Arguing About the Climate: Towards
Communicative Justice in International
Climate Change Politics

November 2009

Andrew Brookes
149440
MA (International Politics) candidate
School of Social and Political Sciences
University of Melbourne
Supervisor: Prof. Robyn Eckersley

Submitted in partial fulfilment of the requirements of the degree of Masters by Research (with coursework component).
Abstract

This thesis examines international climate change politics from the perspective of communicative justice, and in turn uses the lessons learnt from climate change politics to interrogate and refine the theory of communicative justice. Communicative justice is developed as an ethical ideal for discourse with the normative aspiration of expanding the boundaries of political community, recognising marginalised identities, and facilitating cultural translation.

It is argued that while the international climate change regime is formally inclusive and has a number of features conducive to unconstrained dialogue, a communicative justice framework allows the substantive deficiencies of the negotiating process to be revealed. In particular, the failure of the regime to agree on voting rules has meant it has been forced to fall back on consensus as the means for making decisions, which often inhibits unconstrained dialogue and efficacious outcomes. The thesis also explores the contribution of a diffuse range of climate change policy networks and public spheres – including the media – towards translating and transforming understandings of climate change.

The analysis of climate change politics forces us to reflexively confront the ethical tensions inherent in the notion of communicative justice in response to the contingencies and distortion of everyday political practice. This process requires a recalibration of the way in which theories of communicative justice conceive of means and ends, so that communicative justice provides a holistic and flexible normative framework that can be marshalled in pursuit of the broader goals of enhancement of autonomy and human welfare, rather than in terms of the legitimation of specific political decisions.
Declaration

This is to certify that:

(i) the thesis comprises only my original work towards the Masters;

(ii) due acknowledgement has been made in the text to all other material used;

(iii) the thesis is 21,993 words in length, inclusive of footnotes, but exclusive of tables, maps, bibliographies and appendices.

____________________________________
Andrew Brookes
15 November 2009
Acknowledgments

This thesis has been completed with the generous financial assistance provided by the Pratt Foundation Scholarship.

I have been greatly assisted in the development and preparation of this thesis by my supervisor, Professor Robyn Eckersley of the School of Social and Political Sciences at the University of Melbourne. Her advice, insight and passion have been deeply appreciated. I also want to thank the staff of the School of Social and Political Sciences for their administrative support.

I also wish to gratefully acknowledge the unfailing encouragement of a wonderful network of family and friends, and particularly Stephanie Younane for her exceptional editorial assistance.
# Table of Contents

Abstract................................................................................................................................. 2
Declaration............................................................................................................................. 3
Acknowledgments................................................................................................................ 4
List of Tables and Figures.................................................................................................... 7
Abbreviations....................................................................................................................... 8

**Introduction**.................................................................................................................. 9
Methodology......................................................................................................................... 11
Chapter summary............................................................................................................... 13

**Chapter 1 – Communicative Action, Communicative Justice and International Politics** .......................................................................................................................... 15
The Habermasian theory of communicative action............................................................ 15
Communicative action and international relations theory.................................................... 17
The ethical ideal of communicative justice in international politics.................................... 21
The key features of communicative justice......................................................................... 26
Public spheres as locations of communicative action.......................................................... 29
Conclusion........................................................................................................................... 33

**Chapter 2 – Communicative Justice and the International Climate Change Regime** ............................................................................................................................... 35
Constructivism and the climate change regime................................................................. 36
Communicative procedure under the UNFCCC............................................................... 38
Conclusion........................................................................................................................... 62
Chapter 3 – Climate Change Public Spheres .......................... 64
Climate change policy networks ........................................ 65
Media public spheres and climate change ............................... 74
Conclusion ........................................................................ 81

Chapter 4 – Conclusion: Towards Communicative Justice in
International Climate Change Politics ................................. 82
International climate change politics: lessons from communicative justice .... 83
The theory of communicative justice: lessons from the climate change regime .... 87

References ........................................................................ 90
List of Tables and Figures

Tables

Table 2.1: Annual COP meetings......................................................... 39

Figures

Figure 2.1: Average size of party delegation to annual COP meeting.........42

Figure 2.2: Average size of party delegation to mid-year subsidiary bodies meeting................................................................. 43

Figure 2.3: NGOs admitted as observers to the UNFCCC (COP 1 – COP 14)............................................................. 47

Figure 2.4: Attendance at COP meetings by delegates of state parties and NGOs (COP 6 – COP 14)................................. 48
Abbreviations

<table>
<thead>
<tr>
<th>Abbreviation</th>
<th>Full Form</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>AOSIS</strong></td>
<td>Alliance of Small Island States</td>
</tr>
<tr>
<td><strong>APEC</strong></td>
<td>Asia-Pacific Economic Cooperation</td>
</tr>
<tr>
<td><strong>APP</strong></td>
<td>Asia-Pacific Partnership on Clean Development and Climate</td>
</tr>
<tr>
<td><strong>ASG</strong></td>
<td>Administrative Support Group of the APP</td>
</tr>
<tr>
<td><strong>AWG-KP</strong></td>
<td>Ad Hoc Working Group on Further Commitments for Annex I Parties under the Kyoto Protocol</td>
</tr>
<tr>
<td><strong>AWG-LCA</strong></td>
<td>Ad Hoc Working Group on Long-term Cooperative Action under the Convention</td>
</tr>
<tr>
<td><strong>CCP</strong></td>
<td>Cities for Climate Protection</td>
</tr>
<tr>
<td><strong>CDM</strong></td>
<td>Clean Development Mechanism</td>
</tr>
<tr>
<td><strong>CER</strong></td>
<td>Certified emission reduction</td>
</tr>
<tr>
<td><strong>COP</strong></td>
<td>Conference of the Parties to the UNFCCC</td>
</tr>
<tr>
<td><strong>EU</strong></td>
<td>European Union</td>
</tr>
<tr>
<td><strong>G8</strong></td>
<td>Group of 8</td>
</tr>
<tr>
<td><strong>G-77</strong></td>
<td>Group of 77</td>
</tr>
<tr>
<td><strong>IPCC</strong></td>
<td>Intergovernmental Panel on Climate Change</td>
</tr>
<tr>
<td><strong>LDCs</strong></td>
<td>Least developed countries</td>
</tr>
<tr>
<td><strong>LULUCF</strong></td>
<td>Land use, land use change and forestry</td>
</tr>
<tr>
<td><strong>MEF</strong></td>
<td>Major Economies Forum on Energy and Climate</td>
</tr>
<tr>
<td><strong>NGO</strong></td>
<td>Non-governmental organisation</td>
</tr>
<tr>
<td><strong>OECD</strong></td>
<td>Organisation for Economic Cooperation and Development</td>
</tr>
<tr>
<td><strong>OPEC</strong></td>
<td>Organisation of the Petroleum Exporting Countries</td>
</tr>
<tr>
<td><strong>PIC</strong></td>
<td>Policy and Implementation Committee of the APP</td>
</tr>
<tr>
<td><strong>SBI</strong></td>
<td>Subsidiary Body for Implementation</td>
</tr>
<tr>
<td><strong>SBSTA</strong></td>
<td>Subsidiary Body on Scientific and Technological Advice</td>
</tr>
<tr>
<td><strong>UN</strong></td>
<td>United Nations</td>
</tr>
<tr>
<td><strong>UNFCCC</strong></td>
<td>United Nations Framework Convention on Climate Change</td>
</tr>
<tr>
<td><strong>WTO</strong></td>
<td>World Trade Organisation</td>
</tr>
</tbody>
</table>
Introduction

The international climate change regime is at a crucial stage in its development. Negotiations towards concluding a new agreement to replace the Kyoto Protocol will come to a head at the Copenhagen Conference of the Parties (COP) to the United Nations Framework Convention on Climate Change (UNFCCC) in December 2009. Since the Kyoto agreement came into force in 2005, the imperative for meaningful global action to address climate change has increased in urgency. Scientifically, the scope of the threat has been brought into sharp relief with the release of the Fourth Assessment Report of the Intergovernmental Panel on Climate Change (IPCC), which describes warming of the climate as 'unequivocal' and charts trends more severe than those of its previous reports (IPCC, 2008: 30). Politically, climate change has more emphatically become a priority in a number of key countries. The election of the Obama Administration in the US and the Rudd Government in Australia – both of whom have pledged their commitment to enhanced international action – are particularly significant. Meanwhile, there has been an increase in media coverage of climate change as representing a global 'crisis' that needs to be addressed (Cottle, 2009: 84).

Nevertheless, the challenges for meaningful and sustainable global action remain great. Attention understandably focuses on the immediate task of reaching agreement on quantitative emissions targets. However, the long-term fate of the regime depends not only on the short-term brokering of a deal on targets, but also on the establishment of a broader political architecture that is perceived as just. This thesis focuses on a crucial dimension of justice that rarely receives sustained attention in the context of climate change: communicative justice. Communicative justice is concerned with the way climate change – and political action to address it – is negotiated and contested. Communicative justice matters normatively because of its
crucial role in expanding the boundaries of political community, allowing marginalised voices to be recognised and in facilitating 'cultural translation' (Bhabha, 2004: 326). It requires meaningful dialogue to occur between those affected by climate change, under conditions which are fair.

In climate change literature, scientific or economic frames are much more common than a specific emphasis on the fundamental questions of justice that underlie the political debate (Posner and Sunstein, 2008). When questions of justice are given explicit attention, they generally revolve around who is ethically responsible for undertaking climate change mitigation or adaptation, or how much mitigation or adaptation is ethically justified. The distributive, corrective and inter-generational justice debates all fit broadly within this paradigm. Yet communicative norms and practices are integral to a justice approach; they determine the contexts in which these difficult questions of rights and ethics are debated, shaping and transforming the discursive narratives and instrumental outcomes that emerge.

This thesis develops a theoretical concept of communicative justice which can be applied to international climate change politics. This ethical ideal provides a normative framework through which climate change politics can be evaluated, with proposals offered for making that politics more just. The application of the principles of communicative justice to the everyday practice of international politics simultaneously prompts us to refine and recalibrate the theoretical ideal. It forces us to confront the contradictions and ethical tensions inherent in the notion of communicative justice. This is brought to the fore by the climate change negotiations, where extensive rights of participation and consensus decision-making threaten to impede timely political action. Failure to agree on appropriate measures to mitigate the potentially drastic effects of climate change will place a disproportionate burden on vulnerable communities; a result that would be manifestly unjust. Communicative justice should therefore not be conceptualised as
an ethical end in itself, but as a fundamental component of the broader aspiration for a more inclusive, more equal and more peaceful international society. Within this framework, communicative justice co-exists alongside other dimensions of justice (including distributive justice) and reflexively responds to their ethical demands.

Analysis of climate change politics shows that while the formal rules of the UNFCCC establish a negotiating framework which is inclusive, the actual practices of the regime often tell a different story. The regime can be criticised for excessive proceduralism, which exacerbates substantive disagreements and produces delays and deadlocks. This is not only inimical to the ideals of unconstrained dialogue, but raises other pressing justice concerns. Avoiding the potentially calamitous effects of climate change on human populations and natural environments necessitates timely action and efficient decision making. It is thus crucial to look beyond formal international rule-making processes to the capacity of informal and diffuse climate change public spheres to move us towards a more communicatively just international society.

**Methodology**

This thesis probes existing political arrangements from the perspective of critical theory; not simply to describe climate change politics ‘as it really is’, but to hold existing political practices up to the light of broader moral and ethical understandings of ‘how things should be’. Robyn Eckersley (2004b: 8-9) describes the aim of critical theory as the search for ‘a level of social understanding that transcends the unreflective understanding of historical agents’ and the ostensibly objective attempt of behaviorist social science ‘to discern the meaning of the agents’ self-understanding, taken at face value’. The ‘critical’ dimension of this approach is located in laying bare the contours of power and in its ‘refusal to accept the status quo or what passes for common sense’. An appreciation of the constitutive nature of international politics is a prerequisite to meaningful critical analysis; the thesis therefore builds on critical
theory’s broadly constructivist framework. International politics is conceptualised as ‘an inherently social activity’, which ‘takes place within a framework of rules and norms’ where political actors ‘define and redefine these understandings through discursive practices’ (Reus-Smit, 2004: 3).

The adoption of a critical-theoretic approach requires that the thesis combine both empirical and normative analysis. Making meaningful critical observations about international climate change politics and offering an ethical perspective on how it might become more just requires an understanding of how that politics is structured and practiced. The bridge between the empirical and the normative is constituted by what Andrew Linklater (1998: 5) describes as ‘praxeological analysis’. Praxeology involves ‘reflecting on the moral resources within existing social arrangements which political actors can harness for radical purposes’, with particular emphasis on ‘revealing that new forms of political community are immanent within existing forms of life and anticipated by their moral reserves’. Concretely, this requires the thesis to reveal the embryonic possibilities and transformative potential inherent in the climate change politics of today, and to imagine how that potential might be mobilised in the pursuit of a more just political order.

Ultimately, the aim is to apply the principles of the theoretical ideal of communicative justice and the practical insights from international climate change politics in tandem. The aspiration is to move the everyday political practice of climate change closer to the ethical ideal, and at the same time bring the theory of communicative justice ‘down to earth’ in response to the contingencies and moral tensions revealed by real-world behaviour. In this approach, justice is not a utopian ideal situated on a distant moral plane, but is discovered through the reflexive interaction of critical theory and
political practice, in a manner reminiscent of John Rawls’ (1971: 48) ‘reflective equilibrium’.

Chapter summary

Chapter one establishes the theoretical framework of the thesis, building on Jurgen Habermas’ theory of communicative action to develop the key features of the ethical ideal of communicative justice. The term ‘communicative action’ is used sociologically to refer to the actual occurrence of communication aimed at mutual understanding, and ‘communicative justice’ in the normative sense to denote communicative procedures or practices that are fair – that is, conducive to unconstrained dialogue between all interested actors.

Chapter two applies this theoretical framework to the international treaty negotiations on climate change. It assesses how the communicative procedures and practices of the regime compare against these normative principles, examining the extent of participation by state parties and civil society, the role of negotiating coalitions, the problems raised by the requirement of consensus-decision making, and the defining discursive narratives that shape the debate.

Chapter three expands this analysis beyond the formal regime to a heterogeneous and diffuse range of climate change public spheres; in particular, informal policy networks and media public spheres. The informal policy networks considered include alternative negotiating fora between states and localised policy networks establishing discursive links between international elites and civil society. Media public spheres

---

1 For Rawls, justice is arrived at through weighing individual judgments against a set of ethical principles, and through this process, reaching a state of ‘reflective equilibrium’.

2 It is conceded that the distinction between the sociological and normative usages is slippery.
are analysed for their potential to translate these forms of dialogue across domestic publics.

The thesis concludes by drawing together the critical-theoretic and empirical dimensions of the project. Consistent with a praxeological approach, it reflexively considers how the ethical ideal of communicative justice can be refined in response to the lessons learned from climate change politics, while the normative principles of communicative justice provide the basis for making recommendations for harnessing the transformative potential of the politics of climate change in pursuit of a more just international society.
Chapter 1

Communicative Action, Communicative Justice and International Politics

Traditional theories of international politics have been largely uninterested in the significance of communication. The emergence of constructivism, however, has facilitated a more comprehensive conceptualisation of the way communicative practices shape the identities and interests of international actors. Drawing on the work of Jürgen Habermas, this chapter asserts that communicative action matters in international politics, both sociologically and normatively. Sociologically, dialogue and argumentation aimed at reaching mutual understanding do influence international behaviour. Normatively, communicative action is critical to the ethical project of empowering marginalised voices in international society and the aspiration of more equal and peaceful political and cultural relations. The connection between communicative action and these ethical goals is crystallised in the concept of communicative justice. A framework for communicative justice is developed and applied to international climate change politics in chapters two and three.

