Reconsidering European Contributions to Global Justice

Mutual Recognition in Global Negotiations

The Case of the 2015 Paris Climate Summit

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Abstract

This working paper responds to calls for practical and implementable changes that can enhance global justice. It applies the GLOBUS conception of justice as mutual recognition to global negotiations, which have become prominent arenas for questions of distributive justice between the North and South across multiple issue areas including trade, climate change and environmental protection. Yet the focus of this paper is *procedural justice*. The case of the French Presidency of the 2015 UN negotiations that led to the adoption of the Paris Agreement on Climate Change is studied and put forward as a positive example of a just process. Furthermore, it is argued that procedural justice was instrumental in facilitating the reaching of agreement by increasing delegates' willingness to agree. Previous accounts of procedural justice at the global level are largely concerned with questions of transparency and representativeness. By framing procedural justice around the concept of mutual recognition, it offers a more comprehensive understanding which is aligned with psychological accounts of procedural justice. In this way, it recognises the importance of individuals and socio-psychological considerations in international relations.

Keywords

Behavioural turn, climate change, multilateral negotiations, mutual recognition, Paris Agreement, procedural justice

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1. Introduction

The global, transboundary nature of climate change and the unequal contributions to the problem and adverse effects that will be felt in the global north and south make it a particularly pertinent topic for questions of global justice. An earlier contribution to the GLOBUS research paper series (von Lucke 2017) explored various aspects of substantive justice related to climate change. This paper turns to questions of procedural and relational justice, that is to say, how to achieve a fair process when taking collective decisions and how to manage interactions between different actors involved in multilateral climate governance. It responds to the call made in the GLOBUS research paper series for a shift in thinking from idealised theories of substantive climate justice that have limited relevance in non-ideal settings (that is to say, the realities experienced by climate practitioners), to greater emphasis on UN climate change negotiations as a non-ideal setting where genuine progress can be made, and for a deeper understanding of the concept of justice as mutual recognition and the role it has to play in the negotiation process (Zellentin 2018). Up until now, a focus on justice as impartiality and the need to establish a universal set of guidelines to address concerns about responsibility for climate change and the appropriate actions that should be taken to reduce emissions of greenhouse gases has led to a ‘blind spot’ in thinking about climate justice. This blind spot concerns the actual process of negotiation that takes place each year and the nature of the relationship between negotiating states, namely whether states perceive that they have been treated with recognition and respect (Zellentin 2018).

This research paper contributes to the ‘new behavioural revolution’ (Hafner-Burton et al. 2017) in international relations that seeks to reconcile the macro-level focus on states, structures and institutions with micro-level study of the individuals that represent them and their interactions, perceptions and attitudes. It argues that individuals make a difference and that the psychological concepts behind procedural justice apply to both the individual and the international level. Through a case study of the preparations and negotiations that in 2015 led to the adoption of the Paris Agreement on Climate Change this paper empirically traces a process that is aligned with the notion of justice as mutual recognition. Furthermore, it argues that procedural and relational justice conceived as mutual recognition is not only a normative requirement, but also instrumental for addressing the problem of climate change, since it increases the likelihood of reaching a successful outcome of the negotiations by increasing negotiators’ willingness to agree. This case study represents a positive example of a European contribution to global justice, given that the process was presided over by a European member state (France), which was widely praised for its handling of the negotiations and its conduct towards negotiating states and other concerned actors.

The following section discusses the GLOBUS conception of global political justice as mutual recognition and applies this to the process of climate change negotiations. Then, a review of existing conceptions of procedural justice at both the individual and

the international level illustrates how the notion of justice as mutual recognition acts as a conceptual link that bridges the two levels. The paper proceeds to provide some background information on the importance of procedural and relational justice in the history of UN climate negotiations, paying particular attention to the failed 2009 summit in Copenhagen, which was considered to be lacking in procedural and relational justice. An in-depth empirical analysis of the 2015 Paris summit and the preparations that led up to it highlights the ways in which the French Presidency led a process that was aligned with the concept of justice as mutual recognition, and how this in turn facilitated the reaching of agreement by increasing negotiators' willingness to agree. The paper ends by discussing the added value that the concept of justice as mutual recognition brings to our understanding of procedural justice in UN climate negotiations and the contribution that this particular case study makes to existing theories of procedural justice.

2. Justice as mutual recognition and climate negotiations

Justice as mutual recognition is one of the three conceptions of global political justice as theorised by GLOBUS. Justice as mutual recognition calls for a process of deliberation to right wrongs, in which all participants are accorded a due hearing and treated with respect (Eriksen 2016). It recognises that injustice may exist within the context of formal justice: 'people may be treated unfairly under just formal procedures; inequities can persist even in a formally just order' (Eriksen 2016:19). This is indeed the case in the climate negotiations. Global conferences such as the UN climate negotiations respect the sovereign equality of states through consensus decision making that allows each country an equal right to block any decision it does not agree with.

Yet, this formal equality is belied by a number of inequities. Procedural inequity derives from the vast differences in delegation size and capacity between countries from the global north and south. The size and complexity of the negotiations mean that dozens of meetings take place in parallel and afford an unjust advantage to larger and better equipped delegations to influence outcomes and defend their interests (Depledge 2005: 9-11), which can amount to domination. This imbalance can be mitigated through a *transparent and representative* process. Transparency requires that all involved have equal access to information concerning the content and process of the negotiations. What was negotiated in each meeting? Who was present? What was the outcome of the meeting? What is the overall progress of the negotiations? By communicating this information to all, those responsible for managing the negotiations reduce the negative consequences for those states who only have the capacity to send small delegations that are not able to attend all of the meetings, and for other non-state actors who have limited access to the official negotiations but who are affected by their outcome, such as groups of indigenous peoples and youth representatives.

