

**XIX међународни научни скуп „Правнички дани –
Проф. др Славко Царић”
„ПРАВО, НАУКА И ДРУШТВО – АКТУЕЛНА
ПИТАЊА И ПЕРСПЕКТИВЕ”**

**XIX International scientific meeting „Legal days –
Prof. Slavko Carić, PhD”
„LAW, SCIENCE AND SOCIETY – THE CURRENT
ISSUES AND PERSPECTIVES”**

Универзитет Привредна академија у Новом Саду
Правни факултет за привреду и правосуђе у Новом Саду
The University of Business Academy in Novi Sad
The Faculty of Law for Commerce and Judiciary in Novi Sad

Нови Сад, 23. септембар 2022.

Зборник радова са XIX међународног научног скупа

„Правнички дани – Проф. др Славко Царић“
„ПРАВО, НАУКА И ДРУШТВО – АКТУЕЛНА ПИТАЊА И ПЕРСПЕКТИВЕ“

23. септембар 2022. године у Новом Саду,
у организацији Универзитета Привредна академија у Новом Саду
Правни факултет за привреду и правосуђе у Новом Саду

Издавач:

Универзитет Привредна академија у Новом Саду
Правни факултет за привреду и правосуђе у Новом Саду
Гери Кароља бр. 1, телефон: 021/ 400 - 499
Web: www.pravni-fakultet.info

Рецензенти:

Др Мирко Кулић **Др Гордана Бејатовић,**
редовни професор ванредни професор

Др Милан Почуча **Др Јелена Стојшић Даветић,**
редовни професор ванредни професор

Др Владимир Козар **Др Сања Шкорић,**
редовни професор ванредни професор

Др Милош Марковић **Др Маријана Младенов,**
редовни професор ванредни професор

Др Јелена Матијашевић **Др Срђан Дамњановић**
редовни професор ванредни професор

Др Предраг Мирковић **Др Марко Станковић,**
ванредни професор доцент

Др Дарко Голић **Др Маја Суботин**
ванредни професор доцент

Др Јоко Драгојловић
ванредни професор

За издавача:

Др Мирко Кулић, редовни професор

Уредник:

Др Милан Почуча, редовни професор

Штампа:

НС Мала књига плус, Нови Сад

Тираж: 150

ISBN 978-86-86121-51-6

Научни одбор:

ПРОФ. ДР МИЛАН ПОЧУЧА - председник Научног одбора

Продекан за науку, квалитет и развој и шеф Грађанскоправне катедре на Правном факултету за привреду и правосуђе, Универзитет Привредна академија у Новом Саду | Република Србија

ПРОФ. ДР МАРКО ЦАРИЋ

Ректор Универзитета Привредна академија у Новом Саду | Република Србија

ПРОФ. ДР МАРИЈАНА ЦАРИЋ

Председник Савета Универзитета Привредна академија у Новом Саду | Република Србија

ПРОФ. ДР МИРКО КУЛИЋ

Декан Правног факултета за привреду и правосуђе, Универзитет Привредна академија у Новом Саду | Република Србија

ПРОФ. ДР МАРИЈАНА ДУКИЋ МИЈАТОВИЋ

Редовни професор на Правном факултету за привреду и правосуђе Универзитет Привредна академија у Новом Саду и ванредни професор Факултета техничких наука Универзитета у Новом Саду | Република Србија

ПРОФ. ДР ПРЕДРАГ МИРКОВИЋ

Продекан за наставу и ванредни професор на Правном факултету за привреду и правосуђе, Универзитет Привредна академија у Новом Саду | Република Србија

ПРОФ. ДР МАРИЈАНА МЛАДЕНОВ

Продекан за међународну сарадњу и ванредни професор на Правном факултету за привреду и правосуђе, Универзитет Привредна академија у Новом Саду | Република Србија

ПРОФ. ДР ЗОРАН ПАВЛОВИЋ

Шеф Кривичноправне катедре на Правном факултету за привреду и правосуђе, Универзитет Привредна академија у Новом Саду | Република Србија

ПРОФ. ДР ДАРКО ГОЛИЋ

Шеф Теоријске и јавноправне катедре на Правном факултету за привреду и правосуђе, Универзитет Привредна академија у Новом Саду | Република Србија

ПРОФ. ДР ЖЕЉКО БЈЕЛАЈАЦ

Редовни професор на Правном факултету за привреду и правосуђе, Универзитет Привредна академија у Новом Саду | Република Србија

