

Exclusive Minilateralism: An Emerging Discourse within International Climate Change Governance?

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Introduction

This paper explores an important recent development in the process of international climate change governance. That development is the formation of a number of selective state-based forums for dialogue and/or decision-making on climate change outside the established institutional structure of the United Nations Framework Convention on Climate Change (UNFCCC). A number of these selective state-based climate forums were instigated by the USA and Australia, the two developed countries under Annex 1 of the UNFCCC that, for the most part of the last decade, remained opposed to the binding emission reduction targets and differentiated emission reduction obligations of the Kyoto Protocol.¹ The Asia Pacific Partnership on Clean Development and Climate (APP), the APEC Sydney Leaders Declaration of 2007 (APEC Sydney Declaration) and the US Major Economies Process (MEP) of 2007–2008 were all instigated and/or heavily supported by the US and Australia. A common thread to these three selective state-based climate change forums is a willingness to allow important decision making on climate change to be devolved to a small group of key state actors, with little or no formal input from environmental or research non-governmental organisations. This paper seeks to analyse this recent development in international climate governance in

¹ Australia ratified the Kyoto Protocol upon the Rudd Labor Government coming to power in November 2007.

terms of its compatibility with the democratic governance principles of cosmopolitan and deliberative democratic theory.

The first section outlines the interdisciplinary research design of the paper that draws on the disciplines of international law (IL) and critical constructivist international relations (IR) theory. This section also outlines the concept of ‘discourse’ that is later relied on to analyse the emergence of these selective state-based forums and the contestation they offer to existing intersubjective meaning on the process for international governance of climate change. The second section outlines the two key theoretical traditions of democratic theory, cosmopolitan and deliberative, that are later used in analysis of these selective state-based climate forums. The third section of the paper builds on this by introducing the concept of ‘minilateralism’ that has been developed by a number of academics and policy commentators to support a shift towards more exclusive modes of governance of international problems. The fourth section briefly outlines the process of the UN climate regime and the three selective state-based climate change governance forums that have arisen and been promoted by the USA and Australia in the second half of the last decade. The final section of the paper argues these selective state-based climate change forums embody a discourse of ‘exclusive minilateralism’ that is contesting the inclusive multilateral discourse on the process of international climate governance. The paper concludes with observations on the challenges that the exclusive minilateralism discourse poses for cosmopolitan and discursive democracy in international climate governance, and suggestions on how these challenges might be managed.

Research design

Critical Constructivist International Relations Theory

Constructivism is an interpretive IR theory that focuses upon the ‘role of ideas, norms, knowledge, culture, and arguments in politics, stressing in particular the role of collectively held intersubjective ideas and understanding on social life’ (Finnemore & Sikkink 2001: 392). Unlike the three more established IR theories of realism, institutionalism and liberalism, constructivists:

reject the notion that states or other actors have objectively determined interests that they can pursue by selecting strategies and designing effective institutions. Rather, international actors operate within a social context of shared subjective understandings and norms, which constitute their identities and roles and define appropriate forms of conduct ... Most specific norms and

understandings are generated, disseminated, and internalised through the efforts and discourse of diverse actors ... In the constructivist view, even as states and other actors create norms and institutions to further their interests and values, those norms and institutions are redefining those interests and values, perhaps even the identities of the actors themselves. (Abbott 2004: 367).

The constructivist emphasis on ideas, which are often referred to as ‘norms’ in this literature, is an obvious common starting point for interdisciplinary research designs incorporating IL and constructivist IR theory (Armstrong, Farrell & Lambert 2007: 97). The constructivist IR tradition is divided into two broad strands. Firstly, *conventional constructivism*, seeks to trace the causal impact of identities and norms on state behaviour (100).² The conventional constructivist approach is concerned with identifying the causative effect of particular ideas or norms on state behaviour during a specific event or series of events in the international system (100). Conventional constructivist work adopts a research design more closely aligned with the positivist social science paradigm in formulating hypotheses regarding the causal influence of norms on past state behaviour and subjecting them to empirical testing and investigation (Pettenger 2007: 9–10). However, the second strand of constructivist work, *critical constructivism*, is less wedded to the positivist paradigm. Critical constructivism is more concerned with ‘uncovering the power relations that underpin and are reproduced by social relations, including knowledge-creating and knowledge-laden relations’ that privilege some actors over others (Armstrong, Farrell & Lambert 2007: 97). Finnemore and Sikkink describe critical constructivism as having:

intellectual roots in critical social theory, including such figures as Anthony Giddens, Jurgen Habermas, and Michel Foucault. Although it shares the core features of constructivism identified above, critical constructivism adds a belief that constructions of reality reflect, enact, and reify relations of power. Critical constructivists believe that certain powerful groups play a privileged role in the process of social construction. The task of the critical scholar is both to unmask these ideational structures of domination and to facilitate the imagining of alternative worlds. Critical constructivists thus see a weaker autonomous role for ideas than do other constructivists because ideas are viewed as more tightly linked to relations of material power. (2001: 398)

Critical constructivist IR theory is thus concerned with how ideas are used as an expression of power to shape the intersubjective meaning of international phenomena and the interests of the actors concerned. Critical constructivist IR theory usefully complements IL research in providing a theoretical framework for analysis of the political context in which international law and international legal institutions are formed. Unlike conventional constructivism, the critical IR approach does not seek to test the effect of international law as a causal mechanism on particular instances of state

² For a prominent example of conventional constructivist work, see Wendt (1999).

behaviour.³ Rather, critical constructivism provides understanding of the power-laden web of intersubjective meaning embodied in international law and legal institutions. Critical constructivist IR theory also offers a theoretical framework for analysing how such intersubjective meaning is contested and altered over time. The ‘critical’ (i.e. emancipatory) potential of constructivism is in providing understanding of the power-laden web of intersubjective meaning that constitutes, and is constituted by, international law and legal institutions. This understanding opens up the possibility of international collective self-reflection for change. As Neufeld explains:

it is clear how interpretative approaches offer support for notions of progressive and emancipatory change in the global order. The intersubjective meanings which constitute the global order are themselves the product of an ongoing process of self-definition and self reflection, they are, then like all practices which instantiate them, open to change. (1993: 58)

Current international law, institutions and practices might therefore be viewed not as a natural ‘given’ reality, impervious to substantial change, but rather one of many possible socially constructed orders of intersubjective meaning available to the international community (Neufeld 1993: 59). A critical constructivist understanding of international affairs thus opens the possibility for understanding discursive contestation over current international law, legal institutions and practices (Dryzek 2006).

Interdisciplinarity: Critical Constructivist IR Theory and International Law

Despite the areas of common ground between the theoretical frameworks of critical constructivist IR theory and international legal analysis there have been only limited attempts to specifically link the two in research design. One of the more substantial explorations of the use of critical constructivist IR theory in analysis of international institutions is contained in the work of John Dryzek (2005; 2007: 44–62).⁴ Dryzek invites international lawyers to look beneath the text of an international agreement to the underlying ideas and intersubjective meanings upon which the agreement is structured.⁵ Dryzek refers to this set of underlying ideas and intersubjective beliefs as a ‘discourse,’ which he defines as ‘a shared set of concepts, categories, and ideas that provides its adherents with a framework for making sense of situations, embodying judgements, assumptions, capabilities, dispositions and intentions’ (2006: 1).

³ Even more adventurous sociological analysis within international legal scholarship has not been able to prove international law as a decisive causal mechanism in the behaviour of states, see Chayes (1974).

⁴ See Dryzek (2006: 23) for discussion of the critical constructivist research design of his work.

⁵ Dryzek (2007: 60) uses the IT metaphor that discourses ‘can provide the “software” that makes international regimes work, while more formal organizations and rules provide the “hardware.”’

Dryzek provides a typology of the more prominent discourses operating in environmental governance and international politics more generally over recent decades (2005; 2006; 2007; 2009).⁶ He suggests that discourses are social structures that both enable and constrain actions (Dryzek 2006: 24–25).⁷ Discourse is constraining in the sense that it is constitutive of the subject dispositions and capacities of actors and is produced and reproduced by subsequent actions and interactions (Dryzek 2007: 62). Discourse is also enabling in the sense that actors draw on existing discourses to ‘subtly affect the content and weight of discourses’ within a given social structure (Dryzek 2006: 24–25). Dryzek thus comments:

Discourses can embody power in that they condition norms and perceptions of actors, suppressing some interests whilst advancing others. Discourses pervade, constitute, and help explain the structure of international affairs. The power of discourses arises in their ability to structure and coordinate the actions of individuals’ subject wholly or partly to them. (2006: 3)

Dryzek argues that some discourses are ‘hegemonic’ in the sense that they are so ingrained in social structures that they are ‘not even recognised by those subject to them, but are instead treated as the natural order of things’ (2006: 8). However, discourses are not static. Over time, coalitions of actors (that is, discourse coalitions) emerge with alternate discourses that seek to contest even hegemonic discourses (Dryzek 2006). This contestation leads to change through either a dialectical accommodation/merging of competing discourses or the defeat of a competing discourse. Although Dryzek argues that discourses are important in understanding international affairs, he importantly points out that they cannot alone explain international social life and collective outcomes. Dryzek concedes that other factors such as material factors and non-linguistic practices are also important (2007: 62). This article adopts Dryzek’s concept of discourse in analysing contestation over the process of international climate governance that flows from the emergence of the selective state-based climate governance forums introduced above.

