



REVIEW OF RESEARCH

ISSN: 2249-894X

IMPACT FACTOR : 5.7631 (UIF)

VOLUME - 12 | ISSUE - 4 | JANUARY - 2023



INFORMING AN EFFECTIVE RESPONSE TO CLIMATE CHANGE: INDO-US CLIMATE CHANGE POLICY

Dr. Nitu Kumari

**Assistant Professor, Maharashtra National Law University (MNLU),
Nagpur, Maharashtra, India.**

ABSTRACT:

Climate change is one of the burning issues in front of the world community. This is one of the debatable subjects against humankind. It is stated that humankind needs more time to address or tackle climate change issues. Scientists have pointed out that it is an important issue and it needs immediate attention world community. Scientists underlined that if the temperature rises 2° Celsius above the pre-industrial levels, it creates a very dangerous situation for the earth and the earth became uncultivated. Great changes will also occur on the weather. Although this matter is a matter of debate these days. We are currently on a pathway toward an increase of 4°C or more this century. In this paper, I have tried to investigate the role of the United Nations framework convention on climate change and the deadlock between two different blocks, one represented by the developed country and the other one is represented by the developing country. India is one of the major leading countries with a different view in relation to the USA. The USA is representing the different view on climate change policy at the world level. In this situation, how far the United Nations framework convention on climate change (UNFCCC) is relevant initiative in the path of climate change. The first section deals with the historical reflection on this issue. The second section will focus on the major reasons of failure and deadlock in the present time over the climate change policy. Further, it elaborates the contradiction between development and the climate change policy in the present globalized world. In concluding remarks, it is focused that there is the need of the strengthening the institutional structure at the international level for the implication of desired and balanced climate change strategy.



KEYWORDS: UNFCCC, Climate change, International Organization, Negotiations Challenges, Balance strategy

INTRODUCTION

The environmental issue became one of the burning issues from last few decades and it has seen rising appeals and debates were came into limelight which advocating about the environmental justice. This is often as a response to tragedies such as the Gulf oil spill or disasters resulting from enlarged changeability in climate boundaries due to climate change (Margot A. Hurlbert, 2011). These appeals are challenging due to contradictory thoughts or opinions of causes and consequences of environmental injustice, the international community is to be concerned about this disaster change. Still, they have a different vision for sort-out this problem. As well as this deferred vision creates the difficulty of a

pathway-reliant institutional or formal structure. Climate change is the impact of global warming and in increasing global warming, greenhouse gas (GHG) emissions play a big role in this increase.

UNFCCC is an international environmental treaty which signed on 9th May 1992, at United Nations Conference on Environment and Development (UNCED) in Rio de Janeiro, this well-known conference is known as Earth Summit. Many nations participated in this great conference and 154 nations signed UNFCCC in 1992 and its being effective in 1994. Through this treaty, UN try to paid more attention on climate problems. This treaty was not legally binding. It provides a framework for greenhouse gases emissions limits. The parties of conventions met annually since 1995. Kyoto, Japan was the place for this remarkable conference where in December 1997 more than 160 parties to the 1992 United Nations Framework Convention on Climate Change (UNFCCC or Convention)' came together and took the initiative on and adopt this. This is known as the Kyoto Protocol and with this protocol very first time, necessary legal restrictions for industrialized countries on the emission of Green houses Gases such as carbon dioxide as well as other "greenhouse gas emissions were also covered by this protocol (Breidenich & others 1998). The Kyoto protocol is legally binding but it also has some complexity. The Kyoto Protocol (the Protocol) is relatively complicated, showing the complex social, political, economic, scientific, and legal concerns humans raise provoke climate change. Before these many other works were done and given paid attention to environmental issues. In the year of 1988 the Intergovernmental Panel on Climate Change (IPCC) was established and it received support of the United Nations Environment Programmed as well World Meteorological Organization too.

