



Reconsidering European Contributions to Global Justice

O Justice, Where Art Thou?

Developing a New Take on Climate Justice

Franziskus von Lucke

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Abstract

Since the beginning of the political debates in the 1980s, questions of justice have been at the core of the quest to find a political solution to global climate change. The literature has thus far identified a number of key justice dilemmas, central questions and justice principles. However, apart from a few exceptions in the ‘non-ideal theory’ strand, the majority of scholars has focused on the philosophical and theoretical level, making it difficult to transfer their ideas to the actual political struggles on the ground. The aim of this working paper is thus a twofold one. Firstly, it maps and discusses the most influential climate justice positions that the literature has developed so far. Secondly, it introduces three conceptions of justice, namely non-domination, impartiality, and mutual recognition, that are more attuned to the political struggles around climate change. The main objective is to discuss how they relate to the existing climate justice positions and to sketch out new ways of thinking about climate justice that allow us to critically examine the policies and behaviour of key actors in the international negotiations on climate change.

Keywords

Climate change, environment, ethics, justice

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Introduction

[...] the global nature of climate change calls for the widest possible cooperation by all countries and their participation in an effective and appropriate international response, in accordance with their common but differentiated responsibilities and respective capabilities and their social and economic conditions [...].

(UN 1992: 2)

As the first part of the above quote from the 1992 adopted United Nations Framework Convention on Climate Change (UNFCCC) indicates, already at that time most actors acknowledged the magnitude of the problem and the necessity to quickly come to an effective and encompassing solution. In the following years, scientific evidence soon suggested that in order to 'prevent dangerous anthropogenic interference with the climate system' (UN 1992: 9), global warming would have to be limited to a maximum of two degrees relative to pre-industrial levels (IPCC 1995). To reach this goal, all states would have to curb their emissions substantively in the coming years. Subsequently, this led to the yearly Conferences of the Parties (COP) within the UNFCCC since 1995 and eventually to various international regimes to curb climate change with the Kyoto Protocol and the latest Paris Agreement standing out in particular.

Thus, there seems to be an overwhelming scientific and political consensus on the diagnosis of the problem, and we have witnessed considerable efforts of countless scientists, politicians and activists (Christian Aid 2006; CNA 2007; WBGU 2008; World Bank et al. 2014; IPCC 2015) to foster proper countermeasures. However, the political measures implemented so far have not been able to significantly reduce anthropogenic emissions and hence have largely failed to tackle the problem in an appropriate manner. While the UNFCCC, the Kyoto protocol and the latest Paris agreement are certainly steps into the right direction (Dröge 2016; UN 2015), they only constitute a drop in the ocean in the face of the magnitude of the challenge. Eventually, they might be only a form of symbolic politics with little concrete effect on the earth's atmosphere and the suffering of present and future generations (Gardiner 2004b: 39). This begs the question, why it is so difficult to reach a global and effective agreement, despite the overwhelming evidence that failing to do so would entail catastrophic consequences.

There are of course a number of reasons that have contributed to this problem. Examples are economic considerations, domestic political struggles, path dependencies, uneven power relations, failed or misguided processes of securitisation, the structural characteristics of climate change, and the associated political regimes (Fletcher 2009; Springer 2008; Rosenberg et al. 2010; Falkner 2013; Diez et al. 2016; Keohane and Victor 2011; Mitchell 2006; Underdal 2002; Harris 2007). However, despite the relevance of all these factors, it is particularly the unprecedented and complex ethical dilemmas of climate change that arguably constitute the most fundamental aspect. They underlie most of the above issues and make it so difficult to define what climate change means politically and to

find a global, robust and fair solution to the problem (Okereke and Coventry 2016; Posner and Weisbach 2010: 4; Gardiner 2004a). Thus, a number of scholars from different disciplines such as philosophy, normative and political theory, law, and also international relations, have discussed questions of environmental and climate justice (Sachs 2014; Shue 1993, 1999; Gardiner 2004a, 2006; Caney 2005, 2010a; Harris 2003; Jamieson 1996; Meyer and Roser 2013; Vanderheiden 2008; Zellentin 2015a, 2015b, 2015c). While I am not able to deliver a comprehensive overview of the entire debate (for an overview see for instance Arnold 2011; Moellendorf 2015), it is possible to single out at least three core dimensions of the climate justice debate.

The first dimension is about the conflict of goals between distributional and intergenerational justice that lies at the very core of all climate justice debates (Sachs 2014; Okereke and Coventry 2016; Gardiner 2004a; Page 1999; Meyer and Roser 2013). While it would be in the interest of all states to mitigate immediately to prevent serious harm to future generations, differences in the states contributions to the problem, their affectedness, but also their capabilities and interests to further grow economically, have so far prevented decisive action and have opened serious rifts between developed and developing countries.

The second dimension does not exclusively pertain to climate justice issues but has sparked fierce discussions in this field. It relates to broader questions about the most appropriate ethical approaches to tackle the above described justice dilemmas. It includes debates between those relying on teleological or consequentialist approaches (Posner and Weisbach 2010) and those that favour non-teleological or deontological ones (Caney 2010a; Sachs 2014; Zellentin 2015c: 129). Beyond that, particularly in recent years several scholars have discussed to what extent 'ideal' or 'non-ideal theory' should form the basis for thinking about climate justice (Zellentin 2015c: 124; Heyward and Roser 2016; Caney 2016b; Gajevic Sayegh 2016).

The last dimension entails key questions concerning the practical implications of the above-described justice dilemmas. Most importantly; how to allocate emission entitlements as well as the associated costs for mitigation, adaptation and compensation measures. In this vein, it also pertains to concrete principles of climate justice, such as the polluter pays or the ability to pay principle, which the literature has come up with to date (Page 1999; Caney 2010a; Gardiner 2004a; Page 2013; Moellendorf 2015).

While it is thought provoking and necessary to approach these aspects of climate justice in an abstract and theoretical sense, it can be difficult to transfer the insights to the actual political struggles (Zellentin 2015c: 122) and to make use of them to find ways of achieving climate justice politically. Thus, from an IR perspective there are a number of aspects that the current climate justice literature has so far neglected, but which nevertheless play an important role in preventing or enabling climate justice. It hence seems to be in order to bring some justice conceptions into the debate that are closer to the actual political negotiations about climate change and that enable us to better understand the enabling and

constraining factors for global climate justice. In the literature, three core conceptions of justice have received particular attention (Eriksen 2016). Firstly, justice as non-domination, which largely focuses on states as the main actors and tries to sketch out pathways to overcome the uneven power relations at the international level (Pettit 2010, 1997; Lovett 2009; Shapiro 2012; Bachvarova 2013; Markell 2008). Secondly, justice as impartiality, emphasising the need for neutral and unbiased approaches to global justice problems and taking into account the needs of states and individuals (Eriksen 2016: 13–18; Kant and Reiss 1991; Føllesdal 2000; Kane 1996). Finally, justice as mutual recognition, largely focusing on societal groups and on achieving a contextualised understanding of the multitude of perspectives and on processes that allow these to be heard and included (Eriksen 2016: 18–22; Schmidt 2007; Anderson and Honneth 2005).

The aim of this paper is thus to discuss how these three conceptions relate to the existing climate justice literature and how a re-reading of key climate justice problems but also of core issues in the political debates through these conceptions might lead to new insights and to pathways of actually furthering climate justice politically and not just philosophically. In the remainder of this working paper, I first discuss how the literature has so far discussed questions of climate justice with an emphasis on the already introduced key justice dilemmas and practical questions of allocation. Thereafter, I introduce the three conceptions of justice and discuss how they can help us in understanding the political struggles about climate justice.

Mapping climate justice positions

Before I start to discuss the key questions of climate justice, a brief look at the scientific basis of climate change and two central issues is necessary.

The role of uncertainty and the maximum carrying capacity of the atmosphere

The first issue concerns scientific uncertainty. Due to the complex nature of climate change involving the calculation of countless variables and the prediction of the future behaviour of the entire global ecosystem, climate models have always contained a considerable degree of uncertainty (Gardiner 2004a: 564; Moellendorf 2015: 181; Zellentin 2015c: 123). However, since the establishment of the Intergovernmental Panel on Climate Change (IPCC) in 1988, the knowledge on climate change has greatly improved. This means that although the IPCC still does not make deterministic predictions and instead operates with risk assessments and probabilities concerning climate change, this is not the same as uncertainty.

There are many different understandings of the concept of risk which I cannot discuss here in any depth (Aradau and van Munster 2007; Clapton 2011; Kessler 2012), yet, climate science largely has operated with traditional risk assessments. These are

typically based on (perceived) robust knowledge about a phenomenon, which allows making justified assessments concerning the probability of certain events and hence to manage ‘the incalculable’ (Beck 2002: 41). By contrast, uncertainty – at least in a technical sense –, or non-traditional, non-linear risks mean the impossibility to give any reasonable probability figures (Gardiner 2004a: 564; Kessler 2012: 22–23). If understood in this sense, the only real uncertainty left in climate science concerns the specific regional impact, the exact magnitude and the timing of climate change and not whether the phenomenon is happening or manmade (Gardiner 2004a: 564). Nevertheless, several climate sceptical actors have tried to use the cautious, non-deterministic scientific language and the remaining degree of uncertainty concerning specific aspects to spread doubt about the necessity to act on climate change (Harris 2001: 20). While this position has received some support in the political debates, particularly in the US (McCright and Dunlap 2011), from a climate justice point of view it is invalid (Moellendorf 2015: 181).

The IPCC keeps operating with risk assessments and margins of probability. For instance it provides either qualitative levels of confidence that range from ‘very low’ to ‘very high’ or quantified likelihoods ranging from ‘exceptionally unlikely’ to ‘virtually certain’ (IPCC 2015: 2). In this vein, the 2015 IPCC report makes it clear beyond any doubt that the basic science behind the phenomenon is well understood, that climate change is happening and that there is a 95 per cent certainty that humans are the driving force behind it (IPCC 2015: v, 2-3). The only noticeable uncertainty in relation to climate change – i.e. the IPCC has not given any concrete probability figures – concerns specific phenomena such as the role of ice sheet collapse or the release of methane from the arctic tundra (Moellendorf 2015: 181). Yet, even if the exact impact of these variables is not yet fully understood, the uncertainty points in either direction. Thus, while some of these phenomena could slow down global warming there are others that could greatly accelerate it (Gardiner 2004a: 569).

Thus, from a justice point of view it seems unreasonable to deduce a justification for inaction only because one can never be 100 per cent certain (Moellendorf 2015: 182). In fact it is fairly common to make political decisions under the condition of some degree of uncertainty at least if the causal mechanism of a phenomenon are well understood (Gardiner 2004a: 565, 567). Just think of the regulation of possibly harmful substances in food processing or medications or the widespread adoption of the ‘precautionary principle’ for various potentially dangerous issues (Mederake and Duwe 2014: 11; Schreurs 2002: 4; Gardiner 2004a: 576). In fact, climate change constitutes one of the prime examples where precautionary action seems to be justified (Moellendorf 2015: 181–182; Gardiner 2004a: 565, 576).

