

Analysing the effectiveness of the kyoto protocol politics essay



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Environmental issues become global issues because the effect of the environmental problem goes beyond national boundaries. Thus, environmental issues are common concerns and every country has a responsibility to tackle the problem. One of the environmental problems is global warming. The United Nations Framework Convention on Climate Change (UNFCCC) was adopted in 1992 in order to mitigate the impact of greenhouse gas that can endanger human life. Principally, the Convention attempted to reduce the emissions that can trigger the gradual warming of the atmosphere. In 1997, the Kyoto Protocol was adopted in the Third Conference of the Parties as a legally binding treaty. In the Kyoto Protocol, the ratified countries have to commit to a target to reduce their emissions. By countries to reducing emissions in concert, it is expected that the issue of climate change and its impact on the earth can be addressed.

After more than a decade, the effectiveness of the Kyoto Protocol as a global environmental regime to address climate change is still questioned. This essay argues that the Kyoto Protocol is not effective enough to tackle global warming. The argument will be based on the examination of two issues in the Kyoto Protocol. Firstly, the issue of participation will be discussed, especially the principle of 'common but differentiated responsibility' (CDR). Secondly, the issue of participation will be linked to the compliance issue in the Kyoto Protocol. In this section, this essay will look at the effectiveness of three mechanisms in the Kyoto Protocol: emission trading, the Clean Development Mechanism (CDM), and Joint Implementation (JI).

The Kyoto Protocol

Environmental damage caused by pollution does not recognize national boundaries and has to be addressed by combined action of multiple states. The Intergovernmental Panel on Climate Change (IPCC) reported the scientific findings about the actual threat to the earth were caused by the increase of anthropogenic greenhouse gas (GHG). GHG will cover the atmosphere and eventually block solar radiation. This will cause an increase of the earth's temperature and result in climate change, such as unpredictable and extreme weather, floods, and storms. The scientific findings recommend to maintain the increase of temperature below 20C by limiting the concentration of CO₂ on the atmosphere below 550 ppm (Baylis et al. 2008: 361). Notwithstanding keeping the increase of temperature below 20C, scientists believe that the climate change would still bring mostly negative effects to human life (Scott 2004: 271). These scientific findings force all nations to cooperate to mitigate climate change.

The UNFCCC was established at the Rio Earth Summit in 1992 as an international action to address climate change. The UNFCCC was non-binding agreement to encourage state parties to cut their gas emission. Then, the Third Conference of the Parties on December 11, 1997, successfully negotiated the Kyoto Protocol as the first binding international agreement to mitigate global warming by targeting emission reduction of states (Scott 2004: 273). The Kyoto Protocol was signed by most states, but the process of ratification was not easy. Article 24(1) of the Kyoto Protocol stated that the Protocol was opened for signature from 16 March 1998 to 15 March 1999. According to Article 25(1) of the Kyoto Protocol, the Protocol

...shall enter into force on the ninetieth day after the date on which not less than 55 Parties to the Convention, incorporating Parties included in Annex I which accounted in total for at least 55 per cent of the total carbon dioxide emissions for 1990 of the Parties included in Annex I, have deposited their instruments of ratification, acceptance, approval or accession. (Scott 2006: 637-638)

The United States represents 36.1 per cent of Annex I emissions, Russia represents 17.4 per cent, and Japan, Australia, Canada and the rest of Annex I countries represent below 10 per cent. With that composition, the United States and the Russian Federation ratification became significant for the Kyoto Protocol to be enforced. Although the United States signed the Protocol it is opposed to bringing the Kyoto Protocol to the Senate for ratification. Consequently, the ratification of the Russian Federation became crucial to fulfil at least 55 per cent of the total emission of Annex I countries as stated in the article 25(1) (Doelle 2005: xv). The Russian Federation did ratify the Protocol and it was enforced on February 16, 2005. According to UNFCCC, there are 191 parties in the Kyoto Protocol and the total percentage of Annex I parties emissions is 63.7 per cent (UNFCCC).

