



“Climate justice after Paris - key challenges, opportunities and priorities”

University of Melbourne’s Sustainable Society Institute

Inaugural Oration

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Thank you for the warm welcome back to the University of Melbourne. I recall with pleasure that earlier visit in 2002 to give the Inaugural Chancellor's Human Rights Lecture. As I think back on my lecture 14 years ago - when I argued that human rights should be ‘the rules of the road’ for a more values-led, ethical globalisation to benefit all people – I am struck that many of the same themes emerge in my lecture today, focused on our most pressing of global problems, climate change.

Human rights continue to be my rules of the road – indeed it was human rights that brought me to climate change. The injustice of the impacts of climate change on people already struggling to overcome poverty, and who are least responsible for the causes of climate change, is what motivates my work for climate justice. Through my Foundation on climate justice I have been championing people-centred approaches to climate change since 2010. In that time we have seen the impacts of climate change and the resulting injustice intensify. But we have also seen the opportunities for climate action increase and gain momentum – most notably in the build up to the Paris climate conference at the end of last year.

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I have been asked to reflect on climate justice after Paris and in order to do that I need to go back in time a little. I would like to go back to the COP that initiated work towards the Paris agreement. The Durban COP of December 2011 established the Ad Hoc Durban Platform tasked with preparing a new universal agreement with legal force. My Foundation undertook a study to assess the use and understanding of climate justice as a narrative, taking the Durban COP as a baseline. The findings showed that climate justice was very much an emerging narrative. In 2011, climate justice was not a term used in the climate negotiations – in fact we went so far as to describe it as a taboo. Bolivia was the only country to use the term in its statements to the United Nations Framework Convention on Climate Change (UNFCCC). At that time only a handful of world leaders used a climate justice narrative and business didn't use the term at all. Civil society were the dominant users of a climate justice narrative, with multiple different understandings and approaches.

When my Foundation started work in 2010 – we shaped our approach to climate justice around a set of principles that link human rights and development to achieve a human-centred approach, safeguarding the rights of the most vulnerable people and sharing the burdens and benefits of climate change and its impacts equitably and fairly. This was the basis of our work in the lead up to Paris – making the voices of vulnerable people heard, leveraging women's leadership, championing human rights and providing thought leadership on equitable solutions to climate change.

So having worked for climate justice in the lead up to Paris – did Paris deliver a climate justice outcome? In a statement I released on the adoption of the Paris Agreement – I concluded that the outcome was an agreement for humanity – as envisaged in the speeches of many of the Heads of State and Government on the first day of COP21. I commented on the fact that the unprecedented call for climate justice that echoed from all corners of the world was brought inside the walls of the negotiating rooms at COP21 in Paris. As a result climate justice is reflected in the pages of the Paris Agreement – even if the means to achieve it will need to be developed over the coming years.

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You could argue that this reaction to Paris is too optimistic – some point out that given the scale of the problem the response agreed in Paris is too modest, too incremental, too vague.

So to tease this out a little I would like to look at the Paris outcomes from the following perspectives – diplomacy, science and law.

Firstly diplomacy. Gambian Minister Pa Ousman Jarju commented in a recent blog that he attributes success in Paris to ‘the plethora of diplomatic engagements on climate change carried out by governments and other actors in advance of COP21.’ Like Pa, I am convinced that this scale of climate diplomacy made agreement in Paris possible, and I support his assessment that continued diplomacy will play an important role in turning the commitments in the Paris Agreement into reality.

This diplomacy happened at many levels and by many actors - from the Secretary General of the UN and the French and Peruvian COP Presidencies to the least developed and climate vulnerable countries. French diplomacy and their approach to COP facilitation resulted in an inclusive process. Despite their differences, 196 countries came together to prove that a multilateral process built on trust and dialogue, and that respects the capacity of smaller delegations to engage, can yield strong results. The creation of the High Ambition Coalition, a collective of some of the most vulnerable countries accompanied by some of the biggest emitters, was a turning point in Paris, as similar alliances had been previously in Cancun and Durban. These diplomatic efforts allowed the priorities of vulnerable countries -like securing a reference to 1.5oC in the text - to be heard, amplified and then supported by their developed country negotiating partners.