The Habermasian theory of communicative action

The concept of communicative action is most commonly associated with Habermas’ seminal *The Theory of Communicative Action* (Habermas, 1984; 1987). For Habermas (1984: 86), communicative action occurs where two or more subjects, through verbal or non-verbal interactions, seek to reach a mutual understanding about a situation and coordinate their actions in pursuit of consensus or agreement. This kind of behaviour is made possible by employing what Habermas (1984: 10) describes as ‘communicative rationality’:
This concept of *communicative rationality* carries with it connotations based ultimately on the central experience of the unconstrained, unifying, consensus-bringing force of argumentative speech, in which different participants overcome their merely subjective views and…assure themselves of the both the unity of the objective world and the intersubjectivity of their lifeworld.

Communicative rationality is contrasted with ‘cognitive-instrumental rationality’, according to which individuals pursue a pre-defined, objective end. This kind of action can be either instrumental, where an individual seeks to attain his or her desired goal through external or non-social means, or strategic, which involves the individual seeking to realise the goal intersubjectively, by ‘influencing the decisions of a rational opponent’ (Habermas, 1984: 285). Strategic action is expressly grounded in communication, but unlike in communicative action, it is not oriented towards mutual understanding. It is a tool through which to achieve an independent end.

Fundamental to Habermas’ conception of communicative action is that it is ‘oriented to achieving, sustaining, and renewing consensus’ through an ‘intersubjective recognition of criticisable validity claims’. A participant oriented towards consensus is able to provide reasons for their statements through ‘argumentation’, which describes:

[T]hat type of speech in which participants thematise contested validity claims and attempt to vindicate or criticise them through arguments. An argument contains reasons or grounds that are connected in a systematic way with the validity claim of a problematic expression. The ‘strength’ of an argument is measured in…whether or not an argument is able to convince the participants in a discourse…to accept the validity claim in question (Habermas, 1984: 17-18).

Argumentation cannot, however, emerge out of thin air. Some pre-existing framework of knowledge and beliefs is necessary to enable participants to contest their validity claims through language. Habermas (1987: 131) develops the concept of
‘the lifeworld’, which consists of the ‘vast and incalculable web of presuppositions that have to be satisfied if an actual utterance is to be at all meaningful, that is, valid or invalid’. The lifeworld sits beyond the consciousness of those participating in argumentation; it is ‘prior to any possible disagreement’ and ‘cannot become controversial’. Through communicative action, members of a society articulate and renew cultural symbols and traditions, facilitate social solidarity and create the conditions under which identities are formed (Habermas, 1987: 137).

This thesis employs Habermas’ theory of communicative action in a sociological sense, as a concept describing the empirical occurrence of dialogue aimed at reaching mutual understanding. Habermas (1987: 196) also devotes considerable energy in The Theory of Communicative Action to the normative and ethical implications of his theory, particularly his concern about the ‘colonisation’ of the lifeworld by systems and institutions. The normative value of communicative action is explored later in this chapter, in developing the ethical ideal of communicative justice.

**Communicative action and international relations theory**

Traditional theories of international relations have not devoted sustained attention to the role of communicative behaviour. The primarily rationalist nature of neorealist and neoliberal theories has constrained their ability to accommodate a broad conception of the empirical significance of communication and discourse.

Neorealists adhere to the organising premise that anarchy and power are dominant and ineradicable features of international politics, and explain the behaviour of states through the pursuit of self-interest and, ultimately, domination. States, according to Kenneth Waltz (1979: 118, 126), ‘at minimum, seek their own preservation and, at maximum, drive for universal domination’, with their ‘first concern’ being ‘to maintain their positions in the system’. This translates into a conception of international relations which highlights the primacy of war and conflict under
conditions of anarchy, or as an intrinsic characteristic of human nature (Waltz, 1979: 35). A key theme of neorealism is the irrelevance of morality and norms to the behaviour of states, whose actions ‘are determined not by moral principles and legal commitments but by considerations of interest and power’ (Morgenthau, 1970: 382). The neorealist preoccupation with structural power dynamics and the interplay of fixed material interests forecloses the capacity to attribute real significance to ideational communicative exchange. Communication is little more than a by-product of the exertion of material capacities and the articulation of self-interested motives.

Neoliberal theories, while sharing the rationalist and state-centric orientation of neorealism, can accommodate communicative behaviour to a slightly greater (though still limited) extent. Neoliberal institutionalists highlight the role of international cooperation, through which states can pursue their rational interests. The interests of states are not restricted to the achievement of relative gains, but are also directed at mutual interests that can be realised by cooperating to solve collective action problems (Burchill, 2005: 64-65). Institutional structures are considered crucial; they ‘provide information, reduce transaction costs, make commitments more credible, establish focal points for coordination, and in general facilitate the operation of reciprocity’. However, ‘the potential for others to cheat, as in a Prisoners’ Dilemma’, looms as an impediment to collective action (Keohane and Martin, 1995: 42, 45). Institutionalists are therefore inclined to regard communication as significant to the extent that it facilitates information exchange – particularly information about the interests of other players – and builds trust between participants. But communication remains fundamentally instrumental rather than constitutive. Its role is to create conditions under which states can realise their pre-existing, mutual self-interest.

The ‘rise’ of constructivism has opened the way for a more sophisticated and holistic conceptualisation of the role of communication in international politics (Reus-Smit, 2005: 194). Departing from the rationalist isolation of material power and self-
interest as the defining variables of state interaction, constructivists argue that the articulation of ideas, norms and identities matters. In Alexander Wendt’s (1999: 372) terms, constructivism’s ontology is ‘social’, as ‘it is through ideas that states ultimately relate to one another’, and ‘constructionist’, because ‘these ideas help define who and what states are’. Interests, rather than being rationally pre-determined, are ‘constituted largely by ideas’, and social systems (including international social systems) cannot merely be explained as the inevitable outcome of the prevailing balance of power, but ‘are also structured by distributions of knowledge’ (Wendt, 1999: 189).

The constructivist insight that international politics is relational allows communicative exchange to take on greater significance. Christian Reus-Smit (1999: 27-30) claims that states ‘engage in a process of communicative action’ when they ‘formulate, maintain, and redefine the fundamental institutional rules that facilitate international cooperation’. This communicative action is grounded in a ‘common moral discourse’, the values of which ‘provide states with substantive reasons for action’, and ‘exert a profound influence on institutional design and action’. This highlights the crucial role of discourse – and discursive contestation – in international politics. John Dryzek (2006: 1) argues that many contemporary international conflicts are ‘most fruitfully regarded as clashes of discourses’. Discursive contestation, while often conflictual, can also ‘engage’ and can potentially be harnessed in a way that unleashes ‘unprecedented democratic possibilities’. Dryzek (2006: 16-18) shows, for example, how the ‘uncontested hegemony of the discourse of industrialism’ that prevailed until the 1960s transformed into ‘contestation and engagement across multiple discourses’ about the relationship between human progress and the environment, encapsulated in concepts such as ‘sustainable development’.

The relational process of engaging in morally-grounded discourse is inherently dynamic and constitutive; its animating values and the identities of its participants
constantly re-articulated and redefined. As Thomas Risse (2000: 1-6) has observed, this communicative dynamism can be overlooked in debates between rationalists and constructivists over whether international political behaviour is driven by the strategic pursuit of preferences (the ‘logic of consequentialism’) or by the desire to adhere to shared norms (the ‘logic of appropriateness’). Risse argues that ‘processes of argumentation, deliberation, and persuasion constitute a distinct mode of social interaction’, which he describes as the ‘logic of arguing’.

Risse identifies three distinct forms of communicative behaviour in international politics, situated at different points on a continuum between the ‘logic of consequentialism’ and the ‘logic of arguing’. The first mode, ‘bargaining on the basis of fixed preferences’, involves the type of information exchange that neoliberal institutionalists recognise for its facilitation of self-interested cooperation. The second is ‘rhetorical action’, where actors attempt to ‘persuade or convince others that they should change their views of the world, their normative beliefs, their preferences, even their identities’, but are not willing to allow their own values and identities to be challenged (Risse, 2000: 8).

Finally, drawing on Habermas, Risse argues that actors may engage in ‘true reasoning’ or ‘argumentative rationality’, when they ‘try to convince each other to change their causal principled beliefs in order to reach a reasoned consensus about validity claims’, in a context where ‘the better argument’ is likely to prevail. He claims that ‘it is neither outrageous or heroic to assume that the logic of arguing sometimes prevails in international relations’, and sets out the conditions under which it can occur, such as where international institutions are sufficiently developed to create a ‘common lifeworld’, and where those institutions are ‘based on non-hierarchical relations enabling dense interactions in informal, network-like settings’ (Risse, 2000: 9-19).
Risse’s insights are tremendously valuable for understanding the significance of communicative action in international politics. However, the conception of communicative action this thesis adopts differs in three respects. First, Risse’s typology of communicative behaviour is relatively agent-centric. He creates an image of communication deliberately entered into by defined, individual actors (states or non-government actors). This is not by accident; he clearly singles out particular kinds of communication as significant, choosing to employ the term ‘argumentative’ in place of Habermas’ ‘communicative action’ to distinguish these forms of exchange from communications generally, which are ‘all pervasive in social action and interaction’ (Risse, 2000: 7). Nevertheless, we should not underestimate the extent to which communicative action can also occur through more diffuse webs of discursive interactions in broader public spheres, through the reception and contextualisation of media images and through the collective framing and reshaping of social and cultural narratives.

Second, the distinction between Risse’s three modes of communicative behaviour is based on the motivation of the actor; the ‘argumentative and deliberative behaviour is as goal oriented as strategic interaction’ (Risse, 2000: 7). He acknowledges that the rational goal which motivates the communicative behaviour may change during the course of the interaction; for example, rhetorical action may turn into argumentative action. But the motivation of defined actors is not the sole determinant of whether meaningful translation of understandings and identities can occur. It can also be achieved more subtly, or unintentionally, through the reception of diffuse text and images. Third, it is argued that communicative action should be decoupled from the notion of reaching ‘rational consensus’. This argument is outlined in more detail in the following part of this chapter.

The ethical ideal of communicative justice in international politics
This chapter has suggested that communicative action matters *empirically*. It now makes the case that communicative action and unconstrained dialogue between diverse interests matter *normatively* and *ethically*. Dialogue of this kind is crucial to the project of expanding the boundaries of political community and recognising the voices of those marginalised by international power relations. Its achievement is referred to here as *communicative justice*, a conceptual, if distant, ethical goal to which we can aspire.

Drawing on a broadly Habermasian approach to discourse, Andrew Linklater (1998: 85) argues that the boundaries of community in international politics need to be widened ‘to engage non-nationals as equals in open dialogue’ and that the ‘goal of dialogic relations with the members of systematically excluded groups’ is a ‘normative ideal’. The goal for Linklater is the achievement of a ‘triple transformation’ of international political community to ‘secure greater respect of cultural differences, stronger commitments to the reduction of material inequalities and significant advances in universality’. He stresses the role of institutions in facilitating this transformation, advocating the creation of multiple institutional frameworks designed to ‘widen the boundaries of dialogic community’ (Linklater, 1998: 7).

This thesis shares Linklater’s concern for how institutional structures advance or inhibit the expansion of political community. However, it is important to be precise about why communicative action and dialogue within an expanded political community matter normatively. For example, communicative action might be considered necessary for securing democratic legitimacy, which requires that those affected by collective decisions are able to participate in making those decisions through deliberation (Dryzek, 2000: 1). International lawmaking is often described as suffering from a ‘democratic deficit’, because international decision-making bodies are not popularly elected (Nye, 2001: 2). To recast this approach in terms of justice,
if a rational consensus can be reached between all those subject to a political decision, that decision will be communicatively just.

However, there are reasons to be critical of a narrow focus on the need for rational consensus to legitimate specific political decisions. The first problem is procedural; achieving consensus amongst a wide number of participants can be time-consuming or produce deadlocks. This is particularly problematic in the international climate change regime, where hundreds of parties negotiate on a vast number of individual decisions and where the problem to be tackled is time-critical. This raises a difficult question: is it just to constrain deliberative dialogue in order to enable timely decisions to be made?

The second problem is that a decision reached through genuine consensus is not just *per se*. As Eckersley (2008b: 354) argues in response to Linklater, ‘critical theory’s larger normative purpose of human emancipation is by no means exhausted by the ideal of unconstrained communication’. A consensus decision reached through an apparently fair communicative process may yield unjust results. Finally, the search for consensus on the basis of rationality poses a risk of foreclosing the transformative potential of *contestation*. Chantal Mouffe (2000: 49) criticises the Habermasian discourse approach, arguing that consensus is unavoidably ‘the expression of a hegemony and the crystallization of power relations’, preventing the ‘frontier’ between what can and cannot be legitimately said from being contested. She advocates instead for ‘agonistic democracy’ which aims ‘not to eliminate passions from the sphere of the public, in order to render a rational consensus possible’, but encourages contestation within a democratic framework (Mouffe, 2000: 101-103).

This thesis does not go as far as Mouffe and suggest that consensus is illegitimate. While we should be attentive to power dynamics, consensus may nevertheless be an appropriate outcome of a dialogue. Nevertheless, the search for consensus is not a
necessary condition for communicative justice; indeed, attempting to achieve consensus may sometimes undermine the ideals of communicative justice, as chapter two will demonstrate. It is therefore necessary to expand our conception of the normative importance of communicative action and dialogue. Two additional, interrelated ethical goals are offered here: the recognition of marginalised identities in international society, and the facilitation of cultural translation between diverse groups.

Charles Taylor (1994: 25-26, 34), in his seminal work *The Politics of Recognition*, argues that individual and collective identities are ‘shaped by recognition or its absence, often by the misrecognition of others’. Failing to recognise these identities – or misrecognising them – may ‘inflict harm, can be a form of oppression, imprisoning someone in a false, distorted, and reduced mode of being’. Recognition is thus a ‘vital human need’. Taylor proposes that it is through dialogue that identities are formed and recognition occurs; ‘identity crucially depends on…dialogical relations with others’. Participation by marginalised identities in meaningful dialogue may therefore be of ethical value regardless of the content of a final political decision. An open exchange of perspectives, and the recognition of those identities within the exchange is normatively important in its own right.

Relatedly, genuine dialogue between diverse identities opens the way for identity and interest change during the conversation. There may be no consensus, or a political decision may be reached which aligns with dominant interests. Nevertheless, this does not preclude the possibility that cultural translation has occurred. The notion of cultural translation is developed by Homi Bhabha (2004: 326), for whom translation occurs performatively through cultural communication. The mere act of engaging in dialogue already requires a negotiation of difference, providing an opening for constitutive reflection and transformation by participants.
The normative significance of this process for the project of empowering marginalised identities lies in the destablisation of the assumptions and implicit hierarchies that precede the communicative exchange. This allows the disempowered to exploit the moral contradictions within the cultural self-conception of more powerful participants:

What is theoretically innovative, and politically crucial, is the need to think beyond narratives of originary and initial subjectivities and to focus on those moments or processes that are produced in the articulation of cultural differences...It is in the emergence of the interstices – the overlap and displacement of domains of difference – that the intersubjective and collective experiences of nationness, community interest, or cultural value are negotiated (Bhabha, 2004: 2).

This concept of cultural translation relies on the insight that the interests and identity of any individual or nation participating in dialogue are diverse and conflictual. The seeds for the redefinition of selfhood in response to the ‘other’ are already present – if repressed – in the ‘interstices’ of the self. The act of cultural translation through dialogue therefore carries the potential – if in a partial and haphazard way – for increasing self and mutual understanding and culturally empowering identities suppressed by traditional hierarchies.

