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CHAPTER 1

JUSTIFYING CLIMATE COOPERATION: COMPETING NARRATIVES IN A DIVIDED WORLD

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1. INTRODUCTION

When the delegates of 116 nations met in Nairobi in September 1991 and started devising the substance of a framework convention on climate change, they agreed that a preliminary chapter defining the principles of climate cooperation “was indispensable since it was meant to give orientation to the commitments and related mechanisms to be agreed upon.” Accordingly, the United Nations Framework Convention on Climate Change (UNFCCC) defined “equity,” “common but differentiated responsibilities” and “respective capabilities” as the basis on which the climate system should be protected (art. 3.1). In the two following decades, powerful civil society organizations have constantly advocated for the respect of these principles. Climate change appears as essentially a question of international cooperation. Consequently, ethics plays a greater role in discourses on the climate regime than in classical fields of international cooperation (e.g. peace and security, trade) where the immediate interests of states have a relatively unbridled influence. This is not to say that the climate regime is entirely determined by ethical concepts. Like in other fields, international negotiations are carried out by state representatives, each of which is ascribed a mission to pursue the interests of his state. Yet, ethical considerations may play a role in the very definition of these “interests” through a social process of democratic deliberation. More generally, ethics are influential in international negotiations because states and governments care about their credibility and their reputation both internally and internationally; states and governments are pressured by the demand for discursive consistency and, sometimes, for a sound ethical posture.

It is often expected that ethics could provide the unique “right” answer that would guide the development of climate cooperation. Yet, if ethics can rule out incoherent arguments, it cannot necessarily provide a unique answer about what ought to be. Aristotle’s defense of slavery, even if it was a mistake, recalls us that authoritative ethics is not an exact science: it is a fallible reasoning based on assumptions. Various ethical arguments were made regarding climate change, promoting different conceptions of climate cooperation. In particular, a broad narrative has called for greater solidarity among contemporary nations or with future generations, while another broad narrative has focused on the responsibility of past or present polluters. Each of these two narratives has its lot of internal disputes and difficulties, but both are generally supported by solid ethical scholarship and appear (to the layman) as reasonable; and yet their conclusions differ on matters as central as the nature and the scope of climate cooperation. Since the first international climate negotiations in the late 1980s, States

1. UNFCCC doc. A/AC.237/12 at 17.
were divided along the lines of this ethical dispute, with the Third World generally supporting the responsibility narrative while Western countries were convinced only by the solidarity narrative. As a result, today’s main political disagreement is not about whether ethics matters, but much more about which ethics matters.

This article focuses on the reception of ethical arguments in the development of the climate regime. After reviewing the main relevant ethical arguments, it analyses their reception in international politics and their influence on the development of the climate regime. So doing, it aims at conceiving ways to overcome the antagonism between the responsibility and solidarity narratives. The next two sections discuss responsibility and solidarity. Thereafter, sections 4 and 5 discuss two attempts at overcoming the antagonism through alternative narratives based respectively on efficiency or legitimate expectation.

2. “POLLUTER PAYS”? THE RESPONSIBILITY NARRATIVE

Scholars have repeatedly proposed to implement the concept of retributive moral responsibility in the climate regime, hence demanding that the polluter pays for the negative impacts of climate change. Yet, the responsibility narrative raises several difficult questions. Firstly, should responsibility extend to past (rather than solely current) emissions? If so, should it extend to emissions that occurred before the development scientific knowledge on climate change? When would be the starting point? Secondly, should responsibility be conceived at the individual or at the collective level? (Can an individual be held responsible for the deeds of her ancestors?) Thirdly, can the concept of responsibility be stretched to instances of mass torts, with possibly dramatic conclusions, without any inflection? Should it at least be partly relaxed when applied to unintended injurers causing massive harms?