The IPCC concluded, in the 1990 final report of its Working Group 1 and highlighted the concern issues. It underlined that certain types of emissions [of GHGs] is increased because of human activities. It considerably raises the greenhouse gases such as carbon dioxide, chlorofluorocarbons (CFCs), methane and nitrous oxide and other environmentally harmful gases. These upsurges of greenhouse gases will enhance this emission and the greenhouse outcome that leads to global warming the environment Earth's surface (Breidenich & others 1998). Throughout these treaties and protocol UN try to counter the environmental problem. But there have some issues in these solutions could be more effective. What are these issues?

As outcome of the IPCC's influential work and other scientific research works and reports emphasized the anthropogenic emissions of GHGs is one of the main aspect in this. And they stated that this boost up in greenhouse gases increases the atmosphere's heat-absorbing capacity and it will result in a consequent increase in the average temperature of the atmosphere. And due to this temperature increase many other problems will also raise gradually and the subsequent problem will start occurring. The heat will give an impact on ice polar zone and polar ice caps will start melting it leading to increasing sea levels across the world (which could result in a flood of various islands, coastlines or shoreline and also the threat to low-lying areas). The increasing temperature will increase the frequency of storms. It will also affect ocean currents, and an increase the range of land will effect from this (in terms of both latitude and altitude) for many tropical-related illnesses and diseases will start and it will give huge negative impact on human beings' health. Such as water related diseases like malaria, cholera, and dengue fever and many other types of illness is result of this. These impacts, in roll, would directly influence the all human being and their health and safety became big issues.

Global warming affects not only human health and the atmosphere even its impact on agriculture also. Like due to the increscent of temperature and its effect many crops, more desertification or unfertile land and so on.

Along with human being this climate change problem will affect the life of animals and wildlife too. The environment and climate which is suitable for animals and wildlife could also be affected in very dangerous manners. Such as coastal wetlands are damaged it will have a very negative impact on the existence of animals and wildlife. Species from these areas are forced to adjust hastily to a change according to the environment or become dead.

CONTRADICTION

The international political system was initiated the idea of Common but Differentiated Responsibilities (CDR) and raised this issue in a more comprehensive way. Today, more than 190 states come together and hold hands against this climate problem. These countries vary in size, place, population, level of economic advance or growth, and culture. At the same time, international law assumes that all states are increasingly not equal in many aspects, and they are unequal in terms of economic power and development; technological advances of states are also different. Also, many essential state parties have a significant influence and impact on both international and local development. These differences reflect on the states on their action on this issue. The historical differences among states also influence further issues. CDR has signified and affected transnational legal approaches and discourse. For the purposes of analysis, three aspects of the principle can be identified: the first is the commonness of the responsibility, the second is contextual differences in completion, and the third is reflections of historical performances and circumstances in today's distinguished responsibilities. The global and international partners came together to protect the common concern of humankind and initiated to frame the basic principle for this. The background aspect would be desirable for all states to execute common obligations and responsibilities. The disagreement among states, differences among especially in economic power. The Montreal Protocol took great initiative to address the issue of depleting the Ozone layers. The Montreal Protocol provides a particular Montreal Protocol Fund to address this issue. The FCCC also took a great step in this and it offers special assistance to developing or emerging countries. This special and differentiated treatment was appreciated by the Uruguay Round Agreements and World Trade Organization (WTO) also. This declaration contains almost 150 provisions on special and differential treatment (Weiss, 2002). The approach has promoted flexible promises and conditions for developing countries and encouraged developed states to extend market access to those deprived countries. The equity aspects are growing inequalities in the international and global systems. This is the notion that commitments to addressing the issue should be related to the temperature. This is very clear in Principle 7 of the Rio Declaration. Also it is the basis for distinguishing different obligations limited mentioned in the FCCC and the Kyoto Protocol (Weiss, 2002).