The ethical imperative of recognition and the transformative potential of cultural translation are connected by their common reliance on empathy and dialogue. For Richard Schapcott (2002: 222), ‘recognition is most successfully accomplished through acts of communication’, so that ‘justice becomes a dialogical task’ which is reached through ‘understanding the “other” in conversation’. He argues that ‘understanding’ through dialogue should not be defined in the Habermasian sense of reaching rational agreement but means ‘simply that the self has successfully “stood in the other’s shoes”’. The normative goal is what he describes, borrowing from Gadamer, as a ‘fusion of horizons’, where participants in a conversation ‘inhabit a
shared perspective’ which ‘exceeds and transforms the previous horizons without destroying them’ (Schapcott, 2002: 232, 240).

These twin goals of recognition and cultural translation establish a more sophisticated and flexible framework for conceptualising the ethical ideal of communicative justice. Loosening the causal connection to specific negotiated outcomes allows us to adopt a less procedural approach, meaning a wider range of ethical considerations can come to the fore.

**The key features of communicative justice**

In light of these normative foundations, we need to consider the concrete elements required for communicative justice to be realised in international politics. A number of critical components are implied in Risse’s empirical preconditions for argumentative rationality, being the ability of participants to empathise; the existence of a ‘common lifeworld’; and equal access to the discourse (Risse, 2000: 10). The ability to empathise involves seeing ‘through the eyes of one’s interaction partner’. We can see the link here to the goal of recognition; to genuinely recognise an ‘other’ requires some attempt to embody their experience.

The concept of a ‘common lifeworld’, borrowed from Habermas, provides a ‘supply of collective interpretations of the world…as provided by language, a common history, or culture’; a backdrop of collective understandings that make dialogue – and translation – possible. But as Risse (2000: 14-16) notes, it is not straightforward to glean from Habermas’ explication of the lifeworld just how much of a foundation of shared understandings is necessary. The extent of any ‘common lifeworld’ in international politics varies greatly depending on the level of institutionalisation of rules and interactions. Indeed, the condition of ‘anarchy’ in international relations is itself capable of constituting a thin ‘common lifeworld’ that enables dialogue to
commence. The ‘common lifeworld’ helps to explain the important role of public spheres to the goal of communicative justice by allowing the perspectives of local groups to be translated into settings whose shared lifeworld would otherwise be minimal.

The third of Risse’s (2000: 11) preconditions is equality. Participants must ‘recognise each other as equals’, have ‘equal access to the discourse’, and that discourse must be ‘open to other participants and be public in nature’. The recognition of other participants as equals is related to the requirement of empathy, though more explicitly demands that participants relinquish any claim to supremacy within the dialogue. Equal access to discourse could be thwarted in a range of ways. Legal or procedural restrictions may physically prevent interested parties from participating; lack of financial resources could hinder meaningful participation; and language barriers or differentials in knowledge about the subject matter might circumscribe the kind of arguments a participant can make.

It is also inevitable, given the complex fabric of international power relations, that some participants will come to the dialogue with greater cultural and material bargaining power than others. This underlines that communicative justice is best regarded as an aspirational goal rather than a prescriptive set of rules to be implemented. However, cultural and material power do not necessary dictate how a dialogue will unfold. Participants lacking these forms of power may be able to exploit their superior moral resources in support of their arguments. As Risse (2000: 17) asserts, ‘biased or self-interested communicators are far less persuasive than those who are perceived to be neutral or motivated by moral values’.

A further critical consideration of power lies in the nature of the discourse itself. Any dialogue will proceed by reference to one or more pre-existing discursive frameworks. This is a necessary part of the ‘common lifeworld’ that enables dialogue
to occur. A discursive framework makes it ‘possible to construct the topic in a certain way’ but also ‘limits the other ways in which the topic can be constructed’ (Hall, 2007: 56-64). Chapter two will discuss how discursive frameworks can be wielded by, or used against, powerful interests in the context of the climate change regime.

While the conception of communicative justice adopted in this thesis shares the above elements with Risse, it differs in two respects. First, it does not consider the attainment of rational consensus a necessary feature of communicative justice, particularly where a negotiation is aimed at reaching a decision on a particular matter. The absence of a consensus outcome does not preclude the possibility that mutual understanding, recognition or cultural translation may have occurred.

Second, communicative justice should involve a reflexive awareness of the demands of other forms of justice. This may make communicative justice a more complex and slippery concept, but ensures it does not collapse into mere procedural formalism. Communicative justice should not be regarded as a procedural box-ticking exercise, but assessed in relation to its larger normative purposes of empowering the marginalised, enhancing mutual recognition and facilitating cultural translation. Schapcott (2002: 240) advocates dialogue that:

[I]s not over-determined by the goal of universalisation as understood by Habermas. It does not contain the telos of developing universally justified, valid, regulative and legislative norms. It is not a model of justice understood in the strict deontological sense but it is a model of conversation that is nonetheless capable of delivering justice understood as recognition.

In the context of climate change, the ethical tensions inherent within the ideal of communicative justice are especially stark. The demands of environmental, distributive and inter-generational justice for example, may not always sit comfortably with a strict application of principles aimed at fair communicative procedure. Consensus decision-making can produce drawn-out or deadlocked negotiations
which prevent substantive action to reduce the impacts of climate change. These impacts are expected to disproportionately burden already economically and politically marginalised communities, a result which could only be described as manifestly ‘unjust’. Relaxing the requirement for consensus facilitates a more flexible, multi-dimensional approach where communicative justice does not constitute justice *per se*, but co-exists in a reflexive relationship with distributive justice norms as mutually fundamental pre-requisites to the ultimate ethical aspiration of enhancing human autonomy. This conceptual framework provides a powerful – if slippery and imprecise – criterion through which conflicting justice concerns can be mediated in the real world of communicative distortions and political compromises.

**Public spheres as locations of communicative action**

Communicative action can take place through international diplomacy between states and through negotiations occurring in formalised international institutions such as the United Nations (UN) – such as the climate change negotiations under the UNFCC. However careful attention should also be paid to informal discursive networks, especially if we are normatively concerned with how discourses and narratives situated at the margins of global power can engage and challenge those which are dominant. We can broadly identify these alternative settings for communicative action as ‘public spheres’.

*International public spheres*

In its traditional formulation, the public sphere is ‘the space between government and society in which private individuals exercise formal and informal control over the state’, through the formation of public opinion and participation in elections (Curran, 1991: 29). Public spheres in international society are more difficult to define, due to the absence of global democratic government. Marc Lynch (2000: 316) defines
international public spheres quite broadly, as ‘a site of interaction in which actors reach understandings about contentious issues of shared concern through the public exchange of discourse’. In this conception, international society contains a range of interconnected public spheres:

This definition posits multiple, overlapping public spheres of varying salience. What is necessary is that political action be justified in public; this includes core notions such as the exchange of reasoned arguments oriented towards finding agreement, the existence of an imagined audience capable of judging the validity of proffered reasons, the inclusion of all affected actors in the process of deliberation, and the inadmissibility of direct appeals to power (Lynch, 2000: 316).

Public spheres are particularly important if we reject a strict proceduralist approach when applying communicative justice to formal settings. If some elements of fair communicative procedure need to be compromised in the pursuit of substantive justice, other fora must be available which allow marginalised voices to be heard.

To begin with, dialogue between states is not limited to formal settings, but also occurs through a range of informal discursive networks. Anne-Marie Slaughter (2004: 15) has systematically examined the role of this type of ‘network governance’, which ‘makes it possible to envision a genuinely new world order’ organised around ‘an intricate three-dimensional web of links between disaggregated state institutions’. She focuses on three kinds of discursive network between government officials. Firstly, networks between regulators and executive officials established within international organisations, by executive agreement by heads of government, or spontaneously created between domestic agencies. Secondly, judicial networks through which ‘judges around the world are talking to one another, exchanging opinions, meeting face to face in seminars and judicial organisations, and even negotiating with one another over the outcome of specific cases’. And finally, legislative networks, which
are ‘less common’, and ‘have less impact’ but which ‘do exist, often in surprising places’ (Slaughter, 2004: 45-105).

As chapter three will show, government networks of this kind provide exciting possibilities for climate change politics. However, we need to also look to public spheres operating beyond the state. Normatively, these public spheres are crucial both in the instrumental sense of making national and international institutions accountable to those they serve, and affectively, by facilitating identity formation and cultural translation between diverse groups.

A particularly important role is played by transnational public spheres, which help to discursively connect domestic or local public spheres to international institutions. For James Bohman (2004: 137-138), a transnational public sphere ‘is created when at least two culturally rooted public spheres begin to overlap and intersect’. Transnational public spheres do not operate as ‘a unified public sphere based in a common culture or identity’ but rather are ‘serial publics’ which are ‘connected in the proper institutional context to other publics’. This may necessitate shared specialist knowledge, or some common underlying moral purpose. The result is ‘a public of publics’ which interact and overlap with each other (Bohman, 2004: 152).

Transnational public spheres provide connections between local public spheres and international institutions vertically by bringing the views of ‘excluded publics’ to the attention of decision-makers, and translating the specialised language of those institutions into a more accessible or morally-grounded form. They also link domestic publics to each other horizontally. However the ‘democratic potential’ of transnational public spheres is ‘rarely fully realized’, for example because the access of non-governmental organisations (NGOs) to regimes is restricted, or their capacity to articulate the views of marginalised voices limited (Eckersley, 2007a: 335).
The media as public sphere

In contemporary society, the mass media is crucial in the formation and maintenance of a broadly constituted political public sphere. It is through print and television news, talkback radio, the internet, cinema and popular culture that our knowledge about the actions of the state, understanding of the beliefs and concerns of fellow citizens, and the fabric of the ‘imagined community’ of nation are formed (Anderson, 1983). As Habermas (1996: 55) has observed, media constitute today’s public sphere. For Habermas, this is not merely a sociological observation, but one that has normative implications for the quality and future potential of the public sphere. He considers that as a result of its domination by organised interests, and the prominence of public relations, the public sphere has been ‘refeudalised’ and its ‘critical functions’ weakened (Habermas, 1996: 59).

Habermas’ conception of the public sphere has been criticised for over-romanticising traditional forms of dialogic exchange and regarding ‘the ever-growing role of mediated communication as an historical fall from grace’, thereby preventing ‘a satisfactory understanding of the nature of public life in the modern world’ (Thompson, 1995: 258). John Thompson questions the inherent assumption that recipients of media messages can ‘be regarded as enthralled and manipulated consumers’ and criticises Habermas’ failure to account for the contestability and diversity of audience reception. He argues that the development of mass, electronic media ‘has created new forms of social interaction and information diffusion’, making ‘any serious comparison with the theatrical practices of feudal courts’ inappropriate (Thompson, 1995: 255).

These accounts help clarify the diverse and interconnecting locations in which communicative action and intercultural dialogue might take place, with the key insight
being that no site is discursively isolated from any other. Approaching international politics from the perspective of communicative justice requires allowance to be made for dialogic processes occurring within domestic societies (including contests over narratives of national identity), between domestic societies, and between domestic societies and various international and transnational institutions. A crucial component of the task is to reveal the ways in which these discursive sites are connected, or alternatively, to explore why these connections are not realised.

**Conclusion**

Communicative action is empirically significant in international politics. Free dialogue oriented towards mutual understanding does occur, and influences the constitutive identities of actors in international society. This sociological concept of communicative action provides the foundation for an ethical ideal of communicative justice, aimed not only at legitimising political decisions, but also normatively concerned with the political recognition of marginalised identities and the facilitation of cultural translation. While the attempt to reach rational consensus is a central component of communicative action theories, this should not be considered a necessary feature of communicative justice. A less instrumental, more flexible approach should be adopted.

The key elements of this conception of communicative justice include the ability of the participants in the dialogue to empathise, some form of pre-existing ‘common lifeworld’, equal access to the dialogue by all interested parties and a reflexive concern for the implications of communicative procedure for other forms of justice. The conception of communicative justice adopted here is substantive rather than procedural; it does not prescriptively focus on individual decisions, but looks broadly to the overall dynamics of dialogue and discourse. In this light, informal public
spheres have been identified as making an important contribution to the justness of communication on any international subject.

Consistent with the praxeological approach of this thesis, chapter two will use the theoretical framework for communicative justice established in this chapter to assess the communicative practices of the international climate change regime, before the role of public spheres is examined in chapter three. This analysis helps us to reflect on, and refine the theory established in this chapter.
Chapter 2

Communicative Justice and the International Climate Change Regime

The international climate change regime operating under the United Nations Framework Convention on Climate Change (UNFCCC) has become a focal point of international politics. An increasing recognition of the nature of the global challenge posed by climate change, and the need to reach a new agreement to replace the Kyoto Protocol, have brought a renewed intensity to international negotiations and debate. Climate change provides an appropriate vantage point from which to explore the ideal of communicative justice because of the diversity of states and cultures involved, and the deeply moral and ethical character of the questions it poses. The theoretical framework established in chapter one provides a basis for evaluating the communicative context in which these complex issues are contested.

This chapter analyses the structure and substance of UNFCCC negotiations from the perspective of communicative justice. It addresses rights of participation and access to UNFCCC discourses by state parties and NGOs, the role of political negotiating coalitions, the impact of rules for decision-making and the ‘problem of consensus’, and the defining narratives and discursive structures shaping discussions in the regime.

In many respects, the communicative practices of the international climate change regime provide a shining example to other regimes. It is frequently noted that the regime ‘enjoys one of the highest levels of participation in the international environmental arena among both states and stakeholder organisations’ (Yamin and Depledge, 2004: 30). This, together with the predominantly open and public nature
of negotiations and the fundamentally moral basis of its organising narratives, establishes a discursive environment amenable to communicative action and genuine dialogue. However, a detailed examination of the UNFCCC process reveals a more ambivalent picture. The negotiations in fact suffer from both too little, and too much, participation. Too little in the sense that although almost every country is formally represented within the regime, the substantive participation and bargaining power of most small or developing states is severely limited. Too much because the procedural commitment to consensus decision-making for almost every kind of decision impedes efficient progress in the development of the regime. Often, rather than encouraging meaningful dialogue between diverse participants, these procedural rules lead to stalemate; or even ‘ossification’ (Depledge, 2006). The analysis demonstrates the complex and sometimes contradictory nature of the communicative justice ideal, underlining that a holistic and reflexive, rather than a proceduralist approach, is required.

**Constructivism and the climate change regime**

Studies of global environmental politics have been dominated by state-centric accounts whose ‘principal theoretical tools’ are drawn from liberal institutionalism. Here, climate change is regarded a collective action problem to be managed through self-interested cooperation between states (Newell, 2000: 23-24). This conception is typified by the characterisation provided in Ross Garnaut’s (2008: xviii) final report as part of a broad climate change review conducted in 2008 for the Australian Government:

> International cooperation is essential for a solution to a global problem. However, such a solution requires the resolution of a genuine prisoner’s dilemma: each country benefits from a national point of view if it does less of the mitigation itself, and others do more.
Climate change politics provides fertile ground for institutionalist studies focusing on resolving this collective action dilemma. However, to concentrate solely on these questions is to ignore the fundamental normative and constitutive dynamics at play in the politics of climate change. While the hard bargaining that has been a feature of climate change negotiations might suggest they ‘pose an easy case’ for rationalist perspectives, a critical constructivist approach can reveal ‘the ways in which power and interests have been framed and disciplined by moral argument in the negotiations’ (Eckersley, 2004a: 87, 98). Eckerlsey points to the ‘fundamentally moral norms’ that have emerged through the UNFCCC process, such as the principles of common but differentiated responsibilities and developed country leadership, and the constitutive influence of the European Union’s (EU) self-identification as a ‘green leader’ in its approach to negotiations.