The responses to these questions vary largely. They depend in part on one’s conception of responsibility. If responsibility is viewed as mainly a form of sanction to punish a wrong or deter future wrongs (responsibility for acts), it should arguably be ascribed to individuals only and ignorance should be a valid excuse. On the other hand, if responsibility is viewed as mainly a way to provide a remedy for a wrong (responsibility for outcomes), states and perhaps individuals may reasonably be held responsible for some unintended actions or actions of others, in particular if they benefited from something that harmed others.

Responsibility for outcomes, at least when conceived as a duty of reparation following a fault (responsibility for outcomes), is well recognized in international law. The International Law Commission codified the principle
that "[e]very internationally wrongful act of a State entails the international responsibility of that State." In international environmental law specifically, the principle of state responsibility for transboundary environmental damage ("no harm principle") has been recognized among others by the 1941 Trail Smelter arbitral award, the 1972 Stockholm Declaration on Human Development and the 1992 Rio Declaration on Environment and Development, and it is now said to be part of customary international law. Going further, in the absence of a faulty conduct (e.g. without the knowledge that GHG emissions would harm), the timid recognition of the doctrine of unjust enrichment suggests that a state "unjustly" enriched at the expense of another state might be obligated to restitution. Nonetheless, in today's international institutions, it remains highly improbable that a "sinking" island state could obtain any reparation against major polluters before an international jurisdiction.

The responsibility narrative largely originates from the Third World, where it follows from the contentions of the non-aligned states against neo-colonial powers. In the runoff of the 1992 Earth Summit, most developing states defined a common position: "[s]ince developed countries account for the bulk of the production and consumption of environmentally damaging substances, they should bear the main responsibility in the search for long-term remedies for global environment protection and should make the major contribution to international efforts to reduce consumption of such substances." A Malaysian diplomat submitted that climate change was "the result ... of a fervid race for industrialization and the technology of affluence" in Western countries. This narrative continued to date; Bolivia, for instance, recently submitted that industrial nations needed to "recognize and commit to honor their climate debt." The responsibility narrative does not only plead for a strong differentiation between developed and developing states, but also for a full-fledged right to reparation of the injuries

3. Trail Smelter Arbitration (United States of America v. Canada), (1941) 3 RIAA 1905.
5. Principle 2.
related to climate change: as such, it appears significantly stronger than the alternative language of solidarity, aid and charity.

Yet, the responsibility narrative has achieved a mitigated success with regard to climate change cooperation. The UNFCCC acknowledged that "the largest share of historical and current emissions of greenhouse gases has originated in developed countries" and affirmed that the then-members of the OECD "should take the lead in combating climate change and the adverse effects thereof." The Earth Summit further declared that, "[i]n view of the different contributions to global environmental degradation, States have common but differentiated responsibilities." Yet, the concept of common but differentiated "responsibilities" is an ambiguity constructed on the double-meaning of the word "responsibility," as alternatively the retrospective responsibility of the injurer or, more broadly, an unspecific, prospective moral duty of assistance. The ambiguity served to elude the disagreement of the drafters as to the nature of responsibility and the ground for differentiation: it was unclear, in particular, whether the differentiation reflected the environmental impact of Western states or rather their financial and technological capacities. During the subsequent negotiations of the Kyoto Protocol, developing states suggested that the mitigation commitments of developed states should relate to their historical share of GHG emissions, but only current emissions were mentioned in the final talks, where most attention focused on capability-related criteria. More recently, the responsibility narrative was boosted as concessions were to push developing countries into compulsory mitigation commitments. The Cancun Agreements contain the most explicit official language on responsibility to date: "owing to [their] historical responsibility, developed country Parties must take the lead in combating climate change and the adverse effects thereof." The Bali Action Plan's "enhanced action on adaptation" and the on-going discussions on loss and damage hint at a broad idea of responsibility even though developed states have constantly barred the adoption of any language on "compensation" in the discussions on loss and damage.