The second relevant scientific issue is the carrying capacity of the earth’s atmosphere, hence the question where we should draw the line above which the amount of GHGs and of global warming is not ‘save’ anymore. Due to the complex nature of climate change, this question cannot and has not been answered in a purely scientific way but from the beginning has entailed a political element. Thus, the IPCC – which by design

merges scientific debates with political influence – and the majority of climate scientists have determined that no more than 2000 billion tonnes of CO₂ equivalent should be emitted globally between 2000-2050 to prevent ‘dangerous interference’ with the atmosphere. This figure roughly corresponds to the famous goal to limit global warming to two degree goal above pre-industrial levels (Page 2013: 233; IPCC 2015: 62). Since it is impossible to ascertain any objective save margin and for want of better alternatives, most climate justice scholars have adopted this goal as the minimum requirement for climate justice and I will follow their lead in this paper.

Distributive and intergenerational justice: a conflict of goals?

Let us now turn to the more central issues of the climate justice debate and to the first dimension, namely the conflict of goals between distributive and intergenerational justice.

Distributive justice

Since the very beginning of the debates on climate change, questions of distributive justice – sometimes also subsumed under corrective justice (Posner et al. 2008: 1570; Zellentini 2015b) – have played a crucial role. They particularly pertain to the relationship between the rich and the poor as well as between developed and developing countries (Sachs 2014; Okereke and Coventry 2016; Caney 2005: 749). The ethical issue stems from the above-discussed scientific hypothesis, that the earth’s atmosphere can only absorb a certain amount of GHGs before it gets dangerous for all and, unfortunately, emissions from individuals or collectives do not stay in the region where they have been emitted. The atmosphere hence constitutes a common resource, or sink which every individual or collective can or should only use to a certain extent (Page 2013: 233; Blomfield 2013, 2016).

The core problem lies in the fact that different people and states have contributed differently to global emissions, thereby also having benefited unequally from burning fossil fuels and at the same time are disproportionately affected by the harmful effects of climate change (Gardiner 2004b: 39). The developed countries owe much of their economic wellbeing and standard of living to the burning of fossil fuels in the past (Okereke and Coventry 2016: 2, 3). Hence, it seems reasonable that they should also be held responsible for cleaning up their mess and above that also possess the economic and technological means to do so (Caney 2010a: 205, 2005: 752; Shue 1993, 1999: 534; Gardiner 2004a: 579). Developing countries on the other hand have so far emitted much less GHGs into the atmosphere and have less resources to abate climate change (Gardiner 2004a: 584–585). Since the amount of GHG emissions has historically been closely related to economic growth some have hence proclaimed that developing countries should be granted a ‘right to develop’ (Moellendorf 2015: 178) or the right to subsistence emissions as opposed to ‘luxury emissions’ of industrialised countries (Shue 1993; Gardiner 2004a: 585). Unfortunately, the most dire consequences of

climate change such as extreme weather events, desertification and the spread of diseases, will materialise not only in developed countries, but on a global scale. To make matters worse, due to geographical factors and a much lower political, economic and technological coping capacity, the implications of climate change will particularly affect the poorest inhabitants of developing countries (WBGU 2007: 2–3; Moellendorf 2015: 180; Frisch 2012: 227; Zellentin 2015c: 126).

The manifold distributional justice issues that arise from this constellation have played a major role in the literature on climate justice but also in the political negotiations where they have been integrated into the UNFCCC (UN 1992: 2) and the Kyoto protocol (UN 1998: 9), primarily under the heading of the ‘common but differentiated responsibility’ (CBDR) (Vanderheiden 2014). In the course of the negotiations, this rather vague principle has led to a distinction between countries that are supposed to take climate abatement measures immediately and those that are exempt from any definitive duties for the time being. This became most apparent in the distinction between ‘Annex I’ (developed) and ‘Non-Annex I’ (developing) countries in the Kyoto protocol. This dichotomy has led to several problems. On the one hand, the clear-cut distinction reinforces the already existing rift between developed and developing countries. The former are supposed to act but have less incentives to do so because they are not as much affected by climate change and the latter have a strong interest in the developed countries to act but themselves want to catch up economically (Sachs 2014: 210). On the other hand, it is problematic with a view into the future, in which the developed world ceases to be the biggest GHG emitter and instead large developing countries such as China and India will fill their place. Thus, recent climate justice discussions have criticised the dichotomy, and the international negotiations as well have seen new alliances that increasingly water down the clear-cut separation of the two camps (Deleuil 2012: 272; Pauw et al. 2014).

From a theoretical perspective, the distributive justice aspect of climate change has often been subsumed as classical ‘tragedy of the commons’ problem, ‘prisoner’s dilemma’ or ‘collective action problem’ (Hardin 1968; Paavola 2015) because everyone would be better off if all mitigated, yet individually countries could be tempted to free ride (Ostrom 1990; Kallhoff 2015; Gardiner 2004b: 28). While this is certainly a viable description of the problem, there has been criticism of classical game theoretical approaches, and Stephen Gardiner, for instance, has pointed out that in practice it is an even more complex game that involves past, present, and future generations (Gardiner 2004b: 25, 29-30).

Intergenerational justice

Thus, questions of intergenerational justice or historical responsibility constitute another key issue of the climate justice debates (Page 1999; Gardiner 2004b: 29, 2006; Caney 2005: 749; Meyer and Roser 2013; Schüssler 2011) and also feature prominently in the political debates’ most relevant documents (UN 1992: 4, 6; IPCC 2015: vii, 95). They stem from the fact that humans have emitted GHGs gradually into the atmosphere and that these emissions tend to stay there over a long time (Moellendorf 2015: 174).

Moreover, it takes a considerable amount of time until enough solar energy is trapped in the earth's atmosphere to lead to a noticeable warming effect. Thus, the harmful effects of climate change do not materialise immediately, but there is a long delay between the cause and the effect that often spans beyond the human life expectancy (Gardiner 2004b: 29). This leads to the problem that while past and present generations have benefitted from burning fossil fuels and emitting GHGs (Caney 2005: 750; Gardiner 2004b: 30), future generations will have to bear the majority of the costs in terms of economic damage and human suffering (Caney 2005: 749; Moellendorf 2015: 174). At the same time, present generations would have to shoulder most of the immediate costs if they wanted to mitigate (and partly adapt to) climate change while the benefits of these actions will mostly be enjoyed by future generations (Gardiner 2004b: 30; Moellendorf 2015: 174; Caney 2005: 749).

Unfortunately, questions of distributive climate justice and the intergenerational responsibilities that arise due to the inertia of the climate system often stand in stark opposition to each other. Moreover, questions of climate policy and justice are almost always linked to a range of other socio-economic problems such as economic growth, poverty reduction, or food security and hence cannot be treated in isolation (Caney 2016b: 15). Solving the intergenerational justice problem, for instance by halting all GHG emissions, would mean to curtail economic development at least to a certain extent, thereby making it more difficult especially for poor people and developing countries to catch up with developed nations and to reduce poverty (Moellendorf 2015: 177–178). This apparent conflict of goals has been one of the major problems in the international climate negotiations from the beginning and has contributed to the described dichotomy between wealthy and powerful developed states and poorer and often politically disadvantaged developing nations. The former have repeatedly pointed to the intergenerational problem and the vulnerability of future generations and hence demanded that all states would have to curtail their emissions (Okereke and Coventry 2016: 4). The latter have often insisted on a 'right to development' and an exclusion of developing countries from mitigation duties to overcome the, from their perspective, much more pressing distributive injustice in the present (Okereke and Coventry 2016: 3). I will explore these tensions in more detail in the section on the practical implications of the broader justice issues.

What kind of Ethics?

The second dimension of the climate justice debates is about broader philosophical debates concerning what kind of ethics is preferable. It touches upon the debates between proponents of a consequentialist or teleological reasoning (Posner and Weisbach 2010; Posner et al. 2008; Frisch 2012) and those that favour deontological approaches (Caney 2010a; Sachs 2014: 209; Page 2013: 241), but it also concerns more recent works on 'non-ideal theory' (Zellentin 2015c; Heyward and Roser 2016; Caney 2016b; Gajevic Sayegh 2016).

Consequentialism versus deontological ethics

There are of course many different approaches within the consequentialist strand, which I cannot discuss here in any detail (Ikeme 2003: 196; Schüssler 2011: 266–267; Jamieson 2013). One of the most popular arguments of the consequentialists, most vigorously defended by Eric Posner and David Weisbach, is that redistribution of wealth through climate agreements is not the most effective way to help the world's poor. This is why they argue that redistribution and climate policy should be kept separate (Sachs 2014: 208, 210, 213; Posner and Weisbach 2010: 73, 2010: 4). Instead, we should focus on welfarist principles such as 'international paretianism' (Posner et al. 2008: 1570) that from their view are both just and feasible and eventually lead to better outcomes for all because they maximise global welfare (Posner and Weisbach 2010: 5).

Others, such as Simon Caney, Henry Shue or Benjamin Sachs, have argued against this view (Caney 2005; Sachs 2014; Shue 1999). They claim for instance that following such a teleological reasoning we cannot even make a compelling argument to abate climate change at all (Sachs 2014: 209, 219). Moreover, they criticise the understanding of redistribution within many prominent teleological approaches as too narrow and often conflated with questions of distributive justice (Sachs 2014: 213, 214). The main idea of their reasoning is that not abating climate change is morally wrong because it clearly 'creates a threat to the life, health and well-being of future people' (Sachs 2014: 220). At the same token, a climate treaty that would threaten present people, such as the poor in developing countries, is equally wrong (Sachs 2014: 220). Thus, according to these scholars we should reject all teleological approaches and instead focus on non-teleological principles that while requiring developed nations to shoulder most of the immediate costs, also gradually enlist growing developing countries after their inhabitants have had a chance to catch up (Shue 1999; Caney 2010b).

Climate justice in a non-ideal environment

Beyond that, more recent works (Gajevic Sayegh 2016; Heyward and Roser 2016; Caney 2016b; Zellentin 2015c) have looked at the question whether ideal theoretical designs are appropriate in the case of climate change, given the less than ideal circumstances in which they would have to be implemented. The literature distinguishes ideal versus non-ideal theory (Rawls 2003: 8, 216) based on several criteria such as fact-sensitiveness, the level of compliance, the degree of perfection of justice principles, and its specificity (Gajevic Sayegh 2016: 3–4). In the case of climate change, the assumptions of non-ideal circumstances and non-ideal theories of justice have particularly focused on two issues. Firstly, non-compliance with climate abatement duties and secondly institutional design (Zellentin 2015c: 124–125). Concerning the first issue the central question is what actors should do if others do not fulfil their responsibilities in abating climate change. Should they compensate by doing more than they originally were required to do, if so what exactly, or are they in this case relieved from their duties as well? (Caney 2016b: 10–11). Regarding the second issue, many authors have diagnosed a continuous failure of the international negotiations but also of the domestic political systems of many states to bring about

effective policies to curb climate change. This has led to questions about the adequacy of existing democratic structures (Zellentin 2015c: 125) and the call for entirely new political institutions and governance structures (Caney 2016b: 11, 2016a).

