CONTESTING CLIMATE INJUSTICE DURING COP17

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1 INTRODUCTION

Africans are the continental population most affected by, and least responsible for, the impacts of climate change. As the United Nations Framework Convention on Climate Change (UNFCCC) prepared to descend on Durban for its 17th yearly Conference of the Parties (COP17) in late November 2011 many non-governmental organisations (NGOs) and social movements formulated positions around themes of justice in connection to Africa's situation and the political upheavals of 2011. Two developments within the convention importantly shaped those positions: the implementation of the Green Climate Fund (GCF), agreed during the previous COP as a means to 'scale up the provision of long-term financing for developing countries', and the question of binding commitments to reduce emissions after the (planned, but now averted) expiration of the Kyoto Protocol in 2012.

In this Current Development I describe mobilisation for climate justice in Durban during COP17 by groups operating at transnational, pan-African, national and local scales. I am particularly concerned both with themes that cut across the work of these groups, and with the ways in which South and southern African groups articulated relations between the global politics of climate governance and regional, national, and local conditions. In Durban, demands by civil society for ambitious and binding mitigation in...
developed countries, and climate finance for Africa were frequently linked with struggles for social justice, accountability, political representation, and survival, highlighting structural inequality and social division at national as well as global scales. Groups such as the Pan-African Climate Justice Alliance (PACJA) and the Rural Women’s Assembly (RWA), for instance, couched demands for mitigation and finance in terms of tenuous pastoral livelihoods and the particular capacities and vulnerabilities of African women. Both those groups also sought to increase accountability in climate governance, bringing stakeholders facing the cutting edge of climate impacts across thousands of kilometres to Durban to represent themselves and their interests. Dramatising similar commitments inside the International Convention Centre (ICC), transnational activists ‘occupied’ the COP in the name of direct democracy. In another example of activism grounding broadly shared principles with national context, the South African Right2Know campaign linked its domestic transparency initiative with opposition to closed-door deal-making in COP17, amidst mounting critique in transnational networks of corporate influence and limits on civil society in UN bodies.

Human rights conventions articulate principles that have also been marshalled in support of mitigation and adaptation finance in the name of climate justice. The Human Rights Council (HRC) has acknowledged that climate change poses ‘implications’ for the enjoyment of rights, and yet these efforts have gained little traction in the UNFCCC. As the work summarised below suggests, where rights discourse appeared in mobilisation for climate justice during COP17 it often played a supporting role within messages, actions, and campaigns highlighting inequality and social divisions at international and national scales. These pointed toward the necessity of responsible national as well as international actions, and the imperative of timely (ie immediate) mitigation and finance for Africans and others least responsible for the climate impacts they face head on.

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4 Right2Know called on COP delegates to ‘Stop the Climate Secrets’ (1 December 2011); Right2Know Campaign ‘R2K Joins the Call for Access to Information for Climate Justice!’ <http://www.r2k.org.za/2011/12/01/stop-climate-secrets/>.
II ADVOCATING CLIMATE JUSTICE DURING COP17

(a) Transnational campaigns for climate justice in Durban

During COP17, transnational NGOs and social movement groups pursued aims of climate justice focused around a set of broadly related themes. In addition to publishing their analyses in position papers and by faster-moving means on the Internet, organisation members participated in official COP side events, organised sessions at the People’s Space convened at the University of KwaZulu-Natal (UKZN), and marched on the Global Day of Action.

A number of campaigns linked the livelihoods and practices of small-scale farmers in Africa and elsewhere with the threats of climate change. La Via Campesina, for instance, argued ‘industrial agriculture heats up the planet, farmers are cooling it down’, while Oxfam and its partners demanded, ‘grow food, not emissions!’

Other groups denounced false solutions, corporate influence, and dirty energy projects. Many issued calls to ‘leave the oil in the soil’, and critiqued soil carbon markets. Organisations presented watchdog reports on bank investments in fossil-fuel energy projects and the risks of crime in Reducing Emissions through Deforestation and Forest Degradation (REDD) programmes at COP side events, and held panels devoted to ‘dismantling the power of TNCs [transnational corporations] and reclaiming development alternatives’ at UKZN.

