribution of burden among all countries relying on voluntary pledges without ensuring any enforcement mechanisms to meet the climate targets.¹⁵⁴ The temporary withdrawal of the US from the agreement also highlighted the weakness of the Agreement when it comes to changing political alignments of large nation states undermining the effectiveness of the Agreement.

India will face numerous challenges in the years ahead, including increased pressure to take on greater mitigation responsibilities.¹⁵⁵ The lessons from past negotiations must be considered to approach future discussions differently, focusing on broader, long-term outcomes rather than short-term gains. Given the severe climate impacts India is likely to face, its national interests demand a more strategic and cohesive approach to climate diplomacy. Even during the COP26 conducted at Glasgow in 2021, India was accused as the culprit for diluting the agenda of 'phasing out' of coal to a 'phase down' but India wasn't the only developing country to arguing for this.¹⁵⁶ China and several other emerging

¹⁵³ *Id.*

¹⁵⁴ Robert O. Keohane & Michael Oppenheimer, *Paris: Beyond the Climate Dead End through Pledge and Review?*, 4 *PAG* 142 (2016).

¹⁵⁵ Raghunandan, *supra* note 58.

¹⁵⁶ Hannah Ellis-Petersen, *India Criticised over Coal at Cop26 – but Real Villain Was Climate Injustice*, *THE GUARDIAN*, Nov. 14, 2021, <https://www.theguardian.com/environment/2021/nov/14/india-criticised-over-coal-at-cop26-but-real-villain-was-climate-injustice> (last visited Jun 12, 2024).

economies also pushed for it. But the majority of blame in the international community fell upon India as a consequence of its past position of diluting the significance of historical emissions during Paris Agreement negotiations. The binary differentiation of CBDR between the global North and South was beneficial for India as even with a booming economy India still have to deal with its own development agendas and poverty eradication.

4.3 ASSESSING THE EFFECTIVENESS OF INDIAN NEGOTIATION STRATEGY AND CLIMATE POLICY IN INTERNATIONAL CLIMATE NEGOTIATIONS.

As we have seen so far, India's climate policy and negotiation strategy during climate negotiations evolved through a complicated interaction between external pressure to take climate actions, India's foreign policy alignment and other domestic factors. India's initial stance during climate negotiations were of reluctance towards binding commitments, emphasising equity in access to development supported by the assertions that its own per capita emissions would never surpass those of developed countries but eventually its own foreign policy considerations led India to be more open towards significant climate commitments at the expense of its own development.

India's climate policy has always been in the hands of a small group of individuals shaped mostly by the Ministry of Environment and Forest (MoEF) which was taken over by Prime Minister's Office (PMO) who took charge of the negotiations in 2007 which led to the establishment of Prime Ministers Council on Climate Change (PMCCC) where its 25 of the PMCCC's 26 members come from only one city, Delhi or its suburbs.¹⁵⁷ Even then the negotiation team was mostly consisting of serving and retired officials, scientists, and administrators who work in government-run labs and research organizations. When compared with other countries of similar scale, India's UNFCCC negotiation team was considered to be very weak. For instance, India sent of 77 delegates to the Copenhagen summit whereas other developing countries such as China and Indonesia send more than

¹⁵⁷ Nirupama A. K, *India's Climate Policy: Past, Present and Future Strategies*, 12 JOURNAL OF POLITY AND SOCIETY (2020), <https://journalspoliticalscience.com/index.php/i/article/view/28> (last visited Jun 12, 2024).

300 delegates respectively.¹⁵⁸ India's small negotiation team has acted as the weak link in India's negotiation strategy. Since India's climate policy was always developed by a small group of people away from public scrutiny and participation the general perception was that these policies are not indicative of public consensus, scientific evidence and is vulnerable to external influences.