The CDR principles undertake that a state's contribution in the problem such as increasing temperature and its capacity to cure the problem such as promotion of mitigation of carbon emission are interrelated. This need may not be true or correct example; for instance, two decades from now, China, Brazil and India may be large contributors to greenhouse gas emissions; however, their capacity for curing the problem may or may not be positively interrelated with their contribution (Weiss, 2002). In this condition, the CDR assumption needs to revision its approach here. As the present generation is only sometimes obliged to the past generation. As this assumption that the historical role in the contribution to a problem can be equated or associated with the capacity to remedy or cure is not always necessarily correct. These efforts continued at many places such as in 1979, under the guidance of the United Nations Environment Programmed (UNEP) in addition with the World Meteorological Organization (WMO) the First World Climate Conference was took place in Geneva. This conference's main aim and objective was to look into climate issues. Also to collect the data and identify this effect on the environment and promote further research on climate unpredictability. One another significant contribution of this conference was the formation of the Intergovernmental Panel on Climate Change in 1988 and encourages the government's role in this.

The Brundtland Report (1987) is also a milestone work in this as it emphasizes the need for proper measures in this issue. This measurement, it reconciles the economic activities of state parties in protection and promotion of environment and also in order to achieve sustainable development. The Brundtland Report urged the UN General Assembly (UNGA) to take cognizance of climate change threats and played a lead role and take appropriate and effective action. The UNGA Resolution 44/228 of December 22, 1989, encourages the role of all state parties in this. It 'is recognized that all countries' role is very important in the protection of the environment. It initiated to convene a special UN Conference on Environment and Development on June 5, 1992, and this was appreciated by various

state parties as well such as Brazil offered to be host this conference. The scientific or logical idea over global warming paralleled with the concern authorities evaluated the data and released the First Assessment Report by the IPCC (1990). According to this 60 to 80 percent reduction in carbon dioxide release would be in order to calm down the many problems such as the concentration of fog in the atmosphere, which was already 25 percent higher in the pre-industrialization era. After hard bargaining over several issues related to state parties responsibility, a ministerial declaration was issued on this. This declaration highlighted the number of principles such as 'common but differentiated responsibilities', 'common concern of humankind,' equity', and 'precautionary principle', and all these negotiations and talks were conducted and organized by an Intergovernmental Negotiating Committee (INC).

Another important discussion was highlighted by the UNFCCC as well. It raised several points on this and the very first key point was identifying climate change as an existential danger, it also underlined the severe fact that fossil fuels were the primary cause of the problem. With this the role of human activities was emphasized by them. The IPCC Second Assessment Report (1995) also recognized the increase in global warming as being a majority of human activities. The findings explained the inputs for the discussions which led to the acceptance of the Kyoto Protocol, under the UNFCCC, in 1997. This protocol adopted three kinds of basic mechanisms. The Joint or collective effort was one of the main notions of this. Under this, Annex I countries will get credits for funding projects to reduce GHG emissions in other Annex I countries. Special in this those countries were encouraged which was initially in the former Soviet bloc (economies in transition). The other initiative was related to the promotion of the Clean Development Mechanism. With this, Annex I countries can get credit for funding projects in non-Annex I countries that reduce or cut GHGs emissions. It appreciated the role of International Emissions Trading. Through this International Emissions Trading, Annex I countries can buy and sell carbon credits. Such as if any country has exceeded or beat its target and are allowed to sell its reductions by the tone to other countries. This Declaration mainly focused on encouraging the developing countries' role in this and promoting their efforts to decrease carbon emissions. For this, the transferring technological advances were also promoted by this declaration. These international efforts was equally appreciated by all countries. Such as countries like the United States not ratify the Kyoto Protocol. The US justifies its action to not ratifying the Kyoto Protocol as according to the US that countries like India and China will not do any great contribution to reduce in emissions reduction.

KYOTO PROTOCOL

The Kyoto Protocol was approved by Russia the in November 2004 and it came into force on February 16, 2005. This approval from Russia gave revived to Kyoto, which had been pending and was losing its significance (Sinha, 2010). The Copenhagen Summit was firstly organized in Bali in 2007, and initiated with the Bali Road Map. Although it does not work very well. This meeting gave attention on the IPCC Fourth Assessment Report and here also the political disputes between stated overshadow the ideas related to environmental protection. Two important points come forward. First, the state parties agreed the main standard of a maximum permissible total temperature increase of 2 degrees centigrade above pre-industrial levels. Next important point is the G8 countries agreed forth the first time to reduce their carbon releases by 80 percent by 2050. A prerequisite for emerging or developing states approving to a global 50 percent reduction in carbon discharges by then. It was the expectation that the political representatives of the developing nations would support or accept a goal to which they had kept pending from very long time. Although it was not came into force, though, underdeveloped and developing states decided to peak their carbon emissions or release them before cutting down in complete the terms and conditions.