Leading models of democracy

Democracy is itself a highly contested concept (Dryzek 2010: 21). However, as Dryzek (2000: 7–12) explains, there are two leading theoretical models of democracy at a

⁶ Dryzek (2009: 187) identifies a number of discourses operating in the field including; ecological limits, climate science scepticism, energy security and ecological modernisation. This article argues that a further discourse of ‘exclusive minilateralism’ must also be recognised.

⁷ Dryzek’s approach builds on Anthony Giddens’s structuration theory, most fully described in his 1984 work, *The Constitution of Society: Outline of the Theory of Structuration*.

domestic level. *Liberal democracy* ‘deals only in the reconciliation and aggregation of preferences defined prior to political interaction’ (Dryzek 2000: 10). Liberal democratic theory views democracy as a social choice mechanism which reconciles conflict by aggregating individual actor preferences that are pre-formed and unaffected by political interaction. Liberal democratic activity is pursued by actors who strategically further their pre-formed interests by voting in elections to determine the make-up of constitutionally entrenched institutions of the domestic state. Liberal democratic theory is thus directed towards the effectiveness of the aggregative and reconciliatory functions of the constitutionally entrenched institutions of the domestic liberal state.

The second leading model of democracy at a domestic level is *deliberative democracy*. In deliberative democracy, institutions ought to be designed primarily to facilitate deliberation by political actors (Dryzek 2000: 1). As Dryzek explains, deliberation is ‘a social process distinguished from other kinds of communication in that deliberators are amenable to changing their judgements, preferences, and views during the course of their interactions, which involve persuasion, manipulation and deception’ (2000: 1). Deliberative democracy is thus concerned with the ‘authenticity of democracy: the degree to which democratic control is substantive rather than symbolic, and engaged in by competent citizens’ (2000: 1). Domestic institutions designed to promote deliberative democracy are concerned with improving the circumstances of communication and hence the capacity of actors to reflect upon and change their preferences (and ultimately voting patterns and other forms of political participation) in response to the better argument.

At an international level, there is no institutional equivalent to the sovereign of the domestic liberal democratic state that has the power to make, enforce and administer laws that may override the consent of an individual citizen. The various institutions of the United Nations system (that is, the Security Council, General Assembly, and International Court of Justice) come the closest to replication of the functions of the domestic sovereign, however, ultimately derive their authority from the ongoing consent of the states involved. Despite the lack of an equivalent to the domestic sovereign, liberal and deliberative theories of democracy have been used to analyse the democratic credentials of international institutions. The liberal democratic model of democracy has been adapted to the international sphere through the concept of *cosmopolitan*

democracy as developed by authors such as Held (1995; 2002; 2006; 2009) and Archibugi (1995; 2004). Cosmopolitan democracy posits not only the furthering of government by democratic popular election at a domestic level but also the extension of democratic process to governance between states at a regional and global level (Archibugi 2004; 442–452). Held (2009: 538) points to the post-1945 proliferation of international governmental organisations in the areas of the ‘rules governing war, weapons systems, war crimes, human rights and the environment’ as evidence of a re-conception of the traditional strict sovereignty of the state and indicative of an emergent cosmopolitanism in international society. Dryzek describes the cosmopolitan desire to extend formal, democratically constituted, rule-based governance structures to the international sphere with:

Cosmopolitan democracy favours an international system more densely populated by institutions that both secure order and are democratically accountable in direct fashion - that is, not just at one remove, through any accountability of states that take part in such arrangement... The project looks forward ultimately to an international legal system enforcing democratically determined laws, a global parliament to hold all other global institutions to account and international control of a military that would in the long run yield demilitarisation. (2006: 151–152).

However, cosmopolitan democracy also focuses on protection of the rights of the individual within the domestic state, with each individual to be accorded equal worth and dignity, active agency and personal responsibility (Held 2002: 24). As Held explains:

In the first instance, cosmopolitanism can be taken as those basic values that set down standards or boundaries that no agent, whether a representative of government, state, or civil association should be able to cross. Focussed on the claims of each person as an individual or as a member of humanity as a whole, these values espouse the idea that human beings are in a fundamental sense equal and deserve equal political treatment (2002: 23)

At its more ambitious edge, the cosmopolitan democratic project proposes direct citizen election of representatives to supranational institutions that would have the authority to override state sovereignty (Monbiot 2003). The primary focus of all variants of cosmopolitan democracy is to extend the aggregative, reconciliatory and accountability features of the domestic liberal democratic model into international governance structures. The underlying premise of the cosmopolitan project is that individual citizens will come to see themselves as world citizens and hence subordinate their more local identities and interests to a common global project (Dryzek 2006: 153).

However, Dryzek's *discursive democracy* is a model for the pursuit of democratic ideals in international society that draws more particularly on the deliberative tradition of domestic democratic theory. Dryzek argues that in the international sphere, which lacks centralised authority and has more dispersed power structures, the deliberative democratic project is best pursued through a democratic design that is:

transnational and discursive, highlighting dispersed and competent control over the engagement of discourses in transnational public spheres, which in turn constructs or influences international outcomes in a variety of ways. Transnational democracy of this sort is not electoral democracy, and it is not institutionalised in formal organizations. Instead it is to be sought in communicatively competent decentralised control over the content and weight of globally consequential discourses, which in turn resonates with theories of deliberative democracy stressing communicative action in the public sphere ... The public sphere encompasses social movements and media communications, and can reach into corporations, states, and intergovernmental organisations. It is an informal, communicative realm that can be contrasted with the constitutional exercise of authority. (Dryzek 2006: 154)

The weakness of centralised authority in the international system and recourse to principles of state sovereignty (that is, sovereign independence) to avoid international obligations are no impediments to discursive democracy. The 'transnational public sphere' of civil society movements and media operations does not require a centralised source of authority or state consent in order to engage citizens and other actors in reflective, deliberative and communicative processes. As Dryzek explains, activity in the international public sphere has a capacity to shape actor perceptions, interests and identities and hence the outcome of more formal international institutions (2000: 121–122). The formal institutions of international society thus embody and reproduce discourses. The discourses operating in the transnational public sphere and formal international institutions therefore operate in a mutually constitutive manner (121).

Multilateralism and minilateralism in international climate governance

Multilateralism in international affairs involves 'creating international bodies, agreements, and rules through negotiation on the part of the states that will be subject to the arrangements in question, who agree to be bound by the arrangements' (Dryzek 2006: 129). The creation of formal rule-based institutions at an international level to foster a cooperative approach to international issues lies at the heart of the multilateral project. However, this does not mean that multilateral institutions will all have a high level of democratic process. The United Nations Security Council is one of the key multilateral institutions of the post-war period, yet its five permanent members (that is,

the victorious allied powers of WW2) have an individual veto power over any substantive decisions of that forum.⁸ The democratisation of multilateral institutions is one of the key elements of the cosmopolitan democratic project an international level, as discussed above (Dryzek 2006: 129). The United Nations Framework Convention on Climate Change (UNFCCC) and Kyoto Protocol are the agreements that form the central basis of the multilateral institutions of international climate governance. At a formal level, the UNFCCC and Kyoto meetings, have a solid claim to cosmopolitan democratic principles in that they are inclusive (all states party to those treaties may attend relevant meetings and have a single vote in decision making) and have near universal participation (most states are party to those treaties). Cosmopolitan theory favours at least a majority decision-making rule in intergovernmental institutions (Archibugi 2004: 449).⁹ UNFCCC Draft rule 42 provides that the voting requirements for a ‘matter of substance’ are to be decided by the COP.¹⁰ However, in the absence of agreement by the COP on majority voting (which to date has not occurred) ‘there is a broad understanding in the climate change regime that substantive decisions should be adopted *by consensus*’ (Farhana & Depledge 2004).¹¹ This consensus decision-making rule of the UNFCCC provides formal equality of state participation in the UNFCCC COP meetings so that even the smallest states have a potential veto power over substantial decisions.¹² At least formally, the UNFCCC and Kyoto Protocol decision-making rules are highly democratic when viewed through a cosmopolitan lens. However, the formal equality of states in participation and voting at UNFCCC COP meetings still operates in a world of states with significantly differing levels of resources. Practically speaking, smaller developing states often have only very limited financial and human resources to participate in UNFCCC and Kyoto Protocol meetings whilst larger developed and developing states often having several hundred representatives present.

