

Equity and Differentiation in 2015 and Beyond

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UNFCCC Article 3 - PRINCIPLES

The Parties should protect the climate system for the benefit of present and future generations of humankind, on the basis of **equity** and in accordance with their common but **differentiated responsibilities** and respective capabilities. Accordingly, the developed country Parties should take the lead in combating climate change and the adverse effects thereof.



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- Major questions about differentiation in the international climate negotiations include what the global burden is; which country characteristics should be used to differentiate obligations; and what kinds of country categories should be designed.
- Although the 2015 agreement accords considerable importance to differentiation, there are several limitations, given the scope of transformation required for global mitigation and action on climate-impacts.
- Challenges of differentiation, as it is currently framed, include its zero-sum, burden-sharing approach, and the continued ambiguity about such key concepts as capabilities and national circumstance.
- In order to support broad and deep collective action post-Paris, differentiation will need to address climate impacts better, and work towards including the possibility of benefits from climate action within differentiation discussions.
- In addition, post-2015 discussions about equity should be expanded beyond differentiation amongst countries at the aggregate level per se, examining how UNFCCC mechanisms could be designed to ensure that they shift opportunity structures in ways that will reduce inequality during transformational changes.

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Introduction

Equity is at the heart of international climate negotiations, for three distinct but interconnected reasons: the profound disparities in human wellbeing globally; the pattern of historical emissions is deeply uneven; and the correlation between those who are least well off, those who are likely to face greatest climate impacts, and those whose emissions have been the lowest. Equity ‘matters’ – both because of the value of a more equitable world where more people can live dignified lives; and because, in a system of sovereign states, only arrangements that seem ‘fair’ are likely to be implemented.

UNFCCC Article 3 states that the Parties ‘should protect the climate system for the benefit of present and future generations of humankind, on the basis of equity and in accordance with their common but differentiated responsibilities and respective capabilities (CBDR-RC)’, and that ‘developed country Parties should take the lead in combating climate change and the adverse effects thereof’.¹ Despite agreement on these principles, operationalizing them has proven difficult. This policy brief provides an overview of these discussions and summarizes key questions in the differentiation discussion in the lead-up to a 2015 agreement. It then considers ways of augmenting the differentiation and equity discussions beyond 2015 for better alignment with the scale of transformations required by climate change.

Looking Back to Look Forward

Concerns about equity pre-date and extend beyond the climate regime, although they have been central to it. Debates about global economic inequality intensified in the 1970s and re-emerged when global environmental challenges became apparent in the early 1990s. In the climate context, these concerns crystallized in UNFCCC Article 3, which estab-

lished equity and CBDR-RC in the negotiations.

The first UNFCCC treaty, the Kyoto Protocol, operationalized differentiation through binary annexes in which only developed countries had mitigation obligations. However, rapid emissions growth in some developing countries and economic stagnation in many developed countries brought into question the binary of ‘developed’/ ‘developing countries’, as increasing numbers of countries no longer fit neatly into these categories. The 2011 Durban Platform formalized this shift by establishing that the 2015 agreement would be ‘applicable to all’, while remaining under the Convention and subject to the principles of equity and CBDR-RC.

Continued high emissions and advancements in climate science have contributed to increased awareness of climate impacts. Although the initial texts acknowledged climate vulnerabilities, adaptation was overshadowed by mitigation, and it was not until 2010 that the UNFCCC workstream on loss and damage started. Climate impact discussions have often been marginalized within attempts to operationalize CBDR-RC, but they have immediate relevance for equity, especially as impacts intensify.

Differentiation and CBDR-RC in the Current Negotiations

Differentiation is a central issue in the lead-up to a 2015 agreement. How should global climate action burdens be distributed, and on what basis should this be decided? Within the 2015 negotiation text, references to CBDR-RC and differentiation abound, although agreement remains elusive. These discussions focus on three broad questions:

First, how should the global burden be defined? Early attempts to operationalize equity focused on mitigation, which has remained the default frame of reference although adaptation has increasingly been recognized as an equity issue. The Green Climate Fund has committed to a 50/50 mitigation-adaptation funding balance, demonstrating global recognition of the issue. However, the appropriate

¹ UNFCCC (1992). United Nations Framework Convention on Climate Change. Available at <http://unfccc.int/resource/docs/convkp/conveng.pdf>

place for adaptation within the global ‘burden’ is disputed. There have been multiple calls to establish a global adaptation goal that could then be divided.

