

Legal Pluralism and Human Rights in the Idea of Climate Justice

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Abstract:

State-centric law appears ill equipped to meet human rights' emancipatory promise in an increasingly pluralistic, unequal world facing climate change. 'Climate justice' has become a counterpoint to hegemonic statist, neoliberal climate approaches. However, few studies address the confluence of competing norms (including rights), power relations and multiple actors in shaping, contesting and reinterpreting climate justice in specific contexts, despite burgeoning human rights and legal pluralism research. This article explores legal pluralism's potential for understanding rights' roles in climate justice through examining Norway. Legal pluralism reveals how Norwegian 'translators' vernacularise transnational climate justice aspects, including international climate law and policy, into relevant movement frames, but within unequal power relations and hegemonic processes. These translators balance encouragement and critique of Norway's high-profile international climate positioning, finding spaces within hegemonic discourses where movements can turn prevalent global, statist frames inward, decentering climate discourses by highlighting Norway's structural links to climate injustice, particularly its petroleum industry. Rights are used in varying ways in both disaggregating diagnostic frames and stressing more prognostic, transformative visions. Increasingly, climate justice and Norwegian '*klimarettferdighet*' [climate justice] discourses move from a focus on countering international, statist discourses to domestic distribution and economic transitions. This combines climate justice with Norwegian civic participatory and social democratic norms of active civil society and social movement involvement in socioeconomic transformations, providing potentially resonant frames for tackling climate change.

Keywords:

Legal pluralism; climate change; climate justice; human rights; Norway.

1. Introduction

Climate change arises as state-based human rights law already disappoints its emancipatory promise in an increasingly plural global order. Rights must be approached differently if they are to offer an alternative that can challenge hegemonic neoliberal approaches to ecology. 'Climate justice' represents such a counter-narrative, often using rights. Nonetheless, while rights-based global climate governance blueprints generate

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academic debate, few studies address competing norms, power relations and actors shaping, contesting and reinterpreting climate change in specific contexts. Meanwhile, legal pluralism and human rights scholarship has yet to address climate change.

This article tentatively explores legal pluralism's potential for understanding law and rights in climate justice by outlining legal pluralism, and its applicability to human rights and climate change, before tracing climate justice discourses, globally and in Norway.

2. Legal Pluralism, Rights and Climate Change

Legal pluralism, used as a descriptive-analytical tool,¹ recognises that state-based law (often simply labelled 'law') exists alongside other normative and institutional orders. Several interconnected premises, increasingly applied to rights, emerge from this. Firstly, we must *empirically examine these norms and institutions* (including other state-based laws) to understand how state-based law translates from abstract texts to everyday life. Secondly, an *actor-orientated approach* is required to examine how state-based law, including rights, is translated or 'vernacularised', particularly collectively by communities and movements mobilising collective action frames. The concept of 'semi-autonomous social fields'² describes how actors in social spaces between individuals and state institutions not only receive, but actively interpret and generate norms within constrained circumstances. Rights as living norms and institutions are not derivatives of human nature, nor 'handed down (...) from a superior authority', but socially 'produced'.³ This discursive, relational understanding acknowledges we 'can no more step out of the normative universe (...) than (...) the physical'.⁴ Clashes between rights interpretations are therefore not only inevitable but necessary in a 'fragmented, polycentric regime'.⁵

Thirdly, given social fields are porous, we must study interactions *between social fields at different levels*. A 'feedback loop' between levels sees actors construct transnational norms and 'pluralism (...) within international law';⁶ indeed, law is already plural at domestic level. In dialectical encounters between and within fields, 'the universal is localized and the vernacular is globalized', giving rights a 'nomadic character'.⁷ Consequently, the term *multi-scalar*, rather than *multi-level*, is therefore more appropriate. Choice of scale(s) for frames is highly strategic. Rights interpretations

¹ Rather than as an argument for recognising legal orders beyond state-based law.

² Sally Falk Moore, 'Law and Social Change: The Semi-Autonomous Social Field as an Appropriate Subject of Study' (1973) 7(4) *Law and Society Review* 719.

³ René Provost and Colleen Sheppard, 'Introduction: Human Rights through Legal Pluralism' in René Provost and Colleen Sheppard (eds), *Dialogues on Human Rights and Legal Pluralism* (Springer 2013) 1-11, 4.

⁴ *ibid.*

⁵ *ibid.* 5.

⁶ Joseph Markus, 'What is the Use of a Human Right to Development? Legal Pluralism, "Participation", and a Tentative Rehabilitation' (2014) 41(3) *Journal of Law and Society* 367, 377.

⁷ Provost and Sheppard (n 3) 6.

become a 'tool or language'; varying institutional openings 'change the significance of what it means to use that language'.⁸

Fourthly, interactions, spaces, scales, and the actors that move between and within them are uneven and unequal, bearing imprints of history. We must therefore acknowledge *political economy and historical power relations*. Considering living law as the outcome of historical struggles between unequal participants reflects Gramsci's idea of 'hegemony' as a *process* between purposeful movements from above *and* below.⁹ For Merry, within these hegemonic processes, 'translators' negotiate between communities, formal standards and institutional openings — resonant frames might insufficiently confront existing practices, while non-resonant frames might be too challenging.¹⁰ 'Local' and 'global' go 'beyond spatial referents', with local implying 'recalcitrant particularity' and global 'cosmopolitan awareness'.¹¹ Legal pluralism imagines, instead, 'multisited' categories without unidirectional global-local or local-global causality:¹² not only is state-based law pluralised, but plural norms are legalised and institutionalised. *Both* processes can swing from cooption by elite interests in hegemonic processes to recognition of alternative claims; the *same* norms can be relied on for *different* understandings of law and *divergent* framings reflecting *contrasting* historical moments. Gramsci viewed law within a 'historical bloc', a 'discordant ensemble of (...) social relations' that, in its material base and superstructure,¹³ contain 'truce lines' of past struggles.¹⁴ Similarly, Merry recognises 'a temporal dimension' to actor and movement mobilisation, whereby 'knowledge about the world develops slowly'.¹⁵

Rather than offering particular methods, pluralism is an *orientation* that does not privilege state-based law, but still recognises the influence of state-based norms and institutional openings in actor-movement strategies, and the state's porous nature, the plural actors that constitute its different faces and speak on its behalf in different settings.

In acknowledging actors cannot escape physical *or* normative contexts, legal pluralism could help recognise climate change as a material factor *and* a source of socio-legal norms (our responses to climatic changes) affecting rights' lived reality. This introduces

⁸ Markus (n 6) 387.

⁹ Kenneth Bo Nielsen and Alf Gunvald Nilsen, 'Law Struggles and Hegemonic Processes in Neoliberal India: Gramscian Reflections on Land Acquisition Legislation' (2015) 12(2) *Globalizations* 203, 205.

¹⁰ Sally Engle Merry, 'Transnational Human Rights and Local Activism: Mapping the Middle' in René Provost and Colleen Sheppard (eds), *Dialogues on Human Rights and Legal Pluralism* (Springer 2013) 207-228, 213.

¹¹ *ibid* 211.

¹² Anne Griffiths, 'Reviewing Legal Pluralism' in Reza Banakar and Max Travers (eds), *Law and Social Theory* (Hart 2013) 269-286, 272.

¹³ A Claire Cutler, 'Gramsci, Law, and the Culture of Global Capitalism' (2005) 8(4) *Critical Review of International Social and Political Philosophy* 527, 534.

¹⁴ Alf Gunvald Nilsen and Laurence Cox, 'What Would a Marxist Theory of Social Movements Look Like?' in Colin Barker et al (eds), *Marxism and Social Movements* (Brill 2013) 63-81, 66.

¹⁵ Sally Engle Merry, 'Global Legal Pluralism and the Temporality of Soft Law' (2014) 46(1) *Journal of Legal Pluralism and Unofficial Law* 108, 120.

an *ecological* dimension to legal pluralism — norms are socially *and materially* co-produced by unequal (human *and non-human*) actors in multi-scalar, semi-autonomous *socio-ecological* fields. Epistemic communities and socio-political constructions of science — scientific pluralism — thus muddy the waters further. Climate change permeates all socio-ecological fields, with overlapping norms and institutions refracting this permeation; thus, legal pluralism could be vital in exploring tensions between rights' universalist aspirations and their context-dependent realisation under climatic changes.

3. Climate Justice

3.1. The 'First Wave': Roots of Climate Justice

Climate justice is a transnational discourse of plural conceptions of climate change and justice from below that compete in hegemonic processes at multiple, overlapping scales. A legal pluralist analysis helps demonstrate this in how actors vernacularise and disaggregate internationalist, statist climate narratives, meeting them, firstly, at the global level, but becoming increasingly multi-scalar and future-orientated.