ПРОФ. ДР ЈЕЛЕНА МАТИЈАШЕВИЋ

Редовни професор на Правном факултету за привреду и правосуђе, Универзитет Привредна академија у Новом Саду | Република Србија

ПРОФ. ДР ВЛАДИМИР КОЗАР

Редовни професор на Правном факултету за привреду и правосуђе, Универзитет Привредна академија у Новом Саду | Република Србија

ПРОФ. ДР САЊА ШКОРИЋ

Ванредни професор на Правном факултету за привреду и правосуђе, Универзитет Привредна академија у Новом Саду | Република Србија

ПРОФ. ДР ДУШАНКА ЂУРЂЕВ

Редовни професор на Правном факултету за привреду и правосуђе, Универзитет Привредна академија у Новом Саду | Република Србија

ПРОФ. ДР ВЛАДИМИР ЦАТИЕВ

Шеф катедре Кривичноправних наука Руске академије за адвокатуру и нотаријат | Руска Федерација

АКАДЕМИК ДР НЕДЕЉКО СТАНКОВИЋ

Европски универзитет Брчко дистрикт и Ректор Европског универзитета „Kallos” Тузла и | Босна и Херцеговина

АКАДЕМИК ДР БРАНКО ВУЧКОВИЋ, ЕМЕРИТУС

Универзитет „Адриатик“ – Бар, Факултет за пословну економију и право | Република Црна Гора

АКАДЕМИК ДР ВЕСНА ВУЧКОВИЋ

Судија, в.д. председника Врховног суда Црне Горе, Универзитет „Адриатик“ – Бар, Факултет за медитеранске пословне студије, Тиват | Република Црна Гора

PROF. DR DR. WOLFGANG ROHRBACH

Akademik Evropske akademije nauka u Salzburgu | Austrija

PROF. DR VANO TSERTSVADZE

Georgian Institute of Public Affairs | Gruzija

PROF. DR. AMER FAKHOURY

Dean College of Law American University in the Emirates | Ujedinjeni Arapski Emirati

ПРОФ. ДР РУДИКА ГМАЈНИЋ

Професор на Медицинском факултету у Осијеку и члан Хрватске академије медицинских наука | Република Хрватска

ДОЦ. ДР ЈАН ЈАНАЋ

Доцент на Факултету за менаџмент, Универзитет Коменски Братислава | Република Словачка

ДОЦ. ДР БРАНИСЛАВ ДУДИЋ

Доцент на Факултету за менаџмент, Универзитет Коменски Братислава | Република Словачка

ПРОФ. ДР НЕЂО ДАНИЛОВИЋ

Редован професор Универзитет Никола Тесла у Београду и председник међународног удружења методолога друштвених наука у Београду | Република Србија

ПРОФ. ДР АЛБИНА ФАЗЛОВИЋ

Ванредни професор Европском универзитету Брчко дистрикт на Европском универзитету „Kallos” Тузла | Босна и Херцеговина

ПРОФ. ДР ЗОРАН ФИЛИПОВСКИ

Проректор за међународну сарадњу, Интернационални „Vision” Универзитет | Северна Македонија

PROF. DR ALEXIOS PANAGOPOULOS

University Neapolis Paphos Cyprus, master studys in public law and administration | Republika Kipar

ПРОФ. ДР НЕБОЈША ШАРКИЋ

Декан Правног факултета, Универзитета Унион у Београду | Република Србија

ДР МИШО ЂУРКОВИЋ

Научни саветник, Директор Института за Европске студије у Београду | Република Србија

ПРОФ. ДР ВЛАДИМИР ЧЛОВИЋ

Директор Института за упоредно право у Београду | Република Србија

ПРОФ. ДР БОГДАН ВУКОСАВЉЕВИЋ

European Research Institute for Strategic Studies | Словенија

ПРОФ. ДР МИЛОШ МАРКОВИЋ

Редовни професор на Правном факултету за привреду и правосуђе, Универзитет Привредна академија у Новом Саду | Република Србија

Организациони одбор:

ПРОФ. ДР ЈОКО ДРАГОЈЛОВИЋ - Председник Организационог одбора

ПРОФ. ДР ИВАН ЈОКСИЋ

ПРОФ. ДР ЈЕЛЕНА СТОЈШИЋ ДАБЕТИЋ

ПРОФ. ДР НЕНАД БИНГУЛАЦ

ДОЦ. ДР НЕНАД СТЕФАНОВИЋ

ДОЦ. ДР МАРКО СТАНКОВИЋ

ДОЦ. ДР ДАЛИБОР КРСТИНИЋ

ДОЦ. ДР МАЈА СУБОТИН

ДОЦ. ДР ВЛАДИМИР ШЕБЕК

МСР ИСИДОРА МИЛОШЕВИЋ

МСР АЊА КОПРИВИЦА

МСР МАРА ДЕСПОТОВ

МСР ТАМАРА КРСТИЋ

Секретар:

МСР АЊА КОПРИВИЦА, асистент

Amer Fakhoury, PhD, Professor
 Faculty of Law, American University in Emirates
 e-mail: amer.fakhoury@aue.ae

Marijana Mladenov, PhD, Associate Professor
 Faculty of Law for Commerce and Judiciary in Novi Sad
 University Business Academy in Novi Sad
 e-mail: alavuk@pravni-fakultet.edu.rs

CLIMATE JUSTICE AFTER COP26: HOPE OR DISAPPOINTMENT?

Abstract:

Climate change poses one of the most significant threats to human survival. It seems that we need a global approach to this issue more than ever. Therefore, it is not surprising that the international community had high expectations from the 26th United Nations Climate Change conference, held in Glasgow from October 31 to November 12, 2021, known as Conference of the Parties (COP) 26. The UN climate conference COP26 concluded with the agreement of the Glasgow Climate Pact. COP26 was largely seen as the last best chance for states to reach a consensus that would limit global warming to 1.5 degrees Celsius, as required by the 2015 Paris Agreement. In light of the aforementioned, the paper will contribute to the ongoing discussion on whether COP26 was a success or failure by analyzing the final outcomes of COP26 with respect to the evaluation of the summit's original stated goals. The scope of the paper is to clarify whether COP26 recognized climate justice, or in other words, whether capitalism can be greened.

Keywords: *climate change, climate justice, COP26*

Introduction

Once upon a time, there was a green and wonderful planet with the ideal climate and temperature for supporting life. At some moment, this planet became the Earth and man took charge of it. Now, we must face the consequences of how we have been treating the Earth. One of the most significant is climate change or „rather dangerous anthropogenic interference with the climate system' so profound it is not merely on the verge of dangerous but catastrophic".¹⁾ There is no doubt that climate change poses one of the most significant threats to human survival and the stability of ecosystems. Therefore, we need a global approach to this issue more than ever.

The Conference of the Parties (COP) to the United Nations Framework Convention on Climate Change (UNFCCC) has taken the lead as the key forum for global climate governance when it comes to discussing policies for climate reduction, adaptation, and funding in the context of a future with lower emissions. The urgency for governments to act is growing as we get closer to the 2015 Paris Agreement's objectives. In the light of the aforementioned, it is not surprising that the international community had high expectations from the 26th United Nations Climate Change conference, held in Glasgow from October 31 to November 12, 2021, known as COP 26. The UN climate conference COP26 concluded with the agreement of the Glasgow Climate Pact. COP26 was largely seen as the last best chance for states to reach a consensus that would limit global warming to 1.5 degrees Celsius, as required by the 2015 Paris Agreement.

¹⁾ Lindsay, B. (2020). Can we conceive of the right to a safe environment in the face of climate catastrophe?. Human Rights Defender, 29(3), p. 21.

Does COP 26 provide us hope or disappointment? The paper will contribute to the ongoing discussion on whether COP was a success or failure by analyzing the final outcomes of COP26 within the context of climate justice. The first part of the paper will examine the most important aspects of the concept of climate justice. The article explores current academic debates and literature on justice and the climate regime to identify the status and the best approach for climate justice within the framework of the international regime. Furthermore, a definition of climate justice is provided according to the position held by the UNFCCC in order to present how the organizers of the COP view this issue. In addition, the article will provide an analysis of the Glasgow Climate Pact within the context of climate justice. The scope of the paper is to clarify whether COP26 recognized climate justice, or in other words, whether capitalism can be greened. Since COP26 was a recent event, this research is relevant and provides a contemporary analysis of how interpretations of climate justice are reflected in policy outcomes.