Indeed, Western states have constantly responded to the responsibility narrative with the utmost hostility, reflecting their interest to deny strong claims for compensation. Because they could rely on an alternative ethical narrative discussed in next section, Western states could reject the
responsible narrative without excessively compromising their posture: they could nonetheless claim to follow (other) ethical considerations. Yet, the antagonism goes further than rational interest-seeking. Rather than a mere oratory argument, the responsibility narrative has largely been internalized by Third World societies, not by Western ones. The roles suggested by the responsibility narrative are more readily acceptable for the inhabitants of the Third World (standing as “victims”) than for those of Western countries (denounced as “culprits” or “injurers”). Moreover, in the Third World, proximity from the impacts of climate change generally favors a “warmer” emotional connection with the “climate victims.” On the other hand, the incommensurable consequences of the responsibility narrative arouses a deep-rooted existential angst in Western countries that relates to the perceived threat constituted by rising Third World economies and tales of a clash of civilizations; this makes denial of the responsibility narrative all the more convenient. When EU member states negotiated the apportionment of Kyoto mitigation commitments among member states, not a single member state made a single reference to past emissions,\(^{15}\) showing that developed states really do not believe that past emissions could possibly matter.

3. “ALL FOR ONE”? THE SOLIDARITY NARRATIVE

Disregarding responsibility, developed states fell back onto a vast array of ideas on distributive justice and humanitarianism. The solidarity narrative calls for the capable to support the needy. It is alternatively based on an elementary feeling of compassion, on sophisticated theories of a social contract, or on the decreasing marginal social utility of additional emissions and the recognition of development as a priority for developing countries. Some variations on the solidarity narrative applies it to inter-generational justice while others take “nature” into consideration to determine the “right” level of present emissions.

The main objection to this narrative follows from the premise that the world is not a community: some contend that the concept of justice does not apply in international politics, or at least not as simply as suggested by cosmopolitan thinkers like Beitz and Pogge. Thus, Rawls rejected the extension of his theory of justice as fairness beyond a national context, although he nevertheless recognize that “[p]eople have a duty to assist other peoples living under unfavourable conditions that prevent their having a just or decent political or social regime” – a precept which might be “quite demanding … compared to what is now actually done for the world’s poor”.

\(^{15}\) Council directive 2002/358/CE, 12th recital.
Rawls's reluctance toward an internationalist application of his theory reflects a broader social inclination to discount distributive justice arguments. For better or worse, humanitarian reason has generally prevailed over distributive justice in the solidarity narrative. Consequently, the *soft duty* of assistance posited by the solidarity narrative contrasts sharply with the *hard duty* of repairing harm that results from the responsibility narrative. Nobody really took seriously the grandiloquent declarations of the "inherent dignity and ... the equal and inalienable rights of all members of the human family" and a "New International Economic Order" that would affirm the "interdependence of all the members of the world community." In the contemporary practice of states, international assistance depends not only on the recipients' needs, but also on the donors' "capabilities" (i.e. oftentimes goodwill) and inclinations. Consequently, developed states have rarely met their *soft-law* commitment of spending 0.7% of their gross domestic product in official development assistance. Being left for the most at the discretion of the donors, international aid has come along undue interference and shady arrangements, leading some authors to question whether aid was not detrimental altogether. At least, as the UN independent expert on human rights and international solidarity concluded soberly, "[t]here is a wide gap between assertions of international solidarity in theory and their reflection in practice."

In this context, Western states viewed the solidarity narrative as an acceptable counter-proposition to the Third World's responsibility narrative. Thus, at the Earth Summit, they conveniently softened their previous opposition to an international development law. German Chancellor Helmut Kohl sought for "a message of solidarity showing all nations working together as equal partners and sharing responsibility for the one world." "Responsibility," here, refers to the unspecific duty of assistance, not to the retrospective responsibility of the injurer. In this narrative, the Third World is not constructed as victims of climate change, but as "places where millions of people are living in abject material poverty." Western states conceded some language on a "new and equitable global partnership" or even a "right to development." More recently, during a workshop on "equity" convened by the UNFCCC Secretariat at the request of India, a US representative carefully avoided the topic of historical responsibility, yet suggested

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16. UN General Assembly resolution 217A (III), Universal Declaration on Human rights, 1st recital.
17. UN General Assembly resolution 3201 (S-VI), Declaration on the Establishment of a New International Economic Order, para 3.
20. Germany minister Töpfer, A/44/PV.36, at 58.
some (meager) concessions, by underlying “the common understanding that equity is about fairness and a fair distribution of efforts, and that no one can be asked to sacrifice their development.”