Participation

The climate change issue is not only about emission reduction. The issue involves many other aspects, such as transportation, agriculture, and energy security. Thus, addressing climate change will eventually point to 'the structural inequalities in wealth, income and power between the North and the South' (Gupta in Hisschemöller and Gupta 1999: 154). Encouraging

participation from all developed and developing countries is one difficulty in <https://assignbuster.com/analysing-the-effectiveness-of-the-kyoto-protocol-politics-essay/>

creating an effective climate change regime. The basis for implementing the principle of 'common but differentiated responsibility' (CDR) is to encourage the cooperation of all states to promote effective action on global issue, such as climate change (Cullet 2003: 16). However, the application of the CDR principle has its own obstacles. As stated above, the reluctance of the United States to ratify the Kyoto Protocol refers to the minimum role of developing countries to the reduction of GHG emissions, particularly regarding the principle of CDR.

Developing countries recognize two principles in environmental law: 'the common heritage of mankind' (CHM) and 'the common but differentiated responsibility' (CDR) between nations. CHM is the first principle used by developing countries to assert justice 'on resource exploitation'. However, the CHM principle is less significant (Duff in Okereke 2008: 8) than the CDR principle in negotiating environmental law. Thus, this essay only discusses the CDR principle in the climate change regime. 'Common' is to recognize that all states have the same environmental risks to face, but the responsibility to address the problems is differentiated among countries, particularly between developed and developing countries (Stone 2004: 277). According to Okereke, from the perspective of international law, the CDR principle has 'culpability' and 'capability' dimensions. The first dimension refers to history and emphasizes that most of the current environmental problems were caused by the development of the North, particularly in the era of industrialization. That dimension is closely related to the dimension of capability. Because of that development, developed countries are now more capable than developing countries, in term of technology and financial

resources (Okereke 2008: 32). Thus, article 4 of the UNFCCC adopts the CDR principle to acknowledge that developed countries have more responsibilities and should take the lead in dealing with climate change.

Making the environmental issue a global priority would distract developing countries from their development which could make them reluctant to join the Kyoto Protocol. The CDR principle resolves this issue because it bridges the notions of environmental protection and the need of development by the South, or developing countries (Najam 2005: 308). Therefore, the CDR principle has two implications in the Kyoto Protocol. Firstly, the Annex I countries in the Kyoto Protocol have commitments in reducing emissions while the developing countries are excused from the effort to reduce their emissions. Secondly, the developed countries are expected to provide technological and financial assistance to developing countries in order to meet the recommended amount of emission reduction and also to reduce the possible social and economic impacts on developing countries when they are fulfilling their voluntary commitment (Cullet 2003: 70-71). The implications of the CDR principle are demonstrated by the provision of financial and technological assistance under the Kyoto Protocol.

The application of the CDR principle into policy instruments of the Kyoto Protocol is challenging. The United States as the largest emitter in the world rejects those two implications of the CDR principle as stated above. This opposition is based on the view that although developed countries are the largest producers of GHG, new emerging economies, such as China, India, and Brazil, that also produce large amount of GHG emissions, should not be ignored. China, which is included in the grouping of developing countries, is <https://assignbuster.com/analysing-the-effectiveness-of-the-kyoto-protocol-politics-essay/>

the second largest which produce of GHG emissions (Harris 1999: 31).

Therefore, the United States is of the view that the large developing countries should give the similar contributions as the Annex I countries to prevent the high increases of GHS emissions in the next decades (Scholtz 2008: 127).

The unwillingness of the United States as the largest producer of GHG emissions, to ratify the Kyoto Protocol results in the Protocol's lack of legitimacy. This is worsened by the reluctance of the developing countries to reduce their emissions before the developed countries show progress (Harris 1999: 33-34). Thus, the Kyoto Protocol will only be effective if all parties are willing to participate. This means the United States must agree to have a binding commitment for reducing its emissions and the developing countries should agree to have a voluntarily commitment to cut their increasing emissions (Scholtz 2008: 128). According to Downs, determinants for the regime's legitimacy are ' democratic decision-making, high consensus standard, and the degree of distributive fairness embodied in standards' (Downs 2000: 27). The debate between developed and developing countries over the CDR principle shows that the climate change regime lacks consensus. In this case, it shows that developing countries are distrustful of the Kyoto Protocol by believing that it is only aimed for the developed countries' benefit (Downs 2000: 27). The lack of consensus will influence the issue of participation and compliance and at the end, the Kyoto Protocol will become ineffective as a binding treaty to solve global environmental problems.