Climate justice

Understanding previous and present forms of global climate governance, as well as the motivations and objectives of various actors, have always placed a priority on equity and justice issues. Since the early 1990s, when the worldwide climate change regime first emerged, justice has consistently been a topic of discussion. Despite their small contribution to the problem, climate justice scholars have long recognized the unfair burden that climate change places on the poorest and most vulnerable people. As a result, they support transformative strategies to address the underlying causes of inequality and climate change.²⁾

One of the most dominant approaches to the concept of climate justice in the doctrine is the three-dimensional model determined by Schapper.³⁾ This model stipulates a relational understanding of justice between different actors, states, social groups, and generations. It includes three aspects of climate justice, international justice, intra-societal justice, and intergenerational justice. These three dimensions differ in terms of „recipients, burden-bearers, temporal aspects and normative claims“.⁴⁾

International justice is concerned with how developed and underdeveloped countries interact. Here, historical roles that relate to the unequal accountability for the proportion of emissions and advantages obtained from them by developed countries are taken into consideration. The primary concern is that developing countries will not be able to use carbon-intensive industries to support growth in the same way wealthy countries have in the past. Therefore, it seems that the harm caused by climate change, the resources needed to adapt, and the developed states' participation in it are all out of balance.⁵⁾

Inequalities between social groups, including but not limited to gender, class, race, and indigenous peoples, are referred to as the intra-societal justice dimension of climate justice. Foundation for discussion in this area should be considered through the lens of the human rights concept. A wide range of human rights, including the rights to life, health, self-determination, development, food, water and sanitation are significantly impacted by climate change.⁶⁾

2) Mattar, S., Jafry, T., Schröder, P., Ahmad, Z. (2021) Climate justice: priorities for equitable recovery from the pandemic, *Climate Policy* 21(10), p.1308.

3) Schapper, A. (2018). Climate justice and human rights. *International Relations* 32(3), pp.275-295.

4) Ibid. p. 282, 283.

5) Ibid. p.283.

6) See: Levy, B. S., Patz, J. A. (2015). Climate change, human rights, and social justice. *Annals of global health*, 81(3), pp. 310-322.; Mladenov, M., & Serotila, I. (2022). Human rights approach to environmental protection–practice of The Human Rights Committee, *Pravo-teorija i praksa*, 39(2), pp. 52-64.; Drašković, B., & Perović, O. (2021).

The relationship between the present and next generations is highlighted by the intergenerational justice factor.⁷⁾ This dimension of climate justice is already included within the concept of sustainable development as well as the responsibility of the present generation to take appropriate action to protect future generations' rights.

Over time, climate justice has become the COP's primary discussion theme.⁸⁾ The UNFCCC defines climate justice based on three fundamental ideas.⁹⁾ The first is distributive justice, which relates to how costs and benefits are distributed among various stakeholders. When considering distributive justice in relation to climate justice, one way to state the objective of distributive climate justice is to guarantee that all parties equitably share in the costs and rewards associated with sustaining the patterns of distribution of scarce goods.¹⁰⁾ One notable good on which the debate has concentrated so far is greenhouse gas emissions.¹¹⁾

The next type of justice is procedural, which relates to the people who make decisions and take part in decision-making. Global climate implications require that all nations should be represented in climate negotiations. The ability of weaker nations and marginalized groups to gain a voice is crucial for the successful integration of such problems into public discourse and the new climate regime due to the fact that developing countries may be the ones who face the worst impact.¹²⁾

The third type of climate justice according to UNFCCC is the recognition of diverse perspectives and cultural involvement that is respectful and equitable. Recognition of justice requires that all impacted parties' cultures, values, and circumstances be equitably considered and represented in policies and initiatives.¹³⁾ Making visible histories of discrimination and disrespect while also challenging the standards, meanings, and ideologies that support inequality are all aspects of the concept of recognition justice.¹⁴⁾

To accommodate such a variety of different interpretations, it is necessary to establish a framework to coherently categorize different themes of climate justice. Therefore, this research adopts the three-dimensional model of climate justice by UNFCCC within the broader context of Schapper's concept. According to this approach to climate justice, the following section will identify and analyse the discourses within the Glasgow Pact.

The Glasgow Climate Pact

The Glasgow Climate Pact (GCP), the outcome of the COP26, represents a collection of resolutions that are formulated on the ground of the Paris agreement.¹⁵⁾ The major goals of COP26

Significance of the „pollutant pays“ principle and the analysis of the European framework for a civil liability for damages caused by activities dangerous to the environment. *Pravo-teorija i praksa*, 38(4), pp. 160-174.

7) See: Skillington, T. (2019). *Climate change and intergenerational justice*. Routledge.

8) Okereke, C. (2018) Equity and Justice in Polycentric Climate Governance, in Jordan, A. et al. (eds) *Governing Climate Change*, Cambridge University Press, p. 327.

9) Susan, E. (2022). *A Call for Justice: A Critical Discourse Analysis of Climate Justice at the COP26*, Master Thesis, Uppsala University p. 9.