Based on Schlosberg and Collins,¹⁶ climate justice encompasses three converging discursive spaces populated by different interpretations: academic debates, state-NGO policy arenas, and movements springing partly from North American 'environmental justice' movements. Thus, Indian 'activist-scholars' helped popularise the term¹⁷ influenced by environmental justice, alongside 'a concerted effort' by certain Southern states to recognise differentiated historical responsibilities.¹⁸ Academic discourses often focus on applying existing justice principles and rights to climate change.¹⁹ While many environmental and climate justice movements are 'made up largely of assertions of various rights',²⁰ Schlosberg suggests academic definitions are 'too detached from (...) movements that use the idea;' in practice, both 'discourses of justice' *and* 'experiences (...) of injustice, inform how the concept is used'.²¹ Discourses of justice and injustice blend dialectically with normative and institutional openings at inter- and intra-state scales, including legal norms of the UN Framework Convention on Climate Change (UNFCCC) *and* rights. This characterised both the 'first wave' of climate interest in the early 1990s (when the UNFCCC was signed) and the 'second wave' in the late 2000s, represented by the Intergovernmental Panel on Climate Change (IPCC) and high-profile UNFCCC Conferences of the Parties (COPs).

¹⁶ David Schlosberg and Lisette B Collins, 'From Environmental to Climate Justice: Climate Change and the Discourse of Environmental Justice' (2014) 5(3) *WIREs: Climate Change* 359, 364.

¹⁷ René Audet, 'Climate Justice and Bargaining Coalitions: A Discourse Analysis' (2013) 13(3) *International Environmental Agreements* 369, 370.

¹⁸ Susannah Fisher, 'The Emerging Geographies of Climate Justice' (2014) 181(1) *The Geographical Journal* 71, 73, 74.

¹⁹ David Schlosberg, 'Theorising Environmental Justice: The Expanding Sphere of a Discourse' (2013) 22(1) *Environmental Politics* 37, 46.

²⁰ Schlosberg and Collins (n 16) 365.

²¹ Schlosberg (n 19) 50.

Law has thus played a major role in climate justice. Inclusion of justice-related principles in the UNFCCC (1992) reflected discourse of justice and injustice, including in long-standing North-South UN divergences, providing foci for collective action frames for climate justice vernacularisation relevant to particular experiences of climate injustice; climate justice is often considered ‘a way to operationalize’²² the Common But Differentiated Responsibilities (CBDR) principle, and other concerns, listed in Article 3 (‘Principles’), including intergenerational equity; that ‘developed’ states ‘should take the lead;’ ‘specific needs’ of ‘developing’ states; and the right to sustainable development.²³ Echoing legal pluralism’s premises, these open-ended principles are said to make climate justice ‘a jurist’s nightmare’ — ‘its meaning varies depending on the (...) actor that manipulates it, even if some of its semantic bases are institutionalised in legal texts’.²⁴

Early developments related to these top-down, statist institutional openings both reflect and parallel bottom-up climate justice movements stemming partly from particular historical discourse of justice and injustice in environmental justice movements. Environmental justice built on civil rights and feminist struggles against toxic waste in African American communities in the 1980s, consciously contrasting mainstream environmentalism’s ‘wilderness ethic’. Church groups were key.²⁵ While the Clinton administration was relatively receptive, the Bush administration closed domestic institutional spaces; this, along with growing climate awareness, encouraged a ‘more international frame’, especially ‘redefining climate change as (...) [a] human rights issue’.²⁶ This informed the first Climate Justice Summit at the 2000 Hague COP, developing into the International Climate Justice Network and 2002 Bali Principles of Climate Justice (based on the 1991 People of Color Environmental Leadership Summit Principles of Environmental Justice), acknowledging inequality, indigenous concerns²⁷ and declaring climate change ‘a human rights issue’ in attacking market principles guiding negotiations.²⁸ A 2004 Climate Justice Declaration attacked carbon trading, arguing climate policy must not exacerbate existing injustices, and called for a just transition.²⁹ Religious groups were still central, including the 2005 World Council of Churches’ Spiritual Declaration on Climate Change.³⁰

Thus, institutional openings (and closings) in hegemonic processes both for subnational movements with particular historical and politico-economic influences, *and* at the

²² Schlosberg and Collins (n 16) 365.

²³ UN Framework Convention on Climate Change (UNFCCC) (entered into force 21 March 1994), United Nations Treaty Series, vol 1771, Art 3.

²⁴ Audet (n 17) 371.

²⁵ Ashley Dawson, ‘Climate Justice: The Emerging Movement against Green Capitalism’ (2010) 109(2) *South Atlantic Quarterly* 313, 326.

²⁶ *ibid* 327.

²⁷ Schlosberg and Collins (n 16) 366

²⁸ Dawson (n 25) 328.

²⁹ *ibid* 330.

³⁰ Hans A Baer, ‘The International Climate Justice Movement: A Comparison with the Australian Climate Movement’ (2011) 22(2) *The Australian Journal of Anthropology* 256, 257.

UNFCCC's inter-state level, initially promoted *international* frames for climate justice. The 'feedback loop' between international law and social fields at other scales saw actors compare high-level statist debates and principles contained in climate law with their lived experience of climate injustice. As such, climate justice proponents became increasingly active at international scales. Other norms, including rights, offered alternatives to statist, neoliberal hegemonic framings; indeed rights' universalism and own international legal status further bolstered *global* frames.

3.2. The 'Second Wave:' Spillover and Frustration

Increasing international participation encouraged 'social movements spillover';³¹ environmental and burgeoning climate justice norms found receptive audiences in environmental and global justice movements, critical of neoliberalism and technocratic discourses, already operating in international settings, for whom 'lack of progress in over 15 years of talks (...) spurred many veteran movement actors to radicalize'. Frustration increasingly centred around technocratic, neoliberal UNFCCC processes, especially the Kyoto Protocol's market mechanisms, and 'the stark juxtaposition of the "democratic, consensus-based United Nations" image with (...) backroom deals'.³² 'Insider-outsider networks' gradually built climate justice's 'epistemic community',³³ linking North and South.³⁴ For example, the UN Human Development Report 2007/8 on climate change was written by a former Oxfam director, highlighting 'equity and human rights'.³⁵ Certain states, particularly low-lying islands, championed rights approaches with support from (Northern-led) organisations, securing an Office of the High Commissioner report and Human Rights Council resolutions.³⁶ Additional impetus came from the labour movement, particularly Just Transition narratives. Increasing pressure to find a post-Kyoto agreement saw these dialectical trends converge under UNFCCC processes started by the 2007 Bali Road Map (designed to secure a new binding agreement), which lasted until the 2011 Durban COP.

While the spillover with global justice activists promoted comparatively disruptive protest,³⁷ many elite NGOs accepted 'restrictions on their behavior in exchange for opportunities for influence'.³⁸ The Climate Action Network's (CAN) 'hierarchical, reformist (...) "first generation advocacy", privileging Northern NGOs, led to dissident

³¹ Jennifer Hadden, 'Explaining Variation in Transnational Climate Change Activism: The Role of Inter-Movement Spillover' (2014) 14(2) *Global Environmental Politics* 7, 9.

³² Ruth Reitan and Shannon Gibson, 'Climate Change or Social Change? Environmental and Leftist Praxis and Participatory Action Research' (2012) 9(3) *Globalizations* 395, 399.

³³ J Timmons Roberts and Bradley C Parks, 'Ecologically Unequal Exchange, Ecological Debt, and Climate Justice: The History and Implications of Three Related Ideas for a New Social Movement' (2009) 50(3-4) *International Journal of Comparative Sociology* 385, 397.

³⁴ *ibid* 394-395.

³⁵ *ibid* 397.

³⁶ Office of the UN High Commissioner for Human Rights, 'Report of the Office of the United Nations High Commissioner for Human Rights on the Relationship between Climate Change and Human Rights' (2009) UN Doc A/HRC/10/61.

³⁷ *ibid* 16.

³⁸ *ibid* 20.

members launching Climate Justice Now! (CJN). CAN and CJN competed *and* cooperated around the pivotal 2009 Copenhagen COP, with overlapping membership,³⁹ while a more radical group, Climate Justice Action (CJA) formed around (largely European) direct action networks.⁴⁰ Unequal movement actors thus exploited multiple scales and varying access to international institutional spaces using different normative and institutional groundings.

Given growing international agitation and raised expectations, failure to secure agreements at Copenhagen began a shift in scale and social fields for many movement actors. Demonstrating that states themselves are non-unitary actors within uneven inter-state relations, certain Latin American states organised alternative spaces, chiefly the 2010 Cochabamba World People's Conference on Climate Change and the Rights of Mother Earth (CMPCC), attended by thousands of state and movement representatives. Latin American climate justice vernacularisation invoked indigenous norms as part of growing recognition of legal pluralism in constitutional reform.⁴¹ These alternative fora became sites for contention. Feminists criticised promotion of supposedly indigenous concepts like *buen vivir* ['living well'] — which stresses 'human rights and democracy' through 'ancestral communitarian natural law'⁴² — for essentialising 'male/female complementarity',⁴³ themselves mobilising international human rights standards.⁴⁴ Thus, the same legal norms were employed *differently* by actors in the *same* discursive spaces. Indeed, not only were *legal norms* like rights *pluralised*, but *plural norms* were *legalised*, with cooption possible in either direction. The CMPCC Peoples' Agreement 'infused' indigenous norms into international discourses.⁴⁵ As Fabricant suggests, this can obscure their 'territoriality and materiality',⁴⁶ leaving them open to being 'commoditized, and refashioned'⁴⁷ to serve hegemonic interests. Subsequently, parts of the Peoples' Agreement were included 'in brackets' in negotiating texts for the 2010 Cancun COP, including indigenous and 'Mother Earth's' rights. None of these were adopted but gave the impression climate justice was taken seriously in statist procedures. Bolivia and Ecuador's own pursuit of neoliberal resource extraction contradicted their climate justice rhetoric; Cochrane suggests this warns against reifying indigeneity or 'displacing class oppression with notions of cultural diversity',⁴⁸ demonstrating how legal pluralism cannot disregard political economy.