The Peoples’ Space hosted a conference on eco-socialist theory and practice organised by South African group, the Democratic Left Front (DLF). Presenters there articulated solutions to the climate crisis based in strategies of commoning and the recognition of intrinsic value in ecological integrity, the analyses of social movements and communities in the global south, linking capitalism’s exploitation of fossil-fuels with its discounting of...
women’s labour, and provisions for just transition based in democratic control of oil resources.\textsuperscript{19}

A transnational coalition for the Rights of Nature\textsuperscript{20} participated in the eco-socialism conference and several other events in Durban.\textsuperscript{21} At UKZN, former chief negotiator for the Plurinational State of Bolivia, Pablo Salon, described the relevance of the Proposed Declaration of the Rights of Mother Earth\textsuperscript{22} for international climate policy. Salon argued that Rights of Nature provide a basis for transition from present day ‘apartheid against nature’, toward a socially and environmentally just society founded on a non-exploitative model of development. Moreover, in the international context the Rights of Nature offers an alternative to the commodification of nature through ‘green economy’ initiatives ascendant in UN institutions and transnational business circles. Audience members at UKZN engaged with Salon and each other in discussion of Rights of Nature principles at other political scales, and in the context of deep social division, poverty, and the unrecognised or realised rights of people.\textsuperscript{23} ‘I’m worried about the discourse of the rights of nature,’ said one observer, wondering whether its terms could be marshalled to support poor people in South African cities struggling for affordable access to water. Acknowledging those concerns Salon underlined that Rights of Nature constitute ‘part of the solution’ and that redistribution at national levels remains essential. ‘Rights of Nature is an appeal to think in a much broader perspective,’ Salon argued, however. In recognition of global limits to development based in fossil-fuel extraction ‘we have to act as a world, not individual countries’.\textsuperscript{24}

(b) Occupying COP17

Assemblies, speeches, vigils, and informal gatherings occurred on an ongoing basis at the Speakers’ Corner opposite the ICC under the banner of Occupy COP17:

a forum for those who wish to discuss and implement real and equitable solutions to climate change, with climate justice at the heart. It is open to all, operating on the principles of inclusiveness, openness, non-hierarchical organising and consensus decision-making.\textsuperscript{25}

\textsuperscript{19} These brief summaries are based on my own notes. The most comprehensive summaries I have found online are by Saul <http://ecosocialisthorizons.com/2011/12/the-movement-has-begun/> and Dawson <http://www.socialtextjournal.org/periscope/2011/12/amandla-for-eco-socialism.php>.

\textsuperscript{20} See <http://therightsofnature.org/>.


\textsuperscript{22} World Peoples Conference on Climate Change and the Rights of Mother Earth Proposal Universal Declaration of the Rights of Mother Earth (2010).

\textsuperscript{23} Direct observation, as described in note 1 above. As the exchange described suggests, audience members raised questions around the apparent priority of ‘nature’s’ rights over those of people to access and use natural resources such as water.

\textsuperscript{24} Author’s summary. See announcement for and video documentation of Salon’s talk at UKZN <http://ccs.ukzn.ac.za/default.asp?f=11,22,5,2668#Rights%20of%20Nature>.

\textsuperscript{25} See <http://occupycop17.org/about/>. 
To that end, Occupy COP17 used horizontal modes of communication common to Occupy protests on Wall Street and elsewhere.\textsuperscript{26} The development of shared positions through the open forums at Occupy COP17 was seeded with the People’s Agreement from Cochabamba\textsuperscript{27} and framed around imperatives of direct democracy and opposition to finance capital and corporate power:

the very same people responsible for the global financial crisis are poised to seize control of our atmosphere, land, forests, mountains and waterways. They want to institute carbon markets that will make billions of dollars for the elite few, whilst stealing land and resources from the many.\textsuperscript{28}

Assemblies at Speakers’ Corner developed these starting points, advocating ‘local level solutions including the idea of integrating mother earth rights in local bylaws’, ‘equity between humans and nature’, integrating climate-based activism ‘with the need for economic change, gender, and a variety of other factors’, and asserting ‘people power over the corporate influence that is trying to promote false solutions and take control of those false solutions with intellectual property rights’.\textsuperscript{29}

Occupy COP17 issued a letter of support for the International Day of Action for Human Rights, drawing a parallel between the immediate reality of climate impacts in Africa and the longer time scale of inter-generational injustice associated with continuing anthropogenic warming:

Our planet is changing, and with it the story of human rights. Here in Africa, the river beds are already drying and the seedlings that we watered for the future, are wilting. We do not rob water from the cups of others, we divert the streams. Climate change is the tyranny of the present over the rights of the future. In Africa, the future is already here.\textsuperscript{30}

At the closing of the COP, Occupy COP17 voiced support for the analysis of Climate Justice Now!, which characterised the summit’s outcome as a ‘crime against humanity’, wherein ‘the richest nations have cynically created a new regime of climate apartheid’.\textsuperscript{31}

During COP17, occupiers at the Speakers’ Corner provided a visible space of dialogue and protest and a nexus for groups critical of corporate interest in the negotiations. There was an international cast to the set of organisers, participants and guests at Occupy COP17, which included members of 350. org, and UNFCCC delegates from the Small Island Developing States group, but members of South and southern African civil society groups such as the

\textsuperscript{26} Direct observation. Participants in Occupy gatherings typically use, for example, the ‘human mic’ and general assembly format. See <http://www.youtube.com/watch?v=xIK7uxBSAS0>.