10) McKinnon, C. (2015). Climate Justice in a Carbon Budget. *Climatic Change* 133 (3), p. 377.

11) Gajevic Sayegh, A. (2017). Climate justice after Paris: a normative framework. *Journal of Global Ethics*, 13(3), p. 346.

12) Klinsky, S., Dowlatabadi, H. (2009) Conceptualizations of justice in climate policy. *Clim Pol* 9, p.93. pp. 88–108.

13) Whyte, K. P. (2011). The recognition dimensions of environmental justice in Indian country. *Environmental Justice*, 4, p. 201.

14) Khan, M., Robinson, S. A., Weikmans, R., Ciple, D., & Roberts, J. T. (2020). Twenty-five years of adaptation finance through a climate justice lens. *Climatic Change*, 161(2), p.252.

15) UNFCCC 'Glasgow Climate Pact' Decision -/CP.26 advance unedited version (13 November 2021). Available online at https://unfccc.int/sites/default/files/resource/cop26_auv_2f_cover_decision.pdf.

were to uphold the 1.5-degree pledge made under the Paris Agreement and work toward net-zero emissions by 2050. Other objectives included providing 100 billion dollars annually to developing countries by 2020 to help them address climate change, adapting to safeguard communities and natural ecosystems, and cooperating to accelerate action and reach a consensus.¹⁶⁾

The GCP established 1.5°C as the primary global temperature limitation. It expressly states that in order to keep global warming to 1.5°C, carbon dioxide emissions must be reduced by 45 percent by 2030 compared to 2010 levels and to net zero by the middle of the century. The Paris Agreement itself only mentions achieving net-zero in the second part of this century, with no reference to 2030. Thus, the formulation included in the GCP is far more precise.¹⁷⁾

With additional work plans and negotiation streams on mitigation, adaptation, loss and damage, and climate financing, the GCP is comprehensive in its coverage. There are various initiatives included in the GCP. The parties concluded that the existing Nationally Determined Contributions are insufficient in terms of mitigation to achieve the 1.5°C reduction objective. Therefore, to update NDCs by 2023, the five-year revision plan has been modified. Moreover, the GCP contained an explicit mention of coal's phase-out, recognizing coal as a major source of emissions for the first time.¹⁸⁾ Developed countries committed to doubling the amount they spend on this project in terms of financing and adaptation.¹⁹⁾

COP26 saw the emergence of climate financing as a major flashpoint. The goal of providing 100 billion dollars per year had not been met.²⁰⁾ The GCP urges developed countries to fully implement the 100 billion dollars plan until 2025 and expresses deep regret over this failure.²¹⁾ The current finance objective is expected to be achieved in 2023 on generous accounting assumptions, but this depends on political processes in many countries that are still in the early stages of resolution.²²⁾ Of course, it is unrealistic to assume that all of this investment will come from public funding; instead, the Paris Agreement calls for private finance flows to be made consistent with a path toward low greenhouse gas emissions and climate-resilient development.²³⁾ One significant result of COP26, as noted in the GCP, is the call for „developed country Parties to at least double their collective provision of climate finance for adaptation to developing country Parties from 2019 levels by 2025”.²⁴⁾

¹⁶⁾ Paris agreement (2015) In *Report of the Conference of the Parties to the United Nations Framework Convention on Climate Change (21st Session, 2015: Paris)*. Retrived December (Vol. 4, p. 2017).

¹⁷⁾ Depledge, J., Saldivia, M., Peñasco, C. (2022). Glass half full or glass half empty?: the 2021 Glasgow Climate Conference. *Climate Policy*, 22(2), p.148.

¹⁸⁾ The GCP represents a real breakthrough in term of coal since it is the first time that a COP decision has mentioned restricting coal or any other fossil fuel, demonstrating a change in public opinion on a really worldwide platform.

¹⁹⁾ Susan, E., *op.cit.*, p.4.

²⁰⁾ In a recent report, the OECD (2021) confirmed that the amount of climate finance provided and mobilized in 2019 only came to a total of USD 79.6 billion. OECD. (2021). Climate finance provided and mobilised by developed countries: Aggregate trends updated with 2019 data, climate finance and the USD 100 billion goal. OECD Publishing.