⁸ *Charter of the United Nations*, 1945, art 27(3).

⁹ Although, as Archibugi (2004: 448–449) points out, there is some tension within cosmopolitan thought as to whether majority decision making should be based on a majority of states or majority of global population.

¹⁰ For Draft Rule 42, see UNFCCC (1996). Draft Rule 42 contains two draft voting rules for the COP to make decisions on ‘matters of substance.’ The first rule allows for a retreat from a consensus voting rule to a two-thirds or three-quarters majority voting rule once attempts to reach consensus are exhausted. The second requires a consensus vote except on financial matters.

¹¹ Consensus is generally taken to be present if no party raises a formal objection to a particular decision; see Farhana & Depledge (2004: 443–444).

¹² The consensus decision-making rule within the UNFCCC appeared to be strained at the 2010 COP 16 meeting in Cancun, Mexico. Towards the end of the COP meeting, the COP President chairing the meeting, the Mexican Foreign Minister, Ms Espinosa, overruled the express formal objection of Bolivia, in order for the COP to formally adopt a package of decisions on mitigation, climate finance, adaptation and technology (Vihma 2011).

As Timmons-Roberts and Parks explain:

Vast differences in absolute and relative income have a tremendous impact upon the ability of countries to attend international conferences, participate in international organizations and hire skilled negotiators. This is what we call the direct route through which inequality reduces the likelihood of cooperation on climate change. It determines whether nations can pay for the salaries and accommodations, draft proposals with proper legal argumentation and nomenclature, attend the many formal and informal meetings at conferences and respond to the demands of powerful nations with well-thought-out counterproposals. (2006: 15–16)

This lack of resources limits small state participation in COP decision making processes and effectively forces small states to participate in larger negotiating blocks that may act to practically constrain individual state choice and the exercise of their veto power on COP decisions. In sum, the formal multilateral decision-making structures of the UNFCCC COP and Kyoto Protocol meetings are largely consistent with cosmopolitan democratic principles despite acknowledged practical difficulties with small states having sufficient resources to fully participate in such meetings.

Cosmopolitan democracy is generally supportive of improving the voice of non-state actors to assist in improving the transparency, accountability and effectiveness of states and intergovernmental organisations (Held 2006: 172). Consistent with this, the UNFCCC formally encourages civil society participation in lobbying and educational roles with the COP meeting process. The role of non-governmental organisations (NGOs), including environmental groups, is formally recognised in the UNFCCC with NGO's able to attend COP meetings.¹³ For the purposes of COP meetings, non-governmental organisations are divided into various categories including business non-governmental organisations (BINGOs), research non-governmental organisations (RINGOs) and environmental non-governmental organisations (ENGOS). As Fisher (2010: 11) explains, the UNFCCC COP meetings have traditionally provided NGOs with significantly greater access to and influence with state negotiators than in other international institutions. McGregor (2011: 1) also describes the practice of NGOs using their access at UNFCCC COP meetings to pursue 'insider strategies' to influence government delegates through lobbying.

¹³ For example, the *United Nations Framework Convention on Climate Change*, opened for signature on 4 June 1992, 1771 U.N.T.S 107, art 7(2)(1), states the COP shall: 'Seek and utilize, where appropriate, the services and cooperation of, and information provided by, competent international organizations and intergovernmental and non-governmental bodies'; art 7(6) also states 'Any body or agency, whether national or international, governmental or non-governmental, which is qualified in matters covered by the Convention, and which has informed the secretariat of its wish to be represented at a session of the Conference of the Parties as an observer, may be so admitted unless at least one third of the Parties present object.'

Despite the difficulties that arose at the Copenhagen COP 15 meeting,¹⁴ the UN climate meeting process is at least formally designed for a reasonably high level of inclusiveness, openness and transparency for all involved states and interested NGO groups. At this formal level, the UN climate regime has generally promoted an intersubjective understanding regarding the process of the international climate change governance that is consistent with cosmopolitan democratic principles. This understanding might be described as a discourse of *inclusive multilateralism*.

However, there is a growing body of academic literature and policy commentary on international climate governance that is significantly contesting the formal inclusive multilateralism discourse of the UN climate regime. This work argues that greater effectiveness in responding to climate change might be found in institutions involving a smaller number of key states, particularly the large emitting countries.¹⁵ For example, US author David Victor is a keen advocate of these select decision making forums on climate change:

In the area of international cooperation the solutions lie in efforts to create a club of a small number of important countries and craft the elements of serious cooperation. The efforts probably can't emerge within the UNFCCC process because it is too large and inclusive. Nor can it easily arise from other available forums such as the G8, because their membership is too skewed to include the dozen or so countries that must be part of an effective solution. The most interesting idea for a new institution is outgoing Canadian Prime Minister Paul Martin's concept for a forum of leaders from the twenty key countries. (Victor 2006: 101)

This call for key decisions on international climate change governance to be reduced to a select forum of key states has been echoed by US foreign policy commentator Wright (2009: 167), Australian climate policy commentator Kellow (2006: 287–303) and Australian Opposition climate change spokesman Greg Hunt M.P (2009). Prominent UK sociologist Anthony Giddens has similarly advocated for smaller forums of key nations:

The large bulk of greenhouse gas emissions is produced by only a limited number of countries - as far as mitigation is concerned, what the majority of states do pales in significance compared to the activities of the large polluters. Only a limited number of states have the capability seriously

¹⁴ As Fisher (2010: 11) describes it, following COP 15 at Copenhagen there were criticisms particularly from ENGO groups claiming they were disenfranchised during the meeting. This is discussed further in this article.

¹⁵ It is beyond the scope of this paper to analyse the claims to greater effectiveness in reducing emissions made by supporters of minilateralism. For the purposes of the following discussion, it shall be assumed that there is significant merit in the minilateralist claims in this regard. Certainly the minilateral argument that decision making amongst a small group of key states is easier to affect than consensus decision making across nearly 200 states carries some persuasive weight.

to pioneer technological innovation relevant to climate change ... To be able to exploit this situation, we need quite a different perspective from those that emerged from Kyoto and Bali. An approach based on agreements or partnerships between individual nations, groups of countries and regions makes more sense- and could eventually strengthen more universal measures....A body representing the major polluters should be established post-haste. If we include the EU as a single entity, then 70 percent of cumulative world emissions of greenhouse gases have been produced by just six countries. They should be meeting regularly with one another. (2009: 220–221).

This view is supported by leading Oxford climate change policy commentators, Steven Rayner and Gwyn Pryn:

Relying on an international agreement that requires the consent of all national governments inevitably results in the very lowest of common denominators. Since fewer than twenty countries account for 80% of the world's emissions and therefore have the potential to make any serious contribution to their mitigation, it would be better for diplomacy to focus upon them. In these early stages, the other 150 countries only get in the way. (2007: 27)

US foreign policy commentator Moisés Naím has coined the expression 'minilateralism' to explain this approach of seeking a 'magic number' of key states with influence upon an issue to craft smaller more responsive international institutions (2009: 135–136). Naím argues that for climate change the 'magic number' of states to meet to thrash out a global deal is about twenty (2009: 135–136). The minilateral model for international climate governance proposed by Victor, Wright, Kellow, Rayner and Pryn, Naím, Giddens and Hunt essentially excludes the 175 or so states with the least greenhouse gas emissions and all NGO involvement. This discourse on international climate change policy might therefore be described as *exclusive minilateralism*.

The exclusive minilateralism discourse has been significantly criticised by Eckersley (2010) on three grounds. First, many of the key disagreements in the UNFCCC and Kyoto Protocol negotiating process are due to a stand off between countries that are amongst the top emitters.¹⁶ An exclusive minilateral approach to climate governance may therefore still carry the same key negotiating obstacles of the larger forums. Second, those states most exposed to the risk of climate impacts, such as the low lying island states, would most likely be excluded from participation and advocacy in the proposed minilateral forums. This breaches ethical principles of due process and will likely result in climate agreements that are self-serving to the large emitting states and sacrifice the interests of smaller, more vulnerable states (Eckersley 2010). Third, due to exclusion of those most affected a climate agreement struck in an exclusive minilateral forum would

¹⁶ For one influential eye-witness account of the stand off between China and the USA over emission reduction obligations see Lynas (2009).

likely lack legitimacy within international society (Eckersley 2010).