Representation refers to the make-up of small group negotiations. Almost 200 states are parties to the United Nations Framework Convention on Climate Change (UNFCCC) and send a delegation to the negotiations. When all parties are sat around the table at the same time, progress is impossible. Instead, a careful balance between democracy and efficiency is struck in the formal negotiations. At the start of the negotiation round, all parties convene in a plenary setting and adopt an agenda that mandates work to proceed on different issues in ‘contact groups’ which are open to all but generally only involve those countries with a specific interest in the issue at hand. Coalitions of countries with similar goals can form common positions and represent each other in such meetings. Proposals negotiated in the contact groups are then fed back to plenary for approval at the end of the session. However, difficult and contentious issues can often only be resolved when participation is limited to no more than 20-30 states, and the negotiations then move to informal settings. Those responsible for convening these informal negotiations (usually the host nation, known as the ‘presidency’, or the individual official or minister tasked with overseeing negotiations on a particular topic, known as a ‘chair’ or ‘facilitator’) must take care when selecting participants to ensure a broad geographic spread and a fair distribution amongst the major negotiating groups and coalitions, so that all countries can at least feel that their position is represented at the table (Monheim 2015: 30-31).

A transparent and representative process is necessary to avoid domination by powerful states. However, it does not ensure mutual recognition. Inequity derives not only from material differences between delegations but from less objective sources such as the relative status of different groups or long-standing stereotypes and assumptions (Young 2002). For example, inequity may occur in multilateral negotiations when parties are fairly represented and kept informed but are denied a *due hearing* (Eriksen 2016:19). Due hearing is the central concern of mutual recognition and relates to all parties being able to voice their opinions and feel that those opinions have been listened to and taken into account. What is the use of having a seat at the table if nobody listens to what you have to say?

In the context of UN climate negotiations, the presidency plays a key role in ensuring a due hearing for parties because it is responsible not only for managing the negotiation process and leading the parties towards agreement, but also to a large extent for drafting the substance of such an agreement. Parties elect a country to act as the presidency to help them overcome collective action problems. Negotiating parties tend to conceal or exaggerate information in order to retain a bargaining advantage, however they are more likely to share information with the presidency, who is mandated to act as an impartial broker. This bird’s-eye view makes it easier for a presidency to identify a potential zone of agreement and it is common practice in climate negotiations for a presidency to draft a compromise text after consulting with different parties. The breadth and depth of these presidential consultations is a crucial determinant of a due hearing. A second element of due hearing concerns the allocation of sufficient time and space to allow all participants to air their views in a public setting and be heard.

Justice is an inter-subjective category (Eriksen 2016: 20) and mutual recognition concerns not only procedural justice, but also relational justice pertaining to processes of socialisation and the way in which different actors interact with each other. *Respect* for cultures and for individuals is the third and final component of this analysis of justice as mutual recognition. It can be demonstrated both procedurally, in the way that the process is handled, and relationally, through the interactions that take place between individuals in the presidency and delegates. Cultural and individual respect is particularly relevant in the context of climate negotiations, where delegations from a staggering variety of different cultures convene on a regular basis over extended periods of time. Climate negotiations take place at least twice a year in official sessions, and these are frequently interspersed with additional meetings. This allows for the formation of positive working relationships amongst delegates, even when they represent conflicting national positions. Zellentin (2018: 19-20) ponders the application of justice claims from the individual level to the level of international relations (IR) and observes that because climate negotiations ultimately take place between human beings, (dis)respect is likely to have an effect on the way the negotiations play out.

3. Procedural justice

‘Procedural justice refers to how the negotiations are conducted, how the parties relate to each other, and how they are treated during the process’ (Albin and Druckman 2017: 95). As this definition encompasses both procedural and relational aspects of justice, this paper will henceforth refer only to ‘procedural justice’ with the understanding that relational justice is a key component therein. Contrary to the assumption that people evaluate their interactions, institutions and negotiations based on the quality of the outcome, multiple psychological studies have demonstrated that people in fact base their evaluation upon procedural justice irrespective of the distributional outcome they received (Thibaut and Walker 1975). That is to say, ‘fairness of process matters to people’ (Hollander-Blumoff 2010: 387), who report themselves to be satisfied if they feel that the procedure followed was fair even when the outcome is less than what they would consider just, or conversely, feel dissatisfied even when receiving a positive outcome if the process was considered unjust.

A rich body of work has accumulated across several disciplines including psychology, conflict resolution, international relations and the multi-disciplinary field of negotiation analysis confirming that procedural justice has effects not only on individuals, but also on the outcomes of negotiations. The results of qualitative and quantitative observational studies corroborate those produced in experimental conditions, lending strong validity to their conclusions and, interestingly, many similar findings are identified both at the individual level and at the IR level. This section first provides an overview of some of the key findings concerning procedural justice at the

level of interpersonal negotiations before turning towards its effects upon international negotiations, both bilateral and at the level of global conferences.

Why should procedural justice matter? Three theories have been put forward to try to explain the value we place on fair processes. First, the 'self-interest theory' argues that fair processes are preferred because they are on balance more likely to lead to fairer outcomes over time (Thibaut and Walker 1975). People are therefore willing to accept worse distributional outcomes in the short-term when the process is considered fair, as they foresee that in the long-term positive outcomes will outweigh negative outcomes. However, when the process is considered to be unfair, people do not have confidence that distributional justice will be served in the long-term. Second, the 'group value model' argues that procedural justice is valued intrinsically rather than instrumentally. That is to say, fair processes and respectful treatment are valued not because they will eventually lead to distributional justice, but because of the information they communicate to an individual about their perceived social standing within a group (Lind and Tyler 1988). When people are treated fairly and respectfully, this increases their self-esteem as it conveys their value within a group. Third, the 'fairness heuristic theory' argues that people use procedural justice as a substitute to assess fairness when the relevant information on outcomes is not available or clear (Van den Bos et al. 1997).