Today’s INDC process requires only statements of mitigation contributions, although countries may include adaptation. So far this option has been used largely by developing countries. Adaptation can be addressed by other mechanisms, but this split in how adaptation is included speaks to deeper debates about the definition of shared global obligations and the role of climate impacts in differentiation.

The second question: **on what basis should countries’ obligations be differentiated?** In the Copenhagen-style ‘pledge and review’ process, differentiation was entirely bottom-up. The current INDCs are self-differentiated and bottom-up, but there has been considerable interest in comparing country efforts. From this perspective the differentiation conversation is becoming increasingly focused, facilitating comparison across diverse countries rather than using indicators in the rigid ‘top-down’ approach common in the earlier equity literature. Even within this less formal framework, certain key concepts recur, including responsibility, capabilities, and, after COP 20, ‘national circumstances’. However, these terms remain undefined and may be interpreted in multiple ways.

Traditionally differentiation debates have focused on responsibility and, to some extent, capabilities. For instance, the well-known Brazilian proposal suggested that countries’ contributions to climate change should shape their mitigation obligations²; and experts from Brazil, South Africa, India and China have proposed a framework for equitable access to sustainable development which featured variations on cumulative emissions as a determinant for mitigation obligations.³

This attention to responsibility has continued within negotiations and appears repeatedly in INDC statements. For instance, Switzerland’s INDC uses its percentage of current and historical global emissions to define its responsi-

bility, and points out that its per-capita emissions are at the global average.⁴ Parties commonly cite differences between developed and developing countries in terms of responsibility. Overtime cumulative emissions, annual emissions, and emissions per capita have become the core metrics for responsibility.

Translation of ‘capabilities’ into specific metrics is less developed than for responsibility. Operationalization of capabilities in the literature typically includes metrics of financial ability, such as GDP or GDP per capita. Another well-developed, although not yet widely used, strategy is to calculate country-specific ‘poverty burdens’.⁵

A recent proposal has suggested that capabilities could be better operationalized by dividing them into several dimensions, including the vitality of economic systems, governance capacity, human development status, and resilience in the face of climate impacts.⁶ Although resilience is clearly central to countries’ abilities to deal with climate impacts, it is almost never included in differentiation discussions. Better articulation of capabilities would facilitate their comparison and evaluation, which is important for two reasons. First, solid metrics of capabilities are required if the concept is to play a meaningful role in differentiation. Second, a core driver of concern for fairness is the potential for negative implications of climate policy itself. Monitoring the relationships between capabilities and climate action would allow more realistic identification of when there are, and when there are not, negative trade-offs between climate action and increased wellbeing and capabilities.

Finally, the term ‘national circumstances’ has appeared in the negotiating text although concrete definition remains elusive and no shared meaning has emerged. Abatement costs are often recognized as a determining factor for mitigative potential, and abatement cost justifications have appeared in INDCs,

² LaRovere, E., Valente de Macedo, L. & Baumert, K. (2002), in *Building on the Kyoto Protocol: Options for Protecting the Climate* (eds. Baumert, K. A., Blanchard, O., Llosa, S. & Perkaus, J.) pp. 157–173 (World Resources Institute)

³ Winkler, H., Jayaraman, T., Pan, J., Santihago de Oliveira, A., Zhang, Y., Sant, G., Gonzalez Miguez, J.D., Letete, T., Marquand, A. and Raubenheimer, S. (2011). *Equitable Access to Sustainable Development: A paper by experts from BASIC countries*. BASIC Expert Group: Beijing, Brasilia, Cape Town, Mumbai.

⁴ Switzerland (2015). Switzerland’s intended nationally determined contribution (INDC) and clarifying information. Available at <http://www4.unfccc.int/submissions/indc/Submission%20Pages/submissions.aspx>

⁵ Muller, B. & Mahadeva, L. (2013) *The Oxford Approach: Operationalizing the UNFCCC Principle of ‘Respective Capabilities’*. Available at <http://www.oxfordenergy.org/2013/02/the-oxford-approach-operationalizing-the-unfccc-principle-of-respective-capabilities/>

⁶ Klinsky, S.; Waskow, D.; Bevins, W.; Northrop, E.; Kutter, R.; Weatherer, L. & Joffe, P. (2015). *Building Climate Equity*. World Resources Institute. Available at <http://www.wri.org/sites/default/files/building-climate-equity-072014.pdf>

suggesting that this could be used to delineate national circumstance.⁷ The inclusion of ‘national circumstances’ in the text without concrete metrics has led to concerns that it may erode equity in the INDC process by allowing countries an easy-out. For the short-run lead-up to Paris, the ambiguity of these terms may actually facilitate agreement. However, when Parties face the challenge of substantially strengthening commitments in the coming years, better articulation of capabilities and national circumstances may be needed, to facilitate ambition and transparency without deepening tensions and mistrust.

