

ADVANCE SOCIAL SCIENCE ARCHIVE JOURNAL

Available Online: <https://assajournal.com>

Vol. 04 No. 02. October-December 2025. Page# 2295-2307

Print ISSN: [3006-2497](https://doi.org/10.5281/zenodo.17821510) Online ISSN: [3006-2500](https://doi.org/10.5281/zenodo.17821510)

Platform & Workflow by: [Open Journal Systems](https://doi.org/10.5281/zenodo.17821510)

<https://doi.org/10.5281/zenodo.17821510>



The Principle of Common but Differentiated Responsibilities (CBDR): The Future of Climate Justice

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Abstract

The Common but Differentiated Responsibilities (CBDR) principle is one of the foundations of international environmental laws, as it constitutes the pragmatic flexibility as well as the moral equality in the international approach to the issue of climate change. CBDR, based on the understanding that although every state will have a role in protecting the environment, the need of each country to limit its carbon emissions varies, based on its historical emissions, capacity, and developmental priorities, has led the international environmental negotiations since the 1992 Rio Earth Summit. However, the changing climate regime, especially when it comes to the Paris Agreement, has brought forth contradictions between differentiation and universality. This paper will discuss the legal, ethical, and political basis of CBDR, how it has been modified by the consecutive climate treaties, and how it can play out in the future in regards to climate justice. It will argue, based on historical background, treaty interpretation, and the literature, that CBDR should be transformed into a dynamic differentiation model, which guarantees equity without deterring a common world ambition.

Keywords: Common but Differentiated Responsibilities (CBDR); Climate Justice; International Environmental Law; Paris Agreement; Climate Governance; North–South Divide; Equity; Global Climate Finance.

1. Introduction: Context and Relevance of CBDR in Global Climate Governance

One of the most controversial principles of international environmental law, especially in the framework of the discussion of climate change, is the principle of Common but Differentiated Responsibilities. It summarizes the appreciation that even though environmental degradation is a global issue, states have unequal roles to play in resolving the issue because of the differences in their past roles and current capabilities. This principle was codified in Article 3(1) of the United Nations Framework Convention on climatic change (UNFCCC) and stated that parties were to act on the basis of equity and in regard to their common but differentiated responsibilities and respective capabilities (Sands, 1992a).

CBDR brought about a paradigm shift in the governance of the environment. Before recognition, the international law more or less viewed states as the same actors without much consideration to developmental and historical imbalances. Inclusion of differentiation was an ethical and legal recognition that the developed nations, which have contributed most to the global emissions, should in turn, spearhead the mitigation efforts together with supporting the developing nations through finance, technology transfer and capacity building (Sands & Peel, 2012a).

Nevertheless, the history of the climate negotiations has been characterized by the growing tension between the developed and developing countries. The argument against strict differentiation by developed nations is that this practice would hinder collective action, but to the developing countries, dilution of CBDR is a danger to climate equity (Rajamani, 2000a). This conflict has defined the course of international climate regulation, namely the rigid division of responsibilities in the Kyoto Protocol to the more liberal and self-determined approach of the Paris Agreement.

CBDR is not just a legal principle in the modern climate discourse; it represents a moral demand of climate justice (Humphreys, 2014). The question is not only that of legal accountability but of equity, unity and acknowledgement of structural disparities that have existed since the industrial era. With the increase in the intensity of climate impacts, the fair sharing of responsibility is a key concern about the validity as well as the efficacy of the global climate regime.

The paper will discuss the history of CBDR, its legal basis, and the future of climate justice. It states that the principle of normative core of CBDR is indispensable even though the working form of the Paris Agreement has been changed (Sands & Peel, 2012b). Knowledge of its direction is fundamental in making sure that the global climate policy is based on fairness and not just efficiency.

2. Historical Evolution of the CBDR Principle

The development of the Common but Differentiated Responsibilities (CBDR) principle is indicative of how the international environmental law evolved over time to no longer be state-centric, sovereignty-focused, but to embrace equity and equal responsibility of the global commons. Intellectually, it would be possible to trace back to the debates of the 1972 Stockholm Conference on the Human Environment which first developed the idea that environmental protection and development needed to exist in harmony (Handl, 2012). The developing nations, especially the Global South countries were worried that the tough environmental regulations would interfere with their economies hence the inculcation of the early differentiation seeds (Mickelson, 2000).