The National Action Plan on Climate Change (NAPCC) in 2008, launched before G8 summit by the PMCCC was a step towards integrating climate considerations into its own national policy.¹⁵⁹ Its objective was to balance development with environmental sustainability through its National Solar Mission initiative which sought to increase solar energy capacity.¹⁶⁰ Between 2009 and 2011, India abandoned its own hardline stance against legally binding emission reduction commitments put forth by developed countries showing its willingness to compromise to protect its diplomatic relations with its developed allies which was evident at the Cancun conference in 2010.¹⁶¹ The Copenhagen Accord marked a transition towards more inclusivity in climate commitments emphasised by its nationally appropriate mitigation actions (NAMA) and support for international technology transfer.¹⁶² India's domestic policies have traditionally focused on resource extraction and economic output, this tension between economic development and environment was always a challenge for India. The influence of broader foreign policy objective of India and its desire to maintain autonomy in areas such as trade, nuclear policy and climate issues can be seen in its negotiation process.¹⁶³ Before Copenhagen India was seen as a hard-line member of G77 resisting any commitments in favour of the interests of developed countries, but its alliance with strong foreign players such as the US and the BASIC countries marked a departure from this stance showing a willingness to

¹⁵⁸ *Id.*

¹⁵⁹ Climate Change Programme | Department Of Science & Technology, <https://dst.gov.in/climate-change-programme> (last visited Jun 12, 2024).

¹⁶⁰ *Id.*

¹⁶¹ Aniruddh Mohan, *From Rio to Paris: India in Global Climate Politics*, 2 RISING POWERS QUARTERLY 39 (2017).

¹⁶² Nirupama, *supra* note 155.

¹⁶³ Mohan, *supra* note 161.

compromise with regards to climate commitments in favour of maintaining relations with the North.¹⁶⁴

Effectively the consequence of the Copenhagen Accord and the subsequent Cancun Agreement was that a much more ambiguous and uncertain international climate regime came into existence. This new regime essentially diluted the top-down differentiated framework based on targets and timetables which was the basis for CBDR principles in UNFCCC and the Kyoto Protocol to a much more bottom-up undifferentiated system based on voluntary pledges requiring same treatment of both developing countries as well as developed countries with regards to climate commitments.¹⁶⁵

India's climate policy is shaped by various contradictory strands of thought, which is evident through the statements of various officials, media reports etc.¹⁶⁶ The general consensus is that global warming is caused by historical emissions caused by unsustainable practices of developed countries disproportionately affecting the global South. The official narrative being there exists a responsibility of the North to significantly reduce its emissions to create a carbon space for developments in the global South and its duty to fund and the transition of developing countries to a less emission intensive mode of growth.¹⁶⁷ But at the same time the willingness of India to align itself with the interests of the developed countries by taking on more emission reduction commitments shows a level of inconsistency within its own climate and development policies.¹⁶⁸ On one hand, India wants to join the ranks of powerful countries shown by its willingness to form alliances but on the other hand it often comes at the cost of its own socio-economic development.

4.3.1 INCONSISTENCIES IN INDIAN CLIMATE POLICY

As we have seen so far, India's climate policy evolved through various anomalies and contradictions often seen influenced by internal and external pressures as well as its own

¹⁶⁴ Andrew Hurrell & Sandeep Sengupta, *Emerging Powers, North-South Relations and Global Climate Politics*, 88 INTERNATIONAL AFFAIRS 463 (2012).

¹⁶⁵ *Id.*

¹⁶⁶ Nirupama, *supra* note 155.

¹⁶⁷ *Id.*

¹⁶⁸ *Id.*

foreign policies rather than from a consistent concrete framework based on clear principle. There are some major internal anomalies that highlights its inconsistencies.¹⁶⁹

- Denial of Indian policy that the current economic growth patterns of the country are emission intensive.
- India advocating for international balance between climate commitments and development when there are existing regional disparities within country where the differences in income, agricultural productivity and output between its own states.
- India's climate strategy operates on the assumption of accountability between its governments and its citizens, but the reality is that governance structures within India are often non-participatory and inaccessible to the poor, lacking transparency and consultation with civil society and independent experts.

4.4 THE WAY FORWARD AND CONCLUSION

India is at a crossroads with its climate policy facing dual challenge of sustaining economic growth while transitioning to a more sustainable carbon future. At the domestic level the growing economy is still dependent on fossil fuels such as coal and oil which are integral to its economic priorities.¹⁷⁰ While the economy continues to grow its energy demand is expected to rise significantly in the coming years even with the integration of renewables into its energy infrastructure.