By applying this Principle of Climate Justice - ensuring that decisions on climate change are participatory, transparent and accountable - the voices of people in vulnerable situations were heard in Paris. And if the agreement is enacted in the spirit in which it was agreed, the most vulnerable people must also share the benefits of the climate action as the agreement is implemented.

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Secondly Science. I am not a scientist – but like all of you I have access to the latest science and assessments of what that science means for development, for human safety and for our health via the Intergovernmental Panel on Climate Change (IPCC). Science tell us that we need to keep warming to less than 2oC above pre industrial levels to avoid the most devastating impacts of climate change. An expert dialogue carried out under the UNFCCC found that previous assessments that 2°C of warming is safe are inadequate and that 2oC is better seen as an upper limit, a defence line that needs to be stringently defended, while less warming is preferable. Hence the importance of the reference to 1.5oC as a safer goal in the Paris Agreement. Science also tells us we have already reached 1oC of warming and that the impacts of that warming affect some parts of the world more significantly than others. Hence here in Australia you feel the impacts of that warming more intensively than I do at home in temperate Ireland.

Climate justice is informed by science and responds to science. As a result it can be argued that the Paris Agreement should have delivered an effective agreement to guarantee that warming will be well below 2oC degrees to be consistent with climate justice. In fact the national commitments (called INDCs) that form the basis of the Paris agreement will result in warming of at least 2.7oC even if fully implemented. And full implementation requires a flow of resources to developing countries to enable them to meet their most ambitious targets.

So it is vital that the Paris Agreement recognises that 2oC is too much for many parts of the world and commits to pursuing efforts to limit the temperature increase to below 1.5oC. It also sets out a legally binding review regime to increase these national commitments over time and to improve transparency so that action towards 1.5 and well below 2oC can be tracked. So while Paris doesn't deliver what science demands, it is informed by science and will be reviewed and upgraded in response to science. This is a big step forward – 190+ countries have signed up to making the transition to a world without fossil fuels before the end of this century – something that did not seem possible in the years leading up to Paris.

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Thirdly law. How will the rule of law be used to ensure that the commitments made in Paris are actually delivered? The Paris Agreement is a universal and legally binding international agreement. Importantly it is not a narrow environmental agreement – it is an agreement about sustainable development, economics, energy transformation, human dignity and the planet we pass on to future generations. While the national commitments made on a voluntary basis in the lead up to COP21 are not legally binding, the requirement to review and revise these upwards is, as are the provisions around transparency and accountability. What Paris has created is a legally binding pathway for climate action – the open question is whether this pathway will deliver action at the speed and scale needed to keep warming below 1.5 or well below 2oC?

This is where the rules that will govern the implementation of the Paris Agreement are important. This will be the focus of work in the coming years under the UNFCCC. The rules on transparency are crucial, so that a regime is created that enables oversight by governments, civil society and citizens. The rules will need to be strong to bolster what is a non-punitive compliance mechanism under the Agreement. Overall the Paris Agreement adds to the body of law that governs action on climate change – but it is only part of the puzzle. Other aspects of international law from human rights law to trade law are also important, and will have to develop and adapt to be fit for purpose in a climate affected world. The recent ruling by a WTO tribunal, for example, that India's national solar energy program violates trade law is worrying. Especially when we take into account that 300 million Indians, or a quarter of the population, don't have access to electricity, and that providing access to electricity has to be achieved without fossil fuels to protect the climate system.

A report by the International Bar Association entitled 'Achieving Justice and Human Rights in an Era of Climate Disruption' found that the current system of international law is not well suited to addressing climate justice. This is deeply troubling. The legal system we have now at international and domestic level is not equipped to deal with the scale of the challenge posed by climate change - the biggest threat to human rights of the 21st Century. The fragmented nature of the relevant legal regimes, and their origins in most cases in a world

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before awareness of climate change, means that reforms are needed to enable them to respond effectively and to deliver climate justice. More effective and coherent use of existing laws, rules and norms would inform better climate responses at the international and national level and the legal reforms required to ensure fair and effective climate policies and actions.