In the 1980s, the discourse became popularized by the use of multiple instruments of soft law, the most notable being the Brundtland Report (Our Common Future) of 1987 that stressed on the common responsibility to address the global environmental protection but did not ignore the particular capacities of the nations to do so (Burton, 1987). It was also the time when intergenerational equity began to gain more importance, as the environmental protection was connected with social justice.

CBDR was officially enshrined in Principle 7 of Rio Declaration on Environment and Development 1992 adopted at the United Nations Conference on Environment and Development (UNCED). The declaration realized that states had shared but differentiated roles, and that developed nations understood the role they had in the international endeavor of sustainable development due to the demands their societies exerted on the global environment (Declaration, 1992a). The language served as a breakthrough in environmental diplomacy as it aimed at bridging the moral gap between the North and the South by instilling equity in the context of collective responsibility.

In the same year, CBDR was also operationalized by the United Nations Framework Convention on Climate Change (UNFCCC) in its Article 3(1), which states that parties must safeguard the climate system on the basis of equity and on the basis of their common but differentiated responsibilities and respective capabilities (Sands, 1992b). This was a clause that created two fundamental dimensions: historical responsibility, which is the acknowledgement of the excessive contribution of the developed nations to the world emission; and capability-based responsibility, which looks at the capacity of states to act, both economically and technologically.

Later climate negotiations especially the Kyoto Protocol (1997) institutionalized CBDR further through the binding of emission reduction targets that only the Annex I (developed) countries were bound by (Protocol, 1997a). This dichotomy was however soon challenged with the emergent economies like China, India and Brazil turning into significant emitters. The rigid differentiation concept, though being fair in ideation, was becoming less and less sufficient to meet the dynamic realities of global emissions and development (Rajamani, 2012).

This trend of a less restrictive understanding of CBDR was concluded with the Paris Agreement (2015), which preserved the normative nature of the principle, but in which all states, both developed and developing, decided on their own Nationally Determined Contributions (NDCs) (Bodansky et al., 2017a). This shift signified the change toward dynamic differentiation with the reconfiguration of CBDR to the realities of a multipolar and economically interdependent world.

Thus, the historical trajectory of CBDR demonstrates an ongoing negotiation between legal universality and distributive equity. From the ethical imperatives of Stockholm to the cooperative pragmatism of Paris, the principle has evolved from a declaratory ideal into a central pillar of the international climate regime.

3. Legal Foundations and Interpretative Dimensions of CBDR

The Common but Differentiated Responsibilities (CBDR) principle is deeply entrenched in the treaty law and in customary international law as it is an embodiment of the dynamic character of the obligations in environmental regulating. CBDR is a normative construct that resolves two seemingly conflicting international law doctrines namely sovereign equality and equitable differentiation. It acknowledges that as much as states have a collective

responsibility to maintain the global environment, there have to be legal obligations that ensure the differences in the past record, capacity and developmental requirements are met (Sands & Peel, 2012c).

3.1 Treaty-Based Foundations

The clearest definition of CBDR is seen in Article 3(1) of the United Nations Framework Convention on Climate Change (UNFCCC) which defines equity as a rule of action concerning climate action (Bodansky, 1993). According to the article, parties must operate on the principle of equity and according to their joint but differentiated responsibilities and respective abilities. It is this two-fold focus that is communal and differentiated that forms a balancing process between universal participation and distributive justice.

This principle was operationalized by the Kyoto Protocol (1997) which imposed binding emission cuts solely on the Annex I countries thus creating legal asymmetry in obligations (Protocol, 1997b). The Paris accord (2015) was more lenient, though. Article 2(2) stipulates the fact that the Agreement will be executed to ensure equity and the principle of common but differentiated responsibilities and respective capabilities, based on the light of different national circumstances (Warren et al., 2018). The expression, in the light of various national conditions, demonstrates a redefinition of CBDR taking into consideration the dynamism of global economic and environmental conditions.