³⁹ Reitan and Gibson (n 32) 398.

³⁹ *ibid* 403.

⁴⁰ *ibid* 404.

⁴¹ Regina Cochrane, 'Climate Change, Buen Vivir, and the Dialectic of Enlightenment: Toward a Feminist Critical Philosophy of Climate Justice' (2014) 29(3) *Hypatia* 576, 578.

⁴² *ibid* 581.

⁴³ *ibid* 586.

⁴⁴ *ibid* 588.

⁴⁵ Nicole Fabricant, 'Good Living for Whom? Bolivia's Climate Justice Movement and the Limitations of Indigenous Cosmovisions' (2013) 8(2) *Latin American and Caribbean Ethnic Studies* 159, 169.

⁴⁶ *ibid* 170.

⁴⁷ *ibid* 173.

⁴⁸ Cochrane (n 41) 593.

Cancun thus represented ‘an almost total reinscription and subsumption of this “other” discourse’ of climate justice. This was a turning point for many climate justice advocates frustrated again in their international engagement.⁴⁹ The 2011 Durban COP’s results were described by some as ‘tantamount to genocide’.⁵⁰ Still, Durban witnessed a concerted strategy by several states, increasing ‘youth activism’, and an ‘occupation’ by civil society groups, which ‘injected a new dynamic’ into climate justice and secured more radical targets, some non-market mechanisms and increased adaptation finance. A turn to more multilevel approaches to climate justice was encapsulated by a Bolivian negotiator, who stated ‘the key thing is not inside the COP’, but ‘strong organization from social movements (...) around the whole world’.⁵¹

3.3. Multi-sited Climate Justice and Rights

From a legal pluralist perspective, simultaneous influx of normative orders (including movement spillover) and institutional openings in the global climate discursive space saw vernacular frames globalised and global frames, including UNFCCC legal norms, vernacularised, as well as crossovers between global frames (especially through human rights). However, the shortcomings of these institutional openings and global frames encouraged a strategic switch away from the global scale, albeit with altered, hybrid frames merging ‘local’ and ‘global’. This decentralisation and hybridisation expanded issues, scales and actors involved in climate justice. For example, ‘just sustainability’ movements, like ‘transition towns’, seek ‘to transform both dominating and unsustainable practices of production and consumption’ and ‘rebuild the material relationships we have with (...) resources we use’.⁵² This ‘pushes beyond the qualifiers “environment” or “climate” (...) understanding that justice itself depends on a stable and predictable set of environmental conditions’.⁵³

Rights interpretations have played a role in the emergence of multi-sited climate justice. In Derman’s analysis of civil society COP discourses, ‘uneven responsibilities, vulnerabilities, and impacts’ are strategically linked ‘to rights language as mobilized in legal doctrine’. Rights assist in disaggregating the UNFCCC’s statist principles ‘from the national scale to (...) individuals and communities’, seeking ‘increased recognition and representation of marginalized stakeholders’.⁵⁴ Thus, for Skillington, ‘hybrid’ climate justice coalitions share a *diagnostic* ‘frame of exploitation’, linking ecological degradation to ‘certain economic actors’, and a *prognostic* frame advocating ‘expansive

⁴⁹ Bertie Russell, Andre Pusey and Leon Sealey-Huggins, ‘Movements and Moments for Climate Justice: From Copenhagen to Cancun via Cochabamba’ (2012) 11(1) *ACME: An International E-Journal for Critical Geographies* 15, 30.

⁵⁰ John Foran and Richard Widick, ‘Breaking Barriers to Climate Justice’ (2013) 12(2) *Contexts* 34, 36.

⁵¹ *ibid* 38.

⁵² Schlosberg (n 19) 49.

⁵³ *ibid* 48.

⁵⁴ Brandon B Derman, ‘Climate Governance, Justice, and Transnational Civil Society’ (2014) 14(1) *Climate Policy* 23, 33-34.

politics of sustainable development', where private exploitation of commons is seen as a rights violation,⁵⁵ implying special compensatory rights.⁵⁶

However, given different rights interpretations compete across social fields within uneven hegemonic processes, cooption of climate justice *through rights* to bolster statist interests is also evident. Human rights' ongoing tension is that they, too, are *state-based law*, despite the transcendent prefix 'human'; indeed, as much as they disaggregate sub-nationally, they bear imprints of historical struggles from particular contexts. Gear suggests rights are 'intrinsically ill equipped to prevent (...) violations justified in the name of "national interest"' — and, given 'national interest is increasingly defined by (...) neoliberalism', rights are 'even more vulnerable' because they 'are already colonized' by neoliberalism, meaning 'climate justice already contains (...) the juridical receptors for corporate viral capture'.⁵⁷ Skillington's discourse analysis finds hegemonic climate discourses easily reframe rights around 'the "preeminent right" of states to exploit dwindling resources'.⁵⁸ This paradox is appreciated in legal pluralism by Merry — rights inspire movements for social change but, often, 'to be part of the human rights system (...) [actors or movements] must emphasize (...) a modernist view of the individual and society embedded in the global North (...) along with democracy, the rule of law, capitalism and the free market'.⁵⁹ This sounds caution about what Gear calls a 'strong rule of law' climate justice approach because climate injustice 'is a manifestation of a structural pathology in which law itself is central'.⁶⁰ Gear suggests going 'beyond seeing climate injustice as a symptom of climate change (as if simply "caused by" it)', and instead acknowledging 'systemic structural conditions' of 'liberal legal subjectivity' and global inequality.⁶¹

Doing so overcomes what Fisher (no relation) calls the 'global trap' — assuming the international is 'the space for the best access to climate justice', despite climate change being 'mediated through multiple local problems'⁶² — a familiar issue in rights and legal pluralism, and a dilemma for 'translators' who, echoing Merry, vernacularise transnational climate justice through seeking resonant frames.⁶³ Translators 'claim their own space' in climate debates but often 'claimed' spaces simply 'feed into the UNFCCC'.⁶⁴ As with the CMPCC, particular injustices can be 'redefined as part of wider national injustices' to 'match with (...) global [statist] discourses'.⁶⁵ Fisher demonstrates how

⁵⁵ Tracey Skillington, 'Climate Change and the Human Rights Challenge: Extending Justice Beyond the Borders of the Nation State' (2012) 16(8) *The International Journal of Human Rights* 1196, 1199.

⁵⁶ *ibid* 1200.

⁵⁷ Anna Gear, 'Towards 'Climate Justice'? A Critical Reflection on Legal Subjectivity and Climate Injustice: Warning Signals, Patterned Hierarchies, Directions for Future Law and Policy' (2014) 5(special issue) *Journal of Human Rights and the Environment* 103, 122.

⁵⁸ Skillington (n 55) 1200.

⁵⁹ Merry (n 10) 228.

⁶⁰ Gear (n 57) 106.

⁶¹ *ibid* 118.

⁶² Fisher (n 18) 76.

⁶³ Merry (n 10)

⁶⁴ *ibid* 79.

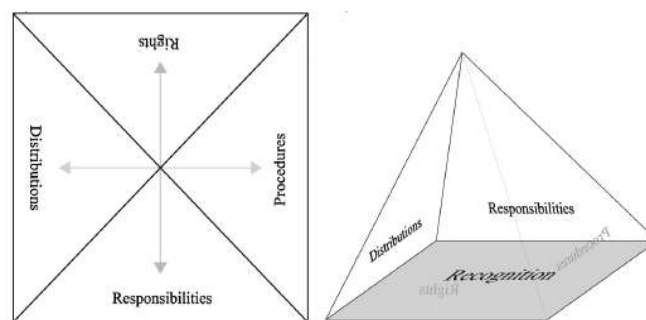
⁶⁵ *ibid*.

Indian climate justice movements struggle to situate arguments about *intra*-state distribution against the government's 'climate nationalism',⁶⁶ framing *statist* historical responsibility and *national* average per capita emissions. Greenpeace India endorsed a disaggregated rights-based framework, Greenhouse Development Rights (GDRs), but abandoned this as it failed to resonate.⁶⁷ Echoing Grear, Fisher suggests climate justice must go beyond the 'global' 'to explore the distribution, recognition and participation of different actors across different spaces', rather than seeing climate injustices as 'additional' to existing structural inequalities. Otherwise, hegemonic discourses of domestic transition can repackage 'climate justice as the resilience of existing social systems rather than the transformation to new more equal societies'.⁶⁸ For rights and related discourses, then, possibilities for cooption in unequal, multiscalar hegemonic processes around climate justice are acute.