Likewise the continued development of climate legislation at the national and sub national level will be critical to anchoring the Paris commitments in law and ensuring a long term approach to climate action. The GLOBE 2015 Global Climate Legislation Study finds that there were 804 climate laws and policies at the end of 2014, compared with 426 in 2009 at the time of the Copenhagen climate conference. In fact there has been a doubling of climate laws and policies every 5 years since the Kyoto Protocol was agreed in 1997. The continuation of this trend will be an important step in ensuring that Paris is a success.

So my assessment is that Paris was a significant moment for climate justice. The journey to Paris saw the climate justice narrative grow in strength and in stature. When my Foundation repeated its assessment of the climate justice narrative at the end of December 2015 it revealed a very different situation from the baseline in 2011. Climate justice is no longer a narrative only used by civil society. It is now part of the lexicon of at least 34 world leaders, 8 business organisations, and 27 countries. In fact climate justice has gone from being a taboo in the climate negotiations to being part of the Paris Agreement. The task ahead is to implement the Agreement and to continue to scale up ambition while ensuring fairness and protecting people and their rights.

This means that climate justice must now inform how the Paris Agreement is implemented. I would like to highlight four aspects of climate justice that I think are particularly pertinent to implementation: a development first approach; access to finance; inclusive action; and the role of human rights.

A development first approach recognises the right to development of all people and the very different levels of development countries have achieved to date. Climate solutions are

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sustainable development solutions – and they need to be designed with fairness and poverty reduction in mind. The Sustainable Development Goals remind us that we can leave no one behind as we pursue sustainable development, and the Paris Agreement commits us to prioritising the most vulnerable countries and people. Research by my Foundation and others, including the World Bank, has found that zero carbon and zero poverty are complementary goals, and that if we design policies to achieve these goals with human rights in mind we maximise fairness.

A development first approach emphasises the need to move away from addressing climate policy and action in isolation to making it part of an integrated approach to sustainable development. To reach zero carbon globally by 2050, which is what we need to do to achieve the 1.5oC goal, every sector of the economy will have to play a role. Climate action is part of education, healthcare, agriculture and water management. It is essential to the achievement of all 17 Sustainable Development Goals (SDGs). The SDGs are critical to near term climate action as they are being implemented between now and 2030, a critical window for climate action, and they cover all aspects of the economy and society.

Despite the universal nature of the SDGs, some developed countries have not fully realised that the SDGs are a domestic as well as an international agenda. The SDGs are for Australia too - and to achieve them actions need to be taken in relation to oceans, waste, cities, food production, land use and energy – all key sectors for climate action. If we take cities for example, a subject I will be discussing later this week in Sydney, it is clear that cities are both on the frontline in terms of climate risks and at the forefront of finding climate solutions. Sustainable cities are healthy, uncongested, safe, clean and thriving – they are something we should aspire to for current and future generations.

I have highlighted access to finance because the only way a zero carbon, climate resilient transformation can be fair is if all countries are enabled to make the transition together. Leaving those who cannot afford to make the investment in green infrastructure behind is

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not only unfair, it will also make it impossible to stay within the global carbon budget. The majority of climate action, on adaptation and on low carbon development, will happen in developing countries - where the need to develop without emissions and to manage risks is greatest. We are asking developing countries to do something no country has done before. To develop and lift their people out of poverty without using fossil fuels. This can only be possible if the international community invests in this transition in developing countries – so that development is based on sustainable rather than polluting fossil fuel energy.

Developing without emissions while coping with the impacts of climate change has costs. Developed countries that have benefited from fossil fuel powered growth have a responsibility to help pay these costs. In addition, it is in our collective self-interest to invest in developing countries as the actions they take will determine whether or not we achieve our climate goals. Some of the most vulnerable countries, small island states and the least developed countries have demonstrated leadership through their national commitments, but they need support to be able to implement these in full. And we need all countries to implement their current national commitments in full and to increase their ambition over time if we are to keep warming well below 2oC and closer to 1.5oC.