Finally, **what kinds of categories could countries be divided into?** The Convention systematically refers to two primary categories of Parties – developed and developing – with the overarching framework focused on mitigation. This division was cemented in the Kyoto Protocol’s annexes, with a vision of a world where development status could be used to categorize all Parties into one of two groups: those with absolute emission reductions, and those with no obligations

In contrast, the Copenhagen Accord highlighted differences among Parties, without an overarching categorization. The Durban Platform signalled that the new agreement would be applicable to all, but failed to specify how to update the annexes, or if such categories were necessary. Should there be annexes, or a single continuum of country contributions? If an annex system is adopted, how dynamic should it be?

Categorizing countries into annexes presupposes meaningful distinctions across a relatively small sub-set of dimensions capable of determining which countries are ‘like’ which others. In contrast, support for a single continuum could stem from one of two arguments. Either all countries are sufficiently ‘like’ one another to make sub-categories irrelevant, or they are all so distinct as to elude categorization. There are political ramifications to these characterizations. For countries where human development challenges continue to shape their capabilities and aspirations, moving to a non-annex system would weaken their collective structural and historical claims for global assistance and consideration, and erode their solidarity as a *group* of ‘developing countries’. Similarly, not having annexes would allow greater nuancing amongst ‘developed’ countries to become visible and for the

particular situations and claims of each (like the differences among diverse EU states, the USA, Australia and former Soviet republics) to be recognized.

These arguments are intensified by the differences between static and dynamic approaches. The United States and others have indicated that they would prefer no annexes, but could accept a dynamic annex system – not a static annex system. Arguments in support of this position stress the extent of global economic change over the last two decades and highlight the likelihood of continued future change. Several developing countries have indicated their support for a static annex system. According to this perspective, the world order continues to be characterized by fundamental inequalities across the developing/developed country divide that overshadow any changes that have occurred. Such issues are not easily resolved and speak to deeper tensions about inequality and global relationships.

The next element of this discussion has focused on the relationship between categories and actions. One suggestion has been ‘concentric circles’ in which all countries start at different points and move towards increasingly ambitious mitigation action. In this model, economy-wide, absolute targets are in the centre of the circle, with less absolute and sector-specific targets towards the edges.⁸ While not officially accepting the concentric circle approach, by jointly announcing their proposed contributions the United States and China implicitly lent support to the inclusion of a range of actions within the agreement.⁹ The US INDC features absolute emission targets, while the Chinese approach focuses on emissions peaking. Compared to Kyoto, the 2015 agreement is likely to have greater diversity of mitigation commitments which, even if embedded in some form of annexes, will represent a continuum of commitments. This ability to recognize a wide range of commitments may soften disagreement about other elements of differentiation, since the Parties retain significant flexibility.

While it seems likely that a Paris agreement will be reached that reflects these elements of differentiation (facilitated by the flexibility of acknowledging a range of commitments), dif-

⁷ Switzerland (2015).

⁸ Brazil (2014). Views of Brazil on the Elements of the New Agreement Under the Convention Applicable to All Parties.

⁹ China & United States (2014). U.S.-China Joint Announcement on Climate Change. *The White House*. Available at <https://www.whitehouse.gov/node/307541>

Current Questions for Differentiation	Key Debates and Issues
What is the global burden to be divided?	Mitigation only
	Mitigation and adaptation
	Mitigation, adaptation (and loss and damage), support
What characteristics should be used to inform differentiation of countries?	Responsibility (common metrics include: GHG per capita, total GHG, cumulative GHGs)
	Capabilities (metrics are less defined, often include GDP, GDP/capita, new suggested metrics emerging)
	National Circumstance (no metrics yet suggested)
	Development status (default is development status used in existing UNFCCC arrangements)
What kinds of categories should be created?	Static Annexes (default is Kyoto style annex)
	Dynamic Annexes (with means of moving Parties in or out of them)
	Continuum of Countries (e.g. ‘concentric circles’)

Table 1: Overview of current differentiation debates.

ferentiation as currently discussed remains a relatively narrow way of approaching the broader issue of equity. This approach may not facilitate the depth of action required to achieve global mitigation and climate-impact action needs over the longer term.