This situation requires an overhaul of India's negotiation strategies facilitated by a revamped and enhanced climate policies driven by both domestic needs and international commitments. The sixth report of IPCC Working Group II or The Synthesis Report underscores the urgency for developing countries like India to redesign its infrastructure and energy systems to align with climate resilient development pathways.¹⁷¹ India has in fact effected certain strategies in light of this report like increasing alternate energy storage and production capacities¹⁷², ensuring that at least 40 percent of its installed electricity

¹⁶⁹ *Id.*

¹⁷⁰ 75, *India - Renewable Energy*, (2024), <https://www.trade.gov/country-commercial-guides/india-renewable-energy> (last visited Jun 12, 2024).

¹⁷¹ IPCC AR 6 Synthesis Report, <https://pib.gov.in/pib.gov.in/Pressreleaseshare.aspx?PRID=1908960> (last visited Jun 12, 2024).

¹⁷² Energy Storage Systems(ESS) Overview | Ministry of New and Renewable Energy | India, <https://mnre.gov.in/energy-storage-systemsess-overview/> (last visited Jun 12, 2024).

generation capacity comes from non-fossil fuel sources by 2030¹⁷³, and reducing its emissions intensity by 35 percent from 2005 levels by 2020¹⁷⁴. Since the enactment of National Action Plan on Climate Change (NAPCC) in 2008, India has also seen an increase in policy instruments aimed at combating climate change such as NAPCC's eight subsidiary missions - National Solar Mission, National Mission for Enhanced Energy Efficiency, National Mission on Sustainable Habitat, National Water Mission, National Mission for Sustaining the Himalayan Eco-system, National Mission on Strategic Knowledge for Climate Change, National Mission for a Green India, and National Mission on Sustainable Agriculture, that have been approved and are in various stages of implementation along with several states developing their own State Action Plans on Climate Change (SAPCC).¹⁷⁵ But the reality is NAPCC is by no means a perfect system and is plagued by lack of clear targets, strategies, action plans, timetables, and budgets in many of its missions. The plans and missions should be redrafted, and the process should involve open and democratic debate to ensure that the resulting action plans are both practical and effective.¹⁷⁶

At an international level the failure of Kyoto Protocol from realising its objectives and the weak diluted negotiation position at the Paris Agreement negotiations meant India did neither possess enough support of the developing countries due to its alliance with the US and its interest nor had a strong enough BATNA as a leveraging tool to uphold the principles of CBDR which took into account the historical responsibilities of developed countries towards emission mitigation efforts. India's negotiation strategy could have benefitted from aligning with other developing countries rather than relying on alliance with developed nations like the US which would have better reflected India's poverty burden and development deficits, potentially leading to more equitable global climate policies.¹⁷⁷ This mixed negotiation position of championing the interests of developing

¹⁷³ India achieves target of 40 % installed electricity capacity from non- fossil fuel sources, <https://pib.gov.in/pib.gov.in/Pressreleaseshare.aspx?PRID=1777364> (last visited Jun 12, 2024).

¹⁷⁴ India stands committed to reduce Emissions Intensity of its GDP by 45 percent by 2030, from 2005 level, <https://pib.gov.in/pib.gov.in/Pressreleaseshare.aspx?PRID=1885731> (last visited Jun 12, 2024).

¹⁷⁵ Progress in Eight Missions on Climate Change, <https://pib.gov.in/pib.gov.in/Pressreleaseshare.aspx?PRID=1845820> (last visited Jun 12, 2024).

¹⁷⁶ Nirupama, *supra* note 155.

¹⁷⁷ Raghunandan, *supra* note 58.

countries during earlier climate treaty negotiations, subsequent shifting of agendas during negotiations and missed opportunities essentially limited its ability to shape global emission control regime effectively.

Even after the backlash faced by India from the scientific and political community of the western front for diluting the objectives of COP26 agenda India presented the five-point ‘Panchamrit’ goal for achieving carbon neutrality.¹⁷⁸ The goals included:¹⁷⁹

1. Reach 500GW Non-fossil energy capacity by 2030.
2. 50 per cent of its energy requirements from renewable energy by 2030.
3. Reduction of total projected carbon emissions by one billion tonnes from now to 2030.
4. Reduction of the carbon intensity of the economy by 45 per cent by 2030, over 2005 levels.
5. Achieving the target of net zero emissions by 2070.