All these debates about what kind of ethics we need in the face of accelerating climate change are extremely relevant for my above stated aim to inquire into the political relevance of abstract climate justice principles. The last point made by Caney about the non-ideal circumstances of the political environment and the question whether we need entirely new ways of climate governance is of particular interest. It directly touches upon the question raised by Eriksen and others (Eriksen 2016) whether we should first of all try to change the rules of the game that have led to global injustice, instead of focusing on substantive forms of climate justice. While I cannot discuss these ethical questions in more depth in this paper, their practical relevance will become clear when looking at the actual consequences for the key political questions of climate change. Thus, in the following third dimension of the climate justice literature, I will briefly discuss the two most relevant questions, namely how we can fairly allocate emission entitlements and who should be held responsible for shouldering the costs for mitigation, adaptation and compensation measures? In this vein, I also elaborate on the most prominent principles of climate justice, which the literature has developed so far.

Allocation of emission entitlements

Finding a fair way to allocate emission entitlements first requires us to determine the major GHG emitters of the past and present. Here, we immediately touch on the intergenerational justice aspect and on questions of historical responsibility (Meyer 2011; Meyer and Roser 2013; Zellentin 2015b).

Allocation of past emissions or historic responsibilities

On the one hand, the emissions of past generations are responsible for current climate change and on the other hand, its today's mitigation measures that are vital to preserve the future climate (Gardiner 2004b: 30). The tricky part is that emission of GHGs and the warming of the planet did not just start when humans first discovered this phenomenon and began to discuss its political implications in the late 1980s. Instead, the anthropogenic influence on the global climate has been a substantial factor at least since the industrialisation began in Europe in the 18th century (Page 2013: 240; IPCC 2015: 4). Thus, some of the damage is already done, because there is a large share of historical GHGs or past emissions already in the atmosphere that cannot be taken out – at least not in an efficient way with existing technology – and which therefore have to be allocated to someone (Schüssler 2011; Meyer and Roser 2013).

One way to account for this historical climate debt, which at first sight seems to be the most straightforward one, is to start out from an individualistic viewpoint looking for the specific individuals that have emitted most GHGs. This, however, poses an immediate practical problem because many of the past emitters are already dead and

cannot be held accountable anymore. One could of course argue that the descendants of the past GHG emitters should be held responsible (Caney 2005: 756; Shue 1999; Neumayer 2000). However, that also entails practical problems because it would be nearly impossible to directly trace emissions to specific individuals in the past and to their descendants today (Caney 2005: 753). Moreover, it seems unfair to let specific descendants take all the blame because they have no way to stop the past emissions of their ancestors short of inventing a time machine.

Still, some scholars such as Henry Shue or Eric Neumayer have opted for this individualistic approach. They argue that present individuals should be held accountable for their ancestors' emissions because they have greatly benefited from these past emissions that have driven industrialisation and hence created their high standard of living in the present (Shue 1999: 533–537; Neumayer 2000). Yet, there are also various objections to this argumentation, often based on what Derek Parfit has described as 'non-identity problem' (Parfit 1986; Page 1999: 56; Caney 2005: 757). In a nutshell, this means that the specific individuals living today in a world where industrialisation and hence GHG emissions have already happened are not the same that would have been born without it because their ancestors would never have mated (Page 1999: 56). Hence, one cannot say that the standard of living of present individuals has been improved by industrialisation because they would not exist without it (Caney 2005: 758).

While some scholars keep arguing for an individualistic perspective despite its problems (Caney 2005: 760, 765), many have instead prescribed to a collectivist view to overcome the non-identity problem (Page 1999: 61). They focus not on individuals, but on collective actors, such as corporations, communities, or nation-states that have a longer live span than individuals and hence mostly are still around to be held accountable (Page 1999: 66; Caney 2005: 758–759; Page 2013: 232). Out of the different forms of collectives, many scholars as well as the political negotiations have focused on states (Page 2013: 232). Besides their comparably long lifespan, looking at states instead of individuals or corporations has the advantage that they – at least most of them – possess the economic, organisational and political means to legitimately enforce a just solution for climate change. Thus, from an IR point of view and in order to study climate policy, the statist perspective makes sense.

From this statist viewpoint, looking at the historical records, it becomes fairly obvious that it were mostly countries from the Global North i.e. developed or industrialised countries that have emitted the major amount of GHGs until now, although large emerging economies such as China or India are catching up quickly concerning current and historic emissions (Olivier et al. 2015: 4). About 25 per cent of historic emissions between 1850 and 2011 can be attributed to the United States and the countries of the European Union respectively, followed by China (11 per cent), Russia (8 per cent) and Japan (4 per cent). Taken together this accounts for two thirds of the world's historic CO₂ emissions (Ge et al. 2014). Thus, despite the fact that some past major GHG emitting states might not exist anymore or at least not in the same geographical

expansion (Page 2013: 238), this approach still makes it possible to identify a large group of actors mostly responsible for past emissions.

However, the literature again raises some objections to this reasoning (Schüssler 2011). The most important one is about ‘excusable ignorance’ (Caney 2010a: 208; Page 2013: 238; Zellentin 2015b). Before the 1980s, people or governments did not know that GHG emissions caused climate change, hence one could question whether it would be fair to now hold them responsible for the emissions before that time (Caney 2005: 761, 2010a: 208). However, this objection does not hold due to several related points. Firstly, excusable ignorance can only be claimed for some part of the emissions, because from the late 1980s on climate change was well understood so states knew what they were doing and they kept emitting anyway (Singer 2002: 34; Shue 1999: 536; Neumayer 2000: 188). Secondly, since there is no way of undoing past emissions, they have to be allocated to someone to come to a just solution to the problem. Ignoring past emissions would effectively allocate them to all states equally, which does not seem fair either (Caney 2005: 762). Moreover, even though industrialised states did not know about the harmful consequences of their emissions, they have greatly benefited from them, though without being excused due to the non-identity problem (Caney 2005: 759; Shue 1999: 535–536). At the same time, developing countries already suffer and will keep suffering disproportionately in the future due to these emissions, for which they are not responsible.

In conclusion, the literature largely agrees that past emissions matter (Gardiner 2004a: 579) and that mainly industrialised countries should be held responsible for them (Blomfield 2013, 2016). This would justify exempting developing nations from immediate mitigation efforts for the time being (Page 2013: 234; Garnaut 2011: 42–45).

Allocation of future emissions

This brings us directly to the next issue, namely the allocation of future emission entitlements. One way to deal with these future emissions is subsumed under the heading of ‘grandfathering’, meaning that every state would have to reduce its emissions by a certain percentage based on a emission baseline, often the year 1990 (Page 2013: 233; Moellendorf 2015: 177). After what we have already discussed above, this principle seems unfair because it largely ignores past emissions and would grand the past emitters and current high-emitters a larger share of future emissions and hence uphold the unfair advantage of these states vis-à-vis low-emitting developing countries (Page 2013: 233).

Thus, another way to distribute future emission rights would be an allocation on a per capita basis (Moellendorf 2015: 178), often labelled as ‘emission egalitarianism’ (Page 2013: 234). This principle seems to be better defensible because despite some developing countries catching up concerning their total country emissions, their per capita rate is still well below that of developed countries. The per capita principle has been for instance proposed by Shue (Shue 2010). It practically means that the total amount of carbon that climate scientists have determined as maximum carrying

capacity of the atmosphere to keep the global temperature below the two degrees (about one trillion tons of carbon, World Resources Institute (WRI) n.d.) would be divided equally amongst the inhabitants of developed and developing states. Because people living in developed states have already used much or even too much of their fair per capita share, this principle would effectively entail a huge redistribution process. It would give developing countries some time to catch up before all global per capita emissions would have to converge on an equally low level in the future (Garnaut 2011: 42–45; Page 2013: 235).

While intuitively legitimate, the per capita emission allocation idea has also attracted a range of criticisms. Many critics, often based on a teleological or consequentialist reasoning, for instance focus on the practicability and highlight that due to the considerable redistributive effects such a per capita principle would never stand a chance of being accepted by developed countries (Posner and Weisbach 2010). Others, including Caney and Gardiner, criticise it as a fetishism of emissions that does not take into account basic human needs that might require an even larger emission budget, especially in the Global South (Moellendorf 2015: 178; Caney 2011; Gardiner 2004a). This has led to a range of further proposals, that all target the already discussed trade-off between an effective solution to curb GHG emissions, and to establish intergenerational justice on the one hand, and a focus on distributive justice aspects in the present between the developed and developing world on the other hand. Some have thus argued for a ‘right to (sustainable) development’ (Vanderheiden 2008: 64; Moellendorf 2015: 178) or an ‘antipoverty principle’ (Moellendorf 2015: 177), which have to be taken into account when looking for a just solution to the emission allocation problem. By the same token, Shue has made the distinction between ‘subsistence’ and ‘luxury’ emissions and has argued that while the former have to be granted, the latter could be prohibited (Shue 1993). This approach has also been labelled as ‘basic needs’ (Vanderheiden 2008: 64) approach or ‘emissions sufficientarianism’ (Page 2013: 235).

While these approaches circumvent some problems of the per capita principle, there remain further problems. To operationalise such a principle, it would be necessary to clearly ascertain, where basic needs or subsistence emissions end, and luxury emissions begin (Page 2013: 236; Gardiner 2004a: 585). Moreover, emission rights are not the only factor in shaping the lives of people, so granting subsistence emissions could still mean that many other circumstances that prevent a decent life remain unaddressed (Page 2013: 236). Nevertheless, emissions sufficientarianism and the right to (sustainable) development keep playing a central role in the climate justice debate and most scholars share the consensus that they have to be addressed in some way or another in any climate agreement.

Finding concrete principles or the allocation of costs

While allocating emissions entitlements in a just way is an important part of climate justice, it is only one side of the coin, and does not make a lot of sense without discussing concrete ways of dealing with the associated costs of abating climate change.

For some time, scholars such as Bjorn Lomborg (2001) and William Nordhaus (2008), and several politicians, have argued that due to the high costs, mitigation measures would bring about for present generations and hence also for poor people, we should instead let climate change happen and merely focus on adapting to it (Gardiner 2004a: 570, 573). However, at least since Nicolas Stern published its famous report in 2006 (Stern 2006), this view has increasingly lost its appeal. Stern and others have argued that the benefits of decisive early mitigation measures outweigh the costs because without decisive mitigation in the present and near future, the future costs for adaptation or compensation measures could become unbearably high (Stern 2006: 1, 3; Posner and Weisbach 2010: 20, 40). The report estimates that the costs for mitigation will be around one per cent of the global GDP by 2050, which seems quite manageable (Stern 2006: 12). Beyond that, and leaving aside Sterns primarily economic way of putting the argument, without mitigation, climate change will lead to countless irretrievable damage. Examples are widespread human suffering, the extinction of whole nations (e.g. the small island states) and precious ecosystems as well as the loss of cultural heritage around the globe, which all cannot be adequately compensated for (Page 1999: 62–63; Zellentin 2015a; Ikeme 2003). Thus, there is a broad consensus in the justice literature that coping with climate change has to primarily focus on mitigation, even though adaptation and compensation measures will eventually also be necessary due to the already happening damage (Caney 2010a: 205, 2016b: 19).