Compliance

The issue of participation is closely related to the issue of compliance and both will influence the effectiveness of the Kyoto Protocol. When the highest sovereignty is the state, it is difficult to enforce international law. Scott argues that the lack of 'an international police force to enforce compliance' makes international law only 'politically effective' (Scott 2004: 7). If the compliance mechanism in international law is effective, then on the one hand many countries will be willing to participate in the treaty. On the other hand, they would rather not participate in the treaty than breach their obligations (Vezirgiannidou 2009: 42). Becoming a non-compliant state will risk its image in the international community.

In environmental law, particularly under the climate change regime, this essay would argue that 'lack of capacity' and the idea of a 'free rider' are the reasons for the issue of non-compliance in the Kyoto Protocol. Firstly, one possibility is that the states, mostly developing countries, intend to comply with the treaty, but they do not have enough resources and the capacity to fulfil the requirements. In this case of non-compliance, assistance would be needed rather than penalty to increase their compliance with the treaty (Young in Vezirgiannidou 2009: 43). Another possibility is that the states would prefer to spend their resources for other priorities, such as their basic needs, than for climate mitigation (Doelle 2005: 116). Thus, the principle of assistance is to support the fulfilment of basic needs and to open the chance for countries to get involved with international commitment to address climate change.

Secondly, the free rider in climate change is also considered as a form of non-compliance. Free riding is when states are able to enjoy the benefits without contributing to the cost. Grundig et al. describe that ' in the climate context, a state could free ride by not reducing its GHG emissions, while others do so'. That state still could enjoy ' the benefit from the decreased danger of climate change achieved by others' efforts' (Grundig et al. in Vezirgiannidou 2009: 49). Neo-liberal theorists view the free riding problem as important in enforcing international law. In this case, non-participation in the treaty is also included as free riding. The issue of free riding can be solved with the strong mechanism of the compliance process, such as effective and transparent review and reporting mechanisms. Unfortunately, the current punishment mechanism in the Kyoto Protocol is not strong enough to make the state parties comply with their obligations.

The issue of compliance provided in article 3(1) of the Kyoto Protocol is ...the Parties included in Annex I shall, individually or jointly, ensure that their aggregate anthropogenic carbon dioxide equivalent emissions of the greenhouse gases listed in Annex A do not exceed their assigned amounts, calculated pursuant to their quantified emission limitation and reduction commitments inscribed in Annex B and in accordance with the provisions of this Article, with a view to reducing their overall emissions of such gases by at least 5 per cent below 1990 levels in the commitment period 2008 to 2012. (Scott 2006: 622)

This article describes the obligation of Annex I countries to meet the emissions reduction. Countries could reduce emissions through several

mechanisms, such as through national efforts or other mechanisms under the Kyoto Protocol. According to UNFCCC, the mechanisms provided under the Kyoto Protocol are aimed to

...stimulate sustainable development through technology transfer and investment, help countries with Kyoto commitments to meet their targets by reducing emissions or removing carbon from the atmosphere in other countries in a cost-effective way, and encourage the private sector and developing countries to contribute to emission reduction efforts. (UNFCCC)

The obligation of emissions reduction should be done through national measures. Emissions reduction is closely related to other policies, such as transportation, energy security, agriculture, economic activities, and also education and culture. There should be policy changes in those areas to assist reduction of climate change, but these should be applied carefully in order not to affect the economic growth and development of the states. The limitation in the use of fossil fuels energy has its own dilemmas. On the one hand, states should limit the use of fossil fuels to support the notion of environmental protection. On the other hand, the reduction in the consumption of fossil fuels will impact on supply and price. When developed countries limit themselves in their consumption of fossil fuels, the supply will increase and the price will decrease. This condition will trigger developing countries to consume fossil fuels. Here, environmental problems are not solved rather they are transferred from Annex I to non-Annex I countries (Baylis et al. 2008). Thus, this again reasserts the idea that environmental problems cannot be solved only by developed countries themselves without the participations of developing countries.