²¹⁾ Paragraph 47 of the GCP states that „calls for a continued increase in the scale and effectiveness of climate finance from all sources globally, including grants and other highly concessional forms of finance”. In addition, paragraph 15 on adaptation „urges developed country Parties to urgently and significantly scale up their provision of climate finance, technology transfer and capacity-building for adaptation so as to respond to the needs of developing country Parties”. The Glasgow Climate Pact, *op.cit.*

²²⁾ Depledge, J., Saldivia, M., Peñasco, C., *op.cit.* p. 151.

²³⁾ The Paris Agreement, *op.cit.* Article 2.1.

²⁴⁾ The Glasgow Cilmate Pact, *op.cit.*, paragraph 18.

Further notice is given to 'loss and damage'. The GCP acknowledges that as temperatures rise, the effects of climate and weather extremes will represent an ever-greater social, economic, and environmental threat. Climate change has already caused and will continue to cause loss and damage. The GCP addresses the need for financing for certain vulnerable developing countries the following manner:

„Reiterates the urgency of scaling up action and support, as appropriate, including finance, technology transfer and capacity-building, for implementing approaches for averting, minimizing and addressing loss and damage associated with the adverse effects of climate change in developing country Parties that are particularly vulnerable to these effects.“²⁵⁾

In contrast to funding responsibilities, it is still unclear which countries are specifically covered by this taxonomy, which may be challenging in practice if left to self-identification.

Moreover, the completion of the „Paris Agreement rulebook” is one of COP26’s major achievements. This set of guidelines outlines the procedures for holding nations responsible for keeping the commitments they made to act against climate change and achieving the goals they set for themselves in their NDCs.²⁶⁾ Moreover, the rulebook for Article 6 (on the international cooperation through carbon markets) under the Paris Agreement has been finally completed. The rulebook’s provisions for international cooperation are substantially stronger than most seasoned observers had expected. International carbon markets under the UN climate policy now have legal certainty after being largely suspended owing to uncertainty regarding the future of the Clean Development Mechanism under the Kyoto Protocol.²⁷⁾

Despite encouraging achievements toward mid-century decarbonization, critical concerns like adaptation, loss and damage, and finance continue to develop more slowly than they should. Therefore, these issues will be focus of COP 27, which will be held in Sharm el-Sheikh, Egypt, in November 2022.

COP 26 and the realization of climate justice

The issue of climate justice took centre place at COP 26. The climate justice is explicitly mentioned in the opening paragraph of the GCP as follows „noting the importance for some of the concept of climate justice when taking actions to address climate change”.²⁸⁾ Due to the use of terms „noting” and „some of”, it seems that the GCP leaves space for further development of the concept of climate justice.

One of the main aspects of realizing climate justice is finance. Since the target of 100 billion dollars per year was missed, the stakes for COP26 were high. The above analysis of the GCP showed that parties have recognized the urgency of the issue of adaptation finance through its key provisions. This is one of the key successes of the GCP as it recognizes the most significant segment of distributive climate justice. However, we cannot ignore the history of unfulfilled objectives in this regard, which certainly raises concerns about the financial commitments made at COP26, notably those related to adaptation finance.

Addressing 'loss and damage' - the 'unavoidable and irreversible' damage already experienced in many parts of the world is another vital feature of realizing the concept of climate justice

²⁵⁾ Paragraph 63, the Glasgow Climate Pact, *op.cit.*

²⁶⁾ See: Martin, C. (2022). COP26: A conference of compromise, consensus, or cause for hope?. Landscape Architecture Australia, (173), pp. 75-76.

²⁷⁾ Depledge, J., Saldivia, M., Peñasco, C., *op.cit.* p. 153.

²⁸⁾ The Glasgow Climate Pact, *op.cit.*

within the provisions of the GCP. The GCP promises to develop a ‘conversation’ on loss and damage finance in addition to providing financial help to operationalize the Santiago Network, a new organization established at COP25 to support technical assistance on dealing with loss and damage. Another significant symbolic act was the €6 million donation made by the subnational governments of Scotland and Wallonia and five significant philanthropic organizations to support the establishment of the Glasgow Loss and Damage Facility.²⁹⁾ This achievement has been regarded as another important success for the GCP and could be a significant step towards to implementation of climate justice, particularly its recognition dimension.