3.4. Climate Justice, Rights and Legal Pluralism

To assist in analysing particular contexts, climate justice aspects that compete within these discursive spaces are identified as *responsibilities*, *rights*, *distributions*, *procedures* and *recognition*, where recognition is a dimension in which injustices are linked to 'cultural or symbolic injustices'.⁶⁹ Bulkeley *et al* conceive of these within a pyramid, rather than a two-dimensional 'plane' as in *statist* iterations, 'where distributions, procedures, rights and responsibilities form the four triangular faces, and recognition (...) the square bottom'; consequently, 'each facet (...) is bound to' and 'filtered through the others, refracting and reconfiguring what (...) justice entails in any one context'.⁷⁰

Fig 1. *Pyramid of Responsibilities, Rights, Distributions, Procedures and Recognition*



⁶⁶ *ibid* 77.

⁶⁷ *ibid* 76.

⁶⁸ *ibid* 80.

⁶⁹ H Bulkeley *et al*, 'Contesting Climate Justice in the City' (2014) 25 *Global Environmental Change* 31, 33.

⁷⁰ *ibid* 34.

We might add a fourth dimension — *time* — and recognise both diagnostic and prognostic frames. Furthermore, we might think of parallel dimensions, with the pyramid *in competition with* the statist two-dimensional plane in hegemonic processes.

This provides a heuristic for examining climate justice from legal pluralist and rights perspectives: various symbolic frames (recognition) are used to vernacularise climate justice norms (rights, responsibilities, distributions and procedures) by actors in social fields at different scales (the pyramid's three-dimensional space). Discourses and narratives that emerge, contesting hegemonic discourses across the two-dimensional statist plane, operate at different spaces within the pyramid dependent on which aspects they relate to or combine with in different contexts; at different heights depending on how they are translated at different scales; and emerging at different times depending on historical struggles. Thus, climate justice began by engaging with inter-state and international climate discourses on rights, responsibilities, distributions and procedures through more disaggregated strategies, using recognition to highlight climate injustices; this spatially global and temporally diagnostic frame has gradually deepened within the pyramid by further discourses of recognition and expanded with scales shifting more to the particular level, while temporal perspectives have unfolded towards more transformative, prognostic visions of transition and social change. Rights have played a role in this spatial deepening, scalar expansion and temporal unfolding.

4. Norwegian Climate Justice Discourses

4.1. Hegemonic Climate Discourses

I now turn to actors within Norwegian social fields⁷¹ that vernacularise climate justice at various scales, and within Norway's historical and politico-economic context. The following observations are based on the author's participation in climate discourses⁷² and a review of publicly-available sources evidencing how Norwegian actors frame climate justice.

'Climate justice' as a Norwegian term [*klimarettferdighet*] became entrenched during the second wave, characterised by movement spillover, initially between environmental, development and church organisations. Church groups were particularly active translators — including development NGO Norwegian Church Aid (NCA), and the state church and Christian Council of Norway's environmental initiative, 'The Work of Creation and Sustainability' [*Skaperverk og Bærekraft*], which produces *Klimarettferdighet* magazine.

⁷¹ The other side of the dialectical coin — the role of Norwegian actors and norms in *influencing* climate justice's development on a global scale — is beyond the scope of this study.

⁷² I have interned at *Framtiden i Våre Hender* (FIVH) [Future in Our Hands], and participated actively in the Norwegian Civil Service Union and *Broen til framtiden* [Bridge to the Future] (discussed later).

Klimarettferdighet, like climate justice, has gradually expanded, beginning with international statist discourses during the ‘second wave’, before turning to more transformative, localised transition discourses post-Durban. As legal pluralism suggests, frame choices were partly inspired by institutional openings provided in the dominant state framing (the two-dimensional plane). Indeed, a central moment of the second wave globally was the then Norwegian Prime Minister Jens Stoltenberg’s announcement of what were considered the world’s most ambitious carbon cuts in 2007.⁷³ Ytterstad illustrates how this originally met little criticism within Norway, especially regarding prioritisation of buying tradable credits in other countries over domestic cuts and without discussion of Norway’s petroleum industry,⁷⁴ suggesting a ‘radicalism at an impasse’ with ‘no climate policy from below’; partly, this is because potential critics were Socialist Left Party members that had to balance criticism with their party’s position in the governing coalition, while others lacked concrete alternatives.⁷⁵ Put differently, climate justice proponents carefully negotiated their government’s high-profile climate agenda (or climate nationalism) with increasing frustration over insufficient progress. Like on the global scene, then, climate justice in Norway emerged as an alternative, building on pre-existing themes, as a way out of this ‘impasse’.

Tracing the emergence of *klimarettferdighet* therefore requires acknowledgement of the central contradiction in Norwegian hegemonic discourses: Norway promotes itself within international climate discourses, while maintaining its position among leading petroleum exporters. This encourages an international, statist frame that deflects attention from the national level. Navigating this climate nationalism has been the overriding challenge for translating climate justice.

Three themes have supported this international, statist frame: promotion of inter-state emissions trading; financing of high-profile climate initiatives in Southern states, and pursuit of technologies, like carbon capture and storage (CCS), that prolong carbon-intensive industries and avoid ‘carbon leakage’. As linguistic analysis of 2012’s government climate change white paper suggests, hegemonic narratives emphasise ‘international agreement (...) as the only satisfactory way to tackle climate change’,⁷⁶ with the Norwegian government as ‘hero’ despite the general ‘villains’ label for industrialised countries.⁷⁷ This climate policy exceptionalism has solid normative roots; Norgaard’s ethnographic research in the early 2000s in one rural community found, rather than insufficient scientific knowledge, a ‘socially organized process’ of ‘denial’

⁷³ Andreas Ytterstad, “It is We — You and Me, Who Possess Real Power”: Blogging Protests against Official Norwegian Policy on Climate Change’ (2008) 17(3) *Intercultural Communication Studies* 77.

⁷⁴ *ibid* 85.

⁷⁵ *ibid* 88.

⁷⁶ Kjersti Fløttum and Tonje J Espeland, ‘Norske Klimanarrativer: Hvor Mange “Fortellinger”? En Lingvistisk og Diskursiv Analyse av to Norske Stortingsmeldinger’ [‘Norwegian Climate Narratives: How Many “Stories”? A Linguistic and Discursive Analysis of Two Norwegian White Papers’] (2014) 6(4) *Sakprosa* 1, 9.

⁷⁷ *ibid* 7.

caused climate inaction;⁷⁸ alongside norms stressing tradition and local patriotism, 'social narratives, some produced by (...) government, to deflect responsibility for and legitimate Norwegian climate and petroleum policy', including egalitarianist and eco-friendly narratives were constructed.⁷⁹ Temporally, Fløttum and Espeland find 'responsibility is left to the future and said to presuppose international cooperation'; as such, 'the direct relation between Norwegian climate initiatives and effects is concealed'.⁸⁰ This diagnostic frame thus postpones implications for Norwegian political economy.⁸¹ Indeed, another white paper on the Arctic frames climate change as an *opportunity* opening new (petroleum-related) economic possibilities.⁸² The contradiction between addressing climate change and developing petroleum is captured by former Prime Minister Stoltenberg, who said 'the goal is not to keep the carbon in the ground' but 'to reduce emissions to the atmosphere'. Representatives of the new government have even described use of petroleum-generated wealth to finance climate measures as 'a paradox that we actually should be proud of'.⁸³ As Norgaard concludes, 'denial of (...) climate change serves to maintain Norwegian global economic interests and perpetuate global environmental injustice'.⁸⁴ This provides the politico-economic context for examining legal pluralism, rights and *klimarettferdighet*.

Using the two-dimensional plane to understand dominant statist discourses, firstly, promoting emissions trading as the goal of international negotiations minimises Norway's responsibility given its relative size *globally*, emphasising *global* emissions and thus *global emissions reductions* financed by Norway in other countries, but simultaneously obscuring *global* impacts of Norwegian petroleum exports. *Distributions* are downplayed, hiding Norway's historically disproportionate contribution, with formal, inter-state *procedures* prioritised and *rights* understood as *states' rights* to emit; thus, *recognition* of responsibility for climate harms is clouded, with discussion purely at aggregated state level. Norgaard found evidence of this in communities' denial of responsibility through the phrase '*Norge er et lite land*' ['Norway is a small country'], especially as international legal discourses move beyond the Kyoto Protocol's national targets applying only to 'developed' states.⁸⁵ The Kyoto Protocol *itself* assisted this by allowing emissions reductions to be financed by 'developed' states overseas to meet their targets; this financing was to be 'supplemental' to domestic reductions,⁸⁶ but Norway and others interpreted this legal anchoring liberally to (re)establish a global frame for post-Kyoto discussions.

⁷⁸ Karie Marie Norgaard, "'We Don't Really Want to Know": Environmental Justice and Socially Organized Denial of Global Warming in Norway' (2006) 19(3) *Organization and Environment* 347, 352.

⁷⁹ *ibid* 358.

⁸⁰ Fløttum and Espeland (n 76) 10.

⁸¹ *ibid* 11.

⁸² *ibid* 15.

⁸³ *ibid* 16.

⁸⁴ Norgaard (n 78) 365.

⁸⁵ *ibid* 358.

⁸⁶ Kyoto Protocol to the United Nations Framework Convention on Climate Change (entered into force 16 February 2005) UN Treaty Series vol 2303, Art 6(1)(d).