These goals, along with the ambitious 1.5°C goal from the Paris Agreement mandate, revising Nationally Determined Contributions (NDCs), and conducting global stocktakes, are ambitious to say the least, at least for a developing country like India that still struggles with poverty and economic inequities. For these efforts to be effective India should incorporate a hybrid of competitive as well as collaborative negotiation strategy that accounts for historical emissions and ensures that developed countries take the responsibility for their emissions throughout the past century instead of unloading the responsibility to growing countries that still have to maintain their developmental goals. India will face significant pressure to take on greater mitigation burdens, and it will need to navigate these challenges by learning from past negotiations and focusing on broader, long-term outcomes.

¹⁷⁸ India’s Stand at COP-26, <https://pib.gov.in/pib.gov.in/Pressreleaseshare.aspx?PRID=1795071> (last visited Jun 12, 2024).

¹⁷⁹ *Id.*

CHAPTER 5: CONCLUSION AND SUGGESTIONS

Global climate governance is a multilevel process involving a multitude of actors including international bodies, national governments, subnational entities, non-governmental organisations (NGOs), and other stakeholders with the primary aim to address the adverse effects of climate change through coordinated efforts at various level, ensuring that actions taken are equitable and is effective at mitigating emissions and conservation of environment at a global level.¹⁸⁰ The UNFCCC, established during the Rio Earth Summit in 1992, serves as the cornerstone of global climate governance creating the stage for the negotiation platform for future climate agreements such as Kyoto Protocol and the Paris Agreement. Theoretically these agreements are based on the principles of CBDR, which acknowledges the differing capabilities and responsibilities of developed and developing in addressing the degree of measures taken to combat climate change.

Other key international bodies such as the Intergovernmental Panel on Climate Change (IPCC) provide scientific assessments that inform policy decisions. The IPCC's reports are crucial in setting realistic and achievable targets for emission reductions and guiding international climate negotiations.¹⁸¹ The UNFCCC Secretariat, which supports the implementation of the Convention and its related instruments, and various constituted bodies like the Adaptation Committee, the Climate Technology Centre and Network (CTCN), and the Standing Committee on Finance (SCF), which play specialised roles in enhancing global climate governance. For effective implementation of climate commitments both National and subnational levels of governance are essential. Local governments, public institutions, and private sector entities play significant roles in implementing climate policies and regulations.¹⁸² For example, India's Ministry of Environment, Forest, and Climate Change (MoEFCC) ensures the effective implementation of laws and policies, while initiatives like Kerala's State Action Plan on Climate Change (SAPCC) demonstrate the impact of grassroots-level actions. When it

¹⁸⁰ Jänicke, *supra* note 53.

¹⁸¹ Knowledge Politics in the Context of International Climate Negotiations, STIFTUNG WISSENSCHAFT UND POLITIK (SWP), <https://www.swp-berlin.org/publikation/knowledge-politics-in-the-context-of-international-climate-negotiations> (last visited Jun 20, 2024).

¹⁸² Jänicke, *supra* note 53.

comes to the negotiation process within the aforementioned conventions its evolution can be traced through key agreements and treaties such as the UNFCCC, Kyoto Protocol, and Paris Agreement.

The Kyoto Protocol, adopted in 1997, committed developed countries to reduce their greenhouse gas (GHG) emissions by at least 5% below 1990 levels. However, the protocol's flexibility mechanisms, such as emissions trading and the Clean Development Mechanism (CDM), highlighted the tussle between developed and developing countries. Whereas The Paris Agreement, adopted in 2015, marked a significant shift towards a more inclusive and bottom-up approach. Unlike the binary classification of countries under the Kyoto Protocol, the Paris Agreement requires all parties, irrespective of their development status, to submit nationally determined contributions (NDCs), foregoing the traditional standard of taking into account historical emissions when deciding on the measures to be adopted by its members.

We can see an obvious play of power when nation states engage in climate negotiations with each members engaging to secure its own objectives and interest tangentially to the broader objective of the conservation. The negotiation dynamics becomes convoluted when it is influenced by developed countries, wielding significant power in shaping the outcomes. Factors such as veto power, financial influence, and superior scientific and technical knowledge allow developed nations to dominate the negotiation process. This influence is evident in the structuring of financial mechanisms, technology transfer provisions, and capacity-building initiatives.