MAJOR REASONS OF FAILURE AND DEADLOCK

The moral is the individual interest of states should come letter, and collective need and cooperation come first. Any negotiations or dialogues towards practical cooperation between states can only be successful or fruitful when the contending benefit finds a way to create a joint or shared gain.

The initial step for the potential of creating belief in the environment or climate issues is, mainly their acknowledgment of the basic scientific reasons of climate change reason. While a particular scientific and systematic consent has arisen, fears over the importance of climate change subject is still persevering in the public notion. Like in Russia, the matter of Climate change apprehension generates a peculiar and paradoxical response. The Russian central meteorological or weather-related monitoring service (Hydromet) department trusts that Russia is heating up faster because of global warming and this is faster than any other place (Sinha 2010). The whole climate change negotiations have required transparency; no green room concept came into the meeting and agreement. A trust-building between states creates a strong will and is helpful in policy implementation. Trust-building can also be achieved step by step, and this approach plays a big role in climate change agreement implementation. Unfortunately it was noted that the main actors of this matter have not shown or interest in the requirement of trust-building among state parties. India and China's main concern towards economic development added a new element in this. To establish a connection between the US on the one hand and India-China on the other. In this condition the European Union has taken the lead in this to setting the goal of a 20 percent decrease in emissions of GHGs by the year of 2020, even it promises to do effort for up to 30 percent decrease (Shinha, 2010). However, this types of keen interest and effort was not came from US and promised a too little four percent cut by 2020. Although this effort of EU is remarkable however all EU members are also not showing same opinion on this reduction.

The developing countries approach on this matter is also very satisfactory and they also remain incoherent in this matter. The G-77 (now 130 countries) and other countries were endangered because of this global warming issue. Many states such as the Oil-rich States, such as Saudi Arabia; small-island nations, such as the Maldives, are very endangered by rising sea levels. Along with these countries and Iceland many big growing states, such as China and Brazil will also face direct and indirect (Shinha, 2010). These state parties have many common economic interests but do not always catch mutual or joint ground. Especially when determining the weakest nations. China and India are the two most vital actors in climate change discussion and deliberation. According to India, Western technology and money should be transferred to the developing states so they can mitigate carbon emissions with this help. It also stated that in place of giving the whole burden on one state middle-path approach is good. Which will come by huge transfers of capital from the rich state to the poor state. This transfer needs for the next 40 years to empower state parties to adjust to expected climate change and get on a green path of economic growth or development. As discussed earlier the EU played a lead role in the debate related to climate change. EU often takes brave initiative steps to address the deadlock and bring new momentum (Shinha, 2010). At the same time, on the other hand, the US has the biggest letdown on this. The superpower tag and tag as responsible global player appearance, the United States did not play very positive role in this. It shows the self-protective and inward-looking approach towards this issue. Although President Barrack Osama took the active initiative in this and started new policy 'new ray of hope' era. Still, the US inaction or delay was present and it not much different from previous American Presidents. The following administrations from George Bush Sr. to Bill Clinton to George W. Bush also have the same approach and are ignored.

Earlier policies of the United States is also not very much supportive of Kyoto Protocol. Bill Clinton in 1993 tried to pass a new energy tax and the motive of this tax increase was that it would reduce the reliance on fossil fuels. However, this policy also did not do many differences and not met by rigid confrontation. This led to a political backlash or criticism that still vibrates in decision-making spheres. This matter was raised in Senate in 1997 and it was rejected. It stated that the Kyoto Protocol would not be adopted unless developing countries made commitments. According to US practice once the Senate has rejected any treaty that can never be brought before it again. However, Clinton was thinking and hoped that after the 1998 elections, he would have a stronger majority in the Senate to introduce the Kyoto Protocol again although this did not happen. From there on, it was dismissed by George W. Bush. At the heart of the US's inattentiveness to climate change is an interest-based or only their own national interest-based political structure. Despite the notable and historic approval of the Waxman-Markey Bill by Congress in June 2009 where it mentioned to the reduction of carbon