Constructivist approaches to climate change politics highlight that ‘the meaning of climate change is defined in social settings’ and examine the broader ways in which climate change is ‘socially constructed’. Attention is directed at ‘processes of knowledge construction and power struggles’ to uncover why ‘some actors are privileged while others are negated’ (Pettenger, 2007: 5-7). Climate change penetrates deep into the value structures of a society and its individual members, posing immensely difficult moral – even existential – questions, which can be answered only by reference to our most fundamental beliefs. It is, ‘a profoundly cultural phenomenon’, both in terms of ‘understanding the nature of the ailment’, and in ‘understanding and shaping the response – whether it be diagnosis, prophylaxis, or therapy’ (Camilleri, 2008). For this reason, meaningful international action rests not simply on reaching agreement on the content of the best available science, or the most appropriate technological solution, but also on an accommodation of diverse cultural and political values. The communicative and discursive environment in which this accommodation must occur – in other words, the communicative justness
of climate change politics – is therefore of paramount ethical importance from the perspective of critical theory.

**Communicative procedure under the UNFCCC**

The formal negotiating process under the UNFCCC and the Kyoto Protocol forms the institutional focal point for communicative action in international climate change politics. A key feature of the negotiation process under the climate change regime is its ongoing, evolutionary nature. The UNFCCC does not simply establish an agreed legal framework between countries for undertaking policy measures to address climate change which, once negotiated and agreed, requires implementation. It also gives rise to an open-ended *political and communicative process*; a structure through which to continue negotiating from year to year on how the international response should grow and evolve. The primary vehicle for this process is the Conference of the Parties (COP), established under article seven of the UNFCCC as the ‘supreme body’ of the Convention. In practice, the COP operates largely as a forum for regular negotiations between states on the development of the climate change regime; a ‘series of intergovernmental meetings’ or ‘rolling conference’ (Yamin and Depledge, 2004: 402). The regime is thus in a constant state of re-evaluation and transformation.

Under article 7.4 of the UNFCCC, ordinary sessions of the COP are held once per year, generally for a period of 10-12 days. The established precedent is for the venue of the annual COP to rotate between different geographical regions (see Table 2.1).

---

3 The annual COP meeting doubles as a meeting of the Conference of the Parties acting as the Meeting of the Parties under article 13.1 of the Kyoto Protocol.
Table 2.1 – Annual COP meetings

<table>
<thead>
<tr>
<th>COP</th>
<th>Date</th>
<th>Venue</th>
</tr>
</thead>
<tbody>
<tr>
<td>COP-1</td>
<td>28 March to 7 April 1995</td>
<td>Berlin, Germany</td>
</tr>
<tr>
<td>COP-2</td>
<td>8 to 19 July 1996</td>
<td>Geneva, Switzerland</td>
</tr>
<tr>
<td>COP-3</td>
<td>1 to 11 December 1997</td>
<td>Kyoto, Japan</td>
</tr>
<tr>
<td>COP-4</td>
<td>2 to 14 November 1998</td>
<td>Buenos Aires, Argentina</td>
</tr>
<tr>
<td>COP-5</td>
<td>25 October to 5 November 1999</td>
<td>Bonn, Germany</td>
</tr>
<tr>
<td>COP-6</td>
<td>16 to 24 November 2000</td>
<td>The Hague, Netherlands</td>
</tr>
<tr>
<td>COP-6 (II)</td>
<td>13 to 27 July 2001</td>
<td>Bonn, Germany</td>
</tr>
<tr>
<td>COP-7</td>
<td>29 October to 9 November 2001</td>
<td>Marrakesh, Morocco</td>
</tr>
<tr>
<td>COP-8</td>
<td>23 October to 1 November 2002</td>
<td>New Delhi, India</td>
</tr>
<tr>
<td>COP-9</td>
<td>1 to 12 December 2003</td>
<td>Milan, Italy</td>
</tr>
<tr>
<td>COP-10</td>
<td>6 to 17 December 2004</td>
<td>Buenos Aires, Argentina</td>
</tr>
<tr>
<td>COP-11</td>
<td>28 November to 9 December 2005</td>
<td>Montreal, Canada</td>
</tr>
<tr>
<td>COP-12</td>
<td>6 to 17 November 2006</td>
<td>Nairobi, Kenya</td>
</tr>
<tr>
<td>COP-13</td>
<td>3 to 15 December 2007</td>
<td>Bali, Indonesia</td>
</tr>
<tr>
<td>COP-14</td>
<td>1 to 12 December 2008</td>
<td>Poznan, Poland</td>
</tr>
<tr>
<td>COP-15</td>
<td>scheduled for 30 November to 11 December 2009</td>
<td>Copenhagen, Denmark</td>
</tr>
</tbody>
</table>

Two permanent subsidiary bodies are also created by the UNFCCC to provide advice to the COP, functioning as additional negotiating fora on specific areas of policy whose proceedings and draft decisions feed into the COP negotiation process. The Subsidiary Body on Scientific and Technological Advice (SBSTA) was established to provide the COP with ‘timely information and advice on scientific and technological matters relating to the Convention’ (UNFCCC, article 9). Similarly, the Subsidiary Body for Implementation (SBI) was established to ‘assist the COP in the assessment
and review of the effective implementation of the Convention’ (UNFCCC, article 10). The subsidiary bodies are made up of representatives of the parties to the UNFCCC. They generally meet twice per year; with one session conducted in parallel with the annual COP, and one additional meeting held during the year (usually held at the Secretariat seat in Bonn).

In addition to the formal negotiating bodies established under the provisions of the UNFCCC, a number of further bodies have been created by the COP. These include two working groups currently responsible for conducting ongoing negotiations towards reaching a new agreement to apply beyond the end of the Kyoto commitment period: the Ad Hoc Working Group on Long-term Cooperative Action under the Convention (AWG-LCA) and the Ad Hoc Working Group on Further Commitments for Annex I Parties under the Kyoto Protocol (AWG-KP). The AWG-LCA was established by COP 13 in Bali in 2007 (Decision 1/CP.13, 2007), and met four times during 2008. These meetings have been open to participation by representatives of state parties and NGOs in a similar manner to meetings of the COP.

**Participation by states**

A crucial prerequisite for communicative action in any international process is that uncoerced participation in its discourses is open to all concerned parties. This requires not only formal participatory rights, but equal rights to put forward an argument or challenge those made by other participants (Risse, 2000: 11). Both the UNFCCC and the Kyoto Protocol have been ratified by the vast majority of states, meaning that meetings of the COP and the subsidiary bodies are open – at least ostensibly – to representatives of most of the world’s population. This has been an

---

4 192 countries have currently ratified the UNFCCC; 184 have ratified the Kyoto Protocol: see www.unfccc.int.
organising feature of the climate change regime since its inception, informed by a norm of ‘universal participation’ of states in negotiations. Matthew Hoffmann (2005: 11-12) argues this ‘shaped how the international community came to define the problem and address it’. But the framing of the climate change regime around a generally accepted norm that all states should participate in negotiations provides only an analytical starting point; it does not tell us a great deal about the extent to which the agreed normative aspiration for universal participation of states has been achieved. Nor does it tell us much about the participation of non-state actors in the discourses of climate change politics.

Joanna Depledge (2006: 10) has highlighted the divergence between the relatively high level of formal equality under the procedures of the UNFCCC and the lack of genuine substantive equality in the negotiations. The regime’s internalisation of the principle of formal procedural equality (or universal participation, in Hoffman’s terms) means ‘the voices of all can be heard, or at least expressed’ and ‘even the poorest and weakest countries have legally as much power to influence decision-making as the richest and strongest’. However, she argues that this ‘cannot hide the fact that, in practice, the negotiating leverage of countries is vastly unequal’.

An examination of the representation of different countries in COP and subsidiary body meetings reveals that there are significant disparities in the size and resources of delegations. While prosperous, developed countries are represented by large, well-resourced delegations of government representatives and experts, most smaller, developing countries are represented by only a handful of delegates. Figure 2.1 shows the disparity between the average size of COP delegations from countries in
Annex I to the UNFCCC and those from non-Annex I countries, across the three most recent COP meetings.\textsuperscript{5}

**Figure 2.1 – Average size of party delegation to annual COP meeting\textsuperscript{6}**

At the December 2008 COP meeting in Poznan, Poland, Annex I parties were represented by an average of 48.8 delegates attending the negotiations, compared with an average of 10.9 delegates for non-Annex I countries. A number of developed countries had delegations of 80 or more: host country Poland (367); Denmark (201); France (135); Germany (135); Japan (89) and the US (88). Meanwhile, there were 59 countries with delegations of three delegates or less.

---

\textsuperscript{5} Annex I comprises developed countries who are members of the Organisation for Economic Cooperation and Development (OECD) or countries with economies in transition (primarily former Soviet bloc countries). Non-Annex I predominantly contains developing countries.

\textsuperscript{6} Produced by the author based on UNFCCC participant lists: FCCC/CP/2006/INF.1; FCCC/CP/2007/INF.1; FCCC/CP/2008/MISC.1. The figures do not include EU delegates.
Even amongst non-Annex I countries, there are significant disparities between a small number of developing countries who are represented by large delegations, and the majority of developing countries, who come to COP meetings in small numbers and with few resources. For example, at Poznan, while the majority of non-Annex I countries had less than 10 delegates, five had more than 40: Brazil (121); Indonesia (107); Korea (71); South Africa (54) and China (47). This highlights the potential for power disparities within the G-77 negotiating coalition.

These differences in negotiating strength are often even more pronounced at the meetings of the subsidiary bodies that do not coincide with the annual COP meeting. While the overall number of delegates for these more technical negotiations is consistently lower than at joint COP and subsidiary body meetings, the relative size of non-Annex I party delegations tends to be even weaker compared to Annex I parties than for COP meetings (see Figure 2.2).

**Figure 2.2 – Average size of party delegation to mid-year subsidiary bodies meeting**

![Average size of SB delegation](chart)

7 Produced by the author based on UNFCCC participant lists: FCCC/SB/2006/INF.1; FCCC/SB/2007/INF.1; FCCC/SB/2008/INF.3. The figures do not include EU delegates.
The unequal distribution of negotiating power is further entrenched by the inherent complexity of the negotiating process (Depledge, 2006: 8); a complexity which is procedural, political and substantive. Procedural complexity arises from the array of different bodies and processes taking place under the UNFCCC and the Kyoto Protocol, the detailed procedures for the conduct of meetings and the production and distribution of documentation, and the requirement for decisions to be made through consensus. The COP has made attempts to limit the quantity of documentation and improve the quality of translation services (Decision 18/CP.3, 1997), but it nevertheless continues to pose challenges.

Political complexity flows from the number of parties involved, and the diverse array of political interests and negotiating strategies which must be traverse; difficulties compounded by linguistic and cultural differences. To some extent, the practice of countries joining together in negotiating coalitions streamlines the process (though these coalitions can create their own problems). The inequality fostered by this political complexity is exacerbated during the ‘high level’ segments at the end of COP meetings where parties seek to strike a final deal. This is particularly the case where the final stages of a COP devolve into late-night, ‘marathon’ sessions (Werksman, 1999: 13). Here, developing countries are at the greatest disadvantage, with their few representatives forced to carry a burden which large delegations can share between many, and translation services falling by the way-side. The fact that Annex I countries are usually led by ministers during the high level segment, while officials continue to carry the load for many non-Annex I countries, adds a further complication (Yamin and Depledge, 2004: 459).

The regime also brings with it a formidable amount of substantive complexity. Much of the content of the rules and decisions being discussed require a relatively high level of scientific, technical or legal expertise. Examples include the complexity
surrounding emissions trading mechanisms (in particular the Clean Development Mechanism (CDM)), rules concerning land use and land use change (LULUCF) and emissions monitoring and reporting, together with the broader scientific and technological discourses that are central to the climate change regime. Myanna Lashen (2007) links the problem of expert knowledge gaps, which particularly impact upon less developed countries, with political divisions between the North and the South. She also highlights how disenfranchisement from these expert discourses can engender mistrust between regime participants.

While the climate change regime opens real possibilities because of its internalised norms of universal participation and the breadth of geographical and cultural participation allowed by its formal procedural rules, substantive disparities in bargaining power, resources and technical expertise pose significant barriers to a genuinely equal and uncoerced dialogue between nations and cultures. For universal participation to move from a formal procedural norm to a substantive reality, these resource and knowledge gaps would need to be narrowed.

**Participation by NGOs**

Peter Newell (2000: 152-153) highlights the important role played by both environmental NGOs and business and industry groups in the climate change regime. He observes that NGOs ‘contribute to the formation of perceived interests and force the pace of policy change’, and ‘help to set the boundaries within which decisions are made’. NGOs influence decision-making directly, by formally participating in decision-making processes, and indirectly, by influencing the broader political and social dynamics conditioning those processes. In this capacity, NGOs help constitute

---

8 The CDM allows Annex I and non-Annex I parties to jointly implement emission reduction projects, and use the resulting certified emission reductions (CERs) in partial satisfaction of their emission reduction commitments (Kyoto Protocol, article 12).
intermediary transnational public spheres that mediate between formal international regimes and domestic civil society (Bohman, 2004).

NGOs can be admitted as observers to the regime, and can attend and participate in COP and subsidiary body meetings. In this respect, the climate change regime compares well with other international regimes. It is much more open, for example, than negotiations in the World Trade Organisation (WTO), where NGO attendance is not permitted (Eckersley, 2007a: 330). The UNFCCC provides that any body or agency ‘qualified in matters covered by the Convention’ is eligible for admission, which will be granted if one-third or more of the Parties do not object (UNFCCC, article 7.6). A further requirement established by practice is that the organisation must provide proof of its non-profit and/or tax-exempt status (UNFCCC, undated). This means that individual profit-seeking businesses must participate through non-profit organisations created to advance the interests of particular business or industry groups. NGO observers cannot vote, but can speak in COP and subsidiary body meetings on issues ‘of direct concern’ to their organisation at the invitation of the President, so long as one-third or more of the Parties do not object (FCCC/CP/1996/2, Rule 7). However, in COP meetings, this can often be restricted to statements by a representative sample of NGOs during the high-level segment (Yamin and Depledge, 2004: 441).

Both the number of NGOs admitted as observers to the regime, and the number of delegates from NGOs attending individual COP meetings has increased over time. Figure 2.3 shows the steady rise in NGO admissions since the first COP meeting in 1995, where 178 organisations were admitted. By COP 14, there were nearly 1000 NGOs admitted to the regime (FCCC/CP/2008/3).

---

9 These rules have not been adopted but the practice is for the rules to be applied at each COP other than Rule 42, which concerns voting procedures.
Figure 2.3 – NGOs admitted as observers to the UNFCCC (COP 1 – COP 14)\textsuperscript{10}

![Number of admitted NGOs](image)

Figure 2.4 shows the number of NGO delegates attending each COP meeting from COP 6 onwards, with the number of delegates of state parties shown for comparative purposes. While in earlier years there was no discernible pattern of increasing attendance by NGOs (Yamin and Depledge, 2004: 49), there has been a significant surge since COP 11 in 2005. Three COP meetings have been attended by more than 4000 NGO delegates, all within the past four years. NGO delegates now consistently outnumber party delegates, often by a considerable margin.

\textsuperscript{10} Produced by the author based on UNFCCC data: see http://unfccc.int and FCCC/CP/2008/3.
However, NGOs participating in the climate change regime tend to be dominated by developed countries, especially amongst business and industry groups. Environmental NGOs often suffer from similar asymmetries, although efforts have been made to improve diversity, and participation by developing country NGOs has improved over time (Yamin and Depledge, 2004: 51). Indeed, it is arguable that NGOs – despite their predominantly Western representation – often provide critical reinforcement to the distributive justice claims of under-resourced developing countries (Carpenter, 2001: 321).