As I mentioned earlier, one of the reasons for success in Paris was that so many people, organisations, communities and businesses supported and called for governments to take bold action. COP21 created an inclusive space for all these voices to be heard, from faith based organisations and cities, to young people, women and artists. Likewise the Paris Agreement speaks to all these groups, recognising the need to protect the most vulnerable people, including migrants, indigenous people, youth, women, people with disabilities and local communities. The momentum created in the lead up to COP21 was created by this multitude of diverse voices calling for action and climate justice.

In Australia you have are lucky to have a vibrant and well informed civil society. I have been impressed over the years with the work of organisations like 1 Million Women that engages individual women and empowers them to take action and be part of a local, national and international movement. Keeping the diverse stakeholders advocating for climate action

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engaged, empowered and motivated will be important not only for implementation but also for oversight of those actions and in terms of accountability. The creation of the Climate Council is another Australian innovation that enables oversight of climate action and access to information for citizens. This is a model I am sure other countries will emulate as the Paris Agreement is enacted.

The last point I want to make on implementation is about rights. The relevance of human rights to climate change has not always been obvious to the climate community. As a result some climate actions have had a negative impact on people's lives because they didn't pay enough attention to rights like the right to participation, to access to information or to land rights. As we scale up climate actions in the coming years commensurate with the desire to keep warming below 1.5oC – we will need to do so in a way that is informed by human rights and that ensures the participation of women and gender equality.

That is why my Foundation, civil society organisations and countries from different corners of the world fought so hard to make sure that the Paris Agreement emphasised the need to protect and respect human rights in all climate actions. My Foundation has collected some initial case studies demonstrating that rights informed climate actions reap benefits for people as well as the planet. We need to share experience and collect good practices to help climate policy makers design effective actions. I hope that some of these can come from Australia and through Australia's support for Small Island states and vulnerable countries in the region.

I would like to finish with some next steps and opportunities for Australia and perhaps to set a few challenges.

The next critical step for each of the 190+ countries that are part of the Paris Agreement is to ratify it. The Agreement enters into force 30 days after it is ratified by at least 55 countries covering at least 55% of global GHG emissions. Ratification is critical to making the agreement a legally binding treaty and to carrying forward the momentum from Paris.

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Fiji's parliament unanimously agreed to ratify the Paris agreement on the 12th February, making it the first country in the world to do so. This was only days before the island nation was hit by the devastating Cyclone Winston – showing once again why the most climate vulnerable countries are leading on action at home and internationally. The Paris Agreement will be open for signing by Parties at the UN in New York from the 22nd April this year. I sincerely hope that Australia can follow the lead set by your neighbour Fiji and act in solidarity with the most vulnerable countries in your region by being one of the Parties ready to ratify on the 22nd April and at the very latest by COP 22 in Morocco this November.

Like all countries Australia now needs to accelerate its plans for a world without fossil fuels. The Paris Agreement commits the world to being fossil fuel free before the end of the century. In fact to achieve the 1.5oC goal we need to do this by 2050. Nobody is pretending this will be easy – but we do know that previous revolutions in human civilisation have happened quickly and that we have the ingenuity to create new ways of doing things when we put our minds to it and invest in it. Key to making this green revolution fair is planning. If we let the transition unfold in an unplanned way we increase the risk of negative impacts on people, in particular the most vulnerable people in society. If we plan well we can have a just transition, where people's rights are protected, including the right to work for those currently employed in fossil fuel intensive industries.

For too long we have portrayed the move away from fossil fuels as a threat, a burden, something to be scared of. Now that the leaders of 190+ countries have committed to a world without fossil fuels – it is time to look at this as an opportunity, for a fairer, healthier and safer world. Australia is a country with a can do attitude – a country where people get involved and where communities thrive. There is no better place to design a new way of doing business that cares for current generations while respecting the rights of future generations.

My Foundation is concerned with these intergenerational justice aspects of climate change. We are inspired by the different types of national and sub national institutions that bring a longer term perspective into policy making. Here in Victoria your Commissioner for

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Environmental Sustainability is an example of the approach more states and countries around the world need to embrace to balance the needs of current and future generations.

By putting people at the centre and including them in climate action rather than imposing it on them – the outcomes will be more transformational and the benefits more widely shared. So from your schools to your businesses, from your cities to your farmers – everyone can be part of a positive new approach to living on planet earth. Australia can then share this experience with others and be part of a global movement.