The following section provides a brief outline and history of the United Nations climate regime and three leading small group, non-UN forums for international climate change governance and that were formed over the past five years.

The United Nations climate regime and its others

UNFCCC and Kyoto Protocol

The UNFCCC was formed in 1992 as a global agreement to provide broad principles to guide the human response to climate change. The UNFCCC was formed in response to the scientific advice provided by the UN Intergovernmental Panel on Climate Change (IPCC).¹⁷ The UNFCCC established an agreed global goal of stabilising greenhouse gas emissions at a level that will prevent dangerous climate change (art 2), a general obligation on all countries to collect data on and report their greenhouse gas emissions (art 4(1)(a)) and the important burden-sharing principle of ‘common but differentiated responsibilities’ (CBDR) to guide the future level of obligations from developed and developing countries (art 3(1)). Initially the developed states, listed in Annex 1 of the UNFCCC, set an aspirational, non-binding target to reduce their national greenhouse gas emissions to 1990 levels by the year 2000 (art 4(2)(a)). However, it was soon recognised that stronger action was required from the Annex 1 developed states than merely aspirational emission reduction targets.

In 1995 the Berlin Mandate (UNFCCC 1995: 4-6) of the UNFCCC, initiated a two-year period of global negotiations with a view to setting binding emission reduction targets for the UNFCCC Annex 1 countries. Negotiations for these binding emission reductions targets were completed at the UNFCCC Third Conference of the Parties (COP3) meeting in Kyoto, Japan in 1997. The *Kyoto Protocol to the Framework Convention on Climate Change* contains obligation for developed countries (listed in Annex B) to lead on reducing greenhouse gas emissions by taking binding targets to reduce or limit their greenhouse gas emissions, against a 1990 baseline, by the target period of 2008–2012. The developing countries were exempted from this initial period of emission reduction targets due to the burden sharing principle of common but differentiated responsibilities agreed to in the UNFCCC. The CBDR principle required that developed countries

¹⁷ See Houghton, Jenkins & Ephraums (1990).

initially lead the way in emission reduction activities. The US Clinton Administration argued strongly at the Kyoto UNFCCC COP 3 meeting for including market-based flexibility mechanisms in the treaty, namely, emissions trading, joint implementation and a clean development mechanism, to assist the developed countries in meeting their emission targets at a least financial cost (Depledge 1995: 16–19).

However, in early in 1997, the US Senate indicated that it would oppose US ratification of any climate change treaty that placed binding emission reductions on developed countries only, or which would harm the US economy. This presented a potentially fatal obstacle to US participation in the Kyoto Protocol. Despite the position of the US Senate, the Clinton Administration signed Kyoto in 1998 and continued attending meetings to negotiate the finer details of its implementation, including rules for the flexibility mechanisms. Doubts over US participation in the Kyoto Protocol further escalated towards the end of the Clinton Administration. In late 2000, at the UNFCCC COP 6 meeting at The Hague, the Clinton Administration abandoned negotiations on rules for implementing the flexibility mechanisms of Kyoto. In early 2002, the incoming G.W. Bush Administration formally announced the USA would not ratify Kyoto and would withdraw from all further discussions under the Protocol. Australia made a similar announcement shortly thereafter. The USA and Australia, two Annex 1 countries that had agreed to emission limitation targets at Kyoto, thus indicated they would not ratify the treaty and were openly opposed to developing nations being granted a period of grace without binding emission reduction obligations. Despite the US and Australian stand against Kyoto, international negotiations on the rules to implement the treaty continued during 2001 with agreement on fine details to implement Kyoto finally reached at the UNFCCC COP 7 meeting in Marrakech in late 2001 (UNFCCC 2002). The Russian Federation ratified the Kyoto Protocol in November 2004 (UNFCCC 2009a), thereby bringing the treaty into force. The developed countries in Annex B of the Kyoto Protocol were then bound to meet their emission targets for the first commitment period of 2008–2012.

The UNFCCC COP 13 meeting in Bali, Indonesia, in December 2007, agreed on a two-year period of negotiations to agree on the shape of the international climate change regime after the first commitment period of the Kyoto Protocol expires in late 2012 (UNFCCC 2007). This negotiation was carried out under ‘two tracks,’ track one

involving the Kyoto Protocol states that looked to strengthen the Annex B emission reduction commitments of developed countries (Ad Hoc Working Group on Further Commitments for Annex I Parties under the Kyoto Protocol), the second (Ad Hoc Working Group on Long-term Cooperative Action under the Convention) that included all states party to the UNFCCC, including the USA. The Copenhagen COP15 meeting in late 2009 was supposed to be a point of agreement on a new global architecture for the post-2012 period. However, after a near collapse of negotiations (Meilstrup 2010: 131), the COP15 meeting only produced the Copenhagen Accord (UNFCCC 2009b), an agreement of two pages in length negotiated by a sub-group of approximately six countries, agreed to by approximately twenty countries at the meeting and ultimately only 'noted' by the wider COP meeting, rather than formally endorsed as a COP decision. However, all major elements of the Copenhagen Accord have now been formally adopted by the UNFCCC COP process through the agreement reached at the COP16 meeting in Cancun, Mexico in December 2010 (Oberthür 2010: 6).

The Asia Pacific Partnership 2005

The launch of the Asia-Pacific Partnership on Clean Development and Climate (APP) in mid-2005 came as a surprise to the international community and media.¹⁸ The APP states had provided no prior indication that they were negotiating an international climate change agreement. The partnership was officially announced at a press conference at the 2005 Association of South East Asian Nations (ASEAN) Ministerial meeting in Vientiane, Laos (Downer 2005). Government Ministers from the six original APP countries (China, India, Japan, Australia, South Korea and the USA) were at the launch (Downer 2005). The Ministers explained the partnership was an 'innovative and a fresh new development for the environment, for energy, security and for economic development in the region' (Downer 2005). An APP 'Vision Statement' was released at the launch however it contained little information on how the partnership would operate.¹⁹ The Australian Foreign Minister, Mr Downer, was the first to indicate the official APP position that the partnership was intended to complement the Kyoto Protocol rather than provide an alternative (Downer 2005).

¹⁸ For example, see Brown and Wilson (2005).

¹⁹ See, Asia Pacific Partnership (2009a, 2009b).

The first Ministerial meeting of the APP was held in Sydney, Australia, in January 2006. A 'Charter' document was released at the Sydney meeting that describes the organisational structure of the partnership.²⁰ The APP Charter establishes a governing body known as the 'Policy and Implementation Committee' (PIC) comprised of representatives from the seven partner governments (Asia-Pacific Partnership 2009b). The Charter also establishes eight sectoral (that is, industry based) Task Forces comprised of representatives from the partner governments, public research bodies and the private sector. It is the role of the APP Task Forces to formulate project plans for approval and funding allocation by the PIC (Asia-Pacific Partnership 2009b). At the 2006 Sydney Ministerial meeting the PIC approved over 100 projects for the eight Task Forces (Asia-Pacific Partnership 2009b). By 2009, the total number of Task Force projects approved by the PIC was over 170 (Asia-Pacific Partnership 2010). The APP Task Forces meet several times each year although the exact number and timing of these meetings is not known. As at 2008, the APP had received only a total of US\$200 million in public funding pledged by the seven partner governments (US State Department 2008). The APP expected the private sector to provide a significant amount of the funding for the implementation of APP Task Force projects (US State Department 2008).

A number of countries expressed interest in joining the APP. In October 2006, New Zealand released cabinet minutes indicating a desire to participate in the APP, initially by seeking involvement in APP Task Force activities (New Zealand Government 2006). The Russian Federation and Mexico also expressed interest in joining the APP (van Asselt 2007: 17–28). In late-2007, Canada was admitted as the seventh partnership country. To date, Canada is the only country that has been granted membership to expand the APP. The APP thus comprises a select grouping of seven countries. PIC meetings of the APP have only involved elite state actors. ENGO's have been excluded from APP meetings although business and research organisations are key participants in the APP sectoral task forces (Black 2006; McGee & Taplin 2008: 209).