11 Produced by the author based on UNFCCC participant lists: FCCC/CP/2000/INF.2; FCCC/CP/2001/INF.2; FCCC/CP/2001/INF.4; FCCC/CP/2002/INF.2; FCCC/CP/2003/INF.1; FCCC/CP/2004/INF.3; FCCC/CP/2005/INF.2; FCCC/CP/2006/INF.1; FCCC/CP/2007/INF.1; FCCC/CP/2008/MISC.1. The NGO figures do not include inter-governmental organisations or UN and specialised agencies. The party figures include delegates from all parties and observer states, including the EU.
In addition to participating in the formal proceedings, NGOs are the predominant force behind the large number of side events and exhibits that take place during UNFCCC meetings, which provide an informal forum for discussions on specific areas and viewpoints that may not make it into the formal negotiating arena. They often become a ‘safe outlet’ for an exchange of views on issues which cannot be freely debated in the negotiations as a result of their ‘unrelenting politicisation’ (Depledge, 2005: 226).

Formal statements in negotiating sessions, the scheduling of side events, the display of exhibits at the conference venue, and a range of other informal techniques employed by NGOs – including ‘corridor lobbying, behind the scenes selling of diplomatic packages and use of personal contacts’ – are directed towards trying to shape the dialogue at international meetings to encompass the topics and frames of understanding of concern to NGO communities (Newell, 2000: 145). However, NGOs do not target only party delegates, but also frequently attempt to shape media reporting of international meetings. Their tactics range from the subtle framing of discourses, to staging of demonstrations and publicity stunts (Carpenter, 2001: 320). By using their access to the negotiations to publicise the achievements and failures of the process, NGOs can form a bridge between the regime and wider (largely domestic) publics.

**The role of negotiating coalitions**

In practice, negotiations under the UNFCCC and the Kyoto Protocol take place through interactions within and between various negotiating coalitions. The formation of these coalitions is ‘pivotal to the functioning of the climate change regime’ – for both logistical and strategic reasons (Yamin and Depledge, 2004: 34). Logistically, some form of coordination of the diverse interests of participants is
needed, given the breadth of participation. Strategically, coalitions are the only viable means through which smaller, under-resourced participants can wield clout in the negotiation process.

A range of overlapping coalitions operate within the climate regime, ranging from the persistent opposition to climate change measures of the Organisation of the Petroleum Exporting Countries (OPEC) nations, to the impassioned advocacy of ‘drastic’ action by the Alliance of Small Island States (AOSIS) (Newell, 2000: 13). The EU tends to negotiate as a group, and has generally projected itself as a climate change leader (Gupta and Ringius, 2001). An ‘Umbrella Group’ has also existed since 1997, made up of a number of other Annex-I parties, including the US, Canada, Japan, Australia and the Russian Federation, who are loosely tied by their commitment to ‘cost-effectiveness and flexibility’ measures (Yamin and Depledge, 2004: 45-46).

The most significant negotiating coalition, in terms of its size, the complexity of its internal politics, and the implications for communicative justice in the regime, is the G-77 plus China. The G-77 was established in 1964, and is currently composed of 130 member countries. It is the primary vehicle for the collective representation of developing countries in international politics, and has ‘operated as a coordinating body’ for these countries in the climate change regime since its inception (Kasa, Gullberg and Heggelund, 2008: 115-16).

Generally, the G-77 and China negotiate agreed common positions, reached through consensus in G-77 plenary meetings. These positions tend to be broad enough to allow individual countries to express their own national positions in the negotiations, or for countries to participate in other, smaller groupings without contradicting the G-77 stance (Yamin and Depledge, 2004: 36). The Secretariat provides resources,

---

12 China is an associate member but negotiates in the climate change regime as part of the G-77.
sometimes including translation services, to enable the G-77 to meet at the beginning of COP and other UNFCCC meetings.

There is tremendous diversity amongst countries in the G-77 in terms of their levels of prosperity, and levels of greenhouse gas emissions, ranging from relatively prosperous, high-emitting countries such as Argentina, Malaysia and South Africa, to the least developed countries (LCDs), with very low emissions and GDP. Kasa, Gullberg and Heggelund (2008: 118-122) characterise the G-77 countries in terms of three key internal groupings in negotiations: the ‘emerging world powers’; the members of OPEC; and the LCDs and AOSIS nations. The emerging world powers are countries such an India, Brazil, South Africa and China, who have the political and economic influence to assert themselves in their own right in international politics. They have increasingly entered into bilateral or multilateral agreements outside the UNFCCC framework, while still seeking to play a central role within the G-77 coalition in negotiations (Kasa, Gullberg and Heggelund, 2008: 118-122). The OPEC countries – led by Saudi Arabia, and motivated by a desire to protect oil revenues – have consistently sought to prevent substantive action to reduce greenhouse gas emissions (Barnett, 2008). The final G-77 grouping is made up of LCDs, states with ‘poorly developed state institutions and a high dependence on the UN system and development aid’, and the AOSIS states, all of whom have a considerable interest in climate change measures due to their high geographic and economic vulnerability to the impacts of climate change (Kasa, Gullberg and Heggelund, 2008: 124-125).

The vastly divergent circumstances of these different groupings would, on a rationalist analysis, suggest that maintaining unity within the G-77 would be near impossible. Yet, while there have been divergences on some issues (Williams, 2005: 62), and despite many G-77 countries participating in simultaneous alliances within the regime, the G-77 has displayed a ‘remarkable sense of collectivity’ amid
‘conditions that should have predicated disintegration’ (Najam, 2005: 305). As a result, a ‘north/south divide’ has been a persistent feature of the climate change regime (Depledge, 2006: 4). There are three related explanations for the persistent unity of the G-77. From an instrumentalist and procedural perspective, maintaining the discipline of G-77 unity allows countries who lack the negotiating power or the diplomatic or technical resources to participate meaningfully in their own right to establish ‘strength in numbers’ (Williams, 2005: 53), and ‘find security within the G-77 bloc’ (Barnett, 2008: 6).

Secondly, while countries within the G-77 have often vastly different interests on specific issues arising for discussion in the climate change negotiations, they tend to share common political interests within the dynamics of the international system generally. As Depledge (2006: 4) observes, ‘the legacy of colonial exploitation, uneven development and imbalance of power throughout the globe trumps climate-specific indicators’ in the formation of political coalitions in climate change politics. Specifically, G-77 countries have had a common interest in reshaping the fundamental discourses framing environmental regimes around the pursuit of economic and social development and the demands of distributive justice, captured in the discursive turn towards the ‘dominant motif’ of sustainable development (Najam, 2005: 315). These concerns are given expression in the climate change regime in the express right to sustainable development articulated in article 3(4) of the UNFCCC, the founding principles of common but differentiated responsibility and developed country leadership (UNFCCC, articles 3(1) and 3(2)), and commitments by developed countries to provide financial and technological transfer and to build capacity in developing countries (UNFCCC, articles 4(3), 4(5) and 4(7)).

Thirdly, developing countries may often feel a shared sense of identity based on their position in the international system and their relationship with the West; an ‘imagined
community of the powerless and vulnerable’ (Williams, 2005: 55). Adil Najam (2005: 306) argues that:

The ‘self-definition of the South has always been a definition of exclusion: these are countries that believe that they have been ‘bypassed’ and view themselves as existing ‘on the periphery’. Viewed as such, the South is not simply a raggedy bunch of poorer countries, it is a collective of countries that consider themselves to have been disempowered, marginalized and disenfranchised by the international system.

The South’s assertion of its collective rights in the climate regime is therefore not articulated merely in defence of substantive concerns in the formulation of climate policy. It simultaneously constitutes a recurring collective claim to a political voice in geo-politics and the pursuit of ‘a more legitimate global order’ (Najam, 2005: 306). In other words, what ‘the South’ says in climate change negotiations is in part driven by its broader demand for recognition by the West. This is as much a moral challenge to the industrialised North as, for example, the assertion of the right to economic development and the eradication of poverty.

The operation of negotiating coalitions therefore has significant justice implications. The ability for procedurally and institutionally disadvantaged countries to pool their resources and influence helps to lower the otherwise considerable barriers to participation. Moreover, the collective weight of the G-77 coalition has been a crucial factor in allowing developing countries to shape the definitional discourses of environmental governance around their ‘critical concerns’, particularly the concepts of sustainable development and equity (Najam, 2005: 315). And perhaps most importantly, the climate change negotiations have provided a significant staging ground for the developing world’s ongoing demand for political participation and recognition, and by extension, for the principles of communicative justice to be reflexively considered within the regime.
However, negotiating coalitions also raise impediments to communicative justice. The institutional and ideational necessity for developing countries to adhere to the G-77 process often means that smaller developing countries are subsumed by the broader politics of the G-77 and its domination by the ‘emerging giants’. The ability of OPEC countries, and especially Saudi Arabia, to hijack the G-77 agenda has been a particularly pressing concern (Barnett, 2008; Depledge, 2008). It is hard to see how LDCs and AOSIS states are able to participate in a genuinely uncoerced manner.

Political coalitions can also entrench the north-south divide in the UNFCCC process, which is institutionalised in the treaty through the separation of countries into Annex I and non-Annex I along essentially developing/non-developing lines (Williams, 2005: 63-65). The effect can be stalemate, obstruction and lowest common-denominator bargaining framed by a prevailing climate of ‘mistrust’, rather than free-wheeling dialogue and innovative discursive interaction (Depledge, 2006). This absence of trust, and the instinctive resort to self-interested posturing and rhetorical ‘hot air’, constitutes a powerful inhibitor to communicative action (Risse, 2000).

The problem of consensus

The method for making decisions under the UNFCCC has been an unresolved point of contention since the inception of the regime. Article seven of the Convention requires that rules of procedure for COP and subsidiary body meetings be adopted at the first COP meeting. Draft rules were prepared for this first meeting but have never been formally adopted (FCCC/CP/1996/2). The continuing deadlock revolves around draft Rule 42, which sets out the rules for voting. ‘Two ‘alternatives’ are contained in the draft rules. Under ‘Alternative A’, matters of substance are to be agreed by consensus, or, if that cannot be achieved, by a two-thirds majority vote.\(^\text{13}\)

\(^{13}\) Subject to a number of specified exceptions, including adoption of a proposed protocol and decisions under articles 4(3), 11(1), 11(3) and 11(4).
Under ‘Alternative B’, matters of substance are to be agreed by consensus, except for decisions on financial matters, which are to be reached by a two-thirds majority vote.

In light of the failure to adopt rules of procedure, the practice has been for the draft rules of procedure to be applied, with the exception of Rule 42. This practice has continued at every COP meeting up to and including COP 14 in Poznan (FCCC/CP/2008/L.1). In the absence of formally applied voting rules, a convention has been maintained whereby all substantive decisions are reached by consensus (Yamin and Depledge, 2004: 442). Although what constitutes consensus is ‘neither quantitatively clear-cut nor formally defined’, it is interpreted to mean that no party formally objects to a decision (Depledge, 2006: 11). This leaves some room for improvisation to overcome an impasse – such as allowing a party who is not satisfied with a decision to express their ‘reservation’ or objection without formally blocking the consensus decision (Werksman, 1999: 8-13).

This commitment to consensus decision-making is seemingly consistent with two central tenets of communicative justice theory – the principle of equality of access to the discourse so that ‘no person and no moral position can be excluded from the dialogue’ (Linklater, 1998: 92), and a disposition on the part of those participating towards reaching a ‘reasoned consensus’ (Risse, 2000: 9). The capacity for an individual party to veto a decision may be particularly valued by minorities whose bargaining power is limited, however its application to almost every kind of decision, ‘even the most trivial and technical’ can make progress ‘painfully slow’. It also provides a powerful tool to ‘obstructionists’, who employ a range of tactics to delay and derail negotiations (Depledge, 2006: 11-12).

In addition to impeding substantive agreement, the consensus requirement can have the unintended consequence of inhibiting unconstrained dialogue and meaningful participation by minority interests. It is politically difficult for an isolated minority to
block agreement without the backing of a negotiating coalition, unless they have political influence in their own right (Werksman, 1999: 9). Consensus therefore tends to provide protection to relatively powerful parties or groupings who can command influence within the G-77 (relying, perhaps, on the G-77’s own consensus requirement). Consensus can also often foster a descent into proceduralism and lowest common-denominator bargaining, rather than the kind of open, substantive, and morally-grounded dialogue needed for communicative action – and for the material weakness of minority interests to be mitigated.

These considerations highlight the ‘unresolved ethical tensions’ intrinsic to the notion of communicative justice (Eckersley, 2008b). There are two separate issues which arise in this context. The first concerns what the practical implementation of a fair communicative process actually looks like. Proponents of Habermasian ethics have recognised that fair communicative practices require substantive equality of participation, not merely formal rights (Eckersley, 2008b: 354). And the insight that formal procedural rights are insufficient to secure unconstrained dialogue is emphatically borne out by the climate change negotiations. But the regime also forces us to ask whether the provision of extensive formal participation rights is not only insufficient, but in some cases also counterproductive to that goal.

Secondly, the procedures of the climate change regime highlight the conflictual relationship that can arise between communicative justice and other ethical aspirations. If all other normative aspirations are not simply subsets of the communicative ethic, we are required to undertake the more complex task of considering the implications of communicative practice for other prized ethical ideals (Eckersley, 2008b: 354). The climate change regime brings this problem into particularly sharp relief because of the urgency of the substantive task motivating its inception. If excessive deference to the rights of all parties to participate means that the pace of international action is vastly slower than that required to mitigate the drastic impacts of climate change –
impacts that are likely to hurt the vulnerable the most – then there may be a case for the demands of communicative justice to be relaxed. In light of these tensions, a climate change regime which is truly communicatively just may therefore be one which less closely approximates ideal speech in terms of its formal procedures for participation, but which allows for greater substantive participation in its discourses by those currently marginalised from negotiations.

The long-standing impasse over voting rules needs to be resolved. It is a task made all the more difficult by the paradox that reform of the consensus approach itself requires a consensus. Nevertheless, there are a range of plausible options. One is to reserve consensus for the most significant or politically controversial decisions, and allow other decisions to be agreed by some form of special majority, similar to that contemplated by Draft Rule 42.

However, a new paradigm might be necessary given the fraught history of those proposals. The concept of decision-making by a ‘critical mass’ provides another alternative. Recommended in the Warwick Commission’s (2007) proposed reforms of the WTO, this involves a ‘critical mass’ of member countries agreeing to take on new commitments, even if a small number of parties refuse to participate. The Commission set out a range of criteria that should be met for decisions to be made on this basis, including that the rights are extended to all parties but the obligations only imposed on those who form part of the critical mass; any possible adverse distributional consequences of the decision are considered and addressed; technical support and capacity building are provided to developing countries to enable them to participate fully in the enterprise; and members not initially part of the critical mass are allowed to join at any time (Warwick Commission, 2007: 31-33).

The failure of the US and Australia to ratify the Kyoto Protocol (despite being signatories) created a similar effect. However, a formal capacity for new
commitments to be entered into or decisions reached by a majority of willing parties may facilitate accelerated progress in the negotiations. The diminished power of the veto might also help to secure a consensus result in the first place.

**Discursive frameworks**

Communication within a regime does not begin with a blank slate, but always occurs within the confines of those already-articulated, but infinitely contingent discourses and narratives which shape the ongoing ‘struggle over meaning and symbolic representation’ (Bäckstrand and Lövbrand, 2007: 125). These discourses and narratives project themselves as ‘pre-existing forms of continuity’ (Foucault, 1972: 25), binding individual acts of speech into a conceptual whole, situating them in time and space, and investing them with a purposive logic.