When looking at how these negotiation dynamics affect the climate policies of developing nations India's role should be examined as it is by itself a developing nation with its own economic and climate challenges. A critical analysis of India's role in international climate negotiations reveals that its position has evolved significantly over the years with India playing a proactive role in advocating for the interests of developing countries, emphasising equity and historical responsibilities. This was evident during the early negotiations under the UNFCCC and the subsequent Kyoto Protocol, where India successfully argued for the principle of CBDR. However, India's stance shifted over time,

moving from proactive engagement to a more defensive and sometimes inconsistent approach. During the Kyoto Protocol negotiations, India adopted a defensive posture, focusing on concerns about funding and technology transfer. The period between 1997 and 2005 saw India taking an inconsistent approach, often aligning with developed countries like the US, which diluted its position among developing nations. This was evident during the Copenhagen Accord and the subsequent Cancun conference, where India abandoned its hardline stance against binding emission reduction commitments. This shift allowed developed countries to dominate the negotiation process, weakening the unified front of developing nations.

5.1 CRITICALLY EXAMINING THE GLOBAL CLIMATE GOVERNANCE PROCESS

Global climate governance structures, primarily led by the UNFCCC and supported by various international bodies like the IPCC being instrumental in shaping global response to climate change, are often hampered by the persistent inequalities between both the global north and south. The Kyoto Protocol, adopted in 1997, was an early attempt to enforce legally binding emission reductions for developed countries. Despite its innovative mechanisms, such as the Clean Development Mechanism (CDM) and Joint Implementation, the protocol revealed significant power imbalances. Developed countries, leveraging their economic and technical advantages, often dictated the terms of these mechanisms, which sometimes led to unequal distribution of benefits. This was evident in the way CDM projects were disproportionately allocated to financially secure developing countries, leaving the least developed nations marginalised. The refusal of major players like the US from signing the agreement under the Bush administration diluted the effectiveness of the instrument. The Paris Agreement of 2015 marked a shift towards a more inclusive, bottom-up approach, requiring all parties to submit nationally determined contributions (NDCs). While this inclusivity aimed to foster a collective sense of responsibility, it also highlighted the disparity in capacities between developed and developing nations. Developed countries, with their greater resources and technological capabilities, were better positioned to meet their NDCs, whereas many developing countries struggled to mobilise the necessary support and financing.

The persistent inequities in international climate negotiations are not just remnants of historical emissions but are also reinforced by contemporary political and economic power structures. Developed countries often wield significant influence in shaping negotiation outcomes, evident in the structuring of financial mechanisms, technology transfer provisions, and capacity-building initiatives. This influence perpetuates a cycle where developing countries remain dependent on the support and goodwill of developed nations, limiting their ability to assert themselves independently in climate negotiations.

These inequities are created because of the inherent negotiation styles employed by the parties engaged in negotiations to such agreements. The negotiation process in international climate governance is profoundly influenced by power dynamics often skewing the outcomes in favour of developed nations. The structure of negotiations, such as those seen in the Kyoto Protocol and Paris Agreement, tends to reflect the interests and priorities of the more powerful states. Negotiation styles and strategies employed by different countries vary significantly. Developed nations often use a competing style, characterised by assertiveness and a focus on their own interests, leveraging their economic and technological strengths to dominate proceedings. In contrast, developing countries typically adopt accommodating or compromising styles, prioritising cooperation and often making significant concessions due to their weaker negotiating positions. This imbalance is further exacerbated by the concept of Best Alternative to a Negotiated Agreement (BATNA), where parties with stronger alternatives outside the negotiation process can afford to be more assertive. Developed countries, with robust economic and technological bases, usually have stronger BATNAs, allowing them to shape negotiations to their advantage.¹⁸³ Financial dependencies also play a crucial role in shaping negotiation dynamics. Developing countries often rely on economic and technological assistance from developed nations and access to their markets. This dependency constrains their ability to negotiate freely and assertively, as they must balance their immediate economic needs with long-term climate commitments. For instance, the African Growth and Opportunity Act (AGOA) and Economic Partnership Agreements (EPAs) shows how economic

¹⁸³ Nanda, Samba, and Sahide, *supra* note 55.

dependencies can influence negotiation positions. Additionally, the lack of a unified front among developing countries often weakens their collective bargaining power. Internal divisions within groups like the G77/China coalition, driven by conflicting interests among member states, are frequently exploited by developed nations to further their own agendas. This fragmentation makes it difficult for developing countries to present a strong, cohesive stance in negotiations.