The drivers of procedural justice are both procedural and relational. Procedurally, the opportunity to present one's 'voice' has been identified as a critical factor that determines whether people judge a process to be fair, even when this is unlikely to have an effect on the outcome (Lind et al. 1990). When the opportunity to present one's voice is felt to have an effect on the outcome, it is referred to as 'meaningful voice'. Relationally, individuals consider a process to be fair when they feel that they have been treated with respect and courtesy (Tyler and Bies 1990). Recent experimental research found respectful and courteous treatment to be the most important driver of judgements of procedural justice in interpersonal negotiations (Hollander-Blumoff 2017). Meaningful voice and respectful and courteous treatment are closely aligned with the elements of 'due hearing' and 'respect' in the conceptualisation of justice as mutual recognition.

The effects of procedural justice are wide-reaching. Individuals are more likely to view authorities as legitimate when the processes they follow are just, and they are also more likely to comply with any decisions taken under a fair process (Hollander Blumoff 2010: 388). Individuals participating in procedurally just negotiations are more likely to want to negotiate with each other again in the future (Brockner et al. 2000). With regards negotiation outcomes, procedural justice can offset a lack of distributive justice, (Tyler and Blader 2003) and increases the likelihood of the negotiating parties accepting an agreement (Hollander-Blumoff and Tyler 2008). Procedural justice also encourages integrative bargaining, which is a positive-sum mode of negotiation that seeks to increase mutual gains by revealing information about the preferences and rationales underlying the parties' positions, as opposed to zero-sum divisions of fixed gains (Hollander-Blumoff and Tyler 2008).

How do these findings translate to the international level? The drivers of procedural justice are conceptualised somewhat differently at the international level. A recent literature review of the field (Druckman and Wagner 2016) designates the drivers of procedural justice as, *inter alia*, fair representation, transparency and fair treatment (or ‘voice’), which concerns the extent to which parties can actively participate and ‘be heard’. Monheim (2015; 2016) does not explicitly address questions of justice, yet he does emphasise the interplay between process and negotiators’ subjective perceptions. He also offers a causal mechanism that accounts for the effects of procedural justice on negotiation outcomes by arguing that a transparent and inclusive process engenders a sense of respectful treatment in individual negotiators and delegations, which in turn increases their willingness to agree and thus the likelihood of the negotiations reaching a successful conclusion.

With regards to the effects of procedural justice in international negotiations, studies based upon observational data from bilateral security and conflict resolution negotiations indicate that the negotiation process is a more reliable determinant of outcomes than broader contextual features (Irmer and Druckman 2009) and that better outcomes are reached when a fair process is followed and when participants engage in integrative bargaining (Wagner and Druckman 2012). These results suggest that procedural justice matters at both the individual and international levels and that similar insights that apply to individuals can also apply when states are negotiating. Perhaps this is less surprising when considering that bilateral negotiations generally take place between a relatively small number of individuals who represent states. Does procedural justice also have an effect at the level of global conferences, with large delegations representing almost every single country? Studies conducted in the policy areas of international trade (Albin and Druckman 2014a), arms control (Albin and Druckman 2014b) and the environment (Albin and Druckman 2017) suggest that not only do principles of procedural justice matter; they play a significant role in determining the reaching of agreement, the number of issues resolved and the amount of time taken to resolve them.

The concept of justice as mutual recognition brings research on procedural justice from the interpersonal and international levels together. It diverges from existing conceptions of procedural justice at the international level by stressing the subjective importance of due hearing (understood as meaningful voice) and respect, rather than transparency and representation. In addition, its focus on respect for cultural diversity brings a new element to the existing literature on international negotiation. Whilst these elements have been analysed at the level of interpersonal negotiations (Lind et al. 1990; Brockner et al. 2000), they have not hitherto been applied in a systematic way to the level of global conferences.

4. Context and methodology

The first climate negotiations took place at the Rio Earth Summit in 1992, which established the United Nations Framework Convention on Climate Change (UNFCCC). It created a bifurcation between developed countries (Annex-I Parties) with responsibilities to reduce emission levels and developing countries (Non-annex-I Parties) without such responsibilities (Depledge 2005: 21). The Kyoto Protocol locked in this division of countries and imposed legally binding emission reduction targets on Annex 1 Parties only. The US failed to ratify the Protocol and Canada later withdrew (King 2015). The commitment period of the Protocol was due to expire in 2012, so in 2007 the Bali Roadmap was launched to begin preparations for a global agreement to be adopted in 2009 at the summit to be held in Copenhagen (Christoff 2008).

The Copenhagen summit (COP15) was acknowledged as a failure and drew attention to the importance of procedural justice in facilitating (or impeding) the reaching of agreement (Meilstrup 2010; Monheim 2015, 2016; Park 2016). The negotiation process derailed after the leak of the ‘Danish Text’, an agreement drafted in secret by the Danish presidency and a small group of mostly developed countries ahead of the summit. This prompted outrage from developing countries and accusations of an unjust process. The final outcome, an 11th hour backroom deal negotiated between the US and BASIC (Brazil, South Africa, India and China), was not adopted but merely ‘noted’ after some developing countries blocked consensus.

Without any legal agreement to replace the Kyoto Protocol, it was extended for a second commitment period. After Japan, New Zealand and Russia declined to sign up for the second period, only 15 percent of global greenhouse gas (GHG) emissions were left covered by the protocol (Beyer 2013). Rebuilding trust in the multilateral process was the task of the Mexican presidency of COP16, and at COP17 a new process was launched to achieve a global deal in Paris in 2015. Many lessons were learned from COP15, and COP21 in Paris was the culmination of several years of incremental progress, both in terms of negotiation management and substantial convergence between parties in the formal negotiation process.

There were other contextual changes between COP15 in 2009 and COP21 in 2015 that made it more likely that agreement would be reached in the latter case but not in the former. The fifth report of the International Panel on Climate Change was published in 2014 and articulated both a greater degree of scientific consensus on the threats posed by climate change and a more severe assessment of its consequences. Sustained and increased societal pressure post-Copenhagen by citizens and NGOs made governments aware that inaction would not be tolerated. In 2009 the world was still in the grip of a global financial crisis which negatively impacted governments’ abilities to make the necessary financial commitments to tackle climate change. By 2015 the worst of the recession had passed and favourable economic conditions such as the dramatic and unexpected fall in the price of renewable energy facilitated further commitments from

governments to transition to a zero-carbon economy. Last but not least, the convergence of the US and China, the two largest emitters of greenhouse gases, was certainly a necessary condition for a successful outcome (Oberthuer and Groen 2018).