This is confirmed in Norway's COP activity. Lahn, a former civil society member of Norway's negotiation team, documents how Norway positioned itself centrally in 'second wave' COPs through 'the Norwegian proposal' to give states rights to emit greenhouse gases. Rather than being allocated for free, a percentage of emissions permits would be auctioned. High-emission states would have to buy extra permits from those who did not use their permits *and* via auction through the UN, generating revenue for the UN for Southern climate initiatives.⁸⁷ As Lahn suggests, by presenting negotiations as a means to share 'the right to use [atmospheric] commons' through commodification without attaching distributive principles,⁸⁸ the proposal, although eventually rejected, contributed to financialising climate talks without accepting 'this enormous economic redistribution must happen in a just way'.⁸⁹ Crucially, the proposal implied emissions rights 'do not need to have any connection with how large countries' emissions actually are;' rather, permits would be set *internationally* and traded *globally*. Thus, 'responsibility (...) is moved from the local and national level to (...) closed meeting rooms in international negotiations', implying nothing is left if these negotiations fail⁹⁰ — the 'global trap' outlined previously — and meaning Stoltenberg's high-profile pledge (already caveated with 'if it contributes to an international agreement') was never intended to be taken *domestically*.⁹¹

Secondly, financing climate initiatives in the South, especially rainforest-related, further deflects attention from Norwegian responsibility with inter-state, global framings, while securing Norway's position as a leading climate actor. It provides, nonetheless, limited *recognition* of *inter-state* distribution. Consequently, *klimarettferdighet* translators must carefully walk the line between criticism and cooption; the initiatives are both praised as evidence 'politicians are important driving forces (...) for climate justice'⁹² and increasingly subject to scrutiny of their effectiveness.⁹³

Thirdly, unlike the first two more diagnostic themes, CCS and carbon leakage are more prognostic, presenting Norwegian petroleum as the *solution* to international challenges: it is portrayed as 'cleaner' than international competitors, therefore preferable for addressing Southern energy poverty, and Norwegian gas is a 'bridge' between coal and renewables (arguments documented by Norgaard⁹⁴ already in the early 2000s). As Fløttum and Espeland note, this narrative 'invites an ethical evaluation' but 'does not

⁸⁷ Bård Lahn, *Klimaspillet: En Fortelling fra Innsiden av FNs Klimatoppmøter* [The Climate Game: A Story from the Inside of UN's Climate Summits](Flamme 2013) 47-51.

⁸⁸ *ibid* 68.

⁸⁹ *ibid* 194.

⁹⁰ *ibid* 252-253.

⁹¹ *ibid* 112-115.

⁹² Arild Hermstad, 'Norge Best?' ['Is Norway Best?'] (*Framtiden i Våre Hender* [Future in Our Hands], 2 November 2011) <<http://www.framtiden.no/201111025344/blogg/arilds-blogg/norge-best.html>>.

⁹³ Geir Salvesen and Siri Gedde-Dahl, 'Norsk Klimaprojekt i Hardt Vær' ['Norwegian Climate Project in Rough Weather'] *Aftenposten* (Oslo, 30 December 2011) <http://www.aftenposten.no/nyheter/iriks/Norsk-klimaprojekt-i-hardt-vr-6730543.html#.UZEn_8r4KSp>.

⁹⁴ Norgaard (n 78) 358.

take up the ethical implications (...) connected to petroleum export'.⁹⁵ Again, international climate law features here; such claims are 'justified by switching the focus from national targets and measures (...) to emphasizing climate change as an international problem',⁹⁶ inviting comparisons between Norwegian petroleum and other energy sources. Norwegian responsibility is further diminished — indeed, practically absolved — while giving limited recognition to inter-state distributions by invoking energy poverty. Thus, this narrative hints at *transition* (primarily through CCS) *without changing course*. This is accompanied by the suggestion unilateral transition will not only hurt Norwegians (through job and economic losses), but have limited or adverse effects, given 'carbon leakage', whereby industries leave Norway for 'developing' states where environmental standards are lower — yet again supporting an international, statist framing. Norgaard links this to popular arguments emphasising Norwegian's past poverty.⁹⁷

In summary, hegemonic Norwegian climate narratives are dominated by statist, international frames that deflect responsibility, but adopt aspects of justice frames by implying Norwegian petroleum can solve climate and developmental crises. This includes coopting rights in emissions rights and the defence of Norwegians' rights implied by carbon leakage. These narratives, reflecting the political economy of an oil-dependent state, are carefully woven into existing norms in social fields. The following outlines how, in the context of these hegemonic processes, *klimarettferdighet* vernacularises climate justice in countering statist, diagnostic narratives, before examining development of more prognostic frames focused on domestic transition in line with Norwegian norms and political economy.

4.2. Counter-hegemonic Responses

Like climate justice discourses generally, *klimarettferdighet* framed itself first and foremost in global, statist terms to critique hegemonic statist framing, amplifying and disaggregating *responsibility* to focus on Norway, and using recognition of individual and collective injustice to stress *procedures*, *distribution* and *rights* beyond states. This involves several frames.

Firstly, *responsibility* is expanded to acknowledge *historical responsibility*. Already in 1996, a Church synod declaration, 'Consumption and Justice', stated Norway has 'through its oil extraction, transport policies and reduction of research on alternative energy sources failed its global responsibilities'.⁹⁸ Both Friends of the Earth Norway [*Naturvernforbundet*]⁹⁹ and leading NGO Future in Our Hands [*Framtiden i våre hender*]

⁹⁵ Fløttum and Espeland (n 76) 8.

⁹⁶ Norgaard (n 78) 360.

⁹⁷ *ibid* 358.

⁹⁸ 'Forbruk og Rettferd' [Consumption and Justice] (*KM10/96*, Kirkemøtet [Church synod declaration], 1996).

⁹⁹ 'Klimarettferdighet' [Climate Justice] (*Naturvernforbundet*, 27 October 2015)

<<http://naturvernforbundet.no/klima/internasjonalt/global-klimarettferdighet/category2911.html>>.

(FIVH), frame their websites on international climate politics under *klimarettferdighet*, linking to UNFCCC principles. FIVH argue historical responsibility ‘should form the basis of Norway’s climate policy’,¹⁰⁰ demanding binding agreements with ‘massive transfers from rich to poor’ to repay ‘climate debt’, and ‘just distribution of emissions rights’ to allow increased emissions from historically ‘underdeveloped’ states.¹⁰¹

Secondly, *intergenerational justice* has increasingly extended *klimarettferdighet*’s temporal reach to stress *recognition of rights of* and *distribution to* future generations, evidenced by the ‘Grandparents’ Climate Campaign’. New legal and rights-based narratives referencing the constitutional right to an environment guaranteed for ‘descendants’ are increasingly prevalent.¹⁰² Appeal to (non-climate) national law has thus also featured among movement strategies in vernacularising transnational climate justice.

Thirdly, statist interpretations of *procedures*, *distribution* and *responsibilities* have been disaggregated through *recognition* of Southern actors *beyond inter-state financing*. This involves social movement spillover with development and global justice campaigns. *Klimarettferdighet* arose around the Bali Road Map through the ‘Climate Seen from the South’ campaign by FIVH, the Rainforest Foundation, WWF, *Naturvernforbundet*, and the Development Fund Norway, which commissioned a climate policy review from Southern activists ‘from a climate justice perspective’,¹⁰³ Southern recognition was central to COP mobilisations: campaigners demonstrated for *klimarettferdighet* in Oslo in 2009 alongside Global Migrants for Climate Action.¹⁰⁴

Fourthly, *distribution*, *rights* and *responsibility* are often visualised through a *global carbon budget* — the remaining carbon that can be emitted while avoiding serious climate change. The Norwegian foreword to *Naturvernforbundet*’s 2011 report *Klimagambling* (translated from Friends of the Earth UK) suggests ‘rich states, based on all reasonable evaluations of justice, must leave as much as possible of their carbon budget to (...) the South’, necessitating ‘even greater’ emissions reductions in Norway.¹⁰⁵ Through *recognition*, carbon budgeting thus links leaving Norwegian petroleum reserves untouched to let Southern states exploit theirs.

¹⁰⁰ Gunnell Sandanger, ‘Krever klimarettferdighet’ [Demanding Climate Justice] (FIVH, 1 November 2010) <<http://www.framtiden.no/201011013032/aktuelt/klima/krever-klimarettferdighet.html>>.

¹⁰¹ ‘Klima’ (FIVH, undated) <<http://www.framtiden.no/aktuelt/klima/>>.

¹⁰² Pål W Lorentzen, ‘Slutt å Leke Klimapolitikk, Erna Solberg!’ [Stop Playing Climate Politics, Erna Solberg!] *Bergens Tidende* (Bergen, 19 November 2014) <http://www.bt.no/meninger/kronikk/Slutt-a-leke-klimapolitikk_-Erna-Solberg-3243343.html>.

¹⁰³ Guri Tajet, ‘Luksuriøs Norsk Livsstil’ [Luxurious Norwegian Lifestyle] (FIVH, 15 December 2008) <<http://www.framtiden.no/200812152462/rapporter/klima/luksurios-norsk-livsstil.html>>.