5.2 THE INDIAN NEGOTIATION POSITION: ROLES AND CHALLENGES

India has always been at the forefront of climate negotiations as it is one of the countries to be severely affected by climate change owing to its poverty, lack of infrastructure and predominantly agrarian economy. India's participation in international climate negotiations has evolved from a proactive stance advocating for the interests of developing nations to a more defensive and sometimes inconsistent approach. Initially, India played a crucial role in advocating for equitable treatment under the UNFCCC framework, emphasising the principles of CBDR and the need for developed countries to take greater responsibility for their historical emissions. But over time we can see that the Indian strategy shifted during the negotiations for the Kyoto Protocol and the Paris Agreement. India often aligned with developed nations like the US, which diluted its traditional alliances with other developing countries, a shift driven by its foreign policy.

The inconsistency in India's climate policy and negotiation strategy has often been criticised, for instance, during the COP8 negotiations in New Delhi, India's failure to provide clear leadership allowed developed countries to dominate the agenda, ultimately weakening the effectiveness of the Kyoto Protocol. Similarly, the shift in stance with India abandoning its hardline stance against legally binding emission reduction commitments during the Copenhagen Accord and subsequent Cancun Agreement further reflected India's struggle to balance its development needs with its climate commitments.

A critical analysis of India's approach to international climate negotiation reveals that fundamentally the Indian position during climate negotiations have been compromised due to a lack a structural integrity in its own climate policy which is evident by its own smaller

negotiation teams compared to other developing countries of similar size. India's early leadership in advocating for equitable treatment under the UNFCCC framework underscored its dedication to ensuring that developed countries take greater responsibility for historical emissions. However, the shift in strategy, driven by economic and political factors, has sometimes diluted India's traditional alliances with other developing countries. By aligning with the interests of the global north, India has essentially foregone its own developmental goals in favour of maintaining diplomatic relationships, even though historical emission and per capita emission data would show that the developed countries have the majority of responsibility in the context of the climate crisis that we see today. In order to have a stronger BATNA as a leverage during negotiations India need to realign its climate policy with that of other developing nations, thereby creating unified front for the global south and strive to reinvigorate the spirit of CBDR into future agreements.

This is not to say that India's climate policies have been lacking. The National Action Plan on Climate Change (NAPCC) or the National Solar Mission, reflects India's commitment to addressing climate change while pursuing economic growth. Since the enactment of NAPCC in 2008, India has also seen an increase in policy instruments aimed at combating climate change. In recent years, India's negotiation strategy has focused on aligning with broader climate goals while addressing domestic challenges. For instance, during COP26 in Glasgow, India presented the 'Panchamrit' goals, which included targets for non-fossil energy capacity, renewable energy, and net zero emissions by 2070, showing larger willingness to emission reduction commitments.

5.3 RECOMMENDATIONS

To enhance its role and effectiveness during climate negotiations, India must adopt a more consistent strategy towards its climate policy. Here are some of my recommendations for the future of Indian negotiation strategy and subsequently its own climate policy.

1. India should strengthen its Internal Coordination and Policy consistency.

India needs a unified and well-coordinated strategy that aligns national climate policies with its international negotiation stance. This includes clear, consistent messaging and objectives that reflect India's long-term climate goals and development priorities. There

should be improved coordination between various ministries and departments involved in climate policy. This can be achieved through regular inter-ministerial meetings and the establishment of a dedicated climate negotiation team to ensure all national stakeholders are on the same page. India's National Action Plan on Climate Change (NAPCC) and its missions, such as the National Solar Mission, showcase India's commitment to integrating climate considerations into national policy. India's Ministry of Environment, Forest, and Climate Change (MoEFCC) plays a pivotal role in shaping climate policies and regulations. However, clear targets and effective implementation strategies are often lacking. Strengthening the MoEFCC and other relevant institutions can improve India's ability to implement and advocate for robust climate policies at international forums. By developing a cohesive strategy that aligns with these national policies, India can present a stronger, more unified front in negotiations.