This paper does not claim that the French presidency was the decisive factor behind the Paris Agreement; rather, it argues that procedural justice as mutual recognition matters to negotiators and delegations in UN climate negotiations and can facilitate the reaching of agreement by increasing delegates' willingness to agree. Procedural justice is of particular importance for developing countries as UN negotiations are their 'only common venue for multilateral diplomacy' (Monheim 2015: 82-3), and the rules and procedures their only defence against domination. Yet, with the concept of mutual recognition this paper goes beyond traditionally conceived notions of procedural justice as limited to a fair process and explores the inter-subjective aspect of justice as respect and the nuanced concept of justice as due hearing – being granted not only a voice, but a meaningful voice.

Data was collected from a variety of sources to allow for verification and triangulation. Thirty-two in-depth, semi-structured expert interviews were conducted, mostly with climate negotiators. Due to the promise of anonymity given to certain interviewees, we are not able to provide further information on participants than listed in Appendix 1. Negotiators from Europe, Africa, South America, the Pacific and Asia were questioned to cover a broad geographical scope, different negotiating groups and a fair balance of developed and developing countries. An analysis conducted by the French Ministry of Foreign Affairs (Ministère des Affaires Étrangères 2017) provided further insights into the strategy and motivations of the French presidency. Other primary sources including UNFCCC documents and secondary sources including the in-depth coverage provided by the Earth Negotiations Bulletin were consulted to confirm these accounts. Where appropriate, comparisons are drawn with the 2009 Copenhagen summit. Interviews were conducted with members of both the 2015 French presidency and the 2009 Danish presidency. Both summits have been subject to academic analyses (Brun 2016; Dimitrov 2010; 2016; Meilstrup 2010; Monheim 2015; 2016; Park 2016) which provided further empirical input. Of particular importance in this regard was Monheim's research on the Danish Presidency (Monheim 2015) which draws from 62 expert interviews and was critical for ascertaining negotiator perceptions of the process conducted and the behaviours of the Danish presidency.

5. Justice as mutual recognition in the Paris summit

Although the French presidency's term officially began at the beginning of the summit in November 2015, they began preparing their role far in advance, as is common practice in the climate negotiations. This section therefore begins by examining the actions and behaviours of the French presidency during the preparatory process leading up to the summit, before analysing the process that followed during the summit itself. After identifying the drivers of justice as mutual recognition present both before

and during the summit, the paper then turns its attention to the effects that a just process aligned with the concept of mutual recognition had upon the individual negotiators, the progress of the negotiations and the final outcome.

5.1 Preparations

Thanks to their large diplomatic network, the French presidency was able to engage in extensive outreach during the 18 months leading up to the summit. French embassies around the world would consult regularly on states' views (Interview 20). An inclusive approach to stakeholder input extended beyond governments, consulting with non-state actors on a larger and broader scale than anything that had come before, including civil society (Ministère des Affaires Étrangères 2017:13-14), businesses (Interview 11) and indigenous communities¹ (Interview 32): 'everybody had their chance to be heard' (Interview 20). The perception was that the French presidency was 'not just listening to have listened, but really listening' (Interview 6) and so this can be considered an example of meaningful voice, or due hearing. A large number of interviewees questioned for this research (Interviews 1-4, 6-8, 11, 14, 19, 22, 24, 31) identified this as a significant feature of the French presidency. An EU negotiator reported that feedback coming in from EU embassies and its global diplomatic network indicated that countries:

felt that the French presidency was taking account of their concerns, and that's a different attitude to the one you had in Copenhagen [...] with the Danish presidency there was not that sentiment shared by all that the presidency was taking good care of everyone's interest (Interview 9).

In addition to information from consultations incoming via embassies, the French presidency carried out large-scale travel diplomacy in order to listen to countries' concerns. Four roaming ambassadors were appointed and together visited more than 150 countries (Interview 20). Laurence Tubiana is estimated to have personally made between 45 and 50 different trips; (Clark 2015) Laurent Fabius completed a round-the-world trip on average once per month (Ministère des Affaires Étrangères 2017: 9) and former President François Hollande also travelled extensively (Ministère des Affaires Étrangères 2017:9). This travel diplomacy simultaneously embodied the elements of due hearing and respect. As an experienced chair of UN climate negotiations explained, travelling to a country 'is the proof of your respect and your willingness to listen to the people from that country. And this is very, very important' (Interview 30). The same

¹ The French presidency also worked with their Peruvian predecessors to establish the 'Lima-Paris Action Agenda', a platform for non-state actors that ran in tandem with the intergovernmental negotiations on a scale and significance never seen before. As the focus of this research paper is negotiating states and the effects of procedural justice on their willingness to accept an agreement, non-state actors do not form a part of this analysis. For more information on procedural justice in the Paris summit and non-state actors, see Bäckstrand and Kuyper 2017.

chair expressed the view that the importance of respect for cultural differences is ‘impossible to overstate’ in UN climate negotiations.

A sign of the value that the French presidency placed on respect for cultural diversity is the fact that the four roaming ambassadors were selected not on their knowledge of climate change, but rather on their knowledge of countries, cultures and people (Interview 20). Furthermore, a bilateral relations team was established within the presidency and staffed with experts on particular countries or groups of countries (Ministère des Affaires Étrangères 2017: 11), and the negotiation team was composed of around 20-30 individuals who were all specialised not only in a specific issue area, but also in a geographical area (Interview 20).

The French presidency worked very closely with the outgoing Peruvian presidency, which had hosted the 2014 negotiations in Lima. This collaboration was motivated not only by practical concerns such as the need to ensure a smooth handover, but also by cultural sensitivity: working with Peru helped the French presidency ‘to better understand developing countries’ perspectives’² (Ministère des Affaires Étrangères 2017: 19). This expertise and understanding running throughout the French and Peruvian presidencies ensured that all countries were afforded a due hearing and respect, and avoided any diplomatic faux-pas such as the oversight at the Copenhagen summit in which the globe displayed outside the conference centre failed to include many small-island states, leading delegates from the neglected countries to take pens and draw the islands themselves (Vidal 2009).