\textsuperscript{27} See <http://occupycop17.org/possibilities/>.

\textsuperscript{28} See <http://occupycop17.org/about/>.

\textsuperscript{29} See <http://occupycop17.org/ga-notes/>.


RWA and DLF also participated in assemblies there, and used the space for gatherings.  
Prominent actions involving accredited observers inside COP17 also took shape through the language and practices of Occupy protests. On 9 December observers and a handful of party delegates blocked a hallway and moved gradually toward a plenary until they were stopped by COP17 security officials. Many surrendered their accreditation as they were escorted from the convention centre. Like those who marched on the Global Day of Action, these protestors within the ICC chanted ‘listen to the people, not the polluters’. 
On the same day Anjali Appadurai ended her statement on behalf of global youth to the COP17 plenary with the ‘mic check’ that structures dialogue at Occupy events, and then led observers congregated at the back of the room in a collective call for climate action and ‘equity now’.

(c) The Pan-African Climate Justice Alliance
Prior to and throughout Durban’s COP17, PACJA analysts articulated a vision broadly shared by transnational climate justice networks, demanding fair climate finance combined with deep and binding emissions cuts in developed countries. Speaking on the former prior to COP17, Michelle Maynard of PACJA and the Centre for Civil Society (CCS) at UKZN, argued:

The principles are simple: providing climate finance is a legal and moral obligation for rich countries … It is a legal obligation included in the UN Convention that every country, including the United States, agreed to. It’s a moral obligation arising from rich countries’ climate debts – debts they owe from overusing their fair share of the atmosphere and from causing climate change and climate change harms …

Funding should be from public sources, new and additional to Official Development Assistance (ODA). Rich countries should not shirk from their responsibilities by anthropocentrically commodifying nature through the market.

PACJA also led what was probably the largest pan-African mobilisation effort to target COP17. The ‘Trans African Climate Caravan of Hope’, brought approximately 300 activists, members of civil society, scientists, farmers and

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32 Direct observation. The Speakers’ Corner was the centre of an impromptu march involving those groups on the day before the global day of action. The website for the gathering also provided video statements by international activists <http://occupycop17.org/videos/>.
35 See <http://www.pacja.org/>.
The caravan crossed some 7,000 kilometres and ten countries raising awareness and collecting travellers and messages. A PACJA spokesperson described the goal behind the caravan at a meeting on the UKZN campus:

the climate justice movement cannot survive if we don’t involve farmers, if we don’t involve women, if we don’t involve those who are impacted heavily by climate change. Those are the pastoralists, and people who are at the forefront … of this problem and that was the spirit of this caravan.

By bringing individuals and messages from the forefront to Durban, PACJA sought, against the odds, to push for an agreement that would be ‘responsive to African realities.’ Many along the caravan route added their signatures to a petition demanding that the COP:

1. Keep Africa and the world safe and prevent catastrophic climate change. Exert pressure on developed countries and ensure that they sign up to legally binding commitments that reduce emissions and limit global warming to well below 1.5°C.
2. Share the effort of curbing climate change fairly. Demand domestic emission reductions by developed countries that are commensurate with science and equity, and enable a just transition in all countries.
3. Ensure polluters not the poor must pay. Developed countries must honour their obligations and pay at least 1.5% of their GNP to help the poor adapt and develop cleanly and sustainably.

(d) The Rural Women’s Assembly

The RWA of the Southern African Development Community (SADC) region, a coalition of international women’s NGOs, convened for the third time in Durban during COP17, bringing together over 650 women from nine countries. As Samantha Hargreaves describes, the regional and national chapters of the RWA seized COP17 as an opportunity to build group cohesion and recognition, and to increase its constituents’ knowledge of climate issues. They pursued a groundbreaking process of organisation and advocacy combining grassroots and policy engagement, particularly around the drafting of the South African Climate White Paper:

… over the period of May to mid-December 2011 [the RWA] undertook an impressive number of workshops, awareness-raising activities, marches, demonstrations and two assemblies, and wrote no less than five different memorandums, policy submissions and a dozen letters to different government departments.

38 ActionAid ‘7000km in 17 days to COP17’ <http://www.actionaid.se/en/activista/shared/7000km-17-days-cop17>.
39 From author’s direct observation, transcripts and recordings.
40 The petition is summarised in ActionAid (note 38 above).
42 Ibid 13.
In Durban during COP17 their highly visible presence had an energising effect on other groups. In the main memorandum they issued during COP17, the RWA called for specific, ambitious, binding commitments by developed countries and ‘adequate public finance to meet Africa’s mitigation and adaptation needs’. They also called attention to the position of rural southern African women facing climate change under what Hargreaves calls the ‘triple burden of race, class and geographical marginalization’.