The solidarity narrative divided developing states into two strategies. Some, like China, agree to solidarity as a subsidiary narrative – something better than nothing. Others, however, inflexibly reject solidarity as “charity” – an evasion of responsibility. Thus, Malaysia Prime Minister Mahathir Mohamad once denounced the attitude of developed states in the strongest words: “The pittance they offer is much less than the loss of earnings by the poor countries and yet it is made out as a generous concession.” All developing states, nevertheless, maintained: “We are within our right.”

The solidarity narrative, midway between charity and right, permeated the climate regime as the lowest common agreement between developed and (some) developing states. The UNFCCC acknowledged climate change as “a common concern of humankind.” The mentions of common but differentiated responsibilities were accompanied by references to “the technologies and financial resources [developed states] command” or to “equity” and states’ “respective capabilities.” This language is purposefully ambivalent. For one, equity may be called upon in support of either narrative. It is also unclear whether “respective capabilities” explains or adds to “common but differentiated responsibilities,” and, therefore, whether the latter “responsibilities” should be interpreted in reference to the retrospective responsibility of the injurer or to the unspecific, prospective duty of assistance. The United States, for instance, declared understanding the principle as just “highlight[ing] the special leadership role of developed countries, based on our industrial development, our experience with environmental protection policies and actions, and our wealth, technical expertise and capabilities.”

More recently, the Bali Action Plan reaffirmed that “economic and social development and poverty eradication are global priorities” before calling for enhanced action on adaptation, thus purposefully situating adaptation in the soft duty context of development and poverty alleviation.

Here again, the Western attraction to the solidarity narrative has turned to be more than a strategic stand of states negotiators; it has largely been internalized by Western societies. The solidarity narrative calls on an

23. Supra n 19 at 36.
24. Id at 233.
25. Id at 154–155. (Pakistan, on behalf of Group 77).
26. UNFCCC, 1st recital.
28. UNFCCC, Article 3.
29. Supra n 19 at 17–18.
30. Decision 1/COP.13, 2nd recital.
emotional relation to the other based on compassion, but this relation is before all a construction of the self. Thus, while the responsibility narrative exasperates Western societies by denouncing their “environmental sins,”31 the solidarity narrative provides Western societies with a more gratifying and less demanding self-portrayal as a voluntary good-doer. By contrast to the hard duty to make reparation in full, solidarity gives rise to a soft duty to do something, and yet it indebts the recipients toward their benefactors. The solidarity narrative justifies an arbitrary use of power: financial assistance rarely comes without political interference and a sort of moral crusade in the name of “human rights” and “good governance.” Conceived as solidarity, climate cooperation adds to the long wish list of the Western good-doer in a context of aid fatigue and triggers little concessions. Yet, the lack of access of Third World arguments to Western societies allowed the self-serving solidarity narrative to succeed in the West with an aura of objectivity, where the responsibility narrative was qualified as alternatively “ideological” or “fanatic.”32

4. “WHATEVER WORKS”? THE EFFICIENCY NARRATIVE

As the climate regime grew older, responsibility aroused exasperation and solidarity, fatigue. Some argued that ethical narratives gave rise to unrealistic expectations and were therefore counterproductive. From the 1997 Byrd-Hagel resolution of the US Senate to the resounding failure of the Copenhagen conference in 2009, the misfit of the global climate talks created an impetus for a third principal narrative on climate cooperation. This narrative came to the world on the embers of responsibility and solidarity, claiming that nothing but the interests of states justified cooperation and that the sole virtue of climate cooperation was its efficiency in mitigating climate change.