One limitation of differentiation is that it is almost entirely focused on burden-sharing. Undeniably, there are burdens to be shared –, but this obscures both the potential role of benefits and broader questions about global inequality. Second, differentiation has struggled to recognize climate impacts –which, in the long run, could drive continued tensions about the perceived lack of visibility and support for climate impacts as a component of climate equity. Finally, differentiation fails to capture the full extent of climate equity tensions, particularly in light of the scale of transformation required. These limitations give rise to larger questions about how to conceive of equity and differentiation beyond the 2015 agreement.

Equity Beyond Differentiation: Thinking about Transformation

Transformation has become a major theme within international climate science and policy. The IPCC 5th Assessment report indicated that staying at or below a 2 C temperature increase would require emission reductions of 70-114% by 2100.¹⁰ This mitigation goal will

require profound transformation of social, economic, and technical systems, and probably actions deeper than anything seen so far within INDCs. Moreover, communities facing significant climate impacts may have to consider transforming core systems as part of adaptation processes. The scope of transformation required entails challenges as well as opportunities for equity within the negotiations.

First, the level of transformation required demands deep and broad collective action – but zero-sum competitive negotiations are notoriously unlikely to result in cooperative solutions.¹¹ The differentiation conversation is heavily burden-sharing oriented and the default is a zero-sum position. Interest in ‘green growth’ has been increasing, partly because burden-sharing stalemates may dissolve if prosperity and climate action can be achieved simultaneously.¹² However, to date, consideration of possible benefits has not been substantially included in discussions of differentiation or equity.

Excluding the possibility of benefits from climate action (like air pollution reductions or long-term increased technological capacity in renewables) from the climate equity conversation fails on two counts: it erodes our strategic ability to generate the scale of action

¹⁰ Edenhofer, O. et al. (2014). Climate Change 2014: Mitigation of Climate Change. Contribution of Working Group III to the Fifth Assessment Report of the Intergovernmental

Panel in Climate Change. Available at <http://mitigation2014.org/report/final-draft/>

¹¹ Deutsch, M. A. (2008). Theory of Cooperation and Competition and Beyond. 34 (Columbia University)

¹² The Global Commission on the Economy and Climate (2014). The New Climate Economy. (The Global Commission on the Economy and Climate). Available at <http://newclimateeconomy.report/misc/downloads/>

needed (which by default would deepen inequities); and it fails to provide a mechanism for explicitly distributing any benefits of win-win innovations. A more complete approach to equity would account for the possibility that climate actions could generate benefits and could also provide guidance about the distribution of these.

Second, the very transformative nature of the changes needed could exacerbate inequities in the short term, and possibly in the long run, as seen in other large socio-economic transformations. An account of equity that overlooks unequal resources and vulnerabilities in the face of profound transformation is unlikely to lead to trust and cooperation.

However, ensuring that those who have least resources are not further threatened is probably more related to specific policy mechanisms than to burden-sharing at the international level. Accounting for vulnerabilities and access to resources is outside the current differentiation discussion, conducted entirely among sovereign nation states. Equity will need to be built into how specific policy areas are dealt with, not only differentiation amongst Parties at the aggregate level.

Third, the sheer scale of the transformation required provides a unique opportunity to reduce underlying tensions about inequality that have dogged climate and other global relationships. Despite progress on human development goals and absolute poverty, global inequality is persistent and could intensify as some communities face significant climate impacts.

The relationship between climate policy and global inequality is not fully clear, but this does not mean it can be ignored. Inequality is both distinct from and intimately connected to historical patterns of consumption and production that are also part of climate change. Climate policy alone cannot address the full extent of global inequality, but it can provide potential avenues for allocating opportunities and long-term benefits to those who have least or are most vulnerable.

Broadening Equity for Transformation Beyond 2015

Differentiation remains important, but a broader approach to equity is necessary to facilitate the long-term transformative actions required to address climate change and support collective action. This view of equity goes beyond differentiation as currently discussed, and asks: what is needed from an equity per-

spective to promote transformation? and how can this transformation pursued in ways that reduce, instead of exacerbate, inequalities?

The equity conversation could be shifted to align more closely with the scale of transformation needed, in the following pragmatic ways.