APEC Sydney Leaders Declaration 2007

The Asia Pacific Economic Cooperation (APEC) meetings were initiated by Australia in the late-1980s as an informal forum for dialogue amongst countries of the Asia Pacific

²⁰ See Asia-Pacific Partnership (2009b).

region on trade liberalization issues. APEC has twenty-one member economies, including all APP nations except India. An APEC member state acts as coordinator and host an annual round of meetings for national leaders and senior business and government officials. APEC does not have a founding charter or formal constitution but instead relies upon an agreed set of procedures for hosting of its meetings. In September 2007, Australia hosted the annual APEC Ministerial Meeting and Leaders Meeting in Sydney. At the meeting, Australia attempted to negotiate an APEC position on a long-term, aspirational (that is, non-binding) global emissions reduction goal (Wilkinson 2007). The meeting produced the ‘Sydney APEC Leaders Declaration on Climate Change, Energy Security and Clean Development’ (Sydney APEC Declaration). Given China’s reluctance to discuss global emissions goals, the Sydney APEC Declaration contains only a commitment by APEC countries to ‘work to achieve a common understanding on a long-term aspirational global emission reduction goal to pave the way for an effective post-2012 international arrangement’ (APEC 2007). The Sydney APEC Declaration adopts an approach similar to the APP of shifting the focus of international cooperation on climate change toward voluntary commitments for research, information sharing and development of cleaner technologies. The Sydney Declaration also parallels the APP by focussing climate change policy on non-binding targets for reduction in carbon intensity. The Declaration contains an aspirational target for a 25 percent reduction in energy intensity in the APEC economies by 2030, using 2005 as a base year (APEC 2007). This energy intensity target is ‘APEC-wide’ so does not apply individually to any one country. The APEC Sydney Declaration again represented a shift towards international climate change policy being determined by a sub-group of states, with ENGOs excluded from the APEC forums (Feinberg 2008).

US Major Economies Process 2007–2008

In early 2007, President G. W. Bush announced a new US initiative climate change initiative that was initially called the ‘Major Emitters and Energy Consumers’ process (MEP) (White House 2007a). The US MEP proposed a series of US-sponsored meetings of fifteen of the world’s ‘top greenhouse economies and polluters’ to ‘develop a long-term global goal to reduce greenhouse gasses’ with each country working to ‘achieve this emissions goal by establishing ambitious mid-term national targets and programs, based on national circumstances’ (White House 2007a). The initiative envisioned that national targets and programs would be determined by each state

individually (White House 2007a). The initiative also proposed that major emitting nations ‘develop parallel national commitments to promote key clean energy technologies,’ with the US facilitating international development banks to provide low-cost financing options for clean energy technology transfer (White House 2007a). The MEP was specifically intended to ‘build on and advance US relations with the Asia-Pacific Partnership on Clean Development and Climate and other technology and bilateral partnerships’ (White House 2007a). The MEP process would adopt the APP approach of drawing together representatives from various sectors such as power generation and energy production to devise a ‘common work program on best practices’ (White House 2007b). Despite launching the MEP, the Bush Administration claimed to be committed to the UNFCCC process and that the MEP meetings would ‘complement’ ongoing UN activity.

The final MEP meeting was held at the conclusion of the G8 summit in Hokkaido, Japan, in July 2008. This meeting produced the first publicly released document of the MEP, the ‘Declaration of Leaders Meeting on Energy Security and Climate Change’ (MEP Leaders Declaration) (White House 2008). The MEP Leaders Declaration contains a ‘shared vision’ for a long-term cooperative global goal for emission reduction, but does not contain any attempt to quantify such reduction (White House 2008). The MEP Leaders Declaration notes that developed states will implement economy wide mid-term goals and actions to achieve absolute reductions in greenhouse gas emissions (White House 2008). However, this statement on developed state mid-term goals is heavily qualified in that ‘where applicable’ developed states may simply focus on ‘stopping the growth’ of emissions (White House 2008). This wording accommodated the Bush Administration’s approach of the USA concentrating on ‘stopping the growth’ of national emissions at least until 2025, rather than engaging in any absolute cut in emission levels. The MEP Leaders Declaration also strongly emphasised the APP approach of sectoral-based technology cooperation and information exchange (White House 2008). The MEP Leaders Declaration quite clearly draws inspiration from the APP task force approach to technology development. In March 2009, the US Major Economies Process was re-badged by the Obama Administration as the ‘Major Economies Forum on Energy and Climate’ (US State Department 2010). The seventeen countries of this new Obama-backed forum met on five occasions in the lead up to the Copenhagen COP 15 meeting with a view to reaching agreement on key climate related

issues (US State Department 2009). Both the Bush Major Economies Process and Obama Major Economies Forum meetings were state-to-state forums that excluded access for ENGOs, RINGOs and BINGOs (Greenpeace 2008).²¹

Exclusive minilateralism: A strengthening discourse in international climate change governance?

The exclusive minilateralism discourse has been steadily building strength in academic and policy commentating circles particularly amongst authors opposed to the binding targets and timetables approach of the Kyoto Protocol (Kellow 2010). However, the strength of the exclusive minilateralism discourse is even more evident in the intersubjective understanding underlying the APP, APEC Sydney Declaration and US Major Economies Process. These non-UN climate change forums have sought to facilitate dialogue outside the UNFCCC process with a view to reaching important understandings on the level of ambition for medium and long-term emission reduction at a regional and/or global level. For example, the APP encourages each participating state to set its own non-binding greenhouse target to reduce greenhouse gas intensity, the level of ambition to be based on its own national circumstances (Asia-Pacific Partnership 2009b). The APEC Sydney Declaration contains a non-binding, APEC-wide, energy intensity reduction target of very modest substance (APEC 2007). The Obama US Major Economies Forum meetings failed to agree on a figure for a medium term collective emission reduction target. However, the Bush US MEP endorsed a medium-term approach of all countries (including developed countries) setting and implementing their own economy wide mid-term goals and actions on emission reduction that may be based on ‘stopping the growth’ of their emissions (reduction of greenhouse gas intensity only) rather than reducing emissions in absolute terms (below a 1990 or similar baseline) (White House 2008). Important understandings were built in these select non-UN forums as to the level ambition of future medium and long-term emission reduction targets (McGee and Taplin 2009). Discussions have occurred and understandings have been built in these select, non-UN minilateral forums that have excluded over 170 countries, many of which will be impacted hardest by the early climate change impacts. As discussed above, environmental NGOs in particular have also been largely excluded from attending and lobbying at these non-UN, minilateral forums.

²¹ For a more detailed comparison of the APP, APEC Sydney Declaration and the US Major Economies Process, see McGee and Taplin (2009).

Further, the understandings built in these minilateral forums appear to have influenced the process of the Copenhagen COP 15 meeting. The COP15 meeting was dogged by criticism from smaller developing countries that key negotiating texts were developed in an opaque manner by a small group of developed countries²² rather than in the open, transparent and participatory process of earlier UNFCCC meetings. Meilstrup (2010) provides a detailed history of the diplomatic negotiations that lead to the outcome at COP 15. He explains that in 2009 Denmark sought to take advantage of its' Presidency of the COP 15 meeting to reconceptualise that role from one of simply facilitating dialogue between meeting participants to one of agenda setting and leadership (2010:116–117). Denmark broke from usual UNFCCC process by entering into discussions outside the UNFCCC preparatory meetings for COP 15 to broker a 'Danish Proposal' for the COP 15 meeting (Meilstrup 2010: 124). During 2009, Denmark organised bilateral meetings with the EU, USA, Australia, Canada, the Maldives, Africa, Mexico, Brazil, China and India (Meilstrup 2010: 125) to advocate for the Danish proposal. Denmark also arranged a multilateral meeting between 20-30 countries in early December 2009 to discuss the Danish Proposal (Meilstrup 2010: 127). This again occurred outside the formal UNFCCC preparatory meetings for COP15 that involved all state parties to the Convention.

However, the 'Danish Proposal' was leaked to the United Kingdom newspaper *The Guardian* on the second day of the COP 15 meeting (Vidal 2009) thereby alienating the vast bulk of states that were unaware of its existence (Phelan 2010: 15, Rajamani 2010: 826). The G-77 plus China then denounced the Danish text as "undemocratic, unfair and draft with a lack of transparency" (Meilstrup 2010: 128). As the negotiations at COP 15 moved towards their final days there was still no agreement on the extensive text being negotiated in the formal UNFCCC meeting process (Meilstrup 2010:128). A group of 26 state leaders worked over the Thursday night/Friday morning before the closure of the COP to generate a text however failed to reach agreement (Meilstrup 2010: 128; Dimitrov 2010). Finally, on the Friday before closure of the COP the leaders of five states—China, India, South Africa and Brazil and the USA—met in private and agreed on the modest three page document that became the Copenhagen Accord (Meilstrup 2010: 128; Grubb 2010). The text of this document was then hastily presented to the group of twenty six other countries that had been seeking to draft an

²² See, for example, Vidal (2009).

agreement (Meilstrup 2010: 128). In the dying hours of COP 15 the Copenhagen Accord (UNFCCC 2009b) was presented to the meeting for adoption. In a heated and at times acrimonious debate the Copenhagen Accord was rejected by Bolivia, Nicaragua, Venezuela, Sudan and Tuvalu (Rajamani 2010: 826). Due to lack of consensus on the text of the Copenhagen Accord the COP only 'noted' rather than 'adopted' the document as a decision (Rajamani 2010: 826).