The operating structure of the COP includes procedural justice as one of its core values. Since all nations are invited to the COP as equals and participants, they meet to discuss and decide on global policy. At the COP, there are three different categories of participants. These include representatives from various nations, media, and observation groups. Non-state actors include the last two groups. Non-state actors have a significant role in using soft power to achieve their normative position and inform, control, and hold parties accountable, even though the most significant discussions take place at the higher-level segments. Through the lens of procedural justice, one of the most significant challenges was responding to calls for further youth inclusion as well as recognition of the role of indigenous people. The outcome of COP 26 on this issue is formulation of a new ten year Glasgow work programme on Action for Climate Empowerment (ACE), concentrated on improving climate education, training, public participation, public access to information, and global cooperation. The recognition of youth as essential change agents is the most striking result. Governments are encouraged to include young people in their national delegations. The role of indigenous people has been included in the part of the GCP regarding the loss and damage and in the collaboration chapter. The indigenous communities are framed as ones that must be taken into account in order to minimize loss and damage. It makes clear that they have historically been ignored by policy makers by specifically naming this group of stakeholders in a demand for inclusion. On the other hand, the significant role of indigenous communities has been „in effective action on climate change” which may be considered as a positive factor in this respect.

Conclusion

Should we consider COP 26 as a success or failure with respect to the realization of climate justice? It is too early to assess its real impact. However, according to the above analysis of the GCP, it seems that climate justice made some progress at COP26. There is some reason for optimism, nevertheless, given the increased openness to discussing loss and damage and the advancement of promises related to a just transition, which aims to address inequalities between the developed and developing countries. In addition, advances were made toward mid-century decarbonization as well as recognition of the urgency of the issue of adaptation finance. Further, the GCP is the first climate agreement that makes reference to coal. However, it suggests reducing (phasing down) rather than eliminating (phasing out) coal use over time.

It seems that COP26 provides some ground for cautious optimism. Still, it remains unclear if developed countries will be made responsible for keeping their promises. There is a disparity between what developed countries claim and what they actually do. With a few small exceptions, it appears that developed countries acknowledge that more has to be done, but a comparison to

²⁹⁾ Abdullah, H. (2021). CLIMATE JUSTICE AT COP26 IN GLASGOW: Between disappointment and tentative hope, *Opinion CIDOB*. Available at: https://www.cidob.org/publicaciones/serie_de_publicacion/opinion_cidob/2021/climate_justice_at_cop26_in_glasgow_between_disappointment_and_tentative_hope.

their actual behavior points to a sense of lethargy when it comes to taking action. Since the meeting was billed beforehand as ‘the last chance to save the planet’, it appears that the fulfilment of given promises could not be postponed for COP27.

We still don't know how the conflict between mankind and the climate will be resolved. However, it is certain that achieving even a relatively positive ending, with global warming slowed down enough to prevent the very worst catastrophes, would mean that every country should play its own role. On the other hand, there is a doubt that since we are facing a climate emergency even a relative success in this term could be considered an absolute failure.

Or maybe, after all, capitalism can be greened and the Earth will live happily ever after.

Dr Amer Fakhoury, professor

Правни факултет Америчкој универзитету у Уједињеним Арајским Емирајтима

Др Маријана Младенов, ванредни професор

*Правни факултет за привреду и правосуђе у Новом Саду
Универзитет Привредна академија у Новом Саду*

КЛИМАТСКА ПРАВДА НАКОН COP26: НАДА ИЛИ РАЗОЧАРАЊЕ?

Сажетак:

Климатске промене представљају једну од најзначајнијих претњи људском ојстину. Чини се да нам је више него икада потребан глобални приступ овом питању. Стога не изненађује чињеница да је међународна заједница имала велика очекивања од 26. Конференције Уједињених нација о климатским променама, одржане у Глазгову од 31. октобра до 12. новембра 2021. године, познате као Конференција страна уговорница (COP) 26. Конференција УН о климатским променама COP26 је завршена усвајањем „Глазговској климатској пакти”. COP26 је посматран као најбоља могућност реализације консензуса међу државама у погледу уостављања порне границе глобалног загревања на 1,5 степени Целзијуса у складу са Париским споразумом из 2015. У светлу претходно наведеног, рад ипужа допринос актуелној дискусији о сагледавању успеха резултата COP26 са аспекта евалуације првобитно наведених циљева самита. Циљ рада је да разјасни да ли је COP26 прејознао климатску правду, или другим речима, да ли је могуће „озелењавање” капитализма.