The discursive frameworks sustaining the politics of climate change are therefore unavoidably ‘imbedded in power relations’, privileging ‘certain descriptions of reality’ which ‘empower certain actors while marginalising others’ (Bäckstrand and Lövbrand, 2007: 125). But they are also invariably open to discursive challenge from those at the margins who, by exploiting their lack of closure and ‘in-between spaces’, can ‘initiate new signs of identity, and innovative sites of collaboration, and contestation’ (Bhabha, 2004: 1-2). Communicative action theories suggest that this kind of contestation and translation is most likely where dialogue is conditioned by normative or moral discursive frames, where existing power relations are less likely to be determinative (Risse, 2000: 17).

The meta-narratives framing the UNFCCC process have been fundamentally morally grounded – and have been remarkably resilient to hijack by powerful interests. These definitional narratives are reflected in article 3 of the UNFCCC which positions the principles of intergenerational equity, common but differentiated responsibilities, Northern leadership, the precautionary principle, and sustainable development at the
centre of the treaty. These norms have ‘remained a fundamental backdrop for the negotiations’ (Eckersley, 2004a: 99).

Najam (2005: 317) has shown how the defining discourses of environmental governance have been transformed over recent decades; reoriented around the normative framework of sustainable development and equity. He argues that this transformation has gone hand-in-hand with increasing discursive engagement by developing countries in environmental discourses: ‘the South has become engaged because the discourse has changed, and, equally, the discourse has changed at least party because of Southern involvement’. The developing country contestation of the framing of environmental governance thus began as a moral challenge to its legitimacy from the outside, due to its failure to adequately integrate the necessity for development and poverty alleviation in the South. As the discursive framework gradually evolved towards internalising developing countries’ ‘critical concerns’, it simultaneously became more amenable to more active participation by these countries from within (Najam, 2005: 307-315).

The ideal of universal communicative participation as a necessary precondition to the legitimacy of international action also strengthened the case of developing countries for their concerns to be recognised in the constitutional principles of the emerging climate change regime. According to Hoffmann (2005: 84, 124), ‘universal participation’ emerged as the result of a ‘radical transformation’ during the course of the ozone negotiations which preceded the formation of the climate change regime, so that it was the ‘point of departure’ for conceiving of a legitimate structure for dealing with climate change. This assumption established the discursive context in which claims by the South that the UNFCCC should be founded upon notions of equity and development rights were able to gain traction ‘when it did not otherwise have the leverage to do so’ (Hoffman, 2005: 158).
The mutual reinforcement of the equity and universal participation frames, and their fundamentally moral underpinnings, have proved to be a barrier to subversion of the regime by developed countries like the US (and, prior to a change of government in 2007, Australia), who have not been willing to embrace some of its foundational principles. They have been forced to attempt to justify their opposition to taking on binding commitments by seeking to reform these defining narratives from within, for example, by arguing that equity demands that all countries carry the burden of mitigation – regardless of differences in levels of prosperity (Eckersley, 2007b: 29) – or by asserting that the universal participation norm necessitates universal mitigation commitments (Hoffman, 2005: 179). These attempts have proved largely ineffective in reframing the international debate.

The chronological structure of the UNFCCC negotiations – whereby the initial treaty contained only basic principles and aspirations rather than concrete commitments – may have been an important factor in the establishment of these core narratives (Eckersley, 2004a: 99). The decision to put off the difficult questions of agreeing on the actual level of commitments by each party for future negotiations facilitated an environment in which normatively oriented discussion was more likely to prosper, allowing material power disparities to become relatively less influential.

However, the discursive conditions of subsequent UNFCCC negotiations have not always been so conducive to communicative justice. The negotiations over the Kyoto Protocol, in particular, became consumed by self-interested bargaining between developed countries over mitigation targets, while developing countries – and the framing discourse of equity – receded into the background (Najam, Huq and Sokona, 2003: 224). It would be greatly superior to conduct future discussions over burden-sharing by seeking to agree upon a principled formula for setting emission reduction targets, structured around the regime’s foundational principles of equity and sustainable development.
Numerous proposals have been put forward for a principled approach to setting reduction targets, including the ‘contraction and convergence’ model first espoused by the Global Commons Institute in the early 1990s, under which emissions gradually move towards equal per capita entitlements (GCI, undated). A modified version of this approach was recommended by Ross Garnaut’s (2008: 201) climate change review for the Australian Government, arguing that ‘agreement on basic principles for allocation’ is ‘critical if the pace of coordinated international mitigation action is to quicken’. An alternative, more qualitatively-based set of principles for determining commitments based on the requirement of common but differentiated responsibilities, was outlined in the South-North Dialogue on Equity in the Greenhouse (Ott et al, 2004). The content of any agreed set of principles for allocating emissions entitlements has important equity and justice implications. However the initial and more minimal claim from the perspective of communicative justice is that a reorientation of the discursive structure of discussions towards a debate on principles (rather than unprincipled horse trading) would significantly improve the prospects for meaningful dialogue and translation.

The narrative frameworks underlying negotiations may also be affected by whether communication occurs in a public or private setting. Risse (2000: 22-23) argues that public discourse has a ‘civilising effect’ on participants, and that ‘justifying selfish interests on the basis of egoistical reasons is nearly impossible in the public sphere’. In some cases, this results in ‘argumentative self-entrapment’ when a participant’s rhetorical argument is morally challenged. The predominantly public nature of the climate change negotiations, where plenary sessions occur in the presence of admitted observers and are broadcast to wider publics through the internet, fare well on this score. A good example of this civilising effect, and the potential for self-entrapment, occurred at COP 13 in Bali, where the US refused to agree to the proposed text of the Bali Action Plan on the basis that ‘developing countries had failed to take
sufficient responsibility for their contribution to the problem of global warming’. The leading US delegate, Paula Dobriansky, was ‘booed and jeered’, and a ‘cascade’ of moral criticism followed in statements from developing countries, before the US finally agreed to join the consensus (Christoff, 2008: 468-469).

However, the civilising effect of public negotiation can sometimes result in the unintended consequence of inhibiting free dialogue, because participants engage in self-censorship to avoid public censure or self-entrapment. The climate change regime has sought to remedy this problem by taking ‘unproductive debates’ out of public settings and into ‘more informal arenas, such as explicitly informal workshops, roundtables and other meetings’ (Depledge, 2006: 16). These private settings often allow topics to be discussed which ‘would be politically unacceptable in more formal arenas’ (for precisely the reasons Risse identifies) and ‘also help to build relationships’ between delegates. Given the critical role of trust for enabling communicative action, a sophisticated approach to understanding the conditions under which productive dialogue can flourish is required; one which does not continually insist upon abstract procedural requirements for ‘ideal speech’ without close attention to the particular dynamics of the communicative setting.

Conclusion

The analysis of the negotiating process under the UNFCCC set out in this chapter underlines the need to assess the communicative justness of political environments in a holistic and refined manner. While the foundational prerequisites for communicative justice – such as equal access to its discourses by all those concerned – provide a powerful benchmark against which to evaluate the fairness of negotiations, an inflexible application of predefined rules may be blind to the ethical tensions and practical contradictions that arise.
The climate change negotiations, in particular, accentuate the problem of assimilating the requirements of an ethical communicative process into the broader demands of justice. In particular, if an insistence on equal and unrestricted rights to speak and to veto decisions has the practical effect of inhibiting timely agreement on fundamental measures to respond to climate change, how are we to rank the potential harm to vulnerable communities, or future generations, against an ethical commitment to open and inclusive dialogue?

A critical element in taking a holistic approach to assessing the communicative or discursive fairness of climate change politics is to look not only to the conduct of treaty negotiations, but also at the wider policy fora and public spheres in which dialogue on climate change might take place. This will be the focus of chapter three.
While the formal negotiations under the UNFCCC process sit at the political centre of climate change discourse, there are a diverse range of other settings for climate change dialogue. We can identify these more informal forms of discussion and debate as constituting climate change public spheres; spaces for public discourse situated between formal decision-making institutions and mass society. Chapter one noted that public spheres in international society can be defined broadly, so that a public sphere exists whenever a political action is justified in public (Lynch, 2000: 316), or in more specific terms as transnational public spheres requiring a certain level of specialisation (Bohman, 2004).

The conclusions of chapter two, in particular the ethical contradictions of taking a strict, proceduralist approach to communicative procedure, make the role of climate change public spheres all the more important. Taking a broad, holistic approach to applying the principles of communicative justice, and conceding that in some cases, procedural compromises are ethically necessary, it is crucial that alternative sites of dialogue exist to enable voices marginalised by formal negotiations to be heard and recognised. A notable feature – and source of great promise – of climate change politics is the sheer diversity and diffuse nature of its animating dialogues, and the multiplicity of locations in which they occur.

This chapter explores the role of public spheres as sites of climate change dialogue and facilitators of horizontal and vertical policy diffusion. It focuses on two particular kinds of public sphere: policy networks and media public spheres. Policy networks have the potential to broaden participation in climate change dialogue and
allow issues that are given scant attention or have become deadlocked in the formal regime to be discussed. However, in some cases, these informal networks pose the risk of diverting discussions into an environment that offers more restricted participation and is less conducive to unconstrained dialogue.

The capacity of the media to constitute public spheres has generally been underemphasised, and their transformative potential underappreciated. The political economy and institutional imperatives of mass media limit the ability for this potential to be realised, and there is a lack of politically free and financially accessible media systems in many parts of the world. However, media public spheres can positively contribute to climate change dialogue in three significant ways: providing a site for normative debate and contestation; translating international discourses into domestic settings; and facilitating cultural translation between domestic publics.

**Climate change policy networks**

Alongside the formal UNFCCC process, there are a number of policy networks through which climate change measures are discussed and implemented. Many of these processes have gained prominence since 2005 as attempts to agree on a successor to Kyoto have escalated (Höhne, Yamin and Haites, 2008: 25). These include the Gleneagles Dialogue on Climate Change, Clean Energy and Sustainable Development established by the Group of 8 (G8); the Asia-Pacific Partnership on Clean Development and Climate (APP); the Major Economies Forum on Energy and Climate (MEF) initiated by the US; and an increasing focus on climate change in existing regional and international institutions, such as the Asia-Pacific Economic Cooperation (APEC) forum, the World Bank and other arms of the UN. This increasingly diffuse web of bodies provide an incipient form of ‘network governance’

---

14 The MEF, initiated by President Obama, superseded the Major Economies Meeting on Energy Security and Climate Change established by President Bush (White House, 2009).
on climate change of the kind that Slaughter (2004: 11) has argued may evolve into a ‘new international landscape’ based around ‘an intricate…web of links between disaggregated state institutions’.

However, this potential for enhanced communicative action depends significantly upon the structure and conduct of the process concerned. A forum which complements the UNFCCC process, has diverse participation, and animating discourses which allow uncoerced dialogue on the moral and cultural dimensions of climate change, is greatly beneficial from the standpoint of communicative justice. However, some of these initiatives might undermine the UNFCCC process, and encourage significant decision-making steps to be taken in settings which are dominated by the leadership of powerful nations and operate under less fair communicative procedures than those established under the UNFCCC. A driving factor in the formation of many of these alternative fora was the US and Australia’s rejection of the legitimacy of the formal international process, and their frustration at their inability to reshape the normative contours of its discourses. Given that the current leaders of both countries have pledged to re-engage with the UNFCCC process, a shift of dynamics between these networks and the formal international negotiations may now be possible.

In evaluating the role of these alternative fora we should also consider their efficacy in accelerating agreement on substantive measures; whether in the final analysis, Höhne, Yamin and Haites (2008: 32) are right that these processes ‘seem…to have positively influenced the UNFCCC negotiations and have provided new input to them’. We are confronted here with a familiar tension: to what extent can we justify a weakening of fair principles of communicative procedure to facilitate a more efficient process that might produce more environmentally or distributively (but not communicatively) just outcomes?
The Asia-Pacific Partnership on Clean Development and Climate

The APP was established in July 2005 as ‘a new partnership to develop, deploy and transfer cleaner, more efficient technologies and to meet national pollution reduction, energy security and climate change concerns’ (APP Charter, 2006: Annex 1).15 The APP Charter (2006) nominates four key areas on which the APP is intended to focus: development, energy, environment, and climate change. It establishes what is ‘essentially a voluntary, technology cooperation agreement’ (McGee and Taplin, 2006: 174) with a heavy emphasis on the private sector. One particularly conspicuous feature is its deliberate shying away from emissions reduction targets in favour of voluntary cooperation on technological development; a stark contrast from the prioritisation of concrete targets under the Kyoto Protocol. The APP Charter explicitly avoids mention of absolute emissions reductions, referring instead to the goal of reducing ‘greenhouse gas intensities’ (APP Charter, 2006: articles 1.1 and 3.1.2).

The APP is governed by a Policy and Implementation Committee (PIC) responsible for the ‘overall framework, policies, and procedures’ of the Partnership, and an Administrative Support Group (ASG), which is confined to administrative matters (APP Charter, 2006: article 4.2). The primary activities of the Partnership occur through eight industry-specific Task Forces, created under a Work Plan agreed at the Inaugural Ministerial Meeting (APP, 2006b). While information exchange figures prominently amongst the APP’s stated functions (APP Charter, 2006: articles 2.1.4, 3.1.1 and 3.1.5), it seeks to achieve this through a flexible approach to communicative procedure with matters of process left to the discretion of the relevant bodies. This is consistent with the APP’s non-prescriptive approach, and its ‘conspicuous absence

15 Australia, China, India, Japan, Korea and the US were initial partners (APP, 2006a). Canada was admitted at the Second Ministerial Meeting (APP, 2007).
of the law’ (Christoff and Eckersley, 2007: 33). The Charter itself is expressed to be ‘a voluntary, non-legally binding framework for international cooperation’ (APP Charter, 2006: preamble and article 2.1.1).

The PIC may meet as often as determined necessary, with up to three representatives of each partner country able to attend. Other ‘experts’ may attend at the PIC’s discretion. Its decisions are made by consensus (APP Charter, 2006: articles 4.2, 4.4 and 4.5). The Task Forces can determine their own arrangements for meetings and communications, and invite experts from partner countries or representatives of non-member countries to participate (subject to approval by the PIC). Decisions of the Task Forces are also made by consensus or, where a matter cannot be resolved, referred to the PIC (APP, 2006c: articles 4.1, 4.2 and 4.4). This last provision is a mandatory requirement – the other matters described are ‘for guidance only’.

The APP’s communicative processes are thus structured in a fundamentally different manner to those under the UNFCCC. On face value, they are likely to be less just, given the limited access they afford. Participation is restricted to a very small number of representatives from countries with relatively high levels of economic or political influence. Other countries with vital interests in climate change, such as LDCs or members of AOSIS, have no representation. Participation is also weighted heavily towards industry, with only minimal rights for NGOs to observe proceedings, and limited penetration of the regime by public spheres. It is thus questionable whether the APP’s ‘government-industry structure gives sufficient weight to the full spectrum of interests involved’ (Lawrence, 2007: 20).