Importantly, this history shows the influence of minilateralism on the events at Copenhagen. The failed Danish Proposal arose from a minilateral forum of confidential discussions between only 20-30 states. The Copenhagen Accord was also essentially produced in the minilateral setting of a confidential meeting between the USA and four large developing countries. The Copenhagen Accord was then presented to a slightly larger group of 26 countries that had been earlier negotiating a text before finally being unsuccessfully presented to the full COP meeting (a further 160 states) for approval. The Copenhagen COP 15 meeting therefore shows strong evidence of a willingness of key states to marginalise the open development of text through the UNFCCC meetings and instead have recourse to minilateral climate discussion forums as pioneered in the APP, APEC Sydney Declaration and US Major Economies Process.

As discussed above, ENGO delegations at COP15 were also highly critical of the unusual opaqueness of negotiations and generation of negotiating texts at the meeting (Fisher 2010; McGregor 2011; Phelan 2010; Rajamani 2010: 3). The difficulty of NGO involvement at COP15 has been linked to the large number of NGO delegates, poor planning at the conference venue by the host Danish Government and a broadening of the agenda of climate justice groups present at the meeting (Fisher 2010). However, McGregor (2011: 4) argues that COP 15 demonstrated a more general disenfranchisement of smaller countries and ENGOs within the COP process. The logistical problems at COP 15 no doubt played some part in NGO marginalisation at Copenhagen. However, it is important that this should not mask a more general disenfranchisement of ENGOs in international climate governance that had been building in the years leading to COP15 through the exclusive minilateralist institutions of the APP and US Major Economies Process.

In summary, from 2005 onwards a number of significant non-UN forums for climate change dialogue show clear affinity with the exclusive minilateralism discourse. The

approach of the Denmark as COP President in the lead up to the COP 15 meeting and actions of key states at that meeting also show a propensity of exclusive small group negotiations and/or marginalisation of the role of NGOs. When combined with significant academic advocacy for small group negotiations in international climate governance these developments indicate a growing strength of the exclusive minilateralist discourse.

What challenges does the Exclusive Minilateralism Discourse provide for the furtherance of democracy in international climate change governance?

The exclusive minilateralism discourse is in direct contestation with cosmopolitan democratic version of liberal multilateralism. First, the very significant reduction in franchise advocated by the exclusive minilateral discourse (from all countries concerned with climate change to only the key emitters and/or economically power states) is obviously at odds with the expansion of democratic representation²³ in international institutions that lies at the heart of cosmopolitan democratic project (Held 2006: 170–172). The exclusive minilateralism discourse is therefore vulnerable to attack on the basis of its lack of legitimacy and failure to adhere to cosmopolitan democratic ideal of ‘all inclusiveness’ (Held 2006: 171). Second, the exclusive minilateralism discourse openly excludes civil society, particularly NGOs, from participation in meetings of the ‘inner sanctum’ of decision-making on international climate change policy. This conflicts with cosmopolitan democratic theory that promotes the voice of non-state actors as means of representing the aggregated interests of individuals and as an agent to monitor the accountability of states (Held 2006: 171). Third, the exclusive minilateralism discourse is also difficult to reconcile with cosmopolitan democratic ideal of enhancing the transparency and accountability of intergovernmental organisations (Held 2006: 172). In sum, the cosmopolitan democrat should be significantly concerned at the strengthening of the exclusive minilateralism discourse.

The exclusive minilateralism discourse also has potential negative effects upon the level of discursive democracy in international climate governance. Dryzek indicates that in assessing a deliberative system it is important to consider the connections between the

²³ Held (2006: 171) explains this expansion of democratic representation in international decision making forums on the basis of a principle of ‘all-inclusiveness,’ that is ‘those whose life expectancy and life chances are significantly affected by social forces and processes ought to have a stake in the determination of the conditions and regulation of these forces and processes, either directly or indirectly through political representatives.’

‘public spaces’ of social movements, media outlets, internet, public hearings and other popular sites of communication and the ‘empowered spaces’ of formal collective decision making bodies such as the UNFCCC COP meetings (Dryzek 2010: 10). He suggests that effective deliberative systems have mechanisms by which public spaces can adequately transmit information and influence to the empowered space and thereby hold the decision makers in the empowered space to account (Dryzek 2010: 10). The Copenhagen COP 15 meeting demonstrated a flowering of the public spaces of international climate governance with intense media coverage of the meeting and a record number of NGO representatives registered to attend (Fisher 2010: 13). There were several large protest marches by ENGOs and climate justice movements during the two weeks of COP 15 demanding a fair, binding and ambitious treaty from the state representatives in the empowered space of the meeting halls and back rooms of the Bella Centre (McGregor 2011: 2; Fisher 2010: 14–15). However, despite the vibrancy of the public space surrounding the COP15 meeting, within the empowered space of the Bella Centre, there was a strong feeling from ENGOs of marginalisation and reduced ability to participate and effectively lobby state representatives (McGregor 2011: 3–4, Fisher 2010: 1). The minilateral approach of reducing negotiations to small groups of key states appears to have a significant negative impact upon the flows of influence and accountability between the public space and the empowered space of the formal negotiations. Discursive democracy is thus weakened if a flourishing public space is unable to transmit its discursive influence into the empowered space of international climate governance and hold actors in that space accountable for their decisions.

Further, a continued strengthening of the exclusive minilateralism discourse and prevalence of exclusive minilateral institutions in international climate change governance carries significant risk that economically powerful states will seek a subtle redefinition of the ‘problem’ of human induced climate change and limit the range of acceptable policy options to those serving their immediate economic interests. The non-UN minilateral climate forums discussed above have either explicitly or implicitly supported a rise in greenhouse emissions to 2050 that on the science of the IPCC will deliver in excess of a three degree average surface temperature increase above pre-industrial levels (McGee & Taplin 2006: 183; McGee & Taplin 2009: 222–227). The country pledges made to the Copenhagen Accord and modelling done in support of the

APP both tacitly accept a rise in surface temperature of this magnitude.²⁴ The key nations involved in these agreements have thus already affected a subtle shift in intersubjective understanding on what level of ambition might realistically be expected in global emission reduction and hence what global ambition should be on the level of acceptable climate change. If the level of ambition of greenhouse gas mitigation arising from minilateral forums remains low there is a significant risk that the subsequent world of three degree plus warming will not be one that is friendly to either cosmopolitan or discursive conceptions of democracy in international climate governance.²⁵

Arguments against that the consensus decision making rule of the UNFCCC COP process will likely continue to gather strength. As the necessity to act more ambitiously to mitigate greenhouse gas emissions dawns it may well become more difficult to obtain the consent of every state at COP meetings. It is therefore important that the COP reforms its decision making rule to allow for some form of majority decision making that will avoid grid lock in decision making on key issues. Such a proposal is currently being discussed within the UNFCCC²⁶ and offers a useful starting point for reforming the cosmopolitan design of the COP process. However, there is also the possibility of attempting to formally incorporate some elements of the minilateralism discourse within the UNFCCC COP process. Eckersley (2010: 2011) has recently argued that the difficulties of the consensus decision making rule in the UNFCCC might be eased by the formation of a minilateral 'Climate Council' within the COP comprising 15 states that represent 70 percent of world population. The Climate Council would be comprised of the states that are most responsible for climate change, most vulnerable to climate change and with the greatest capacity to respond by providing resources for mitigation and/or adaptation (Eckersley 2010: 2011). The Climate Council would comprise a mixture of developed and developing state voices²⁷. The Climate Council would have a role of providing a forum for discussion of difficult to resolve issues on mitigation and adaptation and make persuasive recommendations back to the full COP meeting

²⁴ See, for example Climate Action Tracker (2010) and Ford *et al.* (2006).

²⁵ For instance, Flannery (2005; 291–295) warns of the danger that a failure of current generations to stem greenhouse gas emissions through democratic may lead to more authoritarian responses when more severe climate change impacts start to appear.

²⁶ In May 2011 Mexico and Papua New Guinea formally proposed that substantive decisions of the COP might be based, in the absence of consensus, on a three quarter majority vote (UNFCCC 2011).

²⁷ Eckersley (2010) suggests that one configuration for membership on the Climate Council would be: the USA UE, Japan, Russia, Germany, Great Britain, France, Poland, China, India, Brazil, South Africa and three representatives from the Association of Small Island States, the African Group and the least developed countries.