1. Better inclusion of benefits in differentiation: There are some benefits associated with some climate action. Failing to include these systematically but realistically could slow collective action and limit progressive distribution of these benefits. One way of better including the potential for climate benefits in differentiation is through the *capabilities approach*. In this framework the capabilities of countries are delineated for inclusion within CBDR-RC and attention is devoted to the potential of actions to improve capabilities.¹³ The underlying argument is that by tracking and supporting the development of capabilities, countries are encouraged to identify opportunities to use climate action to address local needs, helping to erode the burden-only framework for differentiation. This does not remove the demands regarding responsibility, nor the weight of burden sharing, but it can open the discussion to a broader consideration of benefits. Further efforts to include realistic accounts of the benefits within differentiation could help promote collective action, and address inequities.

2. Address climate impacts in differentiation and beyond: Recognition of climate impacts has been part of the equity discussion since before the Convention was formalized and is becoming more pressing as climate impacts become increasingly more severe and better understood. However, impacts and adaptation have largely been excluded from the mainstream differentiation debate, thereby feeding into tensions between developed and developing countries, especially those facing significant climate impacts.

There are several possible strategies for better including climate impacts in differentiation and equity discussions. Some have suggested defining a global adaptation goal¹⁴ that could be addressed through INDCs. The capability approach uses a different tactic: it proposes formalizing resilience to climate impacts as

¹³ Klinsky et al. (2015).

¹⁴ Ngwadla, X., Engelbrecht, F., Landman, W., Bopape, M.-J. & Mundackal, J. (2014). Policy Brief: A global goal for adaptation in the 2015 Climate Agreement. Available at www.mapsprogramme.org/wp-content/uploads/CSIR_2014_Policy_brief_global_goal_adaptation_2015_agreement.pdf

one dimension of ‘respective capabilities’ which would explicitly recognize impacts within CBDR-RC. Another approach would be to embed vulnerability and/or resilience to climate impacts in the definition of annexes. Albeit partial, any of these options could serve to promote recognition of impacts within equity and differentiation, which is a central element of a more inclusive and comprehensive agreement.

3. Use UNFCCC mechanisms to shift opportunity structures: Tackling global inequality is beyond the scope of climate policy alone, but mechanisms such as REDD+, the CDM, capacity-building systems, or technology centres are institutions that have already created opportunities and challenges for particular groups of people, or have the potential to do so. The design of these institutions is crucial for equity in a period of transformation, but is entirely excluded from current differentiation, and most equity, debates.

The agreement signed at the end of 2015 will provide an overarching structure, but the specific mechanisms will be negotiated in the coming years. This provides an opportunity to embed a vision of equity within profound transformation into each of these mechanisms. **In the post-2015 years we need to examine each UNFCCC mechanism to ask: how can this mechanism be designed to ensure that it acts to shift opportunity structures in ways that will reduce inequality during transformational changes?** This is a much broader approach to equity than differentiation, and one that more closely fits the on-the-ground challenges and opportunities that transformation will create. If we are serious about the principle of equity within the UNFCCC, we must start looking for specific policies and mechanisms with this level of detail: differentiation alone will not get us there.

Conclusions: Differentiation is the Icing, Equity is the Cake

Differentiation has become the *de facto* strategy for satisfying the principles of equity and CBDR-RC. Therefore, an agreed approach to differentiation is a crucial part of a 2015 agreement. Current discussions of this process revolve around the questions of what the

global burden is, how countries should be categorized, and what obligations should be associated with particular country categories. At this point, answering these questions is a political task, but further clarification of key terms, including capabilities and national circumstances, could prove helpful within the bottom-up process of comparison and discussion.

However, differentiation has limitations from a longer-term, post-Paris perspective. For instance, differentiation remains fixed in a burden-sharing framework conducive to continued political stalemates. More clearly articulating ways in which climate action could increase capabilities or provide other benefits could help to broaden the depth of collective action required globally. Furthermore, better inclusion of climate impacts within the differentiation discussion could help to build trust across the developing/developed country divide.

Differentiation in its current formulation is insufficient for managing the social, economic and ecological transformations likely to emerge as a result of climate change and climate policy itself. While a skeleton agreement is likely to emerge at the end of 2015, many of the specific institutions will continue to be fleshed out over the subsequent years. From the perspective of equity and transformation, this provides a unique opportunity to scrutinize how each mechanism could be designed so as to systematically shift opportunity structures towards those who are currently disadvantaged globally.

Seen this way, differentiation is the icing, but equity is the cake itself. A decision on differentiation is needed to enable a 2015 agreement, but is unlikely to deal sufficiently with the deep-seated tensions about equity that obstruct the achievement genuine transformative change. Systematically designing such institutions is the challenge that will continue long after the initial 2015 agreement is signed.

About the author

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