emissions. It underlined that 17 percent of carbon emissions will be done from 2005 levels in the year of 2020. And will continue with this approach and 83 percent decrease will be achieved in 2050. However, the Cap and Trade Bill had lost momentum in the Senate by May 2010. On the other hand India and China took a positive step in this. Such as on the contrary, both countries India and China have actively shown very positive intent and efforts in this. For instance, India's National Action Plan on Climate Change (NAPCC) is an excellent constructive drive toward cutting fossil energy. India initiated the concentrating on other sustainable energies such as solar energy and promoting efficiency in transport. China too started many positive steps in this area. It also promoted strategies for developing solar, wind, and carbon capture technologies and programs. Although these effective and appreciative steps of India and China was not encouraged by the Western spin. And Western spin tagged these two countries as spoilers or big hurdles in the climate change negotiation or agreement process. Still, these countries actively engaged with the very active ways. Such as India has built upon the per capita emissions to be seen as a positive player. It now plans a 'per capita plus' method that will comprise a law that gives incentives for carbon emission reduction as well as renewable energy sources.

The COP 15 at Copenhagen in December 2009 is one of the significant steps on climate change negotiation. At one level, it can be regarded or considered as a step forward; at the time at another aspect, it can be terminated as a big political failure. Observations on the result of the Copenhagen Summit is differ by state to state specially key countries and regions has its one inclination on this. For example, the EU countries, it was a damp squib or middle way. At the same time countries like the United States and Brazil this Copenhagen summit attended their national interests. However, this great and long debate end up with some accord unity among countries. Some other positive outcomes were that. Developed or industrialized countries commit or promise to aim and objective to mobilizing for the fund to address this issue. They jointly initiated to raise \$100 billion a year by 2020 and it was promised that it will be used to address in the requirements of developing countries. This fund will be originate from a various range of sources. It includes the public and private sphere, bilateral and multilateral approaches along with the various types of alternative sources of finance were recognized for this fund. A Copenhagen Green Climate Fund was also approved in this summit and it was stated that a significant part of this support will be providing through this fund.

The fund shall be recognized as an operating entity or tool to support projects and policies related to climate change mitigation, programmers, and other activities related to environmental protection in developing countries. Not a single country 'signed' the Copenhagen Accord. As many countries have 'associated' themselves with the gradual impact of these policies. It shows the practice of short-term union but also the probability of long-term disagreement. For example, the developing countries were involuntarily compelled into accepting the idea of mitigation instead of funding and technology transfer from the developed countries. These differences leads to the climate change negotiating groups being divided into different groups and several new groupings systems emerged between developed and developing countries.

CONCLUSION

The main debate of the climate change argument is who takes responsibility. As well as 'how' and to 'what level' do countries contribute to carbon emission? Who has to play a major or leadership role in this path? As declared previously, while climate change calls for all state parties to take the initiative in the climate change debate. For developing countries, particularly India, the difference between industrialized and emerging states' approaches on climate change cannot be unclear. Equity and justice is a significant principles; means giving the same importance to all countries. Any goal invention and the target time to achieve this will be basically based on the values of 'equity and commitment' which can be set by all states. Further, India states that it will not permit its per capita carbon emissions to increase above the levels of the developed states. India and China are considerable emerging power and much populous country. Here countries like the United States are mainly feeling the pressure or burden to come up front adopt policies on this. Hence, as a security mechanism, they are demanding that India and China be similarly held accountable or responsible for releases as their

economies are fast rising. The historic delinquent, it is reasoned, should be the present burden takers. The other aspect of the discussion depends on the fund and financial issues. The financial proposal was placed out for developing countries at the Copenhagen summit. How much of this guarantee will finally be translated into successful money transfers needs to be seen.