3.2 Customary and Doctrinal Dimensions

CBDR is also based on general principles of equity, the principle of state responsibility and that of sustainable development as understood by international jurisprudence, beyond treaty texts. Differentiated obligations were pioneered by the fact that states have an obligation not to cause transboundary environmental harm (in the Trail Smelter Arbitration (1941) and subsequently reaffirmed in the Advisory Opinion on the Legality of the Threat or Use of Nuclear Weapons (1996)) (Tribunal, 1941).

Also, the International Court of Justice (ICJ) has recognized the stance of environmental protection as an *erga omnes* duty which reaffirms the collective yet disproportionality of the duty (Briggs, 1971). In this regard, CBDR might be considered as an offshoot of the polluter pays doctrine, and intergenerational equity, but one that incorporates distributive justice into the normative framework of environmental law.

3.3 Interpretative Evolution

CBDR has been interpreted over time based on the diplomatic practice and court logic. The first thing is that developing countries perceived the principle as a safeguard to the same emission requirements that could hamper development. As time went on, however, CBDR has developed into an instrument of bargaining to seek climate finance, technology transfer, and capacity-building policies of developed states (Rajamani, 2013).

Researchers like Lavanya Rajamani believe that this is the strength and the weakness of CBDR: on the one hand, it allows many to take part, on the other hand, it opens it to selective adherence and ambiguity in interpretation (Bodansky, 2016). During the Paris period, the legal power of CBDR has been transformed into the capability of differentiation between categories (as applied in Kyoto) to procedural differentiation whereby all states are engaged, albeit setting their own levels of ambitions. This has not been the end of CBDR, but rather made it dynamic, a principle that has been changing with the global system it is attempting to govern.

4. CBDR in the Paris Agreement: Continuity or Dilution?

The introduction of the Paris Agreement (2015) became the breakthrough in the history of the Common but Differentiated Responsibility (CBDR) principle. Although Article 2(2) and the concept are reaffirmed in the preamble of the agreement, it also changes its scope of operations. The Paris framework aimed at achieving a balance between inclusivity and ambition, whereby all parties including the developed and the developing countries participated via Nationally Determined Contributions (NDCs) (Boer, 2021). Nevertheless, this change in a binary obligation framework, the Kyoto Protocol, towards a universal pledge-based one has sparked controversy on whether CBDR was maintained or in essence watered down.

4.1 CBDR under the Kyoto Regime

CBDR principle under Kyoto protocol was achieved by distinct distinction between Annex I (developed) and non-Annex I (developing) states. The former only had legally binding emission reduction targets, but the latter had voluntary commitments (Protocol, 1997c). Such strict dichotomy was indicative of the North South dichotomy of the 1990s and the robust equity-driven vision of the international environmental law. Nevertheless, when the patterns of worldwide emissions changed, especially, with the development of emerging economies, the Annex-based model became politically untenable (Cullet, 2016).

4.2 Paris Agreement's Reframing of Differentiation

The Paris Agreement was aimed at going beyond this dichotomy by incorporating a universal system that was differentiated. Article 2(2) says that the Agreement will be adopted to indicate equity and the principle of the common but differentiated responsibilities and respective capacities, in the consideration of the varying national conditions (Streck et al., 2016). The inclusion of the term in the light of the various national conditions was an intentionally milder version of the classic North South divide. Rather than fixed categories, differentiation in Paris is contextual, self-determined and progressive.

This model enables every state to develop its NDCs based on the national capabilities and priorities, which institutionalizes self-differentiation (Rajamani, 2016). Though the strategy will promote greater involvement and flexibility, opponents believe that this strategy undermines the accountability and legal discipline of CBDR. In absence of any binding quantitative commitments on the part of developed states, the Paris regime would transform CBDR into a rhetorical as opposed to an enforceable value (Voigt & Ferreira, 2016).