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To accelerate the progress in dealing with environmental problems and also to give flexibility to the state parties to fulfil their commitments, the Kyoto Protocol provides three mechanisms: emissions trading, the Clean Development Mechanism (CDM), and Joint Implementation (JI). The first mechanism, emission trading, allows one Annex I country to sell its amount of permitted GHG emissions to another Annex I country that has emissions below the target in the Kyoto Protocol. Although the overall amount of emissions can be reduced, the trading itself still cannot be ensured to be 'transparent, low-cost, and efficient' (Cameron 2002: 12).

The second mechanism is the Clean Development Mechanism (CDM) that is provided under the article 12 of the Kyoto Protocol. CDM is aimed to assist parties not included in Annex I to reduce GHG emissions and attempt to achieve the objectives of the Kyoto Protocol. By assisting the project, including transferring technology, to non-Annex I countries, Annex I countries will gain GHG credits or Certified Emissions Reductions (CERs). The CERs will raise 'the assigned amount' stated in article 3 of the Kyoto Protocol. The developing countries will also get the benefit from project assistance or the transfer of technology (Cameron 2002: 11). The last mechanism in the Kyoto Protocol is Joint Implementation (JI). The CDM and JI mechanisms have the same principles. JI mechanism allows developed countries to gain CERs by financing projects in another developed country or an Annex I party. This happens when the same amount of money could give a greater result in emissions reduction in other developed countries that have more efficient power plants or projects, rather than spending the money in own country (Baylis et al. 2008: 362).

There are some critical questions on the implementation of the CDM. The CDM will surely need the participation from developing countries in the Kyoto Protocol to receive financial and technological assistance. Domestic politics in developing countries mostly place the agenda of climate change lower than other issues, such as economic development and health policies. Moreover, the effective implementation of the CDM depends on the recipient countries. Problems such as poverty and minimal health care, weak institutions, and the transparency of aid might influence the success of the project. Thus, assistance could be effective only within certain conditions. From a long-term perspective, this essay argues that the bigger problem is that the CDM might only relocate industries from developed countries to developing countries in order to avoid restrictions by the Annex I countries (Cameron 2002: 13-14). Therefore, those mechanisms might be attractive for all parties to participate and work hard to implement the Kyoto Protocol, but the environmental problems will not eventually be solved and the objective of climate change will not be achieved.

Conclusion

The Kyoto Protocol aims to address gradual warming and to protect the environment for the future generations. Climate change is a common problem and needs participation from all countries. This essay examines the effectiveness of the Kyoto Protocol from two elements: participation and compliance. The issue of participation is examined by discussing the principle of 'common but differentiated responsibility' (CDR). The principle of CDR is meant to bridge the notions of environmental protection and development. By applying the principle of CDR in the Kyoto Protocol, the

developing countries are willing to join in this climate change regime because this principle gives more attention to the developing countries. Firstly, the current environmental problems are related to the history of the era of industrialization which resulted in the developed countries. Secondly, the developing countries should be differentiated because they might not have the same capacity as developed countries, in terms of finance and technology, to address the issue of climate change. However, in order to legitimize the Kyoto Protocol as a binding treaty, the new emerging economies, such as China, India, and Brazil, should be given more significant roles than other developing countries. This will also resolve the reluctance of the United States to ratify the Kyoto Protocol.

The issue of participation in order to make the Kyoto Protocol more effective are closely related to the issue of compliance. A state will not join a treaty if it will breach the treaty. The non-compliance of states in environmental law is mostly because of the lack of capacity to fulfil the commitments and the issue of free riding. The issue of free riding could be solved by implementing a stronger compliance mechanism in the treaty. The Kyoto Protocol provides three mechanisms to help a state to comply with the obligations, through its own national measures. Those three mechanisms are emission trading, the Clean Development Mechanism (CDM), and Joint Implementation (JI). Although those mechanisms provide flexibility to fulfil the commitments among the Annex I countries or between developed and developing countries, the negative impacts for the long-term still need to be addressed in order to make the Kyoto Protocol an effective environmental treaty.

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