The most systematic articulation of the efficiency narrative came from American “law and economics” scholars Eric Posner and David Weisbach. The central claim of Posner and Weisbach is that any climate agreement “must satisfy ... the principle of International Paretianism: all states must believe themselves better off by their lights as a result of the climate treaty”. On the other hand, ethical arguments on what the climate regime ought to be are accordingly “both vulnerable in principle and dangerous in practice”. The authors argue in particular for side payments “from states that have a stronger interest in a climate treaty to states that have a weaker interest in a climate treaty”; they insist that such side payments “need not benefit the poor” but may “go from poor to rich”. India, this suggests, may be requested

to pay for part of the United States’ mitigation programs if India benefits more from mitigation than the United States.

The efficiency narrative is rooted in the realist premise that international relations are determined by states’ interests defined in terms of power. It seems indeed undeniable that powers, rather than ethics, explain a large part of international relations, from the structure of the Security Council to the illegal, yet unimpeded, war on Iraq. Most of the time, most sovereign states pursue mostly their own interests. Following this paradigm, a climate regime is particularly challenging, as it requires expensive commitments by many sovereign states, including at least some of the key players. The Kyoto Protocol formally withstood the defection of the United States, but it was nonetheless significantly weakened and compliance was low. The efficiency narrative suggests that an ambitious climate agreement could only be reached on the basis of states’ mutual interests.

Of late, Western states have shown a growing taste for the efficiency narrative. They proposed to exclude ethical discussions from the negotiations altogether. Thus, in a recent workshop on equity organized by the UNFCCC, an American delegate agreed with his EU counterpart that “a stand-alone debate on equity would not be productive.” In 1997, Senator Byrd already responded to “those who say that the United States is responsible for the situation that has developed” that “the time for pointing fingers is over.” The Byrd-Hagel resolution announced further that the US Senate would not ratify a treaty that “would result in serious harm to the economy of the United States.” The demand for efficiency suggests that all states ought to reduce their emissions up to an equal marginal cost, notwithstanding significant differences in economic capacities and need for development. Accordingly, Senator Byrd called for “incentive for China and the other nations of the developing world to make responsible and environmentally sound choices as they develop.” Strikingly, here, the notion of responsibility is reversely imposed upon Third World countries. Market-based mitigation schemes reflect this approach of marginal cost equalization: the European Emission Trading Scheme, for instance, was presented by the Commission as “an environmental policy instrument to lower the costs of reducing greenhouse gas emissions.”

Yet, the efficiency narrative is unable to explain the existence of a climate regime, let alone trigger additional efforts, for it inevitably runs into the participation puzzle. Posner and Weisbach recognize one part of this puzzle

33.  Supra n 22 at para 48.
35.  Ibid.
when they note that “even if a nation is better off with a treaty than without it, it will be better off still if everyone else signs the treaty and it does not”. If states rationally pursue their own interests, each state should try to take advantage of the efforts of others without participating; yet, if no one paddles, the climate boat will continue drifting astray. Indeed, the participation puzzle would render negotiations virtually impossible. Multilateral negotiations between interests-seeking states may only succeed if states know the interests of other states, lest each state will conceal its own interest in order to benefit from efforts from the others without participating. Yet, with regard to climate change, states’ interests are highly difficult to predict, because they depend on scientific uncertainty and each state’s own understanding of its vulnerability. Posner and Weisbach try to overcome the participation puzzle by contradicting their own premise that states act rationally: they suggest that “[s]o long as the climate treaty satisfies International Paretianism, free-riding ... is unethical”. Thus, at this point, Posner and Weisbach suggest that states should act guided by a sense of justice; but why should justice be linked to International Paretianism rather than, say, responsibility or solidarity? In reality, it seems, no fully rational state would significantly participate in a climate regime where it can benefit from the efforts of many other states. In other words, the efficiency narrative describes (and encourages!) a situation where nothing really works.