4.3 Equity through Procedural Differentiation

Paris framework preserves the features of CBDR with the help of the procedural tools, including the Global Stock take, commitments in climate finance, and capacity-building (Bodansky, 2013). Such tools do not conceptualize differentiation through the creation of discrete legal categories but incorporate the elements of equity in reporting, financing, and review. Differentiation in this sense is not substantive but procedural as it tells how obligations are met but not which obligations are met.

4.4 The Debate: Continuity or Dilution?

Scholars still debate whether or not Paris is a continuation or a watering down of CBDR. Bodansky and Rajamani, among others, argue that the principle continues to exist in a modified state - turned to meet the evolving geopolitical conditions and preserve its ethical basis (Bodansky et al., 2017b). Other critics say that the Paris

Agreement compromises the distributive justice inherent in the original concept of CBDR by dismissing the definite division of roles.

As a matter of fact, the Paris model does not represent an absolute break or total continuity but an adaptation through evolution. It represents a practical reaction to the constraint of the rigidity of the Kyoto approach, and still retains the moral justification of differentiation. The principle of CBDR, therefore, is still central to the climate regime - re-read, not removed.

5. CBDR and Climate Justice: North–South Divide and Equity in Burden Sharing

The Common but Differentiated Responsibilities (CBDR) principle is not amenable to comprehension without placing it in the context of the more general discourse of climate justice, which extends beyond technical mitigation targets to a set of historical inequalities, moral responsibility, and distributive fairness in climate regime. It is based on the fact that the discursively industrialized countries have a skewed responsibility to the emissions of the greenhouse gas that CBDR is both a legal and moral process of balancing the environment with fair development (Humphreys, 2010).

5.1 Historical Responsibility and Moral Justification

The NorthSouth climate negotiation divide is an inherent legacy of the colonialist and industrialist era. The developed nations (which have traditionally been the greatest emitters) have gained economic benefits in terms of carbon-intensive development and developing countries still bear the instability of environmental degradation (Shue, 1999). CBDR, thus, makes good the principle that individuals who did the most to harm the environment must receive a bigger share of the responsibility in correcting the same (Rajamani, 2000b). Such an ethical justification would go with Rawlsian theories of distributive justice and the polluter pays principle, where climate responsibility is discussed as a question of corrective fairness, but not cooperation.

5.2 Developmental Equity and the Right to Sustainable Growth

In the case of developing countries, especially in the Global South, CBDR is no far-fetched than a protection of development rights, as well as a postulate of fairness. In the Rio Declaration of 1992 it was stressed that the environmental standards must be based upon the common but differentiated responsibilities of the states as sustainable development cannot be achieved by the use of a uniform restriction (Declaration, 1992b). Researchers believe that climate commitments should not sustain dependency or limit industrialization in the developing economies (Lehmann, 2025). In such a way, CBDR serves as a middle ground between the state sovereignty of the right to develop and environmental safety - equity is embraced in the global agenda on sustainability.

5.3 Climate Finance and Technology Transfer as Instruments of Justice

CBDR is also operationalized in the UNFCCC and Paris Agreement in the form of a commitment to financial assistance, technology transfer, and capacity building. Article 9 of the Paris Agreement restates that the developed countries will ensure that they provide monetary means to the Parties of the developing countries regarding both mitigation and adaptation (Bernardo et al., 2021). These systems aim at redistribution to the allocation of resources as needed, thus achieving climate justice in the form of solidarity-based differentiation.

Nevertheless, there has been a consistent deficit of climate finance that casts the question of whether such promises are being done fairly or are still on paper (Li et al., 2024).

5.4 The Continuing North–South Divide

Although the global climate regime acknowledges equity formally, it is still characterized by unequal distribution of power. CBDR is often presented by developed countries as a historical object and uniform mitigation commitments are taken in the name of efficiency. On the other hand, the developing states view such arguments as an effort to get out of the situation and transfer the burden to those who are the least able to carry it (Ramaswami et al., 2023). Such tension highlights the timeless usefulness of CBDR as a normative protection of the elimination of justice in climate governance.