The polluter pays principle

The most frequently invoked principle to allocate the costs of abating climate change, which on first sight also appears the most straightforward one is the ‘polluter pays principle’ (PPP) or ‘contribution to the problem principle’ (Caney 2005: 752; Page 2013: 237). Leaving aside the ‘micro-versions’ of the PPP that look at individuals (Caney 2005: 753), the macro-version of the PPP holds that the states that have brought about the mess should also clean up after themselves and hence pay for abatement measures (Caney 2005: 754). In practice it would mean that: ‘states should bear the costs of managing climate change and its adverse effects in proportion to their share of cumulative global greenhouse gas emissions’ (Page 2013: 237).

Unfortunately, this principle is not as straightforward when it comes to the practical implementation. As a ‘backward looking approach’ (Page 2013: 238) it requires us to clearly identify the (past) polluters, which raises some of the problems that we have already discussed. Even though we can overcome a few of the problems by sticking to the collectivist position, some difficulties remain, such as linking the causes of climate change directly to specific disadvantageous effects (Page 2013: 237). Moreover, due to the excusable ignorance problem, the PPP would only be unproblematically applicable from the 1980s on (Caney 2010a: 210–211). Beyond that, the PPP does not provide a solution for non-human causes of climate change that, even though nobody can be held responsible for them, have to be paid for by someone (Caney 2010a: 211). Finally, due to the fast growth of large emerging economies such as China and India, the PPP would eventually require them as well to pay considerable amounts for climate abatement, even though their per capita emissions are still low compared to industrialised

countries. This could seem unjust because it would perpetuate the poverty of many people in these countries. At the same time it would absolve wealthier countries such as the US or the members of the EU of some of their duties even though they would still be richer on a per capita basis and could afford to pay more without deteriorating into poverty (Caney 2010a: 212–213).

The ability to pay principle

In response to some of these problems, the justice literature has introduced the ‘ability to pay principle’ (APP). As a ‘forward-looking approach’ (Page 2013: 239; Caney 2010a: 213) the APP does not require to ascertain any past polluter and also does not face the problem of excusable ignorance or non-human causes of climate change. It rests on the belief that eventually someone has to pay for halting climate change no matter who is responsible, and that this someone should be the most advantaged, hence the developed countries, because they would not have to sacrifice any reasonable interests in order to do so (Caney 2010a: 214; Page 2013: 238). Again, the problems begin when we take a closer look at the APP. Some argue that it would ignore historic emissions and equally split the burden between all states above a to be defined threshold of wealth no matter how ‘dirty’ the past behaviour of these states has been (Page 2013: 239; Caney 2010a: 215). Even if one would circumvent this problem by distinguishing between ‘clean’ and ‘dirty’ developers and their share of the burden, one could still ask why the focus is solely on GHG emissions and not on a general distinction between ‘just’ and ‘unjust’ (colonialism, slave trade, etc.) pathways of development (Caney 2010a: 217).

The beneficiary pays

Besides the PPP and APP, the literature has also discussed to apply the ‘beneficiary pays principle’ (BPP) to the climate problem (Page 2013: 240). Its main advantage is that it avoids the problem of establishing a direct link between past polluters and present harmful effects of climate change, because it merely focuses on those who have benefited most from GHG causing activities. The BPP would require states to pay for climate change abatement proportional to the gains they have had from GHG causing activities such as burning fossil fuels etc. since 1750 (Page 2013: 240; Caney 2010a: 210). It is therefore in its outcome similar to the APP, however without ignoring past emissions entirely.

However, it also does not come without any problems. Firstly, it entails a ‘chronological unfairness’ (Page 2013: 240) because it requires present beneficiaries of climate change to pay for its abatement while earlier generations that also benefited did not have to pay (Caney 2006: 473). Secondly, the BPP could become particularly problematic if applied to states that did benefit from GHGs in the past but have since deteriorated economically. Unlike the APP, which only targets wealthy states, the BPP would require the present generations within these poor states to sacrifice a considerable portion of their wealth for climate abatement and hence possibly throw people into poverty (Page 2013: 240). Finally, it could prove difficult in practice to separate the part of the wealth of states that they have acquired due to climate change inducing activities such as burning fossil fuels from the part of their wealth that has come about due to other non-emission related factors such as ingenuity or clever budgeting (Page 2013: 240).

The hybrid principle and climate justice in a non-ideal world

Taking into account the discussed problems of the PPP, BPP and the APP, Caney has suggested to merge these into a 'hybrid principle' (Caney 2005, 2010a). This hybrid principle firstly consists of a 'poverty sensitive polluter pays principle', which means that persons or states would have to pay for climate abatement as long as this does not push them below a decent standard of living (Caney 2010a: 218). To tackle the remainder of problems and costs (non-human factors, excusable ignorance etc.), Caney proposes an adjusted APP, which he terms 'history sensitive ability to pay principle' (Caney 2010a: 218). According to this principle, the responsibility would fall on individuals or collectives that are able to pay but would distinguish between 'just' and 'unjust' pathways to this wealth (Caney 2010a: 218).

Despite the discussed problems, the principles discussed so far all can be defended as internally just from a theoretical or philosophical perspective. However, as pointed out above, the political and economic circumstances in which they would have to be implemented are far from ideal, which calls into question their practical feasibility. Thus, some scholars have focused on principles that would also be defensible from the perspective of non-ideal theory and stand a chance of actually functioning under non-ideal circumstances (Heyward and Roser 2016). One particularly prominent example is Caney's 'integrationist' approach (Caney 2016b: 14). Taking into account the multiplicity of political issues connected to climate abatement (e.g. poverty, food security, economic growth etc.), it gives specific guidelines what to do under the condition that 'some fail to comply with their climate responsibilities' (Caney 2016b: 12). Examples are a slight modification of mitigation targets, taking up extra responsibilities, imposing burdens on non-compliers, or changing the incentive structures to prevent future non-compliance (Caney 2016b: 13).

Consequentialist critique and international paretianism

Beyond that, the above-described principles have come under considerable criticism from scholars working in the consequentialist or teleological tradition. They have criticised them for being too abstract and detached from the political realities and instead have suggested principles that they deem to be more likely to be accepted. Moreover, they have argued that it might be specifically the close interrelatedness of current political negotiations with the above-discussed ideal typical principles of justice that stands in the way of an affective and politically feasible solution to the climate problem (Posner and Weisbach 2010; Sachs 2014).

While there has been a multitude of suggestions, one of the most widely discussed consequentialist principles is 'international paretianism' introduced by Posner and Weisbach (Posner et al. 2008: 1570; Posner and Weisbach 2010: 93, 143). It rests on welfarist considerations and especially on the *pareto optimum* criterion, which entails that a specific distribution is more efficient than others if at least one person is better off while no one is worse off (Posner et al. 2008: 1565, 1570; Moellendorf 2015: 178; Frisch 2012: 225). The authors argue that most of the currently discussed climate treaties and especially principles linked to distributive and corrective justice do not

fulfil this criterion because redistribution between wealthy and poor could be reached better by different policies apart from climate policy (Posner et al. 2008: 1571; Posner and Weisbach 2010: 4, 73). Closely connected, they also maintain that a climate treaty would primarily benefit future generations that most likely will be wealthier than present generations anyway (Posner et al. 2008: 1571). Moreover, they claim that the most just principles are not politically feasible because it is not in the interest of wealthy countries to take decisive mitigation measures while developing countries are largely exempt from taking action (Posner and Weisbach 2010: 79–80; Posner et al. 2008: 1568–1569). They question why big emitter states such as the US, that are not expected to suffer much from climate change, should agree to a climate treaty that would cause them great costs. At the same time, they challenge the assumption that developing countries should be excused because they are much more affected by climate change and hence will benefit greatly from such a treaty (Posner et al. 2008: 1569; Sachs 2014: 208). They even argue that from this viewpoint the United States would have to receive side-payments to compensate them for agreeing to a treaty that does not directly benefit them (Posner et al. 2008: 1570).

Posner et al. do have some valid points, at least from a purely economist perspective. For example the problem that eventually poor people in wealthy states could suffer somewhat from a climate treaty that imposes great costs on their country; or the fact that a climate treaty might not be the optimal way to redistribute wealth or correct past injustices (Posner et al. 2008: 1571). Moreover, dogmatic positions on specific forms of climate justice, i.e. the strict differentiation between developed and developing countries in the Kyoto protocol have in fact complicated the international negotiations considerably and scholars have begun to think of new and more effective ways of reaching climate justice (Deleuil 2012: 277). Finally, even though their specific principles seem debatable, to say the least (Sachs 2014; Frisch 2012), I think, just as the literature on non-ideal approaches to climate justice, they are right in pointing to the necessity to include the political level into the analysis of climate justice. Because in the end it is not the perfect abstract solution but the effective implementation that brings us forward in achieving actual global climate justice.

Developing a new take on climate justice: introducing non-domination, impartiality, and mutual recognition

As the discussions in the previous sections and the UNFCCC quote from the beginning of the paper exemplify, climate change poses various, sometimes contradictory, justice problems. The literature has already come a long way in structuring these problems and in finding convincing answers in a philosophical and theoretical sense. However, relating these ideal typical ethical positions to the actual climate negotiations can be difficult. It can also be unsatisfying in terms of understanding the driving forces behind the political struggles on the ground and in actually overcoming existing global injustice. Focusing on abstract ethical positions to a certain extent obscures key

characteristics of the political realm that are central in preventing or enabling progressive and just climate policies. Examples are the multitude of actors involved, the unequal distribution of various forms of political power, the role of norms and international institutions, the influence of different identities, and the acknowledgement of the diversity of political contexts, in which climate policies have to be agreed upon and eventually implemented.

The key problem is that much of the climate justice literature has not been chiefly developed from an IR perspective. A few scholars have begun to look at ‘non-ideal’ climate justice theory (Heyward and Roser 2016) and in some instances have come up with fairly concrete proposals to allocate responsibilities in the case of non-compliance or to reform political institutions (Caney 2016b). However, most of the climate justice literature does not primarily intend to aide an empirical analysis or to give concrete policy advice but rather constitutes a philosophical take on the issue (Zellentin 2015c: 123). Beyond that, even those that have come up with more concrete advice concerning the political implementation, mostly come from a political theory or philosophy background and hence tend to neglect some of the existing literature and knowledge about international relations and its key dynamics. Thus, most of the justice principles developed here concern what climate justice ought to be on a substantive level or in other words emphasise first-order moral duties. In doing that they have partly neglected the practical or procedural dimension – or second-order duties – how this can be achieved politically (Zellentin 2015c: 129).

Yet, as Erik Eriksen in a recent paper has convincingly argued, it might be more important to focus on amending the (unjust) rules of the game and institutional settings – that have brought about and perpetuate injustice – instead of only on particular unjust outcomes (Eriksen 2016: 2-3). Focusing on the root causes for global climate injustice that are ingrained in specific political structures and unequal distributions of power (Eriksen 2016: 4) will be more rewarding in the long term than developing ever more detailed and theoretically just but eventually politically detached ideal types. This is not to suggest that the philosophical take on climate justice is unwarranted. Instead, I follow the calls of several scholars for a division of labour but also for a bridge building between philosophical/theoretical approaches of climate justice and works that focus on practical pathways to its political realisation (Zellentin 2015c: 133).