¹⁰⁴ Anne-Merethe Pedersen, ‘Gateteater mot CO2’ [Street Theatre Against CO2] (*Naturvernforbundet*, 1 September 2009) <<http://naturvernforbundet.no/nyheter/gateteater-mot-co2-article8867-166.html>>

¹⁰⁵ ‘Klimagambling: Om Hvordan Politisk Ansvarsfraskrivelse Øker Faren for Alvorlige Klimaendringer’ [Climate Gambling: How Political Abdication of Responsibility Increases the Risk for Serious Climate Change] (*Naturvernforbundet*, 2 October 2011, Report (no. 2)) 7 <<http://naturvernforbundet.no/getfile.php/Dokumenter/Rapporter%20og%20faktaark/2011/klimagambling-rapport.pdf>>.

Rights have featured prominently in these framings through GDRs, which combine historical responsibility, recognition of Southern development concerns and domestic action within a global carbon budget. Tom Athanasiou, GDRs' developer, appeared at *Naturvernforbundet's* 2012 conference 'Climate Justice: Climate Politics is the Politics of Wealth Distribution'. *Naturvernforbundet* used GDRs to endorse disaggregated alternatives to UNFCCC statist 'developed'-'developing' binaries.¹⁰⁶ Rights-based development organisation NCA, a central climate justice translator since 2007,¹⁰⁷ have championed GDRs since 2008.¹⁰⁸ Their 2014 primarily English report, *Norway's Fair Share of an Ambitious Climate Effort*, argues, under GDRs' 'Responsibility and Capacity Index', Norway should contribute to global reductions corresponding to 300 percent of 1990 domestic emissions by 2020 — far higher than official targets. The (Norwegian) foreword links historical responsibility to oil, stressing Norway must finance Southern initiatives *and* domestic cuts. GDRs are anchored in UNFCCC's CBDR principle.¹⁰⁹

Thus, climate justice has been vernacularised in frames of historical responsibility, intergenerational justice, recognition of Southern actors and carbon budgets to disaggregate diagnostic statist narratives. While these translate more-or-less directly from transnational discourses, including operationalising UNFCCC principles, they merge with existing normative and institutional contexts in two ways. Firstly, they acknowledge (through expanding *responsibility*) Norwegian petroleum's global contribution — a long-standing concern for *klimatefferdighet* actors, especially the church and environmentalists, as seen in FIVH's 2010 *klimatefferdighet* campaign that stresses Norway must 'quickly leave the oil age', countering arguments that 'poor countries need energy' and about 'clean' extraction, and linking this to Statoil's overseas tarsands investments.¹¹⁰ While assumptions of 'eco-friendly Norway' found by Norgaard bolster exceptionalist arguments *for* Norwegian petroleum, and many Norwegians appreciate petroleum's contribution to their welfare, challenging petroleum's hegemony is increasingly resonant not only with environmental norms but growing recognition of adverse *economic* effects of 'oil dependence' in raising prices and monopolising certain

¹⁰⁶ Ola Skaalvik Elvevold, 'Klimarettferdighet på Dagsorden' ['Climate Justice on the Agenda'] (*Naturvernforbundet* [Friends of the Earth Norway], 19 October 2012) <<http://naturvernforbundet.no/klima/internasjonalt/global-klimatefferdighet/klimatefferdighet-paa-dagsorden-article27849-2911.html>>.

¹⁰⁷ Kirkens Nødhjelp [Norwegian Church Aid (NCA)] and Church of Sweden, 'Climate Change Threatens the Fight against Poverty', (2007) 1 *Understanding the Issue* <<https://www.kirkensnodhjelp.no/contentassets/c1403acd5da84d39a120090004899173/2008/climate-change.pdf>>.

¹⁰⁸ 'Norges Klimaregning: Hvordan Norge kan Bidra til en Rettferdig, Effektiv og Utviklingsvennlig Klimaavtale' [Norway's Climate Dues: How Norway Could Contribute to a Just, Efficient and Development Friendly Climate Agreement] (*Kirkens Nødhjelp*, [Norwegian Church Aid (NCA)], September 2008) <https://www.kirkensnodhjelp.no/contentassets/c1403acd5da84d39a120090004899173/2008/trykkversjon_rapport_kn_gdr_sept08.pdf>.

¹⁰⁹ Stockholm Environmental Institute, 'Norway's Fair Share of an Ambitious Climate Effort' (NCA, 2014) <<https://www.sei-international.org/mediamanager/documents/Publications/Climate/SEI-KN-2014-Norways-fair-share.pdf>>.

¹¹⁰ Gunnell Sandanger, 'Krever klimarettferdighet' [Demanding Climate Justice] (FIVH, 1 November 2010) <<http://www.framtiden.no/201011013032/aktuelt/klima/krever-klimatefferdighet.html>>.

skills.¹¹¹ Secondly, solidarist norms (vital to development organisations and the church) are projected onto the inter-state and inter-temporal level, using *recognition* to emphasise disaggregated distribution, procedures and rights. This includes use of the folk concept of *dugnad* (collective work community members are expected to participate in). *Naturvernforbundet* refer to a 'climate *dugnad*', the share of which must be higher for developed countries.¹¹² As noted, these are among norms Norgaard identifies that are co-opted in hegemonic discourses to justify Norway's high profile in climate negotiations and continued promotion of petroleum as 'solution'. Industry lobbyists invoke 'solidarity' to defend petroleum. Nonetheless, *klimarettferdighet* actors increasingly counter this, an NCA, FIVH and Statistics Norway report showed reducing petroleum production would have little effect on poverty (as little is exported to the poorest nations).¹¹³ Through exploiting institutional openings provided by statist, international narratives in hegemonic discourses that protect petroleum interests, *klimarettferdighet* increasingly employs more multi-scalar *and* multi-temporal frames. While countering statist diagnoses, they imply a more prognostic, proactive focus on *Norway's* responsibilities, promoting a turn from the global towards domestic transition.

4.3. Turning *Klimarettferdighet* Inward

This has sparked debate on how climate justice, especially *distributions, rights* and *procedures*, manifests itself *within* Norway, invoking norms of civil society involvement in socioeconomic transitions and social democratic norms, including tripartite cooperation.¹¹⁴ Like transnational narratives, this turn began in earnest after Durban. For Copenhagen, NCA and FIVH organised an activist conference at Oslo Opera House, taking 1,200 activists by boat to Copenhagen, where Norwegian signatures on a global climate justice petition were given to the Environment Minister.¹¹⁵ For Cancun, numerous organisations organised a parallel conference in Oslo, addressed by the leader of the Confederation of Trade Unions — demonstrating increasing movement spillover.¹¹⁶ Thereafter, previously-described convergence of frustration with COPs and revitalised multi-scalar struggles at Durban shifted strategic scale to domestic levels; a post-Durban article by Ytterstad, referencing Norwegian participation in Durban's union

¹¹¹ Marie Melgård De Rosa and Mathias Vedeler, 'Ulltveit-Moe Advarer Mot Oljeavhengigheten' [Ulltveit-Moe Warns Against Oil Dependency] *Stavanger Aftenblad* (Stavanger, 24 August 2013) <<http://www.aftenbladet.no/energi/olje/Ulltveit-Moe-advarer-mot-oljeavhengigheten-3238766.html>>.

¹¹² Naturvernforbundet (n 99).

¹¹³ Statistics Norway, *Norsk Olje- og Gassproduksjon* [Norwegian Oil and Gas Production] (NCA and FIVH, 2013)

<<https://www.kirkensnodhjelp.no/contentassets/c1403acd5da84d39a120090004899173/norsk-olje-og-gassproduksjon-rapport-med-layout-final.pdf>>.

¹¹⁴ On the context-specific development, institutionalisation and enduring influence of (Scandinavian) social democratic norms: Kristian Stokke and Olle Törnquist, 'The Relevance of the Scandinavian Experiences' in Kristian Stokke and Olle Törnquist (eds), *Democratization in the Global South: The Importance of Transformative Politics* (Palgrave MacMillan 2013) 21-41.

¹¹⁵ 'Changemaker på Klimaseilas' [Changemaker is Sailing for the Climate] (*Changemaker*, 2009) <<http://changemaker.no/changemaker-pa-klimaseilas/>>.

¹¹⁶ 'KlimaOppmøtet' (*Grønn kirke: Kirkelig Nettverk for Skaperverk og Bærekraft* [Christian Network for Environment and Justice], 2010) <<http://www.gronnkirke.no/index.cfm?id=325326>>.