Fortunately, states are not fully rational. Some states supported agreements that went directly against their vested interests. Oil-producing countries, for instance, participated often constructively in the climate regime and Qatar went as far as organizing a conference of the Parties. Other states took positions that were not reflective of their material interests. EU’s enthusiasm and the United States’ reluctance to mitigation efforts are certainly without any connection to their respective vulnerability to climate change. Rather than different material interests, the comparison highlights the determinant influence of industrial lobbies (United States) and non-government organizations (EU). Lastly, developing countries, in whose name climate cooperation was initiated, were often seen – at least in the first years of the negotiation process – as approaching climate change as “rich man’s problem – rich man’s solution”. This is because, as an observer notes, risk was taken more seriously in affluent societies than by “those who have so little that change can only be for the better.”37 All these examples evidence that states’ “interests” are not pre-determinate. They are social constructs, influenced by discourse such as the responsibility and solidarity narratives, framing dominant cultural representations.

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It is only because there is room for arguments and persuasion in the conduct of states that the participation puzzle can be solved and that a climate regime is possible. What pushes states to risk cooperation is their understanding that participation is the right thing to do through the influence of ethical narrative, states value cooperation. Vested interests are obviously part of the story as well, but only through the interpretation that follows from dominant representations. Now, the efficiency narrative, as a dispassionate and rigid posture of states on their vested interests, is certainly not the most persuasive. Its utilitarian premise is controversial even with regard to domestic measures in Western countries, as it is reproached to market-based mechanisms to favor utilitarian good above a fair distribution of natural resources. The argument is likely to be even more controversial in global politics and in the Third World, as it assumes that all states would agree to drop any alternative claims for responsibility or solidarity and to isolate climate change mitigation on top of their political agenda. This would in particular go against the constant demand of many Third World countries that their development process should not be impeded by climate cooperation. The Byrd-Hagel resolution exemplifies the natural tendency of a descriptive assumption — “states pursue their interests” — to turn into a normative claim — “the United States ought not to participate in a treaty that does not pursue its economic interest.” Such a rigid and dispassionate posture is the antithesis of the flexibility required for successful climate negotiations.

5. “LET’S TALK”? PROPOSAL FOR A LEGITIMATE EXPECTATION NARRATIVE

Climate cooperation needs to be guided by the passion of ethical arguments rather than by the reason of the state, and yet ethical arguments diverge. The roots of the discord lie in the widespread misunderstanding that ethical arguments would be able to provide an objectively fair answer to a question such as climate change. We have great sympathy for Lavanya Rajamani’s view that the solidarity narrative “is fundamentally flawed,” as an “ahistorical approach to the international environmental dialogue” that erases the legacy of colonial and industrial history from the discussion. It can be doubted that objections to the responsibility narrative (e.g. against collective responsibility, excuse of ignorance) can go against any differentiation between states’ obligations reflective of the benefit individual states which currently draw from past industrial development. Yet, there is no way out of the observation that the solidarity narrative is internalized in Western societies at the moment, and there is only so much concessions that the responsibility narrative can trigger from Western states. Therefore, international negotiations need to accommodate both responsibility and solidarity.
As has been alluded to, the discord can be comprehended by reference to communicative theories. Accordingly, the responsibility narrative faces inextricable barriers in the West: it simply does not fit within the Western lifeworld, dominant discourse, and construction of identities. In particular, the responsibility narrative requires too many acknowledgments that are too far-reaching (e.g. colonial wrongs, extraterritorial responsibility) and to which the West is not (yet) ready. The solidarity narrative offers a more agreeable construction of the Western self. More generally, it must be kept in mind that ethics – that once justified slavery – is not an exact science. In an inter-hemispheric debate, ethical arguments may easily lead to different narratives if they are built on different assumptions: as Thomas Franck put it, “[t]here are no objectively fair answers” to the many questions posed by climate change. Ethics could regulate the debate by ruling out some inconsistent arguments, but it does not – at least not yet – suffice to shape an agreement on what ought to be at climate regime.