There is another way Australia can contribute to action at the global level and that is through your strategies to manage climate risk. As a continent Australia is very exposed to climate impacts; from drought and excessive temperatures to flooding and coastal erosion. As a result you are one of the most climate vulnerable developed countries and a test bed for actions to manage and reduce risk.

Australia has a responsibility to its citizens to protect them from climate impacts and to support others in more vulnerable situations around the world. I acknowledge Australia's continued commitment to research into adaptation and mitigation measures. There is, however, a need for complementary, fundamental climate change research. As a result, it is imperative that research funding levels are not just sustained, but increased. Research is an investment in our shared future – it is not a luxury. To make informed decisions we need access to the best information on the climate system and adaptation and mitigation responses. I urge Australia to continue to provide leadership on all aspects of climate change research and to pave the way for a safer future on earth for current and future generations.

The approach Australia takes to managing the impacts of climate change will create important lessons and knowledge for other countries – in particular the most vulnerable countries. From a climate justice perspective the way Australia values local knowledge as a resource when understanding and managing risk will be important. Climate justice emphasises participation by local communities, women, indigenous people and young

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people in designing and implementing climate actions. This is not just because it is the right thing to do, it is also because it works – it makes those actions more effective. Research shows that when indigenous and local communities have their land rights respected and are empowered to manage their natural resources – emissions reductions and resilience are increased. Likewise when women’s participation in disaster risk management is ensured – more lives are saved and losses reduced.

As climate risks intensify in a warming world – the need for radical adaptation planning is clear. This will involve strategies as diverse as new building regulations and coastal zone management, to plans to manage the movement of people within countries and across borders as their homelands become unliveable. As with planning for the transition away from fossil fuels, we need to approach this challenge without fear and ensure that people and their rights are at the centre of our plans. The injustice experienced by people forced to leave their homes due to the impacts of climate change is something I am very concerned about and that my Foundation will be working on in the coming years.

When I delivered the Chancellor’s Human Rights Lecture here in 2002 I spoke frankly about my concerns about Australia’s approach to migration. Little did I know the situation the world would be in 2016 with millions of people on the move due to conflict, drought, sea level intrusion and economic hardship? As countries blessed with resources, developed economies and well educated citizens – the wealthy countries of the world in Europe, America, Asia and Australia have to lead with compassion. The rule of law has a role to play – but so too do human rights and the values of human dignity that bind us together as a human race. I am as deeply concerned by the approach Australia is taking to migration, as I am about Europe’s inability to cope with the refugee crisis it is experiencing. This is an issue that demands global solidarity, a deep commitment to protecting human rights and new legal measures to protect vulnerable people caught in situations we had not imagined even 20 years ago. Australia can and must play a proactive role in this endeavour.

I have reached a stage in life where I enjoy issuing challenges. I have two challenges for you as academics and researchers that can help to make sure that the Paris Agreement is a success and delivers justice.

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The first is to get into a 1.5oC frame of mind. We desperately need research from all disciplines that looks at how we can keep warming below 1.5oC. COP 21 asked the IPCC to prepare a report in 2018 on the impacts of 1.5oC and emissions reductions pathways to achieve it. However, at present there isn't enough peer reviewed research for the IPCC to draw on. So whether your research is in the field of the environment, development, law, health or gender equality (and the list goes on) you have a role to play in researching and publishing on the implications of, and pathways to, 1.5oC - and the clock is ticking.

The second challenge is for those of you that can contribute to the work to shape the rules that will guide the implementation of the Paris Agreement. We need to develop rules on transparency to enable us to measure and track everything from greenhouse gas emissions and resilience to public and private climate finance. And we need to build capacity to integrate human rights and gender equality into climate action so that people are at the centre of implementation. These are the rules and the knowhow that will make a legally robust climate regime that delivers climate justice.

You can be part of securing justice for the most vulnerable while shaping a better future for us all.

Let me end with words from The Cure at Troy by Irish Nobel Laureate Seamus Heaney:

History says, Don't hope

On this side of the grave,

But then, once in a lifetime

The longed-for tidal wave

Of justice can rise up

And hope and history rhyme.

ENDS