Rural women across Southern Africa are already reporting 20 per cent decreases in food production, and current trends tell us that if we fail to take action now, by 2020 we will have seen a 50 per cent loss in crop yields in our region. We produce 80 per cent of the food consumed by households in Africa. In the absence of support for us, we believe that local and national food security will be deeply threatened.

We ask that you properly recognise women’s critical role in fighting climate change and protecting livelihoods and the environment. Equal rights to land and natural resources is critical to fight climate change. The Rural Women’s Assembly asks that governments implement the principle of 50/50 land to women through national programmes of land redistribution and agrarian reform.

By Hargreaves’ analysis, the RWA’s work prior to and during COP17 appreciably furthered the group’s growth in terms of membership, experience and internal cohesion. Their efforts to realise their rights and interests had little effect, however, on the COP decisions or the South African White Paper:

The failure to set an adequate emissions reduction target (required to keep temperature increases below the scientifically accepted 1.5 degree standard) will have dramatic consequences for rural women, the major subsistence and small-scale producers, and their offspring in just a decade or two.

The interests of the RWA, and the many constituents its member organisations represent, thereby remained marginal in national and international political processes.

III WORKING FOR CLIMATE JUSTICE IN DURBAN, RIGHTS OR NO

Durban has been the locus of formative work for climate justice, and local and national organisations mounted a range of efforts during COP17.

At UKZN and in the streets South African trade unions, social movements and environmental groups promoted the launch of a campaign for One Million...
Climate Jobs based on research into South African economic conditions and climate vulnerabilities. The campaign calls for ‘a just transition to a low carbon economy to combat unemployment and climate change’, through the creation of jobs that:

(1) reduce the amount of greenhouse gasses we emit, to make sure that we prevent catastrophic climate change; (2) build our capacity to adapt to the impacts of climate change (for example, jobs that improve our food security); (3) provide and secure vital services, especially water, energy and sanitation (this includes reducing wasteful over-consumption).

The cross-cutting character of that campaign typified the work of a set of national and local groups including the DLF, groundWork, and the South Durban Community Environmental Alliance (SDCEA), who combined social and environmental justice positions at events in the Peoples’ Space, in COP17, through mobilisation, and through ‘toxic tours’ of local communities impacted by refineries. Like PACJA and the RWA, DLF and groundWork organisers were heavily involved in linking stakeholders ‘outside’ the COP17 process with the debates and conditions of uneven power on the ‘inside’, and linking community-based concerns with critical analysis of global governance.

In light of UNFCCC reticence on the relationship between human rights and climate change, it is understandable that human rights discourse played a supporting, largely political role in mobilisation for climate justice during COP17. Advocates focused on those structures of opportunity within the convention that might have enabled addressing urgent needs (implementing the GCF to deliver climate finance; and ambitious, binding mitigation targets). They drew on existing language about responsibility and legal obligation, and a revivified global movement for democracy, connecting them with accelerated climate impacts, poverty, and inequality in Africa. Local, South, and southern African groups linked these themes with the conditions of the rural and urban poor, who face livelihood threats exacerbated by ongoing climate changes that remain largely unaddressed by dominant responses, and may lack access to meaningful representation or legal recourse.

Much of the work analysing climate change impacts in relation to human rights recognised under international law reflects Mary Robinson’s view that...
‘[h]uman rights law is relevant because climate change causes human rights violations’, and that ‘human rights make clear that government obligations do not stop at their own borders’. The impact of efforts based on these analyses, however, has been limited by competing understandings of human rights as the responsibility of states to citizens only within their borders, and by legal theories of responsibility which make it difficult to attribute harms associated with climate impacts to specific emitters, since emissions are dispersed throughout the atmosphere, and impacts are experienced through ‘environmental’ change. Put more abstractly, international divisions of global space, and legal division between human action and ecological impacts have thwarted formal climate change rights claims. By linking the topics of debate in the UNFCCC with local, national, regional, and global inequalities in harm, access to resources, and political power, climate justice mobilisation during COP17 highlighted social division as a third systemic condition underlying climate injustice, against which legal rights may also be, on their own and as yet, inadequate tools. The ‘wicked-ness’ of climate change as a social problem is continually illustrated by the failure of political processes to address the multiple issues of justice it entails. These demand responsible and accountable action in the immediate term, both across national borders and within them.

58 ICHR (note 57 above) iii–iv.
59 Knox (note 7 above).
60 See, for example, M Chapman ‘Climate Change and the Regional Human Rights Systems’ (2010) 10(2) Sustainable Development Law & Policy 10; and Knox (note 7 above).