One factor that was at play both before and during the summit was the French style of communication, which contrasted with that of the Danes in 2009. The Danish presidency was criticised for communicating in an overly direct way that did not respect cultural differences (Monheim 2016: 365). Interviews with Norwegian observers to the Copenhagen summit explained:

In the Nordic countries [...] there is this informality, so you just say ‘hello, how are you?’ and it’s not this ‘ladies and gentlemen’ style [...] that’s not so easy with all types of culture around the world and in this formalised negotiation setting where you have informal rules that need to be followed (Interview 26)

The French presidency was more accustomed to such formalities and highly experienced in the norms of international diplomacy. In particular, the French Ministry of Foreign Affairs was ‘masterful’ (Interview 32) at communicating in a culturally sensitive way, having long-standing experience from its overseas territories and former territories. A leading official in the French presidency stressed the importance of culturally sensitive communication: ‘Here, we choose words carefully, look for certain signals on how to behave with different people’ (Interview 32).

² ‘de bien comprendre le point de vue des pays en développement’

During their preparations for the Paris summit the French presidency used consultation, travel diplomacy and cultural expertise and sensitivity to encourage mutual recognition between themselves and the negotiating parties. Through a series of informal consultations that they arranged with the Peruvian presidency over the months leading up to the summit, they also attempted to foster mutual recognition between the negotiating parties. These meetings were arranged first for a few dozen negotiators representing all the major coalitions and country groupings, and then later at a ministerial level. They employed an innovative format: after an initial round of opening statements, the participants broke away into smaller groups where they were asked to discuss certain issues under Chatham House rules and away from the constraints of the formal negotiation process. The purpose of these exercises was to ‘push negotiators and/or ministers towards listening, dialogue and mutual understanding’³ (Ministère des Affaires Étrangères 2017: 13). After these informal consultations the French presidency would publish online summaries so that those not present (states and non-state actors) could stay informed. Learning from Copenhagen, special attention was made to ensure that preparations for the summit were conducted in a transparent and representative manner. The French presidency went to great lengths to communicate that they intended to facilitate rather than lead the negotiations:

Everyone was keen to hear from the presidency that they were not going to try and do what the Danish had tried to do in Copenhagen. So Laurence Tubiana was going around for a whole year repeating ‘there are no surprises, this is going to be your text, we don’t have a separate text that we are preparing, it will be based on what you tell us’ (Interview 2).

5.2 The summit

Two weeks before the start of the summit, a deadly terror attack took place in Paris and as a result the security level for the summit was raised and access for non-state actors was restricted. Nonetheless, transparency was a key concern and for the first time the open negotiations were broadcast via a live web stream (Interview 7), allowing access for the wider public as well as for smaller party delegations. The French presidency asked chairs and facilitators of contact groups to report back in public on the progress of their negotiations (Interview 13), which further bolstered an ‘atmosphere of transparency’ (Interviews 2 and 6).

Interviewees consistently praised the ‘exemplary’ (Interview 9) logistical organisation of the Paris summit and the quality of French hospitality, which was ‘better than ever seen’ (Interview 12). This contrasted with some logistical oversights in Copenhagen, such as the accreditation of over 40,000 people to a venue with a capacity for 15,000.

³ ‘afin d’obliger les négociateurs et/ou ministres à l’écoute, au dialogue et à la compréhension mutuelle’

Ministers—and even “the president of a small African country” (Williams 2009)—reportedly had to queue for hours in sub-zero temperatures before being admitted, and the Chinese Minister for Environment was denied entry for two days (Dimitrov 2010: 796). There are two important consequences of good logistics and hospitality in multilateral negotiations. The first is the sense of respectful treatment it creates, particularly at the ministerial level:

Leaving ministers to stand in the snow for hours before they can come in, serve them food where they have to wait an hour in the queue in the cafeteria and get something lukewarm. All those things really matter in diplomacy. The French, they offered so many comforts to the political level [...] and comforts, by most of the developing countries, is seen as respect (Interview 27).

The second consequence has to do with the negotiation atmosphere it creates. Facilities such as catering and adequate air-conditioning have been shown to have had substantive impacts on global conferences in the past by changing the mood in the room (Kaufmann 1970). In Paris the seamless logistics contributed to the positive atmosphere (Interview 7), a fact of which the French presidency was keenly aware:

The conditions in which COP21 took place distinctly contributed to its success: from the protocol aspects during the high-level segment including transport, accommodation and catering, participants were treated in a way that, according to some negotiators, put them in a good condition to negotiate⁴ (Ministère des Affaires Étrangères 2017: 15).

On an individual level, Laurent Fabius and Laurence Tubiana were well-liked and considered respectful (Interview 18). In keeping with the French style of communication, Fabius's chairing of the plenary sessions as COP president was always polite and respectful, even when saying 'no' to a delegate (Interview 1). He took the effort to learn all ministers' first names and addressed them as such (Interview 1)—a further sign of respect. This contrasts with Danish Prime Minister Rasmussen, whose chairing of the plenary sessions was described as 'very high-handed' and 'very arrogant'. Rasmussen displayed a lack of respect for the culture of UN negotiations, in which procedure is a 'very sensitive issue' (Interview 7), dismissing delegates' procedural interventions as 'procedure, procedure, procedure' (Meilstrup 2010: 130). Consensus decision-making is a fundamental principle of multilateral negotiations, designed to protect smaller countries from coercion. Rasmussen, however, was at the time only six months into his role as Prime Minister and was lacking in international experience. He did not take the time to learn the UN rules of procedure and displayed his ignorance in a shocking fashion during the final plenary by calling for a vote on the

⁴ 'Les conditions dans lesquelles s'est déroulée la COP21 ont nettement contribué à son succès : des aspects protocolaires lors du segment de haut niveau jusqu'aux transports, hébergement et repas, les participants ont reçu un traitement qui a permis, aux dires de certains négociateurs, de les mettre dans les bonnes conditions pour négocier'.

compromise proposal. When challenged by angry delegates, he responded that he was unfamiliar with ‘your rules’ (Meilstrup 2010: 133; Monheim 2016: 362). A delegate interviewed by Monheim reported that it ‘really hurt’. Fabius, on the other hand, was highly experienced in international protocol and mastered the UNFCCC rules of procedure before taking up his role, and the French presidency at large was conscious of the need for ‘respect for UN rules’⁵ (Ministère des Affaires Étrangères 2017: 19).