The absence of a morally-grounded discursive framework that enables less powerful voices to meaningfully engage is also of concern. While the founding documents of the APP emphasise that ‘development and poverty eradication are urgent and overriding goals internationally’ (APP Charter, 2006: article 1.1), these moral
imperatives have been stripped of much of their normative content. In particular, the APP diminishes the distributive justice norms and ‘arguments about historical responsibility, per capita income, institutional capacity and vulnerability to climate change’ which have figured prominently in UNFCCC negotiations (Christoff and Eckersley, 2007: 37). The effect is ‘to reinforce existing power relationships in the international community’ (McGee and Taplin, 2006: 188). Indeed, the inability of the US and Australia – whose governments had, until recently, been resistant to the UNFCCC framework – to win the argument within the framing discourses of those negotiations, created an incentive to move the conversation into a new discursive setting whose processes and organising narratives would be more receptive to their positions (Christoff and Eckersley, 2007: 41).

However if the APP’s activities act as a supplement to the UNFCCC, providing input into negotiations and efficiently marshalling agreement between key countries on deadlocked issues – or if it opens up new spaces for dialogue in substantive areas not receiving attention under the UNFCCC process – it could have a net positive effect. On the other hand, if the APP acts as a rival forum, taking discussions away from the UNFCCC or slowing their momentum, it could inflict significant harm.

Assessments of the expected impact of the APP on the UNFCCC negotiations vary significantly. McGee and Taplin (2007: 42) argue that, contrary to its claim to be a complement to the Kyoto Protocol, the APP is ‘most likely to be obstructive and competitive’. Conversely, Höhne, Yamin and Haites (2007: 30-31) suggest that ‘so far, its existence has not significantly influenced the UNFCCC process’, predicting that ‘it could complement it well, if it focuses on the development of particular technologies’. The explanation for the divergence may lie in the fact that the APP is a relatively new institution, whose processes and activities are only loosely defined and its future direction uncertain. As a result, much depends on the motivations of the parties. While it appears the initial parties had somewhat different impressions of
the *raison d’être* of the APP (McGee and Taplin, 2007: 176), the enthusiasm of Australia and the US for its creation should be understood in light of their vocal criticisms of the legitimacy of the Kyoto Protocol and mandatory emission reduction targets. However, current US President Barack Obama, and Australian Prime Minister Kevin Rudd have since repudiated the stances of their predecessors and promised to reengage with the UNFCCC negotiations (Obama and Biden, 2008; Rudd, 2007). It is therefore possible that the UNFCCC process might more emphatically become the ‘main game’, repositioning the APP as a *supplementary* process confined to the promotion of industry-specific, private focused knowledge-sharing and the encouragement of voluntary measures to enhance technology development.

Within this limited mandate, the APP could reinvest relationships with the trust and cooperative intent necessary for translation. The small number of parties and shared purposive framework of the APP make consensus a more workable requirement and may begin to allow the ‘long-enduring impasse’ between developed and developing nations to be transcended (Skodvin and Andresen, 2007: 6). Lawrence (2007: 23) highlights the APP’s ‘explicit focus on *technology development*’, in contrast to the UNFCCC’s prioritisation of *technology transfer*, arguing that there is ‘value in a cooperative framework…which avoids a narrow North-South lineal approach’ and which acknowledges the benefits of ‘South-South cooperation’. The APP’s industry-specific Task Groups do not suffer from the UNFCCC’s at times ‘Byzantine nature’ and could potentially establish a new space in which private sector participants and government bureaucrats can share ideas and understandings.

*Other international fora*

A number of other fora have been created between small groups of the world’s largest emitters. The Gleneagles Dialogue on Climate Change, Clean Energy and
Sustainable Development was established in July 2005 during the UK’s Presidency of the G8 to ‘informally discuss innovative ideas and new measures to tackle climate change’ (DEFRA, 2005), with ministerial meetings held annually between 2005 and 2008. The MEF was established by US President Barack Obama to ‘help generate the political leadership necessary to achieve a successful outcome’ at the Copenhagen COP in December 2009 (White House, 2009). Like the Gleneagles Dialogue, it includes large emitters from both developed and developing countries. The MEF replaces the Major Economies Meeting on Energy Security and Climate Change, initiated by the US in 2007 under President George W. Bush (US State Department, 2007). A number of meetings of representatives of the leaders of the member countries of the MEF have been held during 2009 as a prelude to the Copenhagen negotiations (US State Department, 2009).

While each of these initiatives may have opened the way for an enhanced dialogue between their member countries, the focus on major emitters means the voices of many have not been included. It is questionable how effectively these fora are able to overcome deadlocks, given that most of the impasses in the UNFCCC involve high-emitting countries. However, the motivations of participants and the degree of trust in the process can make a real difference. For example, despite similarities in their participation and purposes, Höhne, Yamin and Haites (2007: 29, 32) argue that the Gleneagles Dialogue ‘created new momentum for the international discussions on climate change’ while highlighting the mistrust that surrounded the Major Economies Meeting, suggesting that the ‘timing of this initiative raised speculation that it was intended to distract attention from the G8 and UNFCCC process’. This mistrust perhaps explains why President Obama has replaced the Major Economies Meeting with a new forum (the MEF) with an almost identical name and membership,\textsuperscript{16} and very similar formal objectives.

\textsuperscript{16} The MEF additionally includes Denmark as the host of COP 15.
Localised policy networks

Climate change policy networks are not limited to those that exist between national governments, a fact that has often been underappreciated in studies of environmental governance (Betsill and Bulkeley, 2004: 476). Discursive networks also exist at a sub-national level, allowing linkages to be formed between those whose experiences of climate change are more concrete and locally-grounded than the high-level issues dealt with by national political leaders and diplomats. These networks can provide innovation and momentum, even when there is resistance at a national level. For example, despite the intransigence of the Bush Administration and paralysis in Congress, ‘the social diffusion of international climate change policy norms grew steadily in the US in the 2000s’ through ‘a range of regional, state, city, corporate and other institutional avenues’ (Fogel, 2007: 99).

Peter Koehn (2008: 62) has drawn attention to the significant climate change role played by subnational governments in both the US and China, placing particular emphasis on the ties forged with local publics on account of their privileged position as ‘the governance structures closest to the individual’. These connections give local governments a distinctive ability to frame climate change measures in ways that are tailored to resonate with the ‘directly experienced public concerns’ of the local community:

The key to widespread emission-mitigating actions will be issue bundling in ways that link climatic stabilisation to cherished place-based values…The bundling, or frame-extension, process must resonate in compelling ways with local grievances and desires (Koehn, 2008: 63).

Koehn’s focus is primarily on the strategic value of issue bundling and framing for the promotion of emissions reducing policies. But his analysis is also suggestive of how dialogic communities can emerge and prosper within the architecture of a local ‘common life world’ (Habermas, 1987: 131), consisting of both a common physical life
world (the local region) and a common *constitutive* life world (the shared normative values and experiences that allow climate change debates to be locally contextualised). This contextualisation helps facilitate *vertical* discursive linkages between international, national and local processes and networks – whether by allowing international processes and norms to be more readily translated into diverse localised publics, or by locally-grounded understandings ‘bubbling and spreading from the bottom up’ (Koehn, 2008: 72).

A related development is the emergence of *horizontal* networks which create transnational links between individual subnational governments. One particularly prominent example is the Cities for Climate Protection (CCP) program established in 1993 by the International Council for Local Environmental Initiatives, which connects over 700 local governments who have agreed to ‘reduce greenhouse gas emissions from their local government operations and throughout their communities’ (ICLEI, 2008). Betstill and Bulkeley’s (2004: 487) study of the CCP program found that while its formation was premised on the idea of technical information exchange, the policy learning it has encouraged has provided a ‘means through which norms about local climate protection have been negotiated, reiterated, and sustained’. They highlight that the program has been part of the process of ‘localising’ climate change; ‘reframing a problem that is generally viewed as a global issue as locally significant’. However, in their case studies, the role of the CCP program in facilitating policy learning was limited, suggesting we should be cautious about overestimating the capacity of this type of network ‘transform the nature and terms of the debate’ (Betsill and Bulkeley, 2004: 486-487).

A range of similar transnational partnerships have been initiated between localised actors (Bäckstrand, 2008). For example, C40 Cities program, a partnership between many of the world’s largest cities and the Clinton Climate Initiative, is designed to provide leadership on climate change and collaboration on emission reduction
programs (C40 Cities, 2009). Transnational networks have also been formed between corporate actors supporting action on climate change, such as the 3C initiative (Combat Climate Change, undated). In addition to localising climate change concerns, these networks allow actors who are not part of formal international processes to participate in international dialogue on climate change. An agreement between over 600 mayors of US cities to reduce greenhouse gas emissions, for example, has been used to highlight the inaction of national policymakers; by combining forces, the mayors ‘laid claim to an international stage and debate’ (Fogel, 2007: 117).

While it would be a mistake to overestimate the significance of these emerging networks in climate change politics, they demonstrate the diversity of sites through which communicative action can occur and encourage us to look beyond traditional sites of international political power in conceptualising communicative justice. If communicative justice is ultimately about broadening the boundaries of political community, and affording greater recognition to the marginalised, it must encompass dialogue between mass publics as well as between those wielding political authority.

**Media public spheres and climate change**

Studies of the role of the media in climate change politics have predominantly centred on issues of production and political economy (Newell, 2000), or sought to explain why coverage has given so much prominence to conflict over climate science (Boykoff and Boykoff, 2007).

Peter Newell (2000: 68-69) focuses on the agenda-setting role of the media, distinguishing between ‘direct’ and ‘indirect’ forms of agenda-setting; the former referring to the way in which media can bring issues to public attention and stimulate pressure for a political response, the latter to the long-term ways in which media
frame debates through ‘problem exclusion, value reinforcement and legitimation of conventional understandings’. He suggests that media can act as translator in converting ‘techno-scientific dialogues into more accessible forms of knowledge’ and in bringing ‘international issues to the public realm’ (Newell, 2000: 71-72). Newell’s analysis is constructive in drawing attention to the ways in which media narratives can be influenced by issues of political economy and institutional imperatives. He argues that particular climate change meanings are ‘privileged’ while others are repressed, with the views of ‘primary definers’ such as fossil fuel industries tending, at least in the earlier years of international climate change action, to prevail. These processes of inclusion and exclusion ‘help to establish the boundaries within which public understanding of global warming as a political and social concern takes place’ (Newell, 2000: 78, 89-91). He argues that conventional ‘news values and representational practices’, and reliance on ‘official’ sources, mean that certain representations are sidelined, including Southern perspectives and coverage of international negotiations.

It is arguable that climate change’s portrayed in the media has changed significantly since Newell’s work was published. Simon Cottle (2009: 72-74, 84) has more recently argued that news coverage of climate change has ‘moved through discernible phases’, and has ‘become progressively signalled in the news media over recent years a global crisis’, with the previous focus on battles over the science of climate change increasingly giving way to a focus on the visual spectacle of climate change’s threat to the environment and human populations.

However, there are also theoretical limitations in Newell’s approach. First, his account is almost exclusively limited to processes of media production. The media is portrayed as an undifferentiated ‘agent’, in similar terms to other NGOs. In restricting himself to questions of political economy and agenda-setting – that is, to the power of ‘the media’ to influence public perception – the insights of other strands
of media theory, such as audience reception studies, are marginalised. As Stuart Hall (1997: 10) has argued, media provide ‘the shared cultural space in which the production of meaning through language – that is, representation – takes place’. In this formulation, the media audience is no longer a ‘passive screen on which the original meaning is accurately and transparently projected’ but represents an active site of cultural struggles over meaning and interpretation where diverse and contesting readings of media texts are possible. By conceiving of the media as ‘agent’ Newell underemphasises the ways in which the media can be understood not merely as a political participant, but also as a discursive site – or public sphere – where cultural and political contestation takes place.

Secondly, Newell’s primary concern is the media’s impact on policy outcomes. This instrumental orientation precludes a full appreciation of the affective dimensions of media representations and narratives and their implications for the ‘politics of recognition’ (Taylor, 1994). This calls for ‘a deeper engagement’ with the ways in which media representations ‘can become resources for identity formation’ and how ‘mediatised conflicts enter into the world of the everyday and the interactions and outlooks of communities’ (Cottle, 2006: 24).

The capacity of the media to constitute public spheres is particularly important from the perspective of communicative justice. For the discourses of climate change to be meaningfully open to, and informed by, a diverse range of voices, they must include not only policy, industry and environmental elites, but also more broadly constituted publics. This does not necessitate that every individual citizen should be deeply engaged in climate change discourse, but it does require a form of collective

---

17 Newell (2000: 77) refers to the audience reception concept of ‘polysemy’, but uses the concept not to argue that media texts will be read differently by different audiences depending on social and cultural context, but in the sense that a range of messages may be embedded within a text, whose absorption by a given recipient may be temporally spread.
engagement. In contemporary society, this can only realistically be achieved through mass media.

Three key ways in which the media can facilitate communicative action – and move us towards communicative justice – are suggested here: as a forum for debate and contestation; in translating international discourses into domestic settings; and in facilitating cultural translation between domestic publics. The discussion in this chapter is not an empirical study; it is intended only to flag some of the possibilities inherent in media discourse and does not make any systematic claims about the incidence of particular narratives or images, an undertaking that would require detailed methodological research. Indeed, there are reasons to be cautious about idealising the media’s capacity to realise its potential as a public sphere, both due to the considerations of political economy and journalistic culture highlighted by Newell, and because of the lack of genuinely free media systems in many countries. The aim is instead to expand our theoretical conception of why mass media are crucial to our understanding of climate change, and to emphasise the centrality of media public spheres as the primary means through which broader society can participate in climate change discourse. This diffuse and haphazard public participation in climate change discourse is a key component in realising communicative justice.

First, media provide a space in which debate and argumentation can take place over the definition of climate change and the appropriate policy response. Argumentation may occur within the confines of one setting, such as a debate between politicians or experts on a television program, a discussion on talkback radio, or a conversation on an internet forum. But argumentation can also be established through the sum effect of a diverse array of media messages, with audiences mediating the conflicting perspectives on climate change that are spread across different media platforms and time. The rising prominence of climate change in public discourse means this
potential is not limited to traditional news media, with popular culture also a possible source of these messages.

This form of argumentation is haphazard and organic, and we should be attentive to the ways political economy and institutional imperatives influence the debate. As mentioned above, a particular concern has been the way that journalistic practices and norms have promoted an antagonistic debate over the accuracy of climate change science in which the alternative perspectives are portrayed through a binary distinction between ‘environmentalists’ and ‘sceptics’. Boykoff and Boykoff (2007: 1201) argue that ‘adherence to the norms of dramatisation, personalisation, novelty, balance, and authority-order’ are responsible for producing ‘informationally biased coverage of global warming’.

Media public spheres are more likely to operate within the domestic polity of an individual country. This does not preclude the possibility of discursive contestation over political choices with international implications, or debates over norms framed at international level. These debates may feed back into international dialogue, whether in the formal positions of national leaders or by being carried into transnational public spheres. For example, in Australia there has been a prominent normative debate over Australia’s proper contribution to international action, often framed in terms of distributive justice (Canberra Times, 2009: 15; Eckersley, 2008c: 11).

Second, media can contribute to enhancing climate change dialogue by vertically translating the decisions and debates of international institutions into domestic environments, and linking transnational public spheres to local publics. Representatives of media outlets can apply to the UNFCCC secretariat for accreditation to attend COP conferences (UNFCCC, 2009). For example, 819 media representatives from 371 organisations attended COP 14 in 2008.
Studies have shown that national media coverage of climate change often noticeably increases during significant COP meetings or in response to high-profile international developments (Boykoff and Boykoff, 2007). Media coverage of these international processes can facilitate engagement by translating the specialised discourses of negotiations into accessible language, and by contextualising international developments into local settings. The connection of the global and the local is a notable feature of climate change coverage. Cottle (2009: 84-85) highlights the media’s embodiment of climate change as a global phenomenon, including the frequent use of imagery of the globe and satellite pictures. He notes that the visual nature of media coverage helps covert climate change from a distant, abstract problem to one that is localised, humanised and thus ‘culturally meaningful’. He argues that these images ‘may even help to support a sense of “ecological citizenship”’.