2. India should focus of building stronger alliances with other developing nations.

Strengthening alliances with other developing countries, especially those with similar climate vulnerabilities and development needs, can enhance India's bargaining power in international climate negotiations. Active participation in groups like the G77/China and the BASIC coalition is important as the combined resources of these nations could compete with the global north, with a strong BATNA as a leverage, to meet its own developmental goals and resist the unfair enforcement of higher mitigation obligation and measures by the developed nations. Additionally, collaborating with Least Developed Countries (LDCs) and Small Island Developing States (SIDS) can help amplify the voices of the most vulnerable and ensure that their concerns are adequately addressed in global climate agreements. During the early negotiations under the UNFCCC and Kyoto Protocol, India successfully advocated for the principle of Common but Differentiated Responsibilities (CBDR) by aligning with other developing countries. Reviving and enhancing these collaborative efforts can help counter the influence of developed nations and ensure equitable outcomes from climate negotiations.

3. Indian climate policy should be more inclusive and participatory.

India can strengthen its climate policy by engaging a broad range of stakeholders, including civil society, the private sector, and local communities, ensuring diverse perspectives are considered, thereby strengthening the legitimacy of India's climate strategies. The involvement of various social actors, including NGOs and community groups, in national and subnational climate governance highlights the importance of stakeholder engagement. By extending this inclusivity to international negotiations, India can ensure that its climate policies are reflective of the needs and perspectives of all its citizens, thereby strengthening its negotiating position. It would at least ensure a grassroots level domestic support towards India's climate policy actions. This participatory approach not only enhances policy effectiveness but also fosters a more informed and supportive public.

4. India should further advocate for equitable financial and technological support.

India should continue to advocate for increased climate finance from developed countries, emphasising the need for predictable and accessible funding to support its mitigation and adaptation efforts. Additionally, pushing for enhanced technology transfer mechanisms can bridge the gap between developed and developing countries, facilitating access to climate-friendly technologies through favourable terms in international agreements. India should leverage its growing economic and technological capabilities to assert a stronger position in climate negotiations. By showcasing advancements in renewable energy, particularly solar power, and demonstrating successful implementation of climate initiatives, India can argue for greater support and investment from developed countries.

5.4 CONCLUSION

In conclusion, the purpose of this study was to identify the inequities that are prevalent in international climate governance mechanisms and to assess how those inequities have influenced the climate policy of a developing country like India. After reviewing various literature and data I have come to the conclusion that the effectiveness of global climate governance and the negotiation process is significantly influenced by the power dynamics

between developed and developing countries. These power dynamics are deeply rooted in historical and contemporary inequities, which persistently shape the outcomes of international climate negotiations. The legacy of industrialisation in developed countries has led to a disproportionate contribution to historical greenhouse gas emissions, placing developed countries in a position of having to lead on climate action while also providing support to developing nations. The legacy of industrialisation in developed countries has led to a disproportionate contribution to historical greenhouse gas emissions, placing developed countries in a position of having to lead on climate action while also providing support to developing nations. However, contemporary economic disparities mean that developing countries often lack the financial and technological resources to implement ambitious climate actions independently. This imbalance is a critical factor in climate negotiations, where developed countries push for stringent climate commitments, and developing countries emphasise the need for support and equity. India, as a rapidly developing country with significant economic growth and substantial emissions, plays a pivotal role in global climate negotiations. India's stance often reflects the broader concerns of the developing world, advocating for climate justice, equity, and the principle of common but differentiated responsibilities (CBDR). India's evolving role underscores the challenges faced by developing countries in these negotiations: balancing its developmental needs with the global imperative to reduce emissions, navigating complex diplomacy, and aligning with other developing nations to form strategic alliances. To enhance its influence and contribute effectively to global climate goals, India needs to adopt a more strategic and cohesive approach to climate diplomacy. Strengthening domestic climate policies, forming strategic alliances with other developing countries and emerging economies, leveraging international support mechanisms, and engaging in innovative diplomacy can bolster India's negotiating position. By positioning itself as a leader in renewable energy and sustainable practices, India can build soft power and influence global climate discourse. Furthermore, rather than focusing solely on immediate gains, India should adopt a long-term perspective in climate negotiations, advocating for structural changes in global climate governance that address equity and fairness, ensuring that developing countries have a fair share of the global carbon budget and access to the

necessary resources for sustainable development. India's role in global climate negotiations is emblematic of the broader challenges faced by developing countries in navigating the complex dynamics of international climate governance. By adopting a strategic and cohesive approach to climate diplomacy, India can enhance its influence and contribute more effectively to global climate goals, balancing domestic actions and international engagements aimed at addressing the persistent inequities that shape the outcomes of climate negotiations.

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