A distinctive feature of the plenary sessions over which Fabius presided in Paris was their long length, sometimes lasting until the early hours of the morning. Whilst often tedious, the purpose of these sessions was to provide enough time to ensure that all delegates could ‘air their concerns publicly’ (Interview 2) and ‘to give parties comfort they are being heard’ (Interview 2). An experienced observer of climate negotiations described how Fabius would:

Let everyone speak, and then listen, once in a while make sure they were aware he was listening, making a comment left and right and then drawing the next conclusion on what the next step would be, and really not getting a lot of opposition [...] there would be long and painful discussions about things everybody already knew but then everybody could voice their views and then he and they could say ‘yeah, he took all that into account.’ (Interview 6)

A leading official in the French presidency recognised the importance of ensuring a due hearing as the most important quality of a presidency: ‘you must let people express themselves, and listen, and leave enough time to do so’ (Interview 32). This aspect of procedural justice was a common thread running throughout the French presidency’s handling of the negotiations: from the extensive outreach and consultation undertaken during the preparatory stage, through the formal negotiation process and a number of informal methods they implemented at the summit, to the development of draft texts that would eventually become the Paris Agreement.

Two informal methods that were implemented by the French presidency during the summit were the ‘confessionals’ system and the ‘Indaba’ format. Just as everyone was given an opportunity to be heard in the lead-up to the summit, the confessionals system ensured that all parties were assured a due hearing during the summit itself, since it allowed any party to speak with a member of the presidency at any time, day or night: ‘that was an important factor in keeping lines open, making sure that people are comfortable’ (Interview 2). The ‘Indaba’ is a Zulu form of conflict resolution that gives a voice to all whilst limiting decision making to a select few. It was employed as an alternative negotiation format by the South African presidency of the 2011 climate negotiations. The French Ministry of Foreign Affairs reported that the Indaba was a means to ‘pay homage’ (Ministère des Affaires Étrangères 2017:19) to this element of South African culture. Delegates reported that it allowed parties to air their views in public (Interviews 2 and 8) and ‘for the chairs afterwards to be able to say, “I’ve listened

⁵ ‘Le respect pour des règles onusiennes’

to you” (Interview 6). The Indaba format is therefore an example of both due hearing and respect in the negotiation process.

Up until the end of the first week of the summit, the drafting of the text of the agreement took place in a subsidiary body called the Ad-hoc Working Group on the Durban Platform for Advanced Action (ADP). During the years leading up to the summit, the ADP co-chairs had overseen negotiations on the draft text. At the end of the first week the ADP co-chairs handed over their text to the French presidency, who then assumed the responsibility of helping parties overcome their areas of divergence and producing a treaty text that was acceptable to all. In keeping with their inclusive and sensitive approach to managing the process, the French presidency gave both a voice and a role to individuals who had in the past felt excluded from the negotiations by appointing them as ‘facilitators’ and giving them responsibility for trying to identify consensus amongst the parties on particular cross-cutting issues. Bolivia and Venezuela, for example, were two of the countries that objected to the Copenhagen proposal in the final plenary, on the grounds that the process followed to produce it had been unjust. In Paris representatives from Bolivia and Venezuela were appointed as facilitators on highly important topics, bringing them into the heart of the process.

One of the most vocal critics in Copenhagen was Claudia Salerno, lead negotiator for Venezuela. In the early hours of the final day, Prime Minister Rasmussen called a plenary to present the *fait accompli* proposal negotiated behind closed doors by the US and BASIC countries, four hours after watching Barack Obama announce to the rest of the world that an agreement had been reached (Friedman 2010). Rasmussen told delegates he would adjourn the meeting for one hour, in which they were expected to read the proposal and then come back and give their approval. Salerno, along with others, raised her nameplate to indicate that she wished to raise a point of order. UN procedures state that a meeting cannot end until points of order have been addressed. Ignoring (or ignorant of) the rules, Rasmussen announced to a member of the Secretariat also on the podium—without first switching off his microphone—that he would not recognise the countries waiting to speak. Hearing this, Salerno was ‘so offended’ (Friedman 2010) that she began banging her nameplate on her desk, followed by other countries. She was wearing a large ring that got trapped and caused her hand to bleed. When Rasmussen returned and gave the floor to Venezuela, Salerno asked the Danish presidency:

Do you think a sovereign country has to actually cut its hand and draw blood? This hand, which is bleeding now, wants to speak, and it has the same right of any of those which you call a representative group of leaders (Friedman 2010).

In Paris, Salerno was responsible for facilitating the drafting of the preamble to the agreement—a very prominent task, which she executed with great skill (Interviews 2 and 20).

When producing successive drafts in the final week the French presidency ensured that parties could see their viewpoints represented (Interview 14). This contrasted with

previous negotiation rounds in which the link to the previous text and sources of input were not transparent and parties could not identify their proposals (Interview 6). The French presidency produced three draft texts during the final week. The penultimate draft was criticized by many for lacking in ambition (Goldenberg et al. 2015). Yet, this was a strategic move by the French presidency aimed at those whose preference was for a less ambitious outcome: ‘to reassure the most critical parties that they would not be forgotten, that at the last minute France would not do a “European text”’ (Interview 1).