The third way media can help promote communicative justice is by facilitating cultural translation between domestic publics; bringing the experiences and perspectives of one part of the world to the attention of those in another. Media coverage of climate change which gives us a window into the lives of those outside our borders can help expand the boundaries of our moral community or even instantiate an ethical claim on behalf of excluded others. For Michael Ignatieff (1998: 10), ‘television has become the privileged medium through which moral relations between strangers are mediated in the modern world’, and at key moments has ‘created a new kind of electronic internationalism linking the consciences of the rich and the needs of the poor’. He argues that ‘[t]elevision presents economic and political relations and human relations, and asserts a connection between the Western conscience and the needs of the strangers of the Third World’ (Ignatieff, 1998: 16).

The visual power of television to humanise the plight of foreigners is perhaps what singles it out, though other forms of media such as newspapers and the internet also
have a role to play. In the context of climate change, this may occur when media representations in the West visualise the actual or potential effects of climate change on those in the South who are most vulnerable to its impacts. For example, Cottle (2009: 85) discusses the imagery in a UK newspaper report about Pacific Islanders battling to ‘save what is left of their country’. He suggests that in these representations, ‘geographically remote spaces affected by climate change when visualised become literally perceptible and therefore “knowable” places’.

Media coverage of this kind forces those in the West to confront the ethical contradictions of their moral and political identities, calling on our instinct for compassion while at the same time confronting us with the human implications of our history and political and cultural priorities. As Ignatieff (1998: 17) acknowledges, our interaction with media images of suffering is deeply ‘ambivalent’; a ‘complex mixture of willed amnesia, guilty conscience, moralising self-regard, and real understanding’. In the context of climate change, we can see how this ambivalence can produce a delicate balance between the moral imperative for action and the temptation of retreating into an attitude of ‘eco-fatigue’. However, it is important to remember the political reality behind this coverage; representations are controlled by producers and audiences in the West, and may only rarely allow the voices of the vulnerable to be expressed in their own words.

We have therefore seen, if in a preliminary sense, the various ways in which the media can facilitate communicative action and expand the boundaries of the political and moral community. Mass media are therefore a crucial component of the aspiration of moving closer to the ideal of communicative justice, despite the constraints imposed by the media’s political and institutional imperatives. Ultimately, as Cottle (2009: 78-79) argues:

[T]he media have a responsibility to not only illuminate the ‘bads’ of global risk society but also to democratise them by enfranchising all those who are affected by them to have their
say, communicating across geographical frontiers, and the world’s cultural and other divides…Climate change, in this sense, becomes a crucial test case for media enacted democracy.

Communicative justice requires this kind of mass enfranchisement through media to be meaningfully realised. Detailed studies of the media’s ability to constitute climate change public spheres would therefore be a valuable addition to scholarly debate.

Conclusion

A flexible and non-proceduralist approach to communicative justice requires us to consider the capacity of climate change public spheres to create dialogic opportunities for voices marginalised by formal international negotiations. Alternative policy networks open new possibilities for communicative action and enhance the prospects of reaching agreement on issues that have become deadlocked in the formal regime. However, they can also potentially draw energy away from the relatively open UNFCCC process. This is particularly problematic if they impose restrictive communicative procedures or if they are characterised by an asymmetric distribution of power. Media public spheres are also crucial to the project of moving towards communicative justice in climate change politics, by connecting mass publics to international policy-makers, and facilitating empathy and cultural translation between geographically and politically diverse populations.
Chapter 4

Conclusion: Towards Communicative Justice in International Climate Change Politics

This thesis has pursued two distinct, but methodologically interrelated goals. It developed an ethical ideal of communicative justice against which the practices of international politics can be evaluated and conclusions drawn about how to harness the transformative potential inherent in those practices in aid of a more just international society. An analysis of international climate change politics brought the normative principles of communicative justice into the real world of political behaviour, in turn allowing us to test and refine our theoretical framework.

Simultaneously, this concept of communicative justice has been used to expand our understanding of the dynamics of international climate change politics, providing a normative perspective generally neglected by studies of climate change. The theoretical framework established in the thesis allowed ethical tensions in climate change discourse that are rarely acknowledged to be raised for normative attention, revealing new ways for us to think about how climate change politics might be reformed to make it more communicatively just.

This linking of the abstract and generalising claims of critical theory, and the empirical analysis of everyday political practice, is what praxeological analysis demands. It requires us to reflexively test our theoretical assumptions against well-chosen studies, and to allow a critical normative framework to lead us to new understandings about the workings of political institutions and cultural relations. The ultimate goal is to discover an aspirational way forward which combines ethical
integrity with strategic pragmatism. The thesis concludes by exploring the embryonic possibilities revealed by this praxeological approach.

**International climate change politics: lessons from communicative justice**

There is much to like about the international climate change regime from the perspective of communicative justice. It allows a very high level of formal participation by state representatives and members of civil society, its negotiations are public, and the evolutionary and reflexive process of rolling conferences allows for discursive and policy flexibility and change. The UNFCCC dialogue has also been marked by underlying principles and narrative frameworks that are distinctly moral in character. This framework has allowed the arguments of less politically or economically powerful participants to hold greater sway.

Informal and diffuse policy networks have the potential to complement the formal regime by airing issues that are neglected in UNFCCC proceedings, or by facilitating progress on decisions where discussions have stalled. The features of climate change politics also open up exciting possibilities for media public spheres to enhance dialogue and cultural translation by linking international processes to domestic publics, and by bringing the experiences of foreign others to our moral attention.

However, holding climate change politics up to the light of communicative justice has also revealed a range of areas demanding reform. Despite the high level of formal participation afforded by the UNFCCC regime, substantive access to its discourses remains asymmetrical. Greater financial and informational resources are required to enable representatives of less affluent countries to participate in negotiations on an equal footing. Improved translation services and greater funding for economically disadvantaged members would allow these countries to send larger, better resourced
delegations who could engage in discussions in a more substantive way. This problem is especially marked during less high-profile sessions such as subsidiary body meetings, at which a large number of countries are represented by only a handful of delegates or are absent altogether. There is also a need to streamline the complex procedural structure of the regime, which has a tendency to confuse and confound all but the most experienced and well-briefed negotiators. Reserving COP meetings for the most fundamental and pressing issues and allowing more technical questions to be debated in specialised fora is one possibility. Reforms of this kind would be greatly enhanced by increasing the funding and personnel available to the Secretariat to enable it to more efficiently oversee and streamline negotiations (Papa, 2009). An imperative also exists to close the knowledge gaps that exist between member countries, so that the highly technical and specialised discourses that characterise the regime are open to a greater range of voices. A more concerted political commitment to knowledge transfer as part of the broader principle of Northern assistance is overdue.

While the coordination of negotiations through regional and ideational coalitions enhances dialogue by enabling procedurally and financially-disadvantaged countries to pool their resources and political clout, coalitions also raise barriers to communicative action. Powerful members of the G-77 have utilised the political structure of negotiations to hijack the agenda, with LDCs and AOSIS states often marginalised. One possible avenue of reform is to loosen the institutional divide between Annex I and non-Annex I countries under the treaty which tends entrenches mistrust between North and South. There is also room for innovative initiatives to bring together members of the various negotiating coalitions outside the pressure of formal negotiations, in an attempt to increase the underlying levels of trust and collegiality between these participants. Mechanisms for conflict resolution might also be built into the treaty to provide an alternative means through which political deadlocks can be resolved, rather than allowing them to drag on indefinitely.
A key insight provided by the analysis of the UNFCCC regime is the problematic nature of consensus decision-making. While the established practice of requiring that no party object to a decision seems formally consistent with the objectives of communicative justice, the experience of negotiations shows that the consensus requirement causes delay and has been used by obstructionists to curtail progress. Rather than protecting less powerful participants, it is often a more effective tool in the hands of parties with the political authority to exploit it. In sum, the need to reach consensus on almost every substantive decision in the regime tends to encourage excessive proceduralism and self-interested bargaining, rather than unconstrained dialogue aimed at mutual understanding. There is, therefore, an urgent need to overcome the impasse on voting rules under the UNFCCC in the interests of both communicative justice and decision-making efficiency. Consensus may be the appropriate requirement for the most significant or controversial decisions, or for decisions which establish the general legal framework. For other decisions a more streamlined and less cumbersome approach is warranted. The ‘critical mass’ approach proposed by the Warwick Commission (2007) for the WTO is an alternative worth exploring, particularly as a way of manoeuvring around the blocking tactics employed by parties whose goal is to impede meaningful international action on climate change.

A particularly encouraging feature of the climate change regime is that the meta-narratives framing negotiations are centred around fundamentally moral norms, including intergenerational equality, common but differentiated responsibilities, Northern leadership, the precautionary principle and sustainable development. These norms have been propelled by – and provided argumentative armoury for – developing countries. The key framing norm of universal communicative participation has also been critically important to ensuring that the fairness of the dialogue is reflexively considered.
However, the discursive environment has not always been so favourable. In particular, the Kyoto negotiations devolved into self-interested bargaining over targets that sidelined communicative action. Future negotiations over mitigation targets would be more just if parties agreed on a principled formula for allocating the mitigation burden, rather than agreeing on each party’s target on an ad-hoc basis. A model such as the ‘contraction and convergence’ approach (GCI, undated), or one broadly following the recommendations of Ross Garnaut’s (2008: 191-211) climate change review for the Australian Government, would be superior.

A diffuse range of alternative policy networks carry the potential to facilitate greater co-operation and dialogue, but this depends on the particular structure and practices of the network concerned. For example, the communicative procedures of the APP are far more restrictive and less favourable to developing countries and NGOs than the treaty negotiations. However, if the APP’s future role was limited to a specific mandate, such as promoting knowledge transfer and problem-solving in private industry, it could operate as a beneficial addition to the UNFCCC process, rather than a detrimental competitor. Localised policy networks, while at an embryonic stage, are of tremendous value in diversifying climate change dialogue and connecting the discourses of policy elites with local communities.

Finally, a crucial element of international climate change discourse is to be found in the role of media public spheres. Three key ways in which media public spheres can positively contribute to communicative action on climate change have been proposed: as a forum for debate and contestation; in translating international discourses into domestic settings; and facilitating cultural translation between domestic publics. While there are barriers to the capacity for media public spheres to perform these functions, we should be hopeful about their transformative potential.
Specific studies of the contribution of media public spheres to climate change dialogue would be a fruitful focus for future research.

**The theory of communicative justice: lessons from the climate change regime**

The empirical study of the international climate change regime has enabled us to road-test the theoretical principles of communicative justice and to reflect on the ethical tensions that are brought to the surface by everyday political practice. In particular, the application of the communicative justice ideal to real-world problems uncovers the formidable risk that communicative justice collapses into excessive proceduralism and conflicts with other valued ethical goals. In the climate change regime, the large number of parties to negotiations, the complexity of the subject-matter, and the requirement of consensus often results in intolerably slow progress and political mistrust rather than unconstrained dialogue. The lessons observed from the climate change regime reinforce three key theoretical conclusions for our conceptualisation of communicative justice.

First, consensus should be considered not as a constituent part of communicative justice, but as one procedural approach to be evaluated on a case-by-case basis. Consensus is most likely to be normatively beneficial where the number of participants in the dialogue is limited, where the ‘common lifeworld’ underlying negotiations is ‘thick’, or where the conversation concerns definitional issues or politically controversial questions that require a high level of legitimacy. This redefinition of the role of consensus can be maintained without disrupting the normative basis for communicative justice if we move beyond a narrow focus on the legitimation of specific political decisions. Communicative justice is also ethically valuable for its contribution to the political recognition of marginalised identities, and for its capacity to enhance cultural translation between diverse groups.
Second, a reflexive awareness and normative responsiveness to the demands of other forms of justice is an indispensable feature of communicative justice. A discursive process that conforms with pre-defined procedural requirements for fair dialogue may not always be sufficient to produce a just outcome. In the climate change regime, these ethical tensions are particularly pointed, due to the urgency for substantive measures to avert ecological and social catastrophe. The normative consequences of delay or deadlock in negotiations are potentially grave, particularly because of the disproportionate suffering that is expected to fall on economically and politically vulnerable populations. Communicative justice should therefore be regarded not as an ethical end in itself, but as an integral component of the broader demands of justice; a crucial, but not sufficient means towards the broader aspiration of reducing material and ideational suffering, expanding the boundaries of political community, and promoting a more peaceful international society. Ascertaining, in real world scenarios, how and when to relax the demands of communicative justice to advance the broader interests of justice is admittedly difficult. However, the normative teleology of the theory of communicative justice provides the broad ethical parameters within which the balancing act should be undertaken.

Finally, this thesis advocates a broad and flexible approach to communicative justice, which focuses on the overall dynamics conditioning discourse across international society rather than narrowly applying its principles to isolated political decisions. For climate change, this has meant loosening our expectations that some notion of ideal speech can be realised for each and every decision made within the formal UNFCCC process, while considering how alternative policy networks and media public spheres can enhance the prospects for unconstrained dialogue. As a result, communicative justice in international politics should be thought of in terms of the overall effect produced from the combination of formal treaty negotiations, network governance between policy elites, transnational public spheres, local policy fora and mass media
public spheres. Only through an exploration of the performative interaction of these diffuse discursive sites will the full normative picture emerge.

The fraught relationship between theoretical ideals of justice and their strategic application to human institutions and practices is to some extent an ineradicable feature of political life exposed by critical theory. Communicative justice is perpetually haunted by the paradox that freer dialogue requires the politically and culturally powerful to open dialogue to marginalised interests, yet the powerful are rarely inclined to encourage discursive challenges to their position of privilege. However, there is cause for optimism. As the politics of climate change have demonstrated, there is transformative potential already embryonic within existing international structures and behaviour. Through the haphazard but transcendent experience of mutual understanding, a ‘fusion of horizons’ is possible.
References


Camilleri, J. (2008) 'Climate Change and the Dialogue of Cultures'. Public lecture delivered at the University of Melbourne, 8 October.


**UNFCCC documents and decisions**

Decision 18/CP.3 (1997) Volume of documentation


FCCC/CP/2001/INF.2 (2001) List of participants (COP 6, Part 2)

FCCC/CP/2001/INF.4 (2001) List of participants (COP 7)

FCCC/CP/2002/INF.2 (2002) List of participants (COP 8)

FCCC/CP/2003/INF.1 (2003) List of participants (COP 9)

FCCC/CP/2004/INF.3 (2004) List of participants (COP 10)

FCCC/CP/2005/INF.2 (2005) List of participants (COP 11)

FCCC/CP/2006/INF.1 (2006) List of participants (COP 12)

FCCC/SB/2006/INF.1 (2006) List of participants (SB 24)


FCCC/CP/2008/3 Admission of observers: organizations applying for admission as observers. Note by the secretariat.

FCCC/CP/2008/MISC.1 (2008) Provisional list of participants (COP 14)

FCCC/CP/2008/INF.1 (2008) List of participants (COP 14)


Minerva Access is the Institutional Repository of The University of Melbourne

Author/s:
Brookes, Andrew

Title:
Arguing about the climate: towards communicative justice in international climate change politics

Date:
2009

Citation:

Persistent Link:
http://hdl.handle.net/11343/35314

Terms and Conditions:
Terms and Conditions: Copyright in works deposited in Minerva Access is retained by the copyright owner. The work may not be altered without permission from the copyright owner. Readers may only download, print and save electronic copies of whole works for their own personal non-commercial use. Any use that exceeds these limits requires permission from the copyright owner. Attribution is essential when quoting or paraphrasing from these works.