(Eckersley 2010: 2011). In order to improve the discursive democratic design of the Climate Council it might also be possible to include representatives from peak NGOs such as Climate Action Network, World Business Council on Sustainable Development and the chairman of the IPCC. The inclusion of these voices from civil society might improve the transmission of influence and accountability between the public spaces of NGO activity and the empowered space of the UNFCCC COP meeting.

Conclusion

The exclusive minilateralism discourse in international climate change governance has strengthened significantly over the past five years through both academic and policy commentary and non-UN climate forums arising chiefly from the Asia-Pacific region. This experimentation with minilateral forums for climate change negotiations appears also to have also been present in the lead up to and during the Copenhagen COP15 meeting. There is a significant prospect that the exclusive minilateralism discourse will continue to strengthen and further shape global climate change governance. The discourse represents a challenge to the pattern of inclusive multilateral climate governance that has been established in the UN climate regime over the past two decades. A possible response to the exclusive minilateralism discourse is to consider reforming the consensus decision making rule of the UNFCCC to make it easier for the COP to obtain binding agreement on difficult issues relating to mitigation and adaptation. Drawing on Eckersley (2010: 2011), it might also be possible to formally include the exclusive minilateralism discourse within the UNFCCC COP process by the formation of a peak advisory body comprising representatives from the most responsible, vulnerable and capable states and peak environmental, business and scientific NGOs. This body might have a strong advisory role on issues that become bogged down in the wider COP process. Both strategies need to be considered carefully in deciding how the institution of the UNFCCC should respond to the exclusive minilateralism discourse.

Reference List

- Abbott, K. 2004, 'International Relations Theory, International Law, and the Regime Governing Atrocities in Internal Conflicts,' *American Journal of International Law*, vol. 93, no. 2, 361–378.
- APEC 2007, *Sydney APEC Leaders' Declaration on Climate Change, Energy Security and Clean Development*. Online, available: http://www.apec.org/en/Meeting-Papers/Leaders-Declarations/2007/2007_aelm/aelm_climatechange.aspx [accessed 3 December 2010].
- Archibugi, D. & Held, D. (eds), 1995, *Cosmopolitan Democracy: An Agenda for a New World Order*. Polity Press, Oxford, and Cambridge, MA.
- Armstrong, D., Farrell, T. & Lambert, H. 2007, *International Law and International Relations*, Cambridge University Press, Cambridge.
- Asia-Pacific Partnership 2009a, *Vision Statement*. Online, available: <http://www.asiapacificpartnership.org/pdf/resources/vision.pdf> [accessed 3 December 2010].
- Asia-Pacific Partnership, 2009b, *Charter*. Online, available: <http://www.asiapacificpartnership.org/pdf/resources/charter.pdf> [accessed 3 December 2010].
- Asia-Pacific Partnership, 2010, *Project Roster*. Online, available: http://www.asiapacificpartnership.org/english/project_roster.aspx [accessed 3 December 2010].
- Black, R. 2006, 'Business Deal or Bright Idea,' *BBC News*, 12 January. Online, available: <http://news.bbc.co.uk/2/hi/science/nature/4602296.stm> [accessed 3 December 2010].
- Brown, P. & Wilson, J. 2005, 'US Plan to Bypass Kyoto Protocol,' *The Guardian*, 28 July. Online, available: <http://www.guardian.co.uk/world/2005/jul/28/environment.usa> [accessed 2 December 2010].
- Charter of the United Nations* 1945, United Nations. Online, available: <http://www.un.org/en/documents/charter/> [accessed 3 December 2010].
- Chayes, A. 1974, *The Cuban Missile Crisis*. Oxford University Press, London.
- Climate Action Tracker 2010, *No Major Changes in Ambition: High Chance to Exceed 3°C*. Online, available: <http://www.climateactiontracker.org/> [accessed 3 December 2010].
- Depledge, J. 1995, 'Against the Grain: The United States and the Global Climate Change Regime,' *Global Change Peace and Security*, vol. 17, no. 1, 16–19.
- Dimitrov, R. 2010. 'Inside Copenhagen: The State of Climate Governance,' *Global Environmental Politics*, vol. 10, 18–24.
- Downer, A. 2005, Press Conference: ITECC, Vientiane, Laos, 28 July Online, available: http://pandora.nla.gov.au/pan/25167/20060602-0000/www.foreignminister.gov.au/transcripts/2005/050728_vientiane.html [accessed 3 December 2010].
- Dryzek, J. 2000, *Deliberative Democracy and Beyond: Liberals, Critics, Contestations*. Oxford University Press, Oxford.
- _____. 2005, *The Politics of the Earth*. Second Edition. Oxford University Press, New York.
- _____. 2006, *Deliberative Global Politics: Discourse and Democracy in a Divided World*. Polity Press, Cambridge.
- _____. 2007, 'Paradigms and Discourses,' in *The Oxford Handbook of International Environmental Law*, (eds) D. Bodansky, J. Bruneau, J. & E. Hey. Oxford University Press, New York, 44–62.
- _____. 2010, *Foundations and Frontiers of Deliberative Governance*, Oxford University Press, United States.
- Eckersley, R. 2010. 'Railing at the Mexican Standoff,' *The Age*, 16 December. Online, available: <http://www.theage.com.au/opinion/politics/railing-at-a-mexican-standoff-20101215-18y49.html> [Accessed 10 July 2011].
- Eckersley, R. 2011 (forthcoming), 'Moving Forward in the Climate Negotiations; Multilateralism or Minilateralism?' *Global Environmental Politics*.
- Farhana, Y. & Depledge, J. 2004, *The International Climate Change Regime: A Guide to Rules, Institutions and Procedures*. Cambridge University Press, Cambridge.
- Feinberg, R. 2008, 'Seeking Balance: Two Decades of the APEC Forum,' *APEC Global Asia Feature Essay*. Online, available: http://www.apec.org.au/docs/08_ASCconf/012_Feinberg_pr.pdf [Accessed 10 July 2011].
- Finnemore, M. & Sikkink, K. 2001, 'The Constructivist Research Program in International Relations and Comparative Politics,' *Annual Review of Political Science*, vol. 4, 391–416.
- Fisher, D. 2010, 'COP-15 in Copenhagen: How the Merging of Movements Left Civil Society Out in the Cold,' *Global Environmental Politics*, vol. 10, 11–16.
- Ford, M. *et al.* 2006, Australian Bureau of Agricultural and Resource Economics Conference Paper 06.3: Perspectives on International Climate Policy. Online, available:

- http://www.abare.gov.au/publications_html/conference/conference_06/CP06_03.pdf [accessed 3 December 2010].
- Giddens, A. 1984, *The Constitution of Society: Outline of the Theory of Structuration*, Polity Press, Cambridge.
- _____. 2009, *The Politics of Climate Change*. Polity Press, Cambridge.
- Greenpeace, 2008, 'Bush Major Emitters Meetings: The Wrong way on Climate Change,' Greenpeace Briefing, January. Online, available: <http://www.greenpeace.org/raw/content/international/press/reports/bush-mem.pdf> [accessed 10 July 2011].
- Grubb, M. 2010, 'Copenhagen: Back to the Future?,' *Climate Policy*, no. 10, 127–130.
- Held, D. 1995, *Democracy and the Global Order: From the Modern State to Cosmopolitan Governance*, Polity Press, Cambridge.
- _____. 2002, 'Law of States, Law of Peoples,' *Legal Theory*, vol. 8, 1–44.
- _____. 2006, 'Reframing Global Governance; Apocalypse Soon or Reform,' *New Political Economy*, vol. 11, 157–176.
- _____. 2009, 'Restructuring Global Governance: Cosmopolitanism, Democracy and Global Order,' *Millennium: Journal of International Studies*, vol. 37, 535–547.
- Houghton, J., Jenkins, G. & Ephraums J. (eds.) 1990, *IPCC First Assessment Report 1990, Scientific Assessment of Climate Change: Report of Working Group I*. Cambridge University Press, Cambridge.
- Hunt, G. 2009, 'After Copenhagen: Time for the Major Economies Forum,' *The Australian*, 31 December. Online, available: <http://www.greghunt.com.au/Pages/Article.aspx?ID=1642> [accessed 2 December 2010].
- Kellow, A. 2006, 'A New Process for Negotiating Multilateral Environmental Agreements? The Asia-Pacific Partnership Beyond Kyoto,' *Australian Journal of International Affairs*, vol. 60, no. 2, 287–303.
- Kellow, A. 2010, 'Is the Asia-Pacific Partnership a Viable Alternative to the Kyoto Protocol?,' *Wiley Interdisciplinary Reviews; Climate Change*, vol. 1, 10–15.
- Kyoto Protocol to the United Nations Framework Convention on Climate Change*, opened for signature 11 December 1997, 2303 U.N.T.S 148, UN Doc. FCCC/CP/1997/7/Add.1. Online, available at <http://unfccc.int/resource/docs/convkp/kpeng.pdf> [accessed 2 December 2010].
- Levett, C., Dodson, L. & Banham, C. 29 July 2005, 'Pact Halves Emissions by Next Century,' *Sydney Morning Herald*. Online, available: <http://www.smh.com.au/news/national/pact-halves-emissions-by-the-next-century/2005/07/28/1122143966688.html> [accessed 3 December 2010].
- Lynas, M. 2009, 'How Do I know that China Wrecked the Copenhagen Deal? I was in the Room,' *The Guardian*, 22 December. Online, available: <http://www.guardian.co.uk/environment/2009/dec/22/copenhagen-climate-change-mark-lynas> [accessed 10 July 2011].
- McGee, J & Taplin, R. 2006, 'The Asia-Pacific Partnership on Clean Development and Climate: A Compliment or Competitor to the Kyoto Protocol,' *Global Change Peace and Security*, vol. 18, 173–192.
- _____. 2008, 'The Asia-Pacific Partnership and United States International Climate Change Policy,' *Colorado Journal of International Environmental Law and Policy*, vol. 19, 179–218.
- _____. 2009, 'The Role of the Asia-Pacific Partnership in Discursive Contestation of the International Climate Regime,' *International Environmental Agreements; Politics, Law, Economics*, vol. 9, 213–238.
- McGregor, I. 2011, 'Disenfranchisement of Countries and Civil Society at COP-15 in Copenhagen,' *Global Environmental Politics*, vol. 11, 1–7.
- Meilstrup, P. 2010, 'The Runaway Summit: The Background Story of the Danish Presidency of COP15, the UN Climate Change Conference,' in the *Danish Foreign Policy Yearbook 2010*, Danish Institute of International Studies, Copenhagen, 113–135.
- Monbiot, G. 2003, *The Age of Consent: A Manifesto for a New World Order*. Harper Collins, London.
- Naïm, M. 2009, 'Minilateralism; The Magic Number to Get Real International Action,' *Foreign Policy*, July/August, no. 173, 136–135.
- Neufeld, M. 1993, 'Interpretation and the Science of International Relations,' *Review of International Studies*, vol. 19, no. 1, 39–61.
- New Zealand Government 2006, *Cabinet Business Committee Min 06 17/19: Asia-Pacific Partnership on Clean development and Climate*. Online, available: <http://www.mfe.govt.nz/issues/climate/resources/cabinet-papers/cbc-min-06-17-19.html> [accessed 3 December 2010].

- Pettenger, M. 2007, *The Social Construction of Climate Change: Power, Knowledge, Norms, Discourses*. Ashgate, Burlington, VT.
- Oberthür, S. 2010, 'Global Climate Governance after Cancun: Options for EU Leadership,' *The International Spectator*, vol. 49, 5–13.
- Phelan, L. 2010, 'What to Make of COP 15? A Ringside Report,' *Air Quality and Climate Change*, vol. 44, 14–15.
- Prins, G. & Rayner, S. 2007, 'The Wrong Trousers: Radically Rethinking Climate Policy,' Joint Discussion Paper. Online, available: http://www.lse.ac.uk/collections/mackinderProgramme/pdf/mackinder_Wrong%20Trousers.pdf [accessed 2 December 2010].
- Rajamani, L. 2010, 'The Making and Unmaking of the Copenhagen Accord,' *International and Comparative Law Quarterly*, vol. 59, 824–843.
- Timmons-Roberts, J. & Parks, B. 2006, *A Climate of Injustice: Global Inequality, North-South Politics and Climate Policy*. MIT Press, Cambridge, MA.
- UNFCCC, 1995, *The Berlin Mandate Decision 1/CP.1*, UN doc FCCC/CP/1995/7/Add.1. Online, available at <http://unfccc.int/resource/docs/cop1/07a01.pdf> [accessed 2 December 2010].
- _____. 1996, *Organizational Matters: Adoption of Rules of Procedure*. Online, available: <http://unfccc.int/resource/docs/cop2/02.pdf> [accessed 2 December 2010].
- _____. 2002, *Report of the Conference of the Parties on its Seventh Session: Marrakesh 29 October to 10 November 2001*, UN Doc. FCCC/CP/2001/13/Add.2.
- _____. 2007, *Bali Action Plan*. Online, available: http://unfccc.int/files/meetings/cop_13/application/pdf/cop_bali_action.pdf [accessed 2 December 2010].
- _____. 2009a, *Kyoto Protocol: Status of Ratification*. Online, available: http://unfccc.int/files/kyoto_protocol/status_of_ratification/application/pdf/kp_ratification_2009_0826corr.pdf [accessed 2 December 2010].
- _____. 2009b, *Copenhagen Accord*. Online, available: <http://unfccc.int/resource/docs/2009/cop15/eng/107.pdf> [accessed 2 December 2010].
- _____. 2011, Letter dated 26 May 2011 from Papua New Guinea and Mexico to the Executive Secretary of the United Nations Framework Convention on Climate Change. Online, available: http://unfccc.int/files/parties_and_observers/notifications/application/pdf/nv_parties_20110603.pdf [accessed 19 July 2011].
- United Nations Framework Convention on Climate Change*, opened for signature 4 June 1992, 1771 U.N.T.S 107.
- US State Department, 2008, *US Involvement in the Asia-Pacific Partnership on Clean Development and Climate*. Online, available: <http://www.app.gov/library/111306.htm> [accessed 3 December 2010].
- US State Department, 2009, *Chair's Summary: Fifth Meeting of the Leaders' Representatives of the Major Economies Forum on Energy and Climate*, 20 October. Online, available: <http://www.state.gov/g/oes/rls/other/2009/130717.htm> [accessed 3 December 2010].
- _____. 2010, *Major Economies Forum on Energy and Climate*. Online, available: <http://www.state.gov/g/oes/climate/mem/> [accessed 3 December 2010].
- van Asselt, H. 2007, 'From UN-ity to Diversity? The UNFCCC, the Asia-Pacific Partnership, and the Future of International Law on Climate Change,' *Carbon Climate Law Review*, vol. 1, 17–28.
- Victor, D. 2006, 'Toward Effective International Cooperation on Climate Change: Numbers, Interests and Institutions,' *Global Environmental Politics*, vol. 6, no. 3, 90–103.
- Vidal, J. 8 December 2009, 'Copenhagen climate summit in disarray after "Danish text" leak,' *The Guardian*. Online, available: <http://www.guardian.co.uk/environment/2009/dec/08/copenhagen-climate-summit-disarray-danish-text> [accessed 3 December 2010].
- Vihma, A. 2011, 'A Climate of Consensus: The UNFCCC Faces Challenges of legitimacy and Effectiveness,' *Finnish Institute of International Affairs Briefing Paper 75*. Online, available: http://www.fiia.fi/en/publication/173/a_climate_of_consensus/ [accessed 10 July 2011]
- Wendt, A. 1999, *A Social Theory of International Politics*. Cambridge University Press, Cambridge.
- White House, The 2007a, *Fact Sheet: A New International Climate Change Framework*, 31 May. Online, available: <http://georgewbush-whitehouse.archives.gov/news/releases/2007/05/20070531-13.html> [accessed 3 December 2010].
- _____. 2007b, *Press Briefing by Tony Snow and Jim Connaughton, Chairman of the Council on Environmental Quality*, 31 May. Online, available: <http://georgewbush-whitehouse.archives.gov/news/releases/2007/05/20070531-17.html> [accessed 3 December 2010].
- _____. 2008, *Declaration of Leaders Meeting on Energy Security and Climate Change*, 9 July. Online, available: <http://georgewbush-whitehouse.archives.gov/news/releases/2008/07/20080709-5.html>

[accessed 3 December 2010].

Wilkinson, M. 2007, 'APEC Soft on Emissions,' *Sydney Morning Herald*, 18 August, 6. Online, available:

<http://newsstore.smh.com.au/apps/viewDocument.ac?multiview=true&sy=smh&page=1&kw=APEC+Soft+on+Emissions&pb=smh&dt=selectRange&dr=5years&so=relevance&sf=headline&rc=10&rm=200&sp=nrm&clsPage=1&hids=&sids=SMH070818FF5QP7LPQ8G> [accessed 3 December 2010].

Wright, T. 2009, 'Toward Effective Multilateralism: Why Bigger May Not Be Better,' *The Washington Quarterly*, July, 163–180.