All activities and behaviours of the French presidency discussed so far have been aligned with the concept of justice as mutual recognition, yet there is one important exception. During the final days of the summit, the negotiations in open contact groups stopped and all further activity took place behind closed doors in private consultations with the presidency (Dimitrov 2016). Given the objections about the closed-door negotiations that took place during the final days in Copenhagen, one might have expected similar complaints in Paris, yet this was not the case: the mode of work was not criticised and parties in the final plenary praised the French presidency and the transparent and inclusive process they led. Why might this be? It is possible that the long-term engagement of the French presidency that reached out to all, ensured a due hearing and demonstrated respect had already assured parties that the process being followed was aligned with justice as mutual recognition. This might have led to the parties being flexible with transparency requirements during the final critical stages. Given that ‘groups of countries were consulted in a systematic way, for the same amount of time⁶’ (Ministère des Affaires Étrangères 2017: 17) it might be the case that inclusion and due hearing are in certain circumstances more important than transparency as elements of a just process in UN climate negotiations.

5.3 The effects

The example of Claudia Salerno is typical of many individual negotiators. In Copenhagen they felt offended and ignored, whereas in Paris they felt included and respected. Procedural justice as mutual recognition has been shown to impact upon individuals in experimental conditions and interpersonal negotiations, and it seems that UN climate negotiators also feel its effects. An official from the Danish presidency recalls Salerno’s ‘anger at being wronged’ in Copenhagen and how according to colleagues central to the Mexican presidency of the negotiations that took place the following year in Cancún, she had been ‘easy to work with’ by virtue of being able to ‘give her opinions’ (Interview 30). The same interviewee speculated that if the Danish presidency had spent more time talking with Salerno it would have diffused the opposition they faced.

Strong personalities such as Salerno clearly make a difference, yet the aggregate effect of individual negotiators’ perceptions of procedural justice also appear to have two

⁶ ‘Les groupes de pays étaient consultés de manière systématique, avec la même durée’

significant and linked consequences on the progress of the negotiations. First, when delegates are satisfied with the process and it is broadly perceived as just, they are less likely to pose procedural objections that can delay or obstruct or even derail the progress of the negotiations, as happened in Copenhagen (Monheim 2015: 81-82). Paris, by contrast, was marked by a 'very smooth process without conflict on how things were managed' (Interview 2). Second, by creating this harmonious process and negotiation atmosphere and by reassuring delegates 'that they are not going to get steamrollered' (Interview 2), the French presidency created a positive space in which an intangible sense of momentum and goodwill could develop (Interview 2). An experienced observer of UN climate negotiations noted that the Paris summit felt different to other years 'because of this will that you could feel to actually come to a conclusion' (Interview 6). Whilst contextual factors and substantive convergence created this sense of goodwill and momentum, sensitive and respectful management of the negotiation process nurtured it and allowed the French presidency to capitalise on it (Interviews 3, 6, 18).

The goodwill peaked during the penultimate plenary convened by the French presidency at midday on the final day, in which they informed delegates that they had a text to present. The momentum that had been building throughout the previous years, during the summit itself and through the drafting of the text reached new heights as Laurent Fabius, UN Secretary-General Ban Ki-Moon and President François Hollande gave speeches in turn. The reception was rapturous and testament to the presidency's psychological insights and skill in capitalizing upon momentum and goodwill:

There was something for everyone. But more importantly [...] no one would lose face. It was very clear for me that they were extremely aware that politically you cannot have any big party losing face. So they said 'There will be loss and damage!' – bravo in the room! 'There will be a five-year cycle!' – bravo! [...] [I]t was very strong, a very special moment, a standing ovation for ten minutes [...] any nobody had seen the text! (Interview 1)

The penultimate meeting of the Comité de Paris on the last day at noon was run by Fabius in such a way that at that point, I think, the room would have adopted the Paris agreement by acclamation without even seeing it. (Interview 2)

The goodwill played a big part in it, that people wanted to agree. (Interview 6)

After resolving some last-minute issues, the Paris Agreement was adopted later that day. The only party that did not form part of the consensus was Nicaragua, yet the mood in the room and the strong willingness to agree meant that they could not block the agreement as had happened in Copenhagen.

This research paper does not claim that procedural (in)justice was the decisive factor that led to negotiation failure in Copenhagen and success in Paris; rather, it supports Monheim's argument that a subjective sense of respectful treatment and fair process 'is

central in the crucial decision moment when it depends on the willingness of the individual negotiator to agree. Being treated fairly increases the sense of respect and thereby the willingness to agree' (Monheim 2015: 82). In Copenhagen the majority of parties were excluded from parallel negotiations on the Danish text and from the closed-door drafting sessions of the final days that produced the final proposal without any means of ensuring a due hearing. A lack of cultural sensitivity, sub-par logistics and a lack of understanding of UN procedures all conveyed disrespect to delegates, and this 'missing respect caused extreme emotions' (Monheim 2015: 83). By the final plenary '[t]he willingness to agree reached its nadir (Monheim 2015: 83) and the text put forward was rejected '[e]ven though the substance was agreeable... Everybody was just really pissed and angry' (Monheim 2015: 83). The fact that the Cancún Agreements were passed only one year later at the 2010 UN climate summit hosted by Mexico lends strong support to the argument that procedural justice as mutual recognition can be instrumental in facilitating the reaching of agreement by increasing delegates' willingness to agree. The substance of the Cancún Agreements was very similar to that of the Copenhagen proposal, and in the space of 12 months very little had changed contextually. What had changed dramatically was the way in which the process was managed by the Mexican hosts (Monheim 2015), whose inclusive, sensitive and respectful approach inspired that of the French (Ministère des Affaires Étrangères 2017: 12).