A viable approach is therefore to look into literature that is closer related to the political dimension of global injustice and to extract key conceptions of justice from there that focus more on the practical and procedural level. In the following, I will thus focus on three widely discussed conceptions, which also form the basis of the GLOBUS research project, which critically engages with the EU as an actor concerning global (in)justice. In particular, the conceptions are non-domination (Pettit 2010; Bachvarova 2013; Shapiro 2012; Markell 2008), impartiality (Føllesdal 2000; Kane 1996) and mutual recognition (Eriksen 2016; Schmidt 2007; Anderson and Honneth 2005). These conceptions are more attuned to the political struggles and primarily concern the rules of the game and institutional settings that have created (and perpetuate) global

injustices in the first place. In the following, I explore how a re-reading of key climate justice problems through these three conceptions can lead to new insights and help us to make sense of the climate negotiations from a procedural and institutional justice point of view.

Climate justice as non-domination

Justice as non-domination

I begin with the conception of non-domination (Eriksen 2016: 8–13), which is strongly connected to neo-republican theory and its understanding of freedom as freedom from domination (Pettit 2010: 140, 1997; Lovett 2009; Shapiro 2012; Bachvarova 2013). At the core of the conception stands the idea that states remain the key actors in the international realm and are central in causing but also in working against global injustices, despite a rising importance of non-governmental organisations, international institutions, and international law (Eriksen 2016: 11). However, not all states are equally powerful, be it in terms of economic, military, ‘soft’ or ‘normative power’ (Nye 2004; Diez 2005; Sjørnsen 2006a, 2006b). In effect, this can lead to problematic constellations in the international system or international treaties not respecting the will and possibly the wellbeing of all states and their citizens in the same manner, leading to global injustice (Skinner 2010: 100).

Finding ways to alleviate the influence of more powerful states i.e. preventing them from ignoring international agreements or dominating the outcome of the negotiations hence can contribute to more just solutions to global problems. In general, the conception of non-domination does not fundamentally challenge the existing system of states, but aims at improving it in order to ensure a fair system of global governance and to prevent that less powerful states are harmed by the action or inaction of others (Eriksen 2016: 11–12). On a practical level, this endeavour could take different forms. On the one hand, it could mean to build coalitions between less powerful states or between those that are particularly affected or even endangered by certain global problems. The aim would be to prevent harm and unfair decisions and to challenge the domination of powerful states. On the other hand, it could entail to support international norms such as sovereignty or non-intervention, which aim at protecting less powerful states from outside interference. Alternatively, and this partly contradicts the first two approaches and overlaps with impartiality, it could involve the strengthening of international institutions or rules of procedure that preserve the sovereign equality of all states when it comes to having a say in negotiations about global problems.

While promoting non-domination thus can contribute to global justice by preventing (unfair) decisions to be taken without considering the interests of less powerful states, it has its shortcomings and can itself become problematic (see also Markell 2008; Eriksen 2016: 12). Thus, not all forms of domination are essentially bad from a normative perspective, and finding international solutions to pressing collective action problems can necessitate leadership by certain states or coalitions (Falkner 2007; Wurzel and Connelly 2011; Delbeke and Vis 2015). It could also entail to set up binding

international treaties that impose certain rules and behaviours onto all states – which ultimately also holds true for ensuring non-domination. Eventually, this limits the freedom of individual states and interferes with their sovereignty, hence partly running against the idea of non-domination. Beyond these concerns, focusing only on non-domination might be not sufficient to achieve global justice, because it does not aim at fundamentally challenging the status quo (Cox 1981). It largely accepts the current system of states and merely aims at amending it, which neglects many injustices that are ingrained in this very system of states.

Non-domination and climate justice

How can the conception of non-domination enhance our understanding of climate justice problems and how can it help us to make sense of the political struggles on the ground? Looking at the previously discussed debates on climate justice, the conception of non-domination first becomes relevant concerning the question whether individuals or collectives should be held responsible for GHG emissions and abatement costs. Beyond scholarly preferences (Page 1999: 66, 2013: 232; Caney 2005: 758–759), in the actual climate negotiations this question has been largely settled towards a statist perspective. Thus, the two key justice dilemmas, distributional and intergenerational justice have been mainly discussed in relation to the actions and contributions of different states. Non-governmental organisations, corporations, activists and academics certainly have played a role in the domestic struggles that led to the national climate strategies and increasingly have been granted opportunities to directly participate in the COPs, e.g. at the various side-events or in the delegations of states (Corell and Betsill 2001). However, in the end states and their representatives have negotiated and agreed to the central climate treaties such as the UNFCCC, Kyoto and the Paris Agreement. Thus, bringing in the conception of non-domination in order to assess to which degree uneven distributions of power between state actors have played a role in these negotiations and led to injustices seems promising. Additionally, it can help us to identify concrete political strategies to overcome situations of unfair dominance and to envision alternative, more just principles to address central climate challenges.

The unequal distribution of power between different states becomes immediately apparent with a look on questions of distributional climate justice. As I have discussed before, the responsibilities, vulnerabilities as well as capabilities to abate climate change are unevenly distributed between developed and developing states (Caney 2005: 752, 2010a: 205; Shue 1993, 1999: 534; Gardiner 2004a: 579). The international treaties adopted so far acknowledge these imbalances to a certain extent and contain a few instruments to overcome this divide. These are either broad principles such as the CBDR in the UNFCCC, or market instruments such as the clean development mechanism (CDM) and the possibility for joint implementation (JI) in the Kyoto Protocol. Beyond that, the participants of the climate negotiations have agreed upon several financial instruments to support the most affected countries such as the Green Climate Fund, the Environmental Facility, and the Fast Start Financing scheme. However, none of these instruments goes far enough in terms of effectively abating climate change or fully compensating the most affected states for the resulting damage.

Moreover, besides the largely non-binding CBDR, neither of these options fundamentally challenges the underlying power imbalances so that in the end the outcomes of the climate negotiations largely reflect the (short-term) interests of powerful industrialised states.

Especially the US have often prevented binding commitments for the biggest polluters or far reaching promises for compensation to the most affected states not least due to fears of losing ground economically vis-à-vis emerging economies (Harris 2000: 17, 2002: 153; Kraft 2013: 112; Eckersley 2007: 315–319). We can thus identify a relatively clear case of domination, which so far has prevented more appropriate solutions or fundamental changes in the architecture of the climate negotiations. The most dramatic example of the failure to consider the interests of all states equally, no matter their size and influence, is the situation of the small island states. Despite overwhelming scientific evidence that they will cease to exist as sovereign states due to sea level rise in the not so far future (IPCC 2015: 67; Barnett and Campbell 2015; Zellentin 2015a), the existing climate treaties or national pledges so far have not even come close to implement measures that would prevent this from happening (Oels and von Lucke 2015: 64). The same goes for certain geographical areas of many developing countries e.g. large low-lying coastal settlements in Bangladesh (IPCC 2015: 13; Nicholls and Cazenave 2010). In addition, even if they will not disappear altogether, almost all developing countries will face considerable hardships such as droughts, floods, the spread of diseases, and food insecurity (IPCC 2015: 15–16) if the big polluter states will not radically curb their emissions or redouble their financial and technological support of these countries in order to adapt to climate change.

Problems of (unjustified) dominance of powerful state actors also play a role concerning concrete principles to the allocation of emission entitlements and costs for climate abatement. Thus, the idea of emission grandfathering that largely ignores past emissions clearly favours already powerful actors (Page 2013: 233). The same goes for the idea of international paretianism or in general many consequentialist principles that for the sake of political feasibility or economic efficiency argue for less progressive climate treaties or even for side-payments from the most vulnerable states to powerful actors such as the US (Posner et al. 2008: 1570). These approaches at least to some extent accept the status quo as given and hence reproduce unfair structures of dominance. In contrast, other principles addressing the allocation of emission entitlements have tried to overcome the imbalance between developed and developing countries. One concrete example is to focus on per capita emissions. Although focusing on individuals at its core, this principle would nevertheless calculate these emissions for whole states. Due to their comparatively large populations and moderate GHG outputs, this would give developing countries the chance to catch up economically vis-à-vis the developed states, hence alleviating unequal distributions of power to a certain extent. The same goes for similar ideas that focus on the ‘right to (sustainable) development’ (Vanderheiden 2008: 64), an ‘antipoverty principle’ (Moellendorf 2015: 177), or the distinction between ‘subsistence’ and ‘luxury’ emissions (Shue 1993).

All these approaches in the literature either reinstate or challenge certain unequal relations of power and wealth and thus in one way or another can be assessed against the backdrop of non-domination. Unfortunately, the actual climate negotiations clearly mirror and perpetuate the uneven distribution of power between the developed and developing countries. Thus, even though the industrialised states have acknowledged their primary responsibility for past emissions (UN 1992: 2) – hence accepted some form of the PPP – the actual commitments agreed upon so far only to a very small extent implement the principles developed in the climate justice literature designed to overcome this imbalance (Okereke and Coventry 2016: 4).

While the unequal distribution of power and forms of domination are most obvious between the developed and developing countries, this is only one layer of the problem. Especially in recent years, the quick economic growth and increase in GHG output as well as the growing political weight of several emerging economies most importantly China and India, has led to new inequalities (Okereke and Coventry 2016: 3). While quickly becoming major perpetrators in terms of GHG output, these countries have often opposed decisive climate action. Either dismissing restrictions to their emission budget and hence their economy as undue outside interference into their sovereignty or rejecting more progressive policies with reference to their status as developing countries and their moderate historical emissions (Paltsev et al. 2012; Christoff 2010). At the same time, powerful developed states or collective actors such as Germany or the EU have at least tried to consider the interest of the most vulnerable countries and for instance have initiated alliances with the small island states or pushed for international solutions that take into account the needs of the less powerful (Falkner 2007; Jänicke 2011). The climate justice literature has already taken up these shifts in power, but also in responsibility for climate change. Thus, beyond only looking at past emissions and capabilities, concepts such as the ability to pay principle try to take into account the changing political and economic landscapes and at least in the future would require China or India to pay for climate abatement as well (Caney 2010a: 220). Looking at these changing constellations through the lens of non-domination, can sharpen our understanding beyond the idea of distributive justice. It can help us to cut through the complicated political struggles and identify problematic instances of dominance as well as possible ways to overcome these.

Apart from questions of distribution, non-domination can also contribute to our understanding of questions of intergenerational climate justice. Not mitigating climate change in the present hence could be understood as a form of unfairly harming, hence dominating future states or of reproducing the uneven distribution of power of the present international system because already poor states will probably only get poorer when hit by unmitigated climate change. At the same time however, some form of dominance or leadership in the present – for instance by the EU (Wurzel and Connelly 2011; Schreurs and Tiberghien 2007) – might be necessary to reach a robust agreement to prevent this development. This in turn also means that the freedom of individual states will be curtailed to some extent. While this could be justified concerning already powerful and wealthy states, a progressive climate treaty that effectively bans most

GHG emissions could also considerably affect the economic development of developing countries, hence leading to problematic forms of domination. Thus, from the perspective of non-domination it would always have to be accompanied either by exceptions for currently less wealthy states or by substantive financial and technological support from industrialised countries for developing countries.

Enhancing climate justice through non-domination?