Finally, climate justice and CBDR are complementary. The latter offers the vocabulary of differentiation which has a legal character, and the former offers its ethical background. They do so collectively to make sure that the global reaction to the problem of climate change is more than just cooperative, but equitable - a necessary condition of legitimacy and sustainability in international environmental law.

6: Emerging Interpretations — From Differentiation to Dynamic Responsibility

The changing meaning of the Common but Differentiated Responsibilities (CBDR) principle represents the changing nature of the global environmental governance especially as the strict division of the developed and the developing countries has become more questionable. The 21st -century situation, characterized by globalization, the emergence of other economies and transnational emissions has demanded a more subtle and flexible interpretation of differentiation, which is commonly known as dynamic responsibility. This reinterpretation aims to reconcile the historical responsibility and the current potentials and capacities so that all states will be in the same measure to combat climate change in line with their changing capabilities and task. In the early years of development, CBDR was rooted in the dichotomy between the states included in the framework of the UNFCCC and Kyoto Protocol: the Annex I countries that have legally binding commitments and the non-Annex I ones that are not bound (Nishimura, 2022). Nevertheless, this was a strict policy that was criticized to not be reflecting of the economic rise of some developing states and their increasing environmental footprint. The Paris Agreement was the first paradigm shift since it had dropped the fixed Annex system and adopted self-differentiation, and allowed states to decide on their own Nationally Determined Contributions (NDCs) (Depledge et al., 2022). This novelty held the equity logics of CBDR, yet remodeled it in an omnipresent participation framework; what Bodansky described as the differentiation without division methodology (Marceau & George, 2025).

The dynamic responsibility concept will therefore mean differentiation needs to change over time depending on the changing conditions of a country. The emerging economies such as China, India, and Brazil, which have traditionally been low emitters, are playing critical roles in world emissions. As a result, the concept of graduation, which implies that states can take more responsibilities in the size of their capabilities, has spread in climate negotiations (Brown et al., 2024). This development is an adaptive application of CBDR, as responsibility is not only held in accordance with the previous emissions, but also current abilities and future possibilities.

In addition, researchers like Rajamani have highlighted the interpretative malleability of CBDR that it merely serves as a principle of distributive justice as opposed to a fixed legal rule (Will & Manger-Nestler, 2021a). Contextual adaptation is possible in this perspective of newly emerging scientific data, economic realities and political developments. Likewise, Voigt states that the normative legitimacy of CBDR is determined by its capacity to balance fairness and environmental effectiveness, in case differentiation becomes a static matter, it may contribute to the downfall of the common interest to curb global warming (Sand & McGee, 2022).

The dynamic responsibility is also aligned with the wider shift to shared (but not common) obligations when the states, irrespective of their status, are supposed to be involved in global mitigation in a meaningful manner, albeit at differentiated levels of ambitions (Höhne et al., 2023a). This framework acknowledges that the responsibility of the past is still important but the crisis of the climate needs a forward-looking perspective that can be based on cooperative equity. The changing interpretation of CBDR is then a bid to relocate moral division to pragmatic solidarity, which seeks to entrench justice in a context of shared adaptive accountability.

7: The Future of CBDR — Pathways Toward Global Climate Equity

The future applications of the Common but Differentiated Responsibilities (CBDR) principle is in its ability to develop into a system that would operationalize justice, cooperation, and shared ambition in global climate governance. With the global community experiencing escalating climatic challenges, the question of whether there should be differentiation is no longer a question, but how to operate in a fast-evolving geopolitical and environmental context in a fair fashion. The shift of CBDR as a stagnant norm into a dynamic, proactive principle provides a way out of the dilemma of balancing between fairness and effectiveness in global climate action.

The post-Paris period is the key chance to re-brand CBDR outside of the historical North to South line. Although the traditional split is based on the correct issues of fairness and historical accountability, it does not serve the needs of the contemporary climate order (Sengupta, 2023). The developing economies currently contribute significantly to green house gas emissions in the world but still undergo developmental setbacks that restrict their ability to mitigate. The next phase of CBDR needs a graduated responsibility model, in which no longer only past emissions determine the obligations but the changing national competencies, access to technologies, and the level of vulnerability (Yong & Xin, 2024).

