Chapter 3

The International Climate Regime

3.1 Introduction

Climate change is a defining issue for the twenty-first century. The political concern over the risk of a globally changing climate is the result of the realisation that intensification by human activity of greenhouse gas concentration in the atmosphere is not without consequences. In negotiating and adopting the 1992 United Nations Framework Convention on Climate Change and the 1997 Kyoto Protocol the international community expressed its recognition of the dangerous link between anthropogenic activities and climate change. Because of the far-reaching and dire challenges represented by climate change, the Parties to the Convention acknowledged ‘that the change in the Earth’s climate and its adverse affects are a common concern of humankind’.1

In preambular language they express the concern that human activities have been substantially increasing atmospheric concentration of greenhouse gases, that these increases enhance the natural greenhouse effect, and that this will result on average in an additional warming of the Earth’s surface and atmosphere and may adversely affect natural ecosystems and humankind.

Given the complexities of causes and consequences, responses to climate change are intrinsically linked to issues of global justice. Solving the challenge of climate change requires taking into account historic and current emission trends in developed countries and the still rather low per capita emissions in developing countries. It includes acknowledgement of the vulnerability of developing countries to the effects of climate change and the severe consequences that are predicted in already vulnerable parts of the world. Furthermore, to address climate change means addressing inequalities in levels of development. Addressing climate change demands cooperation of all coun-

---

1 UNFCCC, Preamble (emphasis added).
tries. At the same time, due regard has to be given to different responsibilities and respective capabilities of countries, their economic and social conditions, and their authority to determine their own social and development policies and access to energy and natural resources.

Intragenerational justice is a dominant issue in climate negotiations: measures to reduce greenhouse gas emissions are to be taken by those who contributed most in addition to providing financing means of limiting climate damages, also in developing countries. While developing countries are wary of forestalling their own developmental progress by climate mitigation measures, developed countries are required to take the lead. A still more complex issue is that protection of the climate system is not only for the benefit of present but also of future generations.\(^2\) The intergenerational aspect lies in the fact that measures taken to combat climate change are unlikely to be felt by those who implement them. Due to the inertia of climate system past emissions will cause an additional rise in the global average temperature during the 21st century. Similarly, substantial reductions in emissions today will only start having a palpable effect in many decades from now.

The challenge of climate change goes to the heart of the structure of modern societies, industries, economies and global relationships. What has become apparent is that climate change is a far more complex issue than any other issue public international law aims to address. Climate change cannot be categorized simply as an environmental problem. Nor is it simply a matter of development or economic growth. The challenge of global climate change exceeds time and space limitations that previously defined singular problems of the world community and their respective legal responses. Unprecedented questions of global equity, such as fairness in cost and responsibility sharing and differences in vulnerability and social aspects, link climate change to a multitude of interlinked problems of late modern society. The breadth and contextual richness of the climate regime go far beyond singular responses and challenge not only the fragmented structure of international law, but the structure of world community in general.

The response to climate change is indicative of humankind’s hard struggle toward sustainable development. Finding a solution to climate change is not just a central aspect in achieving sustainable development. It is decisive.

As we have seen, the concept of sustainable development is framed to precisely address these issues. This is why it is opportune to investigate the relationship of sustainable development and climate change.

My argument is that tackling the challenge of climate change is a defining component of sustainable development and \textit{vice versa}. In other words, the

\(^2\) UNFCCC, Article 3.1 and Preamble.