What would possible solutions to the climate problem look like from the perspective of non-domination? Anchoring the conception of non-domination more thoroughly in the climate negotiations might be able to overcome some of the existing injustices. It would mean to live up to the claims of the UNFCCC that no state must be negatively affected by the actions of others (UN 1992: 2) and to seriously consider the rights of all states and their sovereign equality no matter how big and powerful they are. In more detail, this would firstly mean to take the past responsibility of industrialised states seriously and to translate that into concrete emission reduction targets because a failure to do so would undermine the rights and sovereignty of the most affected countries. Thus, consequently implementing the PPP in combination with the ability to pay principle would go a long way in reducing unfair instances of domination because it would primarily require the biggest past polluters and currently wealthiest states to mitigate and pay. At the same time, it would spare developing countries for the time being, however not without containing a mechanism to integrate emerging economies in the future.

Apart from specific instruments, taking non-domination seriously could necessitate changes in the political architecture to tackle climate change. Thus, it could entail increased coalition building efforts to contain the influence of powerful states. Most importantly, this would mean more South-South cooperation, i.e. more 'coalitions of the weak' (Narlikar and Tussie 2004), to prevent powerful states from dismissing the legitimate concerns of the Global South. To some extent, this has already happened when several developing countries aligned their positions in the international negotiations (Kasa et al. 2008) or when wealthier developing countries have begun to support the poorest ones. In addition, strengthening non-domination could also mean building coalitions of the more progressive actors to put pressure on the climate laggards. The climate negotiations already contain traces of this approach, for example the progressive the Cartagena Group, the Climate Vulnerable Forum (CVF) or the efforts of the EU to align with the small island states or other strongly affected countries against the US and China (Vogler and Bretherton 2006; Yamin 2010). Such coalitions could be instrumental in breaking up the divide between developed and developing countries, which from the beginning has complicated the climate negotiations. However, and largely in contrast to the aims of these coalitions of progressives, non-domination could also mean to generally dismiss global top-down approaches to curb emissions such as the Kyoto Protocol. The latest Paris agreement can serve as an example for this strategy because it does not prescribe binding emission reductions targets but merely encourages the participants to develop their own nationally indented contributions over time.

Having said that, merely building coalitions could be too weak to actually prevent the continuing domination of various countries. Thus, if thought through to the end, non-domination could also legitimate more far-reaching changes in the governance of climate change. This could for instance entail to not only hold yearly COPs but to establish binding rules of procedure for these conferences that compensate for the gaps in capabilities and influence between the states and ensure an equal say of all states. One possibility could be to restructure the decision-making processes similar to the UN general assembly. As a result, every state would have one vote, and decisions would be taken by simple or two thirds-majority vote, which eventually could favour the majority of currently less well-represented states. However, it also would have to go beyond that, because this mode of representation could easily lead to majority decisions – so to speak the Tocquevillian ‘tyranny of the majority’ (Tocqueville et al. 2006) – that neglect decisive climate action and hence will harm and dominate several countries. In order to recognise the right of all states to keep existing in their present form and not be harmed by environmental changes not under their control (hence be dominated indirectly by the actions of others), it would mean to approach the climate problem from the perspective of the most affected. Thus, one would have to implement procedures that ensure that even a majority of states or a coalition of more powerful ones could not block decisive climate action or at least that the most affected ones are automatically compensated for their losses.

However, such mechanisms partly already fall under the heading of impartiality or mutual recognition. They would most likely create new problems of domination and interference in the sovereign decisions of individual states and hence be problematic itself from the perspective of non-domination.

Problems of non-domination

Having discussed the virtues of non-domination, it is debatable whether it should always be the only guiding principle of the climate negotiations. Forging an effective climate agreement goes against the (short term) interest of some states and their current governments. These states could simply ignore the climate negotiations and the resulting agreements on the grounds of non-interference into their sovereignty or could even build counter-coalitions to prevent progressive climate action – the election of Donald Trump might lead the US in such a direction. In fact, the UNFCCC directly emphasises the sovereign right of all states ‘to exploit their own resources pursuant to their own environmental and developmental policies’ (UN 1992: 2), although with the qualification that these actions ‘do not cause damage to the environment of other States’ (UN 1992: 2). Thus, the negotiations might need some states taking the lead or exercising some kind of coercion and hence dominating the debate to a certain extent at the expense of others to overcome the short-term interests of some (Cripps 2011). From this viewpoint, the leadership of the EU in the past (Falkner 2007: 522; Vogler and Bretherton 2006; van Schaik and Schunz 2012) constitutes a positive form of domination because it aims at forging a long-term solution to climate change that eventually prevents the domination and even extinction of less powerful actors. Beyond these concerns, non-domination alone fails to capture all relevant options for achieving

a just solution to climate change. Firstly, it obscures the legitimate interests and role of non-state actors. Secondly, it fails to capture the central importance of universal norms and international law in convincing states and citizens of the necessity of climate action.

Climate justice as impartiality

Justice as impartiality

Conceptualising global justice in terms of impartiality (Kane 1996; Føllesdal 2000) goes back to Kant, natural law theorists and other proponents of a universal understanding of justice and rights (Eriksen 2016: 13–18; Kant and Reiss 1991) and necessarily starts out from some form of pre-existing theory of justice. It understands justice as a ‘context transcending principle’ (Eriksen 2016: 14) and emphasises the need for neutral, universalist principles and institutions that at least in principal, and based on certain prerequisites, can be considered just or fair from the perspective of all involved parties. It also extends the perspective of non-domination by not looking at states as the only relevant political actors but also including the rights and needs of individuals. Impartiality thus goes beyond the idea of amending the existing international system of states. Instead, it means to actively transform this system, to strengthen law-based orders to deter dominance and power inequalities as well as to eventually build a cosmopolitan community of individuals. In the long term, disputes in the international realm are to be decided by an impartial third party, which in practice entails to strengthen international institutions such as the UN, the ICC, cosmopolitan law and the rights of individuals. In effect, this also means to interfere in the sovereign decisions of states, which hence could clash with the principle of non-domination. An extreme example would be the responsibility to protect (Bellamy 2010) and resulting humanitarian interventions (Holzgrefe and Keohane 2003) to rescue oppressed people even against the will and military force of the state they live in. The conception of impartiality thus is a useful addition of non-domination and is able to address some of its shortcomings and blind spots.

Having said that, impartiality as well comes with a range of problems. It cannot escape the situatedness and dependence on specific contexts of all claims of justice. What some would see as neutral and universal position, will certainly be perceived as biased by others (Ashley 1988; Ashley and Walker 1990), as the various disputes about the extent and applicability of human rights exemplify (Donnelly 1999, 2007). Eventually, some will perceive the strengthening of international institutions, specific policies and cosmopolitan law as a form of domination and interference in their sovereignty. A seemingly impartial understanding of global justice that aims at curtailing the influence of states and strengthening neutral third party institutions will thus nonetheless always invoke strong opposition. In the current system of states, it hence seems rather unrealistic to establish such a system any time soon. Moreover, to be accepted by all or at least many, impartial norms would always have to be phrased in fairly general terms because the more specific they get, the more resistance they will invoke (Wiener 2007a). Finally, strengthening a certain set of norms that allows to interfere in the

sovereignty of states runs the risk of being exploited for imperialistic or selfish reasons. Nevertheless, impartiality certainly is a useful extension of the principle of non-domination and as the following paragraphs exemplify is key in forging an effective climate agreement.

Impartiality and climate justice

How can the conception of impartiality help us to re-read the climate justice literature? First of all, it reminds us of the relevance of an individual or non-state dimension of climate change and justice (Schroeder 2010; Schroeder and Lovell 2012). Even though several authors have shown why a collectivist position makes sense, and despite the fact that the international negotiations primarily focus on states, there exist considerable injustices on the individual level. Thus, notwithstanding the fact that it seems reasonable to hold states responsible for the cumulative emissions output, it is possible to focus on individuals when it comes to the harmful effects of climate change. The vulnerability towards the negative effects of climate change is often directly linked to the economic position and living conditions of individuals (Kelly and Adger 2000; Füssel and Klein 2006). Hence, the majority of scientists, activists and politicians rightfully claim that the poorest parts of the population will be hit first and hardest by climate change due to a heightened vulnerability and a lack of coping capacity (Eakin and Luers 2006; O'Brien et al. 2007; Parry et al. 2007). Thus, while the international solutions to climate change have to be negotiated and implemented at the state level, from an impartial justice perspective the needs and 'human security' (Barnett et al. 2010) of individuals cannot be ignored.

This becomes all the more important with a view on the vast differences in the wealth of individuals within countries. Thus, as natural disasters – i.e. at the same time socio-political disasters – such as the 2005 hurricane Katrina in New Orleans have shown that even within the world's wealthiest countries there are large parts of the population that lack the necessary coping capacity to deal with climate change and its effects (Giroux 2006; Masquelier 2006; U.S. Government 2006). At the same time, even the poorest developing countries contain elites that will be able to adapt to climate change without much effort. Consequently, a truly just solution to climate change cannot dismiss these individual differences.

Moreover, cutting into the black box of the state through the lens of impartiality also enables us to see the domestic political struggles that often prevent states from agreeing to progressive international solutions (Harrison 2000; Harrison and Sundstrom 2010). It exposes the sometimes contradicting interests of different groups in the population, for instance coal workers or people living in low-lying coastal areas, which somehow have to be accounted for if one wants to implement an impartial solution. Furthermore, it reminds us of the role non-state actors play in the negotiations but also in terms of causing the problems and in implementing policies that have been agreed upon on the state level (Bulkeley and Schroeder 2012; Schroeder and Lovell 2012; Raustiala 2001). For instance, market-oriented approaches such as emission trading schemes or the CDM often apply beyond national borders and crucially depend on the participation of

corporations. In a similar vein, the concrete actions of individuals, their dietary choices, their means of transportation or their forms of housing play an important role in generating but also in overcoming excessive GHGs and global injustices (Paterson and Stripple 2010; Carlsson-Kanyama and Gonzalez 2009). Finally, an individualist perspective also brings to the fore the problem of GHG emissions that are not directly emitted in one country. Thus, even though a state such as Germany may have reduced its GHG output considerably since 1990 (Weidner and Mez 2008), the production of goods and services all over the world that are consumed in Germany produces emissions as well, which do not show up in their entirety in state based emission figures (Noleppa and WWF 2012).

Beyond the focus on the role of the individual level, the conception of impartiality also can help us in assessing the dilemmas and principles developed in the climate justice literature. Firstly, it reinstates the crucial importance of scientific findings and even more importantly of scientific-political and multilateral institutions such as the IPCC that bring together scholars from all over the world to forge some kind of consensus or ‘impartial’ position concerning the nature of climate change and the necessary political and technical steps to prevent or alleviate it (Oreskes 2004). Without such a consensus and appropriate institutions to forge and disseminate it, developing a shared impartial position on climate change would not be possible, which is why the climate justice literature heavily rests on the findings of climate science. Only by accepting the scientific consensus, i.e. some impartial point of reference, further debates about justice dilemmas or practical solutions become possibly in the first place.

