

A Legal Perspective for International Agreement on Climate Change Issues

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Abstract: Climate change is now increasingly a concern with the international community considering the resulting negative impact is very complex and cause threats. Almost all areas of human life will be affected by climate change. Therefore the UN has made efforts to formulate an international agreement on climate change through at least three legal instruments. Starting from the Climate Change Convention that was born from the Rio de Janeiro Conference in 1992, then the Kyoto Protocol to the Paris Agreement. The problem is that the implementation of the three international agreements above is not as easy as imagined because of differences in interests between member countries or because of different international economic and political motivations. Therefore, the need for international legal studies concerning the constraints born of the three instruments the law concerned.

1 INTRODUCTION

Climate change is the greatest global health threat in the twentieth century which led to a change in global climate patterns resulting in an uncertain weather phenomenon (Wang, 2015). Climate change occurs because of changes in climate variables, such as air temperature and rainfall continuously over a long period of time between 50 to 100 years (Kementerian Lingkungan Hidup, 2004). Climate change is also affected by unstable weather conditions, such as storms, extreme temperatures, and drastic changes in wind direction (Ratnaningayu, 2009).

The impacts of climate change occur on many fronts, ranging from ecological, economic to social impacts. Ecologically, climate change among others has influenced the condition of river basin ecosystem (Effendi, 2012).

While economically, climate change, as the 2015 Asian Development Bank (ADB) Study has brought about an economic loss of up to 60% higher than the 2009 estimate. It will result in a gross domestic product of 11% lower across Asia in the year 2100 (Groof, 2017). Still according to the economic perspective, Climate change also brings influence on the pattern of tourist visits. The climate that was

initially considered comfortable enough for them ended up being uncomfortable again. It really has a negative implication on the volume of tourist visits to a tourist destination (Suwanto, 2011).

The social impacts of climate change, especially in the tropics, are the threat of increasing public food security, the decline in agricultural land area and environmental degradation, especially after 2050 (Lassa, 2015).

Due to the complex impacts of climate change as mentioned above, the UN has initiated an international agreement on climate change, namely: United Nations Framework Convention on Climate Change/UNFCCC (1992). As a follow-up to the UNFCCC, the Kyoto Protocol (1997) was adopted since 2005. The last international consensus on climate change has been realized through the Paris Agreement (2015) which has been in effect since November 4, 2016 (Camero, 2017).

According to the UNFCC that: "Climate change" means a change of climate which is altogether the composition of the global atmosphere and which is in addition to natural climate variability observed over comparable time periods. "Climate change adaptation and mitigation measures need to be continued by involving all parties at all levels, from international, regional, national to local levels.

Therefore, the need for synchronization and harmonization in the context referred to.

The indicators that can be used to determine whether the synchronization and harmonization of steps in each level has been or has not been realized is through legal arrangements. Based on these conditions it is necessary to have legal studies related to it for each level.

This paper will focus on international law regulation on climate change. At that level, further analysis needed to see whether existing international legal instruments will be sufficient to accommodate the measures required by the international community to address the problems arising from climate change.

2 RESEARCH METHODOLOGY

This paper uses the normative juridical method. Normative legal research method or literature law research method is a method used in legal research conducted by examining the library materials in the form of applicable legal norms contained in the legislation or judgment decisions (Soekanto, 1986).

The normative juridical method in the context of this paper is used to examine the legal norms of climate change contained in various international agreements or treaties.

In detail, the normative analysis is addressed to three international legal instruments governing climate change, first from the 1992 Climate Change Convention, then the second is the Kyoto Protocol, and the last is the Paris Agreement.

3 RESULT AND DISCUSSION

3.1 United Nations Framework Convention on Climate Change/ UNFCCC

The United Nations Framework Convention on Climate Change divides countries into 2 groups, developed countries listed in Annex I and developing countries not listed in Annex I.

Annex I countries as well as non-Annex I countries shall submit reports referred to National Communication, which is a report on the inventory of greenhouse gas emissions and its national climate change programs and policies. However, the deadline for the submission of National

Communication to non-Annex I countries is longer than the Annex I countries (Setyaningrum, 2015).

As the results of various studies, the classification between Annex 1 and Non Annex 1 countries is often considered to be one of the causes of the Kyoto Protocol's failure (Aniagyei, 2015).

Other issues that should also be observed from the UNFCCC is concerned with the decision-making process. The UNFCCC tends to be ineffective and unfair. It is not effective because the process hampers the exchange of information necessary to spur international climate cooperation. Then it is unfair because of its failure to properly distinguish between one country and another based on its domestic capability.