More and more, it seems, the climate regime relates to a hybrid principal narrative that borrows from both the responsibility and the solidarity narrative. If pursued further, this narrative could generate at least a rough global consensus. Because an agreement could not be met without ethics, this narrative accommodates both ethical narratives (whereas the efficiency narrative rejects both of them). So to speak, this narrative does justice to both responsibility and solidarity by betraying both of them equitably. Hybridization naturally comes at the expense of internal consistency. Rather than from its consistency, however, the acceptability of this narrative comes from the understanding that nothing better can be achieved as a basis of an agreement, and that yet something ought to be achieved.

Such an hybrid narrative finds some support in the academic literature. Steve Venderheiden, for instance, suggests that the solidarity narrative could be implemented to regulate future emissions (i.e. mitigation), whereas the backward-looking responsibility narrative would rather help in “allocating compensation and adaptation costs for those harmed by climate change”. In a similar vein, Simon Caney, for instance, argues that the responsibility narrative is insufficient and needs to be completed by some elements of a solidarity narrative. For instance, Caney suggests that a poverty-stricken state that has caused important environmental damage in the past should not be held responsible in the same way as a richer country in the same situation. Accordingly, “an adequate account of people’s environmental responsibilities cannot be derived in isolation from an understanding of their ‘economic’ rights and duties”. A hybrid narrative has also, sometimes, been discussed in international forums. Anecdotally, a declaration by the Hole See called for “a spirit of responsible solidarity” in addressing
climate change. Similarly, an Australian delegate to a UNFCCC workshop on equity argued that a “lasting climate solution will need to be both ‘applicable to all’ and ‘acceptable to all’ – that will be the equity test.”

A hybrid narrative would include prescriptions that fulfil a double condition of legitimacy and expectation. Firstly, these prescriptions should be supported by a reasonable ethical reasoning, which could indifferently flow from the responsibility or from the solidarity narrative. Secondly, there should be a broad global expectation that these prescriptions be implemented by a climate regime. For instance, the legitimate expectation narrative would possibly argue that a climate regime needs to help the poor to adapt in as much as, firstly, there are various valid ethical arguments that support this claim, and, secondly, there is a broad global legitimate expectation that it does so. A climate agreement ought accordingly to do more than just charity, because there is a broad global expectation that charity is not enough; however, there is arguably little expectation that Western states will fully compensate all climate change related damage. Yet, legitimate expectation says relatively little as to where exactly the cursor should be situated between “charity” and “full compensation.”

Defining a broadly acceptable narrative is a major challenge. A necessary condition is that states accept a series of meta-arguments, that is, preliminary arguments that are “about whether we should have an argument and what that argument should be about”. These necessary meta-arguments are that an international agreement ought to be reached to combat climate change; that this international agreement ought to be guided by ethical arguments; that there is not necessarily a unique conception of climate justice; and that some concessions may therefore be necessary. Beside a broadly acceptable ethical basis, however, the legitimate expectation narrative also requires intense and lengthy argumentative communication. The impetus that will develop the climate regime can only come from norm entrepreneurs: individuals and private organizations, soon to be supported by some states and international organizations. Hopes come from the tremendous development of a nebulous of civil society organizations and the large media coverage that accompanies international climate negotiations. The momentum of public exposure pushes states to respect demands for discursive consistency and, perhaps, to adopt a righteous posture. In the Earth Summit negotiations already, Bodansky noted that “[e]ven those states that might have preferred total failure were unwilling to accept responsibility

for that failure by blocking consensus”. Through the process of deliberation, across the world, pressure on governments will increase for an agreement guided by ethics that most will consider roughly sound.

6. CONCLUSION

In the best and worst times of the climate regime, ethical arguments have constantly been invoked. Ethics has often proved unable to speak of one voice in the face of climate change to define a unique, objective and consensual narrative. Rough ethical arguments on responsibility and solidarity have simultaneously influenced (although not determined) international climate negotiations. Yet relatively little attention has generally been paid to the necessary arbitrages between coexisting ethical narratives. Doing without ethical concepts is simply not an option as international climate negotiations cannot succeed without an ethical momentum. Rather, irreconcilable ethical narratives need, and hopefully could, be bridged by a roughly “fair,” broadly agreeable narrative oriented by global legitimate expectations.