Secondly, focusing on impartiality largely decides the debates between consequentialist or teleological approaches and non-teleological or deontological approaches towards the latter. From an impartial perspective, finding a solution to the climate problem cannot be guided by questions of political feasibility or economic efficiency but has to build on more universal concerns such as preventing harm for present or future generations (Sachs 2014: 214). Thus, in addition to posing problems from the perspective of non-domination, popular consequentialist principles such as emission grandfathering as well as international paretianism largely are incompatible with an impartial solution to the climate problem. At the same time, an impartial standpoint cannot just aim at abating climate change not matter the consequences but would have to address both distributional and intergenerational justice. Harming either present people by imposing too strict mitigation commitments that curtail economic growth, or future generations by failing to prevent the worst climate scenarios would violate the criterion of an universally – hence also across generations – just approach. Due to its strong links to moral philosophy and ethics, naturally, most practical principles that the climate justice literature has come up with largely concur with the criterion of impartiality (Zellentin 2017). Enlisting first of all the biggest polluters to mitigate GHGs as well as to require the most wealthy ones to pay for the associated costs, which in combination amounts to the previously discussed ‘hybrid principle’ seems immediately justified from this perspective.

Unfortunately, the biggest problems do not lie in finding solutions that are just in the sense of impartiality in principle, but in implementing those principles under non-ideal circumstances (Caney 2016b). On a general level, most states accept the scientific consensus and most of what the climate justice literature has come up with. Consequently, they agree that the industrialised states are primarily responsible (PPP), that the wealthier states have to act first and support the poor (CBDR, APP, BPP), and that developing countries need to be given time to catch up but will have to contribute in the future (right to sustainable development, antipoverty principle, emissions egalitarianism). Yet, this support increasingly diminishes when it comes to actually translating those principles into concrete policies and implementing them on the national level. Thus, the international negotiations on climate change by their very nature have always entailed traces of impartiality and have emphasised the importance of international institutions and cosmopolitan law. The whole idea of agreeing on a global treaty to climate change rests on the belief that there does exist some form universal solution that can accommodate for the interests of all and hence be considered fair and justified by all.

Nonetheless, the political solutions developed so far differ considerably concerning their strength and specific instruments and in general do not entirely fulfil the criterion of impartiality. In part, this is due to power inequalities and instances of domination. Hence, short-term interests of individual states and fears of interference into their sovereignty often stand in the way of long-term universal solutions. Yet, beyond that, an important reason is also the difficulty to specify general principles or norms without generating contestation (Wiener 2007a, 2007b). Accordingly, translating impartial solutions, agreed upon at the international level into a multitude of domestic contexts, bears a number of problems and creates new injustices.

A look at the existing climate negotiations exemplifies some of these concerns. The UNFCCC, while including very general universal notions i.e. the emphasis on 'preventing dangerous interference in the climate system' (UN 1992), leaves much room for individual interpretations of how to reach the overall goal, and thus is less dominating, very inclusive, but also less effective. The Kyoto Protocol on the other hand, focuses much more on the international level, top-down approaches and contains quite specific targets and measures to combat climate change, but also to compensate for different abilities of the participants. While that increases its degree of impartiality, it also prescribes specific solutions and thus interferes with the freedom of individual states and creates contestation. Its specificity and progressive nature, but also the (implicit) claim to be the only viable solution to the climate problem – hence the ambition for impartiality – has prevented several states from joining, while at the same time, even the Kyoto protocol is far away from a truly impartial solution. This is also true for the past efforts of the EU to exert leadership in the climate negotiations. While the EU itself has adopted quite progressive climate policies and hence has lead by example, it had considerable difficulties to convince others to follow suit. An important hindering factor was the specificity of the policies that the EU tried to promote and also

the at least implicit conviction that these were the most impartial or best ways to abate climate change (Kilian and Elgström 2010; Springer 2008; Falkner 2007).

Finally, the latest Paris agreement seems to account for these problems to a certain extent. It balances both impartiality and non-dominance as it contains very progressive targets – e.g. the 1.5 degree goal, reaching carbon neutrality until the mid-21st century – but at the same time does not come up with top down measures, but leaves it up to the participants how to reach these goals (Dröge 2016; UN 2015).

Enhancing climate justice through impartiality?

What would a truly impartial solution to the climate problem look like? Focusing primarily on impartiality would mean to transform the international system much more fundamentally than non-dominance would require. It would entail to radically develop the supranational, multilateral governance of climate change and to strengthen the decision-making and enforcement power of international institutions. Furthermore, a focus on impartiality would require us to strictly act on the premises of climate science and the recommendations of the IPCC and to implement measures that would ensure meeting the 2 or even 1.5 degree target. At the same time, it would mean to take into account the political and economic realities of less wealthy states and their populations and to find ways of supporting them to reach the ambitious climate targets, or to fully compensate them for their losses. In practice, this would require to set up a UN Climate Organisation with the power to enforce decisive emission reductions by the biggest polluters – for instance by imposing economic sanctions or by issuing substantial fines – and with considerable funds to provide financial and technological support for less wealthy countries. At the same time, one would have to ensure that this organisation is governed by fair rules of procedure that take into account the voices and legitimate concerns of all states, but also of the most affected individuals. This could also entail to strengthen the rights of individuals on the international level and their opportunities for judicial review if they think they are harmed by the effects of climate change or to strengthen the rights for so-called climate refugees.

Problems of impartiality

While all this seems to be quite agreeable on first sight, radical impartiality also comes with a range of serious problems (Eriksen 2016: 17–18). First of all, despite the overwhelming scientific consensus that climate change exists, there always remains some uncertainty regarding its exact effects and magnitude. This becomes even more problematic when it comes to specific approaches how to abate climate change, hence seriously diminishing the impartiality of these findings (Castles and Henderson 2003; Goodess et al. 2007). For example, whether top down regulations and binding mitigation commitments or bottom up market measures are more just cannot be decided in an entirely neutral way. Thus, a truly impartial solution concerning concrete measures is even in principle difficult to envision. This becomes even more problematic with a view on the existing institutions such as the IPCC or the sketched out idea of a UN Climate Organisation. These can never be entirely impartial institutions as they are the result of political struggles that entail power inequalities and diverging interests

that necessitate a form of compromise (Jobst 2010). Impartiality, however, in principle is at odds with such a compromise, because it presupposes the existence of an ideal typical solution that is just in its own right independently from political struggles or the procedures of its development. Moreover, creating a powerful, centralised climate organisation immediately raises concerns about its democratic accountability as well as concerning the danger of imperialist or interventionist ambitions. Finally, given the experience from other policy fields and from the existing climate negotiations, it seems highly unlikely that states would agree to establish such a powerful third party (Barrett and Stavins 2003).

Thus, seemingly impartial international top-down approaches to climate change will always be perceived by some as inherently biased by the interests of specific states or interest groups. In addition, even though accepted on a general level, the specific measures to implement climate protection will always be contested. This raises serious concerns about the political feasibility of an exclusively impartial approach to climate justice, which, cannot be ignored entirely. A solution could lie in acknowledging the multiplicity of viewpoints of a range of actors and the need to take into account the specific contexts in which climate measures have to be implemented, which brings us to the third conception of justice, namely mutual recognition.

Climate justice as mutual recognition

Justice as mutual recognition

The conception of mutual recognition (Eriksen 2016: 18-22; Schmidt 2007; Anderson and Honneth 2005, 2005) directly ties in with one of the core problems of impartiality, namely that apparently universal norms can become problematic when transferred to different contexts. Moreover, it acknowledges the problems that come with the Western or European bias in much of the literature underlying impartiality in particular and moral philosophy in general (Hobson 2012). From this perspective, justice is thus not a universal or neutral value that applies to all and in every context in the same manner but an inter-subjective category (Eriksen 2016: 20). In practice, this means that what is just is not decided prior to the political struggles but directly in processes of deliberation among all affected parties (Eriksen 2016: 19; Young 2011). The focus is on creating legitimate rules of procedure that in the end increase the legitimacy of the resulting decisions. It means that the decision making procedures have to be shaped in such a manner that they take into account the multitude of different identities (be it individuals, groups or states) and ensure that all voices are heard and recognised by each other. The aim hence would be to develop participatory processes and institutions in which justice claims can be discussed with an eye on the specific contexts in which they will be applied and eventually to create a sense of ownership among all involved parties. A good example for this understanding of justice is the practice of 'participatory development' that has become more and more common in the development aid sector since the 1980s. The core aim is to not impose certain 'perfect' solutions from the outside onto people, but to include all relevant stakeholders in the very development of

the solution and hence to make it more legitimate and enduring for the people that eventually have to live with it (BMZ 2002; Mohan and Stokke 2000).

While certainly advancing our understanding of global justice, mutual recognition as well has its shortcomings. Thus, it is unclear where we should draw the line between hearing all voices and actually integrating their concerns in the resulting decisions. Recognising and including the standpoints of all involved parties could very well lead to much less demanding conceptions of justice that eventually only represent the least progressive common denominator. Moreover, focusing on including all parties into the process may underestimate the influence of existing power inequalities and the need for strong institutions to deter domination (Eriksen 2016: 22). Beyond that, the conceptions raises questions as to who decides about which collective identities and standpoints are legitimate and have to be included in the deliberative process. An unreflect understanding of the conception thus may neglect that actors will try to take advantage of the negotiating process and misuse it as gaining dominance over certain issues or blocking decisions altogether. Finally, it is questionable how one can clearly assess that an outcome of such deliberative process is truly just without reference to any kind of impartial criteria. In other words, would every outcome of such negotiation processes be just, even if it fundamentally neglects the (long-term) interests of some actors or those of future generations?

Mutual recognition and climate justice

What new insights can the conception of mutual recognition generate concerning climate justice? Firstly, the conception is somewhat flexible when it comes to the level of analysis i.e. the legitimate actors involved in the process, as it would in principle apply to states, groups or individuals as long as they are affected by climate change or by the decision how to handle the phenomenon. In this vein, it can sharpen our sense for actors that from the perspective of non-dominance or impartiality fall through the cracks. Examples are indigenous groups that are neither states nor individuals but nevertheless are affected by climate change and have a specific standpoint about the issue (Tsosie 2007; Schroeder 2010); but also corporations that play an important role in driving climate change in the first place, but potentially also in contributing to its abatement (Kolk and Pinkse 2007; Dunn 2002). From the perspective of mutual recognition, one would have to find better ways in the climate negotiations to integrate the positions of all affected societal groups, which eventually would also improve the legitimacy and possibly the prospects for implementation of the adopted measures.

Beyond these thoughts on actors, mutual recognition can also help us to see the discussed climate justice dilemmas in a different light. Let us begin with the conflict of interest between distributional justice in the present, especially in terms of having the freedom to expand the economy to overcome poverty, and intergenerational justice, which eventually entails to adopt binding emissions reduction commitments that could curtail economic growth. From the perspective of mutual recognition, we cannot ignore either of them because both concern legitimate interests of present or future actors, which are seriously affected by the resulting decisions. In practice, the conception of

common but differentiated responsibility (CBDR) together with the pledge to ‘prevent dangerous interference with the climate system’ (UN 1992), which both have been enshrined in the climate negotiations since the adoption of the UNFCCC can be understood as a form of mutual recognition (but also of non-domination). Together these principles try to consider the legitimate interests of all affected parties in the present i.e. economic prosperity or overcoming poverty, without jeopardising the interests of future generations. The devil, however, is in the details and in the specific implementation of these abstract principles; because so far the unequal levels of power have prevented that all interests are recognised beyond a mere lip service. Thus, even though the CBDR reflects the interests of many developing nations to not having to reduce emissions for the time being, industrialised states so far have failed to cut their GHG output in an appropriate manner or to provide sufficient support for the most affected countries to adapt to climate change. This raises at least two problems.