The countries that blocked in Copenhagen did so because they were 'deeply unhappy with the procedure' (Interview 30); because of 'accusations of exclusion and injustice'⁷, (Ministère des Affaires Étrangères 2017: 19) and 'questions of principle and the feeling that the games were taking place in a closed club. Certain parties felt held in contempt by the system'⁸ (Ministère des Affaires Étrangères 2017: 13), and not because of the substance of the agreement. Conversely, in Paris:

The substantive agreement became almost secondary—people had the feeling that we **are** going to find an agreement, it **is** going to be an ambitious agreement, and people were only fighting towards the end on one or two key interests that they had. (Interview 2)

Fair process, a due hearing and respectful treatment (procedural justice) therefore appear to matter irrespective of the substance of the agreement (distributive justice), even at the level of the global conference. Furthermore, even in the context of UN climate negotiations, due hearing and respect affect delegates' willingness to agree, and therefore the likelihood of reaching an agreement. A member of the Danish presidency explained that goodwill and the negotiation atmosphere are determined to a large extent by contextual factors,

⁷ 'les accusations d'exclusion et d'injustice'

⁸ 'des questions de principes et la sensation que les jeux se font en club fermé. Certaines Parties ont considéré avoir été méprisées par ce système.'

But if there are procedural issues and the feeling that the presidency isn't really listening to what you're saying, or is listening to what you're saying but then siding with developed country parties, then that adds to the mistrust and diminishes the willingness to compromise [...] If you're a negotiator and you sit there with an agreement in front of you and you have to say yes or no to that, how much does it matter that the guy who puts it in front of you is not as formal and polite as the French? I think it played a role. (Interview 30)

5. Conclusions

The empirical analysis demonstrates that the French presidency of the 2015 UN climate negotiations made significant efforts to ensure that the process followed 'was very respectful of the different parties, giving a voice, giving a role to everyone' (Interview 1). During their preparations they reached out extensively to listen to parties and during the summit itself they made themselves constantly available for those wishing to be heard. The formal and informal negotiation streams and the process of drafting text were inclusive and deliberative, and the French took care to demonstrate respect for individuals, cultural diversity and for the culture and procedures of UN negotiations. Both the process and the interactions between the presidency and the parties were therefore aligned with the concept of justice as mutual recognition. The analysis furthermore demonstrated how this facilitated the reaching of agreement by creating a smooth, conflict-free process that allowed for the development of a sense of momentum and goodwill, and by increasing delegates' willingness to accept the final proposal put forward by the French presidency.

With the counter-example of the 2009 UN negotiations hosted by Denmark, these findings support research on the effects of procedural justice carried out at the levels of individuals and interpersonal negotiations. In particular, they support the claims that procedural justice matters to negotiators irrespective of distributional justice (Thibaut and Walker 1975) and that procedural justice increases the likelihood of negotiators accepting an agreement (Hollander-Blumoff and Tyler 2008). This supports Zellentin's (2018) intuition that aspects of individual procedural and relational justice will have an effect upon the negotiation process at large due to the fact that delegations are composed of individuals. Monheim's interviewees repeatedly stated that 'at the end of the day it is people who represent countries' (Monheim 2015: 120), with one participant going so far as to claim that '[t]here is no such thing as countries. There is "people"' (Monheim 2015: 128).

Justice as mutual recognition is a conceptual tool that is new to the analysis of global conferences, yet it offers a cohesive and convincing explanation of what really matters to UN climate negotiators: a fair process, due hearing and respect. This present research suggests that transparency might not be as important when these other drivers of procedural justice are in place, since the French presidency was able to conduct the

negotiations in a highly non-transparent manner during the final days of the summit and yet delegates were still satisfied with the process and raised no complaints.

What light does this case shed on existing theories of procedural justice? Interestingly, the case seems to fit all three models of procedural justice: the self-interest theory, the group-value model and the fairness heuristic theory. UN climate negotiations are a continuous process that takes place at least twice per year, and so delegations are focused not only on short-term gains, but also long-term distributional justice. It is therefore quite possible that delegations value procedural justice as a means of ensuring fair outcomes in the long-term (self-interest theory). A member of the Danish presidency suggested this was indeed the case, and that smaller developing countries with less power in the negotiations place a high value on procedural justice and threaten to use the ‘nuclear option’ of blocking a deal in order to strengthen their future negotiating position: ‘If they feel they are always being taken for granted, they would fear that they will have very limited input in the future’ (Interview 30). This mode of reasoning presumes a rational choice perspective, whereas the group-value model tends towards a constructivist perspective of socialization. The group-value model offers explanatory power to the importance of respectful treatment, since this indicates to countries and delegations how their status is perceived in the global society. Procedural justice is almost certainly used as a fairness heuristic in UN climate negotiations, given that the complexity of actors and issues, combined with future uncertainties, makes it extremely difficult for any delegation to assess how fair the outcome is for them.

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Appendix I: Interviewees

	Interviewee background	Date of interview
1	European External Action Service	11.03.16
2	Climate negotiator (EU)	14.03.16
3	Political thinktank	14.03.16
4	Climate diplomacy thinktank	16.03.16
5	Professional mediator	08.04.16
6	Academic expert	02.05.16
7	Council of Ministers	02.05.16
8	Climate negotiator (EU)	02.05.16
9	Climate negotiator (EU)	10.05.16
10	Climate negotiator (EU)	12.05.16
11	French climate diplomat	24.05.16
12	Academic expert	23.06.16
13	Climate negotiator (EU)	22.09.16
14	Climate negotiator (BASIC)	27.09.16
15	Climate negotiator (EU)	28.09.16
16	Professional mediator	17.10.16
17	Environmental NGO	20.10.16
18	Climate negotiator (EU)	26.10.16
19	Climate negotiators and minister (African group/LDCs)	09.11.16
20	French presidency	11.11.16
21	Climate negotiator (BASIC)	12.11.16
22	Climate negotiator (G77)	13.11.16
23	Climate advisor (LDCs)	22.11.16
24	Climate negotiator (LDCs/AOSIS)	13.12.16
25	Climate negotiator (LDCs/African group)	27.12.16
26	Norwegian climate observers	21.06.17
27	Climate negotiator (EU)	22.06.17
28	Danish presidency	10.08.17
29	Chair	31.10.17
30	Danish presidency	02.11.17
31	Climate negotiator (LDCs/African group)	08.11.17
32	French presidency	09.11.17

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