In addition, the principle of consensus as used in the UNFCCC lacks clear definition. Mexico and Papua New Guinea proposed a majority vote, but it is still considered not to solve the problem (Vogel, 2014).

3.2 Kyoto Protocol

The statement of the Intergovernmental Panel on Climate Change (IPCC) that climate change is unavoidable and irreversible (IPCC 2014) is one indication of the failure of the Kyoto Protocol in its main mission: to reduce the amount of GHGs entering the atmosphere (Amanda, 2015).

The protocol was rejected by the United States Government during President Bush on the grounds that the protocol has liberated countries with high populations such as China and India. In contrast, the economic interests of the United States are being harmed (Hovi, 2010).

3.3 Paris Agreements

The Paris Climate Change Agreement is different from its predecessor the Kyoto Protocol. All countries, not just the developed countries, are required to reduce their emissions. Negotiations no longer focus on separation of responsibilities, but each country is required to make each plan according to its national conditions: Intended Nationally Determined Contribution / INDC.

The Paris deal is more likely to mobilize political pressure than to apply the implementation of international law. This is manifested by creating a transparent set of steps and a review process for each country (although this is considered by observers to be unclear).

Table 1: Perspective on Several Obstacles in International Agreements on Climate Change

No	UNFCCC	Kyoto Protocol	Paris Agreement
1.	The distinction between Annex 1 and Non Annex 1 countries is a cause of failure of the Kyoto Protocol.	Failed to realize its main mission: to reduce the amount of GHG entering the atmosphere	The review mechanism for the steps that have been made by member countries is still considered unclear.
2.	The decision-making process can be an obstacle to the exchange of information needed to spur international climate cooperation.	Rejected by the United States because it was considered economically detrimental	The mechanism for implementing the convention is still very dependent on the good faith of the members
3.	Failure to distinguish between one country and another based on its domestic capacity.	Countries with large populations such as India and China are given obligations as developing countries, even though in fact they have a lot of emissions	The involvement of national and local governments, entrepreneurs and all levels of society in each member country is needed
4.	The principle doesn't have a clear definition.		

The Paris Agreement creates a process whereby each country should propose a stronger emissions cuts plan every five years. But in reality it is difficult to realize because there is no enforcement mechanism. The Paris deal like most other international agreements relies heavily on voluntary actions.

Therefore, there is a need for momentum that can be used to encourage countries to implement the Paris Agreement. Furthermore, much is needed of the involvement and role of policymakers, businessmen, scientists and activists. Each country should design and implement new policies, invent and use new technologies, be much more ambitious. (Manolas, 2016).

4 CONCLUSION

Perishable Based on the above description it can be concluded that the issue of climate change is a very worthy issue to get the attention of the international community. The complexity of issues arising from climate change can be seen in a variety of fields, ranging from ecological, economic, social and political fields. If left in the long run then this issue will be a serious threat to human life on earth.

Therefore, there is a need for good legal regulation so that the steps needed to anticipate climate change can be done as expected.

International agreements on climate change can be seen in at least three international legal instruments ranging from the Climate Change Convention, the Kyoto Protocol agreed in Japan and the last is the Paris Agreement. The issue of climate change is not necessarily successfully overcome by the three legal instruments mentioned above. The three instruments in reality have their respective deficiencies so that it becomes an obstacle in the implementation. One of the most highlighted is the distinction between developed and developing country groups.

Developed countries in the aforementioned legal instruments have an obligation which for some people is considered more severe (unfair) when compared to the obligations imposed on developing countries. Though developing countries such as China and India in fact it became one of the countries that became the largest contributor to emissions in the world. For that reason, the United States also expressed an attitude to reject the international legal instruments on climate change.

Therefore, in the future, international agreement on climate change as stated in international legal instruments should pay attention not only to

ecological matters but also to consider and consider economic and political issues. It is important that international agreements on climate change are not rejected as they have been.

Accommodation of ecological, economic, social and political issues in the international agreement is absolutely used as material to formulate an international legal instrument that is expected to be a tool to anticipate the impact of climate change that has now become increasingly evident to grow into a global threat.

In addition, international legal instruments on climate change are also expected to give more impetus to the contributions of all parties, from the Central Government, regional governments, international organizations, non-governmental organizations to the wider community wherever they are.

The involvement and synergy of related parties is needed because the climate change issue will not be able to be solved if it only relies on the government's legal obligations.

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