Кључне речи: климатске промене, климатска правда, COP26

References

1. Abdullah, H. (2021). CLIMATE JUSTICE AT COP26 IN GLASGOW: Between disappointment and tentative hope, Opinion CIDOB. Available at: https://www.cidob.org/publicaciones/serie_de_publicacion/opinion_cidob/2021/climate_justice_at_cop26_in_glasgow_between_disappointment_and_tentative_hope
2. Depledge, J., Saldivia, M., Peñasco, C. (2022). Glass half full or glass half empty?: the 2021 Glasgow Climate Conference. *Climate Policy*, 22(2), pp.147-157.
3. Drašković, B., Perović, O. (2021). Significance of the „pollutant pays” principle and the analysis of the European framework for a civil liability for damages caused by activities dangerous to the environment. *Pravo-teorija i praksa*, 38(4), pp. 160-174.
4. Gajevic Sayegh, A. (2017). Climate justice after Paris: a normative framework. *Journal of Global Ethics*, 13(3), pp.344-365.

5. Khan, M., Robinson, S. A., Weikmans, R., Ciplet, D., & Roberts, J. T. (2020). Twenty-five years of adaptation finance through a climate justice lens. *Climatic Change*, 161(2), pp.251-269.
6. Klinsky, S., Dowlatabadi, H. (2009) Conceptualizations of justice in climate policy. *Clim Pol* 9, pp. 88–108.
7. Levy, B. S., Patz, J. A. (2015). Climate change, human rights, and social justice. *Annals of global health*, 81(3), pp. 310-322.
8. Lindsay, B. (2020). Can we conceive of the right to a safe environment in the face of climate catastrophe?. *Human Rights Defender*, 29(3), pp. 21-23.
9. Martin, C. (2022). COP26: A conference of compromise, consensus, or cause for hope?. *Landscape Architecture Australia*, (173), pp. 75-76.
10. Mattar, S., Jafry, T., Schröder, P., Ahmad, Z. (2021) Climate justice: priorities for equitable recovery from the pandemic, *Climate Policy* 21(10), pp.1307-1317
11. McKinnon, C. (2015). Climate Justice in a Carbon Budget. *Climatic Change* 133 (3), pp. 375-384.
12. Mladenov, M., Serotila, I. (2022). Human rights approach to environmental protection–practice of The Human Rights Committee, *Pravo-teorija i praksa*, 39(2), pp. 52-64.
13. OECD. (2021). Climate finance provided and mobilised by developed countries: Aggregate trends updated with 2019 data, climate finance and the USD 100 billion goal. OECD Publishing.
14. Okereke, C. (2018) Equity and Justice in Polycentric Climate Governance, in Jordan, A. et al. (eds) *Governing Climate Change*, Cambridge University Press, pp. 320-337.
15. Paris agreement (2015) In Report of the Conference of the Parties to the United Nations Framework Convention on Climate Change (21st Session, 2015: Paris). Retrived December (Vol. 4, p. 2017).
16. Schapper, A. (2018). Climate justice and human rights. *International Relations* 32(3), pp.275-295.
17. Skillington, T. (2019). *Climate change and intergenerational justice*. Routledge.
18. Susan, E. (2022). *A Call for Justice: A Critical Discourse Analysis of Climate Justice at the COP26*, Master Thesis, Uppsala University.
19. UNFCCC ‘Glasgow Climate Pact’ Decision -/CP.26 advance unedited version (13 November 2021). Available online at https://unfccc.int/sites/default/files/resource/cop26_auv_2f_cover_decision.pdf.
20. Whyte, K. P. (2011). The recognition dimensions of environmental justice in Indian country. *Environmental Justice*, 4, pp. 199–205.

CIP - Каталогизација у публикацији
Библиотеке Матице српске, Нови Сад

001:34(082)
316.3:34(082)

**МЕЂУНАРОДНИ научни скуп Правнички дани - проф. др Славко Царић
(19 ; 2022 ; Нови Сад)**

Право, наука и друштво - актуелна питања и перспективе : [зборник радова] = Law, science and society - the current issues and perspectives : [proceedings] / XIX међународни научни скуп "Правнички дани - Проф. др Славко Царић", Нови Сад, 23. септембар 2022. = XIX international scientific meeting "Legal days - Prof. Slavko Carić, PhD" ; [уредник Милан Почуча]. - Нови Сад : Универзитет Привредна академија, Правни факултет за привреду и правосуђе, 2022 (Нови Сад : НС Мала књига+). - 454 стр. ; 24 cm

Текстови ћир. и лат. - Тираж 150. - Стр. 19-20: Уводна реч / Милан Почуча = Foreword / Milan Počuča. - Напомене и библиографске референце уз текст. - Библиографија уз сваки рад. - Резиме на енгл. језику уз већину радова.

ISBN 978-86-86121-51-6

а) Наука - Правни аспект - Зборници б) Друштво - Правни аспект - Зборници

COBISS.SR-ID 74323209