'World of Work' conference and Friends of the Earth's 'One Million Climate Jobs' launch, calls for demoralised environmentalists to join others, especially unions, in 'the movement for climate justice and green jobs'.¹¹⁷

More future-orientated, disaggregated discourses build on expanded notions of *Norwegian responsibility* in diagnostic frames, giving responsibility *collective social dimensions* deeper within the climate justice pyramid. This connects responsibility to *individuals' and organisations' responsibility* through appeal to solidarity, including the Church encouraging '*klimadugnad*' (a climate '*dugnad*' (grassroots voluntary effort)).¹¹⁸ Collective mobilising frames build on norms of civil society involvement in policy-making, including the Church's active social role based on state establishment and status as a democratic, membership organisation. *Skaperverk og Bærekraft's* founding document, opposing shifting 'realisation of a sustainable society and global justice (...) to the kingdom of heaven', seeks 'political and social change', recognising climate change as 'a global question of right and wrong' and 'a political question', including regarding oil. As the Church is both 'central and local', it 'has a responsibility (...) to build environmental involvement across political divides', but also be 'radical, proactive and admonishing'.¹¹⁹ This deepened social responsibility builds on stewardship and 'practical' love in scripture, 'challenging the powerful'. Indeed, 'being created in God's image means (...) we have a unique responsibility'. *Klimarettferdighet* thus 'challenges us both individually and collectively;' Church members are encouraged to take collective action, including using their vote.¹²⁰

Emphasising *Norwegian responsibility* within disaggregated global discourses also highlights *consumption*. Sometimes, this involves sacrificial narratives. Church groups have connected responsibility to forsaking, though adding that relinquishing material goods 'can improve (...) quality of life'.¹²¹ Similar sentiments are heard from the anti-consumerist FIVH, suggesting *klimarettferdighet* implies 'disadvantages' for Norwegians because it 'cannot be achieved by the rich becoming richer'.¹²² By emphasising *state-level*

¹¹⁷ Andreas Ytterstad, 'I Stedet for å Vente på den 18. Kuruken' [Instead of Waiting for the 18th Cowpat] *Aftenposten* (Oslo, 14 December 2011) <<http://www.aftenposten.no/meninger/kronikker/I-stedet-for-a-vente-pa-den-18-kuruken-6720591.html>>.

¹¹⁸ Knut Refsdal (Secretary General, Norges Kristne Råd [Norway's Christian Council]), 'This Is Our Mayday!' (*Grønn Kirke: Kirkelig Nettverk for Skaperverk og Bærekraft* [Christian Network for Environment and Justice], 2014) <<http://www.gronnkirke.no/index.cfm?id=420295>>.

¹¹⁹ 'Bærekraft og Skaperverk. Økumenisk Prosjekt for Endring av Kirke og Samfunn 2007-2017' ['Sustainability and Creation. Ecumenical Project to Change Church and Society 2007-2017'] (*KM5.1/08, Kirkemøtet* [Church synod declaration], 2008).

¹²⁰ 'Klimarettferdighet: Vern om Skaperverket' ['Climate Justice: Protect God's Work of Creation'] (*Den Norske Kirke* [The Norwegian Church], 2013) <http://kirkeaktuelt.no/wp-content/uploads/2013/07/Flyer_klimarettferdighet.pdf>.

¹²¹ 'Skaperverket - vårt livsgrunnlag, vår glede og vårt ansvar' ['The Creation - Our Basis of Existence, Our Joy and Our Responsibility'] (*uttalelse fra Rådsmøtet i Gran, Norges Kristne Råd* [Declaration by Council Meeting in Gran, of The Christian Council of Norway], 20 March 2007) <<http://www.gronnkirke.no/index.cfm?id=238367>>.

¹²² Arild Hermstad, 'What's in it for Me?' (*Framtiden i Våre Hender* [Future in Our Hands], 6 December 2010)

responsibility to critique state narratives that diminish responsibility, sacrificial narratives can imply *all* Norwegians are wealthy, ignoring *domestic distribution*.

Sacrificial narratives have thus diminished as new, domestic-orientated actors have spilled-over into *klimarettferdighet* movements, particularly unions, who increasingly connect international solidarity norms with their members' self-interest as part of the growing focus on socioeconomic transitions from carbon-intensive industries. A statement ('The Climate Struggle — a Struggle for Social Power') from several leaders within the Norwegian Confederation of Trade Unions (LO) declared that climate policy 'cannot (...) be reduced to a question of sacrifice (...) of our hard-won rights', but is 'about creating a better society'.¹²³ This reflects debates within LO between some unions favouring counter-hegemonic *klimarettferdighet* to protect existing rights and the adoption of hegemonic discourses by LO generally. LO formally supports a 'just transition that emphasises working life, social and work-related rights, decent and green jobs in a sustainable low-emissions society', stressing tripartite cooperation.¹²⁴ However, LO is criticised for supporting petroleum, shifting responsibility to 'workers in poor countries' and 'descendants of today's well-fed Norwegian working-class'.¹²⁵ In early *klimarettferdighet* narratives, non-LO confederations featured more prominently.¹²⁶

LO's 2014 climate strategy largely reflects hegemonic climate narratives. Petroleum-related responsibilities are downplayed, echoing arguments around Norwegian gas replacing coal and carbon leakage that stress climate initiatives 'should to the greatest possible extent be established within regional and global deals'. Indeed, transitions are couched in terms of 'market advantage'. LO thus links union values of solidarity and equality to climate justice frames — that 'especially poor people are hard hit', the diminishing carbon budget, and historical responsibility¹²⁷ — but within a politico-economic analysis that links workers' interests to continued petroleum production. Cooption of climate justice language within hegemonic productivist 'class compromise[s] (...) between organized labor, the state, and capital' is said to protect existing entitlements and avenues of influence, particularly institutionalised social dialogue, and therefore 'the political power of [Northern] unions' *as institutions*, instead of global

<<http://www.framtiden.no/201012063062/blogg/arilds-blogg/whats-in-it-for-me.html>>.

¹²³ Jan Davidsen et al, 'The Climate Struggle — A Struggle for Social Power' (*For Velferdsstaten* [A Broad Alliance for the Welfare State], 26 September 2012)

<http://www.velferdsstaten.no/Tema/Verden/?article_id=96528>.

¹²⁴ 'Klima' [Climate] (LO, undated) <<http://lo.no/politikk/Klima/>>.

¹²⁵ Arild Hermstad, 'Musikk i Stoltenbergs Klimaører' [Music to Stoltenberg's Climate Ears] (FIVH, 8 June 2011)

<<http://www.framtiden.no/201106083759/blogg/arilds-blogg/musikk-i-stoltenbergs-klimaorer.html>>.

¹²⁶ 'Klima for Endring: Et Informasjons- og Debattheft fra Norges Naturvernforbund og Unio 2009' [Climate for Change: An Informational and Debate Brochure from Friends of the Earth Norway and Unio] (*Naturvernforbundet* and Unio, 2009)

<<http://naturvernforbundet.no/getfile.php/Dokumenter/Internasjonalt/HEFTE%20-%20KLIMA%20FOR%20ENDRING%202009.pdf>>.

¹²⁷ 'Klimastrategisk Plan' [Climate Strategy Plan] (LO, 17 June 2014)

<<http://lo.no/politikk/Klima/Artikler-om-klima/LOs-klimastrategi/>>.

environmental justice.¹²⁸ A split, replicated in LO, is often seen between unions in carbon-intensive sectors and those in others. For legal pluralism, this suggests how politico-economic interests promote formalistic use of legal entitlements to promote current interests, rather than broader social change.

However, several LO and non-LO unions are central in initiatives promoting more transformative frames. During the 2013 general election, over 100 organisations joined *Klimavalg 2013* ['Climate Election 2013']. One of *Klimavalg's* demands was that *klimarettferdighet* 'be given concrete content', demanding parties 'take historical responsibility seriously' and that states like Norway 'take a lead with emissions cuts at home, and contribute financially to (...) adaptation and development of renewable energy for fighting poverty'.¹²⁹ By demanding reduced oil extraction, a focus on transport and household energy, and 'green jobs and new industrial development', the socioeconomic turn towards a 'transition' repackages globally-framed *responsibility* and *procedures* discourses alongside more domestic *distribution* and *rights* demands.¹³⁰

One offshoot of *Klimavalg* is *Broen til framtiden* [Bridge to the Future], an initiative between unions, environmental NGOs, *Skaperverk og Bærekraft* and Concerned Scientists Norway that has produced books on green jobs and slowing oil extraction, and a petition ('Slow down Norwegian oil extraction — 100,000 climate jobs now!'). One session of their 2014 conference was a 'conversation' on *klimarettferdighet*, chaired by Bård Lahn, involving Lars Haltbrekken (*Naturvernforbundet*), Ingrid Næss-Holm (NCA) and John Leirvaag (leader of the Norwegian Civil Service Union, an LO member). The discussion's premise was that 'climate struggle is about democratisation of the economy and society (...) redistribution between North and South, and (...) generations', and Lahn linked these distributional themes to historical responsibility and carbon budgets. Leirvaag stressed Norwegians have undertaken transitions previously by creating security around them, ensuring no particular groups suffer disproportionately, through, for example, taxation to catalyse change, and focusing on research to create new jobs. He stressed LO represents different workers, including in petroleum, and involves them in dialogue. Addressing carbon leakage, Leirvaag suggested Norway's welfare allows it to lead, building green jobs, rather than protecting jobs that must disappear eventually. Haltbrekken also stressed that it is better a transition starts smoothly than suddenly, supporting green jobs. In answering whether there is hope for a just international agreement, Næss-Holm stated both bottom-up and top-down strategies were necessary by movements, especially unions, to influence states, as inter-faith work demonstrates.¹³¹

¹²⁸ James Patrick Nugent, *Changing the Climate: Ecoliberalism, Green New Dealism, and the Struggle over Green Jobs in Canada* (2011) 36(1) *Labor Studies Journal* 58, 63-64.