A potential solution is to incorporate CBDR into dynamic equity plans in the global governance systems. Such frameworks would use quantifiable metrics (per capita emissions, renewable energy capacity, and adaptive readiness) as a scale, not on dichotomous terms (Soergel et al., 2021). Such a system would allow countries to take responsibilities based on their developmental path, which would promote their development instead of the continuation of the exemption. Periodic reviews of Nationally Determined Contributions (NDCs) could also be informed by such models so that differentiation would respond to the evolving realities (Cederlöf & Loftus, 2023).

In addition, the future of the CBDR must be concerned with solidarity-based or collaboration- the reformulation of the adversarial nature of the negotiations to collective innovation and mobilization of resources. Technology, climate financing, as well as capacity building remain the most important aspects of the implementation of this vision. The creation of the Loss and Damage Fund within the Paris framework in 2023 signifies a renewed

understanding of the fact that equity in sharing the burden is the key to climate justice (Will & Manger-Nestler, 2021b). However, to be effective financial commitments ought to be foreseeable, visible and connected with the progress which can be quantified.

Embedding CBDR into a larger human rights context has also been suggested by legal scholars, and climate commitments are not only considered to be inter-state obligations but also human and generational responsibilities (Jay, 2025). This approach places CBDR in line with the new concept of planetary responsibility and intergenerational justice, broadening its scope of morality and law beyond national interest. It re-frames CBDR as a principle of not division but co-custodianship of the Earth system.

Finally, sustainability of CBDR is a factor of institutional adjustment and political acceptability. The flexibility of the bottom-up architecture of the Paris Agreement, however, may be easily diluted unless differentiation is supported by enforceable accountability rules (Höhne et al., 2023b). The task now is the institutionalization of a model of progressive responsibility, that is, a model capable of maintaining the ethos of equity and yet requires ambition on the part of all actors. In such a way, CBDR would become the foundation of a genuinely all-inclusive climate order that would support not only the justice but also the planetary stewardship.

To sum up, the future of CBDR is based on reconfiguring differentiation as a living principle responsive, equitable, and future-oriented. The principle can transform into a basis of global climate equity through adaptive legal frameworks and moving dynamism of responsibility metrics and more powerful cooperative mechanisms. The effectiveness of this transformation will show whether the international climate law is legitimate as well as whether the overall response of humanity to the climate crisis makes sense.

8: Conclusion

The concept of Common but Differentiated Responsibilities (CBDR) has played an elaborate path to becoming a political claim of justice in the early 1990s and into a guiding, though dynamic concept of climate governance today. Its persistence is indicative of its normative power as well as its adaptive capacity of striking a balance between the antagonizing demands of equity, responsibility, and international collaboration. CBDR was created with the initial purpose of redressing historical inequalities between industrialized and developing states, but it has since been used as a prism through which the legitimacy of the international climate regime is always measured.

CBDR is essential, perilous times, with the accelerating impact of climate change and an increasing inequality of the world, it is irreplaceable not as a memory of the past, but as a living principle that can lead to redistribution in a fair way. The future of the principle will be the adoption of dynamic differentiation: a system that considers fluctuating national potential, advancement of technology, and mutual weaknesses. This kind of strategy would require every state, irrespective of its status to make its contribution to the mitigation and adaptation of the world in a manner that is both just and urgent.

In a bid to remain relevant, CBDR needs to change its defensive statement of exemption to a proactive statement of cooperative equity. It should be implemented focusing on transparency, progressive ambition and collective responsibility whereby differentiation does not amount to division. CBDR can further be embedded

within a comprehensive vision of climate justice by integrating it within larger publics about human rights, intergenerational equity, and sustainable development.

The final challenge that CBDR will face is the ability to balance between moral responsibility and effective action. The actual promise of the principle is not just in determining an actor, but motivating how the world may act (together and fairly) to protect a shared planetary future. The international community can change CBDR into an instrument of global climate equity by reaffirming it as a dynamic principle of justice and solidarity and making it a living instrument rather than a doctrine.

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