Many developing countries are meeting and advocated for the principled place of the right to develop, the right to create capital, and not to make someone pay. Based on strong developing support, the typical North-South argue that they are payable a substantial social, ecological, and economic debt by the industrialized developed states. They are thus looking for 'social justice and equity.' The Alliance of Small Island States (AOSIS) is constantly afraid of increasing sea levels and large-scale submergence of the coastal area. States looking for a strong supporting partner to build an influential international community or partnership.

The division between developing countries is based on different visions and various perceptions within creating and developed countries if they have the will to do something for climate change and save the earth.

BIBLIOGRAPHY:

- Hurlbert. A Margot, (2011) "Evaluating climate justice – attitudes and opinions of individual stakeholders in the United Nations Framework Climate Change Convention Conference of the Parties" *Integrative Environmental Sciences*, 8(4): 267-286
- Breidenich Clar & others, (1998), "The Kyoto Protocol to the United Nations Framework Convention on Climate Change," *American Society of International Law*, 92 (2): 315-331
- Weiss.E. Brown, (2002), "Common but Differentiated Responsibilities in Perspective" *American Society of International Law*, 96 (13-16):366-368
- "UNITED NATIONS FRAMEWORK CONVENTION ON CLIMATE CHANGE REVISED DRAFT DECISION" (2008), *International Legal Materials*,47(1):122-124, Accessed on 07/09/2014, <http://www.jstor.org/stable/20695790>
- Antto Vihma & Sylvia K.Vinkhuyzen (2011) "Negotiating solidarity? The G77 through the prism of climate change negotiations", *Global Change, Peace & Security*: 23(3):315-334
- Sylvia I. Karlsson-Vinkhuyzen (2010) "The United Nations and global energy governance: past challenges, future choices", *Global Change, Peace & Security*, 22(2):175-195
- Darkin, Beverley (2007), "Climate for Agreement?" *The World Today*, 63(6) :7-8
- Stein .v. Jana (2008), "The International Law and Politics of Climate Change: Ratification of the United Nations Framework Convention and the Kyoto Protocol", *The Journal of Conflict Resolution*, 52(2): 243-268
- Dutt, Gautam (2009), "A Climate Agreement beyond 2012" , *Economic and Political Weekly*,. 44(45): 39-49
- Goug, Ian (2013) , "Climate change, social policy, and global governance," , *International and Comparative Social Policy*, 29(3):185-203
- Raes .Frank & Rob Swart, (2007), "Climate Assessment: What's Next?" *Science, New Series*, 318(5855):. 1386
- Vanhala, Lisa (2013), "The comparative politics of courts and climate change", *Environmental Politics*, 22(3):447-474,
- Weiss. G & Thakur. Ramesh (2010), "Global Governance and the UN: An Unfinished Journey" by Thomas; John Gerard Ruggie Review by: *Torunn L Tryggestad Journal of Peace Research*, 47 (6): 814-815
- Sinha. K. Uttam (2010), "Climate Change: Process and Politics" *Strategic Analysis*, 34(6): 858-871
- Downie.L.David & Levy.A .Marc (2004), *The UN Environment Programme at a turning point: Options for change*, in "The Global Environment in the twenty-first century"
- Downie,D.L (1995), "UNEP and the Montreal Protocol: New Roles for International Organization in Regime Creation and Change", *international organizations and Environmental Policy* eds R.VBartlett, P.Kurian ,and M.Malik. Westport: Greenwood Press

- Hass,P.M(1992), "Banning Chlorofluorocarbons: Epistemic Community Efforts to protect Stratospheric Ozone", *International Organization*,46:187-224
- Gullison. E. Raymond & others (2007), "Tropical Forests and Climate Policy", *American Association for the Advancement of Science*, 316(5827): 985-986
- Schulze. D. Ernst & others (2003), "Making Deforestation Pay under the Kyoto Protocol?", : *American Association for the Advancement of Science*, 299(5613): 1669
- Bentley. Hannah & Zikman. Steve, (2010), "Local Governments Key to Cancun Climate Talks", *Natural Resources & Environment* , 25(2): 57-59
- Hemmati, Minu & Rohr. Ulrike, (2009), "Engendering the climate-change negotiations: experiences, challenges, and steps forward", *Taylor & Francis*, 17(1): 19-32