Firstly, due to the fact that climate change is not abated effectively, the adopted solutions so far clearly do not reflect the interest of all affected parties. For instance, they neglect the interests of the small islands states, which will almost certainly disappear due to sea level rise (Zellentin 2015a) and also fail to take into account the viewpoint non-state actors such as indigenous groups (Tsosie 2007; Schroeder 2010). Their characteristic ways of settlement and culture, hence their very survival as a distinct group may be particularly at risk due to climate change because they live in especially fragile environments such as the arctic circle or coastal wetlands (Tsosie 2007; Zellentin 2015a). While the small island states largely were unsuccessful to enforce their demands due to a lack of power, indigenous groups face even greater challenges due to the general lack of agency in the current architecture of the climate negotiations that primarily focuses on states. Thus, these examples show that even though the international negotiations have found measures that address some of the key problems on an abstract level, the crucial part is their concrete implementation. Climate justice hence cannot end with finding such principles on an abstract theoretical level or agreeing to them in international treaties but has to address the domestic and local level as well.

Secondly, looking at the existing negotiations through the lens of mutual recognition highlights the structural problem that it is difficult to recognise the interests of future generations. Short of a time machine, they have even less opportunities to voice their concerns than non-state actors, yet somehow would have to be included in the negotiations if we were to take the conception of mutual recognition seriously. One would expect that improving the decision making procedures and making them more inclusive and participatory would facilitate the voicing of concerns for future generation. However, while mutual recognition reminds us of this problem, it cannot alone provide a solution and probably can only become effective in a combination with impartial goals derived from climate science or moral philosophy.

How does the conception of mutual recognition relate to the principles discussed in the climate justice literature? Looking at the battles over teleological versus deontological

principles, the assessment is less clear than from the perspectives of non-domination or impartiality. Because justice is not understood as a universal value, detached from the deliberations around it but as an intersubjective category, it really depends on the positions of the actors involved in the negotiations and on the specific form of such debates. Thus, if a fair and inclusive process of deliberation concludes that climate justice is better served through politically feasible and cost-efficient measures, this can very well be seen as the most just approach, despite the fact that this may be problematic from an impartial perspective. The problem however, lies in the fact that it is difficult to ascertain whether the process that eventually led to this outcome was truly inclusive and free from any form of domination that could have biased the adopted solutions. Additionally, as elaborated above, without any reference to impartial values or sophisticated procedural rules that insure that the interests of future generations are included in the process, the resulting solution could overly reflect the short-term interests of present generation and thus lack a progressive element.

Having said that, the conception of mutual recognition is very helpful in critically assessing the utility of ideal typical climate justice conceptions – similar to what scholars in the non-ideal theory tradition have done. While conceptions such as the PPP, APP and the hybrid principle can be very convincing when discussed at a theoretical level, their actual implementation will always be contested. Thus, it seems immediately justified that the biggest past polluters would have to bear most of the costs and that the wealthier countries would have to substantively support the less wealthy and most vulnerable countries. However, translating this into concrete political arrangements and somehow coercing states to abide to these principles will be difficult (Caney 2016b). Additionally, even these principles are not entirely impartial and thus far from a perfect solution. Given these problems, it might be more appropriate to focus on establishing fair and inclusive procedures and to change the underlying political structures (Caney 2016b: 22) without *ex ante* prescribing ideal solutions. Politically this could be more promising because it does not scare away participants by insisting on too demanding principles of justice and also can establish a sense of ownership for the resulting agreements because all parties were involved in their creation. This could also contribute to overcoming the increasing scepticism towards allegedly ideal solutions developed by expert communities that are claimed to be without alternatives and that have been particularly influential concerning climate governance (Bäckstrand and Lövbrand 2016; Kennedy 2005). The IPCC has had problems in the past with such allegations and also has been accused of not being a neutral institution due to an overrepresentation of western scientists (Der Spiegel 2010; Watts 2010). Focusing on improving the processes of deliberation, would reinstate the political, hence would re-politicise the debates and thus improve their democratic legitimacy.

The existing climate negotiations can serve as an example for these considerations. The Kyoto protocol leans heavily towards an impartial principle and includes fairly specific and demanding top down forms of regulation. This has led to considerable opposition during the negotiation process, and eventually resulted in the withdrawal of several

parties, which seriously diminished the actual impact of the protocol (Eckersley 2007; Gardiner 2004b). In a similar vein, the 2009 COP in Copenhagen was one of the biggest failures of the climate negotiations not least because several European countries went into the negotiations with quite elaborated, and seemingly superior ideas how the end result should look like that basically resembled the Kyoto protocol. In combination with a sometimes problematic and non-transparent way of conducting the negotiations and the resistance of powerful actors such as the US and the BASIC countries, this led to the disappointing and non-binding Copenhagen Accords (Christoff 2010; Falkner et al. 2010; Dimitrov 2010; Kilian and Elgström 2010). In stark contrast, the following negotiations that eventually led to the latest Paris Agreement as well as the agreement itself followed a different path. They were less determined to come to a specific form of agreement or perfect solution and instead focused more on an inclusive process and eventually on an agreement that although having great ambitious recognises the need for a multitude of different approaches by different actors to eventually reach this goal (Okereke and Coventry 2016; Dröge 2016). The result is a much more bottom up approach that seems less demanding and progressive – and certainly is so from an impartial perspective – but eventually could still yield better and even more just results (Ahrens 2017).

Enhancing climate justice through mutual recognition?

Thus, having in mind the previous discussion, in order to push climate justice towards the pole of mutual recognition, the focus does not lie on a specific form of result, but on shaping the process and on making sure that the conditions that lead to the result are as inclusive and fair as possible. In practice, the ideal typical principles partly overlap with what the other conceptions of justice would require. One would have to reform the decision making process within the COPs to make sure that all affected parties are represented and able to voice their concerns be it states, individuals or other groups (Nasiritousi et al. 2016; Araya 2015). Moreover, taking mutual recognition seriously would require to make sure that the decisions take into account the diverse contexts in which they would have to be implemented. Thus, they would have to entail a certain amount of indeterminacy under which different forms of implementation can be subsumed. The CBDR but especially the Paris Agreement with its bottom up focused INDCs can be understood as an important step in this direction. Moreover, in the political negotiations preceding the actual COP in Paris, important actors such as the EU displayed several behaviours and negotiating strategies more in line with mutual recognition. Thus, the EU had restarted its Green Diplomacy Network in 2009 and hence was much more inclined to listen to what third countries had to say about climate governance instead of trying to impose an ideal typical EU position (Ahrens 2017; Davis Cross 2017).

Beyond that, incorporating mutual recognition more strongly into the climate regime would necessitate the creation of much more elaborated rules of procedure with a particular emphasis on creating an institutional space for various groups of non-state and indigenous actors. In general, mechanisms for political and institutional learning would have to be further developed to not only listen to all voices but to actual

implement diverse concerns and approaches. All this would not only have to take place within the international negotiations and concerning the global climate regime but also on a bilateral or regional basis. In sum, all these measures could help to increase the legitimacy of the adopted solutions and hence also their chances of actually being implemented on a broader scale.

Problems of mutual recognition

Having said that, approaching climate justice from the perspective of mutual recognition only could create serious problems. It will certainly not be possible to create an ideal typical Habermasian arena of domination-free or non-authoritative discourse and hence the results of these deliberations will always have to be taken with a pinch of salt concerning their representativeness. Here, the conception of non-domination and the focus on power inequalities would also have to play an important role. Moreover, without any impartial criteria, integrating the legitimate concerns of future generations will be difficult, which runs the risk that the adopted measures will not be very progressive. While this would not be a problem from the perspective of mutual recognition alone, a holistic take on global justice cannot ignore this problem. In the same vein, a focus on recognising the concerns of all parties in an equal manner, certainly undermines the scientific consensus, which at least comes close to an impartial solution. This could empower climate sceptics or actors that want to sabotage the negotiations due to short term interests. The US debates about climate change are an interesting example in this respect. Due to an overly strong focus on including all positions into the debate, and a journalistic ethos for 'balanced' reporting, minority climate sceptical positions, often backed up by powerful fossil fuel companies, have often received a similar amount of attention as the positions based on the mainstream scientific consensus. This has eventually led to a problematic polarisation of the political debate that has undermined fact-based debates and prevented progressive climate policies from being adopted at the federal level (Eshelman 2014; Pazzanese 2016; McCright and Dunlap 2011).

Conclusion

In the first section of this paper, I have discussed the existing literature on climate justice and extracted the main justice dilemmas and questions. While the literature certainly has come a long way in structuring the main dilemmas and developing specific principles to cope with climate change, it has mostly done so on an abstract philosophical level. Thus, it has been mainly concerned with what climate justice ideally should be. While this is not a problem in itself and certainly an indispensable first step, it does not really give us a guidance to assess the political debates about climate change. Thus, what this literature – apart from notable exceptions in the non-ideal theory tradition (Caney 2016b; Gajevic Sayegh 2016; Heyward and Roser 2016) – has largely neglected, is how climate justice could be achieved politically, how the rules of the political game would have to be changed to provide a fair playing field for global climate justice. To overcome this blind spot and to contribute to building bridges

between political theory/philosophy and IR concerning climate justice, I have introduced three conceptions of justice – non-domination, impartiality and mutual recognition –, which are more closely concerned with the political struggles and questions of procedural justice. The aim was to provide a re-reading of the climate justice literature and of key political decisions through the lens of these conceptions in order to focus more on the question how one can achieve climate justice politically.

As this discussion has shown, such a change of perspective can generate interesting insights and provides some food for thought for alternative political pathways. Introducing the non-domination, impartiality and mutual recognition has emphasised how we have to consider different categories of actors but also different levels of referent objects when it comes to politically achieving climate justice. It has highlighted how the uneven distribution of political power is still one of the main hindrances to just agreements on climate change, but also that seemingly impartial solutions that try to impose a specific understanding of climate justice come with their own set of problems. Moreover, looking at climate justice debates through the lens of mutual recognition refocuses the attention towards the procedural character of climate justice and reveals possible pathways to improving the quality of the deliberations. Finally, the discussion has also shown that none of these three conceptions of justice alone can provide a convincing understanding of climate justice, but that only their combination can bring us forward in sketching out feasible pathways to just political arrangements. Beyond that, including these three conceptions of justice can be helpful in linking the abstract climate justice positions to the actual political struggles and to better understand the problems that arise with the concrete implementation of abstract principles. Most importantly, bringing in the conceptions of non-domination, impartiality and mutual recognition re-instates the central importance of the political nature of the international negotiations on climate change. It reminds us that discussions about climate justice cannot be conducted without also thinking about the political factors that may constrain or enable specific solutions and thus re-politicises the discussion on climate justice to a certain extent.

While I could only present some tentative insights in this paper, I hope that this can contribute to sparking a fruitful research agenda on climate justice that does not primarily focus on the theoretical or philosophical level but on the actual political struggles, which in the end will be crucial in finding just solutions to the climate problem.

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