¹²⁹ 'Våre krav til Klimapolitikken' [Our Demands for Climate Politics] (FIVH, 2013) <<http://www.framtiden.no/klimavalg2013/artikler/vare-krav-til-klimapolitikken.html>>.

¹³⁰ *ibid.*

¹³¹ 'Broen til Framtiden 2014' (*Broen til Framtiden* [Bridge to the Future], updated regularly) <<http://broentilframtiden.com/broentilframtiden2014/>>.

This discussion demonstrates how *klimarettferdighet* bases itself in, but broadens, hegemonic discourses' stress on how the transition affects Norwegian *rights* and *distributions* to combine *domestic* and *global* rights and distributions. This thus expands on the same social democratic and civic participatory norms stressing workers' and civil society's involvement in socioeconomic transitions as hegemonic arguments around carbon leakage. Initiatives now link *klimarettferdighet* with broad social change and specific industry-related transitions, as *Broen til framtiden's* new book (including contributions from unions in petroleum-related sectors and an oil worker) shows.¹³² Crucially, using social democratic norms of state-led socioeconomic and industrial transitions, undertaken with democratic involvement (including tripartite cooperation), builds on *the model used to create the petroleum industry*, a point increasingly made¹³³ to resonate with economic arguments against 'oil dependence' — thus, it provides a frame that is potentially both resonant *and* historically credible for moving beyond petroleum to a more diverse, sustainable economy. The Church has increasingly used this, including in oil-dependent regions; the Bishop of Stavanger, home to the petroleum industry, used his 2012 new years' sermon to connect *klimarettferdighet* to 'looking critically at new oil finds and growth'.¹³⁴ In subsequent media debates featuring familiar industry counter-arguments, he linked *klimarettferdighet* and intergenerational justice to acknowledgement that 'our entire welfare is anchored in' petroleum.¹³⁵

The transformative turn is also seen in local transition groups, including 'Sustainable Life in Landås', Bergen. The project, framed as research, rejects dichotomies between individual or national scales, endorsing working collectively in 'appropriately'-sized local spaces. The long-term goal is making the ecological footprint of 'the West' sustainable through alliances with local government, community institutions, NGOs, church groups and transition towns internationally.¹³⁶ The group springs partly from church networks, but emphasises human rights first in their list of 'common denominators'.¹³⁷ They seek a 'third-way in the climate struggle' based on cultural and political gatherings locally, local food production, energy efficiency and transport.¹³⁸ Such initiatives vernacularise global narratives of climate justice, sustainable

¹³² Andreas Ytterstad (ed), *Broen til Framtiden* (Gyldendal 2015).

¹³³ Andreas WH Lindvåg, 'MDG: Se til Oljeindustrien!' [MDG: Look to the Oil Industry!] *Vårt Land* (Oslo, 9 May 2015) <<http://www.vl.no/nyhet/mdg-se-til-oljeindustrien-1.356822>>.

¹³⁴ Erling Pettersen, 'Biskopens Nyttårstale' [The Bishop's New Year's Speech], *Stavanger Aftenblad* (Stavanger, January 2012) <<http://www.aftenbladet.no/incoming/article2916122.ece/BINARY/biskopens.pdf>>.

¹³⁵ Hilde Øvrebekk Lewis, 'Biskopen ut mot Oljefylket' [The Bishop Speaks Out Against the Oil County] *Stavanger Aftenblad* (Stavanger, 9 January 2012) <<http://www.aftenbladet.no/energi/Biskopen-ut-mot-oljefylket-2916097.html>>.

¹³⁶ Agnes Vevele Tvinnereim and others, 'Prosjektbeskrivelse for Bærekraftige liv — et 3-årig Pilotprosjekt på Landås' [Project Description for Sustainable Living — A 3-year Pilot Project in Landås] (*Bærekraftig Liv* [Sustainable Living], 30 October 2009) <http://www.barekraftigeliv.no/content/files/prosjektbeskrivelse_Baerliv.pdf>.

¹³⁷ 'Historikk og Bakgrunn' [History and Background] (*Bærekraftig Liv*, undated) <<http://www.barekraftigeliv.no/omoss/verdigrunnlag>>.

¹³⁸ Lars Ove Kvalbein, 'En Tredje Vei i Klimakampen?' [A Third-way in the Climate Struggle] (*Bærekraftig Liv*, 2011) <<http://www.barekraftigeliv.no/omoss/kronikk>>.

development and human rights, merging with civic participatory and social democratic norms to reframe climate change as a threat to both others' and Norwegians' welfare.

In summary, the proactive, prognostic turn in *klimarettferdighet* vernacularises climate justice by stressing recognition of responsibilities, rights, distributions and procedures within Norway, building on acknowledgement of petroleum dependence and solidarity in diagnostic frames, and augmenting this with civic participation and social democratic norms. Individual and collective dimensions of Norwegians' responsibility, including consumption, are addressed. Increased union involvement has encouraged and been encouraged by this, furthering the socioeconomic, industrial transition focus. While different unions operate differently within hegemonic processes based on politico-economic interests, new alliances connect diverse actors, and promote green jobs and transitions across sectors with tools including law and rights (especially the constitutional environmental right and workers' rights). Crucially, this confronts the politico-economic premise of hegemonic narratives by suggesting petroleum dependence threatens rights globally and domestically; it also anchors its solution of state-led socioeconomic transition with significant civil society involvement and tripartite cooperation in norms crucial to the history of the petroleum industry itself.

5. Conclusion

Legal pluralism empirically examines norms and institutions, including law, in semi-autonomous socio-ecological fields where actors construct collective action frames, at multiple scales, within historically-situated hegemonic processes. Climate justice discourses arise from the interaction of lived injustices within particular historical struggles and politico-economic contexts, and institutional openings provided by climate (and non-climate) law and policy. Countering international, statist frames during institutional openings that emerged during the 'second wave' of climate interest, climate justice is increasingly disaggregated, multi-scalar and prognostic. Discursive elements of responsibilities, rights, distributions, and procedures are disaggregated and vernacularised using recognition, employing both diagnostic and prognostic themes in which rights feature prominently.

In Norway, *klimarettferdighet* actors vernacularise transnational climate justice discourses, including UNFCCC principles, into resonant frames, using recognition to disaggregate statist, globally-scaled discourses around emissions trading, state-financed initiatives and carbon leakage, and increasingly turn climate justice inward to more future-orientated questions of domestic transition. Movements used institutional openings to counter hegemonic narratives by emphasising disaggregated responsibility, in particular linking this to petroleum, and solidarist norms. Well-connected Norwegian climate justice translators quickly vernacularised (sometimes literally translating) *klimarettferdighet* given their participation in global networks (including NCA in the ACT Alliance). These translators walk the line between encouragement and critique of

Norway's international climate positioning, finding spaces where movements can turn hegemonic statist, national(ist) frames inward, decentring climate discourses by highlighting Norway's structural links to climate injustice. In these hegemonic processes, climate justice and the norms through which it is vernacularised are open to cooption. Increasingly, climate justice has moved to transition discourses. Rights language helps concretise diagnostic responsibility frames (especially intergenerational rights and GDRs) and, increasingly, draw attention to domestic justice, drawing on civic participatory (including the church's active social role), and social democratic norms of negotiating state-led transitions through public participation and tripartite cooperation to build welfare around labour and socioeconomic rights — thus building on values that underpinned the petroleum industry's development. Ultimately, *klimarettferdighet* has helped vernacularise UNFCCC technical-diplomatic language, opening for applying rights to climate change.

However, *klimarettferdighet* remains an activist vernacular. Hegemonic state-industry narratives often dominate, repackaging Norwegian petroleum as not only a climate solution, but an aspect of global climate (and energy) justice. Recognition of justice issues related to a transition for petroleum workers and communities has not yet encouraged these workers and communities, or their unions, to join *klimarettferdighet* alliances in significant numbers. Nevertheless, broadening *klimarettferdighet* into prognostic, transformative critiques provides significant potential for furthering positive, prefigurative alternatives to elite statist climate initiatives, and thus fertile ground for rights.

Evidence increasingly suggests that 'equity and environmental justice have more resonance with people than appeals to self-interest (...) particularly, if they hold broader definitions of community and place'.¹³⁹ However, we must not underestimate the difficulty of deconstructing hegemonic frames that merge community and place *with self-interest*, like petroleum's position in Norwegian narratives of prosperity and equality. Legal pluralist analysis tentatively suggests a hybrid of climate justice with Norwegian norms of active civil society and social movement involvement in socioeconomic transformations and the welfare state provide new discourses for tackling climate change, confronting global justice issues through resonant frames. Rights proponents must be cognisant of such possibilities if they wish to influence transitions to avert catastrophic climate change and consequently deliver on rights' transformative promise.

¹³⁹ Cindy Isenhour, 'The Politics of Climate Knowledge: Sir Giddens, Sweden and the Paradox of Climate (In)Justice' (2013) 18(2) *International Journal of Justice